

Date: October 13, 2009

Item No. 2

File No. 09033

SUNSHINE ORDINANCE TASK FORCE

Compliance and Amendments Committee

AGENDA PACKET CONTENTS LIST*

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Completed by: Chris Rustom

Date: Oct. 7, 2009

***This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

** The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION
August 5, 2009
Amended August 13, 2009

DATE THE DECISION ISSUED

July 28, 2009

SUE CAUTHEN v. SAN FRANCISCO PUBLIC LIBRARY COMMISSION (09033)

FACTS OF THE CASE

Complainant Sue Cauthen is the Chair of the Citizen's Advisory Committee ("LCAC") for the San Francisco Public Library ("SFPL"). The LCAC was established by the Board of Supervisors. In her capacity as LCAC Chair, Sue Cauthen regularly attends the San Francisco Public Library Commission meetings. At the June meeting of the SFPL, Sue Cauthen attempted to speak during agenda item # 1, the general public comment portion of the agenda. Her topic was about some concerns at the North Beach Library. On the agenda was item #2 which was peer review of proposed design for the North Beach Branch Library but not the topic that Sue Cauthen wanted to speak on. When Sue Cauthen began to speak, the President of the Commission, Jewelle Gomez, cut her off and said that she was out of order and had to speak only when the agenda item on the North Beach Library was called later in the meeting. Sue Cauthen attempted to explain that she was not speaking on the topic that would be discussed later in the meeting but on another subject involving that branch. Nevertheless, Jewelle Gomez allegedly stopped Sue Cauthen from speaking.

COMPLAINT FILED

On June 23, 2009, Sue Cauthen filed a complaint against the Library Commission for its refusal to allow public comment.

HEARING ON THE COMPLAINT

On July 28, 2009, Complainant Sue Cauthen appeared before the Task Force and presented her claim. Respondent Agency was not represented but submitted a letter explaining its position. There was no one in the audience who wanted to present facts and evidence on behalf of the respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on a DVD recording of the meeting, a transcript of the meeting and testimony presented by Sue Cauthen as well as several members of the public, the Task Force finds that Jewelle Gomez willfully violated the Ordinance because Sue Cauthen, who wanted to speak about the North Beach Library during general public comment, was denied the opportunity. The President of the Library Commission required all members of the public who wanted to speak about issues involving the North Beach Library had to wait until item # 2 which dealt with peer review of proposed design for the North Beach Branch Library. For those who wanted to speak on the design of the North Beach Library and other issues involving the North Beach Library, their time was limited to three minutes instead of six minutes. The Task Force also found that the treatment Sue Cauthen received was inexcusable. The Task Force found that the willful failure to allow public comment in this case violated sections 67.15(a) and 67.34 of the Ordinance. In addition to the Order of Determination, Task Force Chair Richard Knee was tasked to write to the Commission to let them know the Task Force's sentiment on the matter.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Section(s) 67.15 (a) and 67.34 of the Sunshine Ordinance. The agency shall appear before the Education, Outreach and Training Committee on September 10, 2009, to discuss the matter.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on July 28, 2009, by the following vote: (Washburn / Goldman)

Ayes: Washburn, Knoebber, Chan, Goldman, Williams, Knee

Recused: Cauthen

Excused: Craven-Green, Johnson, Chu



Richard Knee, Chair
Sunshine Ordinance Task Force

c: Ernie Llorente, Deputy City Attorney
Sue Cauthen, complainant
Jewelle Gomez, respondent
Sue Blackman, respondent

