

Date: Dec. 8, 2009

Item No. 4  
File No. 09051

**SUNSHINE ORDINANCE TASK FORCE**  
Compliance and Amendments Committee  
AGENDA PACKET CONTENTS LIST\*

- Marilyn Mollinedo v Zoological Society**
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Completed by: Chris Rustom

Date: Dec. 4, 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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1 Dr. Carlton B. Goodlett Place, Room 244  
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**ORDER OF DETERMINATION**  
November 3, 2009

**DATE THE DECISION ISSUED**

October 27, 2009

*MARILYN MOLLINEDO V. ZOOLOGICAL SOCIETY (09051)*

**FACTS OF THE CASE**

Complainant Marilyn Mollinedo alleges that on or about July 27, 2009 she submitted a public records request to the Zoological Society ("ZS") for a number of categories of records. Ms. Mollinedo further alleges that the ZS refused to provide documents in response to her request for agendas and minutes of the Zoological Society's Executive Board meetings for the period of September 1, 2008 until July 27, 2009. Complainant further alleges that the ZS, while admitting that its lease and management agreement with the City requires compliance with some aspects of public records laws, claims that their lease does not require production of the agendas and minutes of their Executive Boards meetings, and the ZS therefore is not legally required to produce them. Ms. Mollinedo further alleges that the ZS previously has publicly committed to the Task Force to comply with all aspects of public records and meeting laws, but has not lived up to that commitment.

**COMPLAINT FILED**

On August 14, 2009, Ms. Mollinedo filed a complaint against the Zoological Society alleging violations of public records laws for failure to provide agendas and minutes of the Executive Committee meetings.

**HEARING ON THE COMPLAINT**

On October 27, 2009, Complainant Marilyn Mollinedo appeared before the Task Force and presented her claim. Respondent Agency was represented by Edward Pool, a member of the Zoological Society's Board of Directors.

Ms. Mollinedo told the Task Force that, under the Society's bylaws, the Executive

Committee is authorized to act as the Board of Directors ("Board") when the Board does not have a meeting scheduled and that it otherwise has the same powers as the Board. She therefore argued that the Executive Committee must be considered a "policy body" under the Sunshine Ordinance. She said if the Board of Directors minutes are public records, so must the Executive Committee's minutes. The lease agreement states that the Society will create minutes for the Executive Committee and in turn make such minutes available as a public record. She added the Society receives more than \$4 million annually from the City and that they should visit the Internal Revenue rules regarding non-profits because they stand to lose their status if they refuse to create minutes of their meetings in response to the determination of the Task Force in response to her complaint. Ms. Mollinedo also noted that the ZS had publicly agreed that it was bound by and would comply with the requirements of the Sunshine Ordinance.

Mr. Pool, for his part, said that the Society is in full agreement with the lease agreement. The Society believes that the lease agreement requires minutes to be made public only with regard to the Board and the Joint Zoo Committee. The Joint Zoo Committee has open meetings which are noticed to the public. He said the Society has one open meeting a year and it is also noticed to the public. All documents related to the joint committee are available to the public, he added. Further, the Society believes that they are not required to comply with any provisions of the Sunshine Ordinance because their original lease was signed prior to enactment of that ordinance. The Society's position is that finding them in violation of the Sunshine Ordinance would amount to an illegal amendment of their lease and make the City in violation of that agreement.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Task Force considered the parties' arguments and further considered the actual language of the lease. The Society's lease includes the following provision:

16.2 Public Access to Records and Information. [The Society] shall provide public access to information concerning the operation of the Zoo to the same extent that such information would have been available to the public pursuant to local ordinances if the Department [of Recreation and Parks] had continued to operate the Zoo in the same manner as it did prior to the date of this Agreement. In addition, the Zoo shall comply with all state and federal laws, rules and regulations that govern access by the public to records and information, including without limitation the California Public Records Act. . . . Without limiting the forgoing, the Zoo further agrees that (a) minutes shall be taken at each meeting of its Board of Directors, and that they minutes of those meetings shall be considered public documents available for public inspection in accordance with the Public Records Act, and (b) all information house

or cared for at the Zoo shall be deemed public information subject to public inspection under the Public Records Act. [emphasis added]

Based on the testimony and evidence presented the Task Force finds that the Society has agreed through its lease to be bound by local and state public records laws in effect at the time that any complaint against it is filed. The Task Force further finds that the Society itself has previously taken the very same position in hearings before the task force on previous complaints against it. Under the lease, all "information concerning the operation of the Zoo" maintained by the Society therefore is a public record to the same extent it would be if the Department were now operating the Zoo. Based on these preliminary findings, the Task Force finds that the agendas and minutes of the meetings of the Executive Board of the Society must be released to the public because they are public records under the terms of the lease.

### DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Section 67.21 of the Sunshine Ordinance for failing to produce requested agendas and minutes which pursuant to the Zoological Society's lease agreement are public records that must be released. This order is consistent not only with the lease terms, and prior Orders of Determination of the Task Force, but also with past admissions of the Zoological Society that they are required to comply with the Sunshine Ordinance requirements with respect to public records.

The agency shall release the agendas and minutes requested within five business days of the issuance of this Order and appear before the Compliance and Amendments Committee on Tuesday November 10, 2009.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on October 27, 2009, by the following vote: ( Craven-Green / Knoebber )  
Ayes: Craven-Green, Cauthen, Washburn, Knoebber, Johnson, Chu, Knee  
Excused: Manneh, Chan, Goldman, Williams



Richard Knee, Chair  
Sunshine Ordinance Task Force

c: Jerry Threet, Deputy City Attorney  
Marilyn Mollinedo complaint  
Edward Pool, respondent



"Bob Jenkins"  
<BobJ@sfzoo.org>  
11/23/2009 04:00 PM

To "SOTF" <sotf@sfgov.org>  
cc  
bcc

Subject FW: Executive Committee Minutes

History:  This message has been replied to.

Chris, per my earlier note, here is what was sent. Can you confirm the date where we have to appear before the Committee on Compliance?

*The Mission of the San Francisco Zoo is to connect people with wildlife, inspire caring for nature and advance conservation action*

Robert L. Jenkins  
V.P. Institutional Advancement  
San Francisco Zoo  
1 Zoo Road  
San Francisco, CA 94132  
415-753-7108 Voice  
415-753-7248 Fax  
[bobj@sfzoo.org](mailto:bobj@sfzoo.org)

**From:** Bob Jenkins  
**Sent:** Friday, November 20, 2009 1:47 PM  
**To:** [REDACTED]@sbcglobal.net  
**Subject:** Executive Committee Minutes

Per the SOTF Order of Determination dated November 3, 2009 and the meeting of the SOTF Compliance and Amendments Committee on November 10, 2009, attached you will find the redacted minutes of the Executive Committee covering the time period requested. While a meeting took place in April, no minutes, draft or otherwise, have been prepared for that meeting and there have been no further meetings of the Executive Committee since that time. Each item that has been redacted has the reason for the redaction immediately following the redacted item in red.

We believe that this fulfills your request. If there are any questions or further concerns, please feel free to contact me at your convenience.

*The Mission of the San Francisco Zoo is to connect people with wildlife, inspire caring for nature and advance conservation action*

Robert L. Jenkins  
V.P. Institutional Advancement  
San Francisco Zoo  
1 Zoo Road  
San Francisco, CA 94132  
415-753-7108 Voice  
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[bobj@sfzoo.org](mailto:bobj@sfzoo.org) Recused Minutes 091120.pdf

SAN FRANCISCO ZOOLOGICAL SOCIETY  
BOARD OF DIRECTORS' EXECUTIVE COMMITTEE MEETING  
October 14, 2008, 12:00 – 1:30 p.m.  
Osher Great Hall, Connie & Bob Lurie Education Center

Attendees:

Present: Gordon Dean, Toni Freitas-Krajcar, Melinda Henderson, Lisa Lenzo, Bob Muehlhauser, Ed Oates, Louise Patterson, Nick Podell, Ed Poole, David Stanton, Dianne Taube, Craig Tighe, Louise Renne

Dial-in: Layne Gray, Christian Valentine

Staff: Tanya Peterson, Joe Fitting, Bob Jenkins, Lora LaMarca, Wayne Reading, Katie Davis

Absent: Donna Carnes, Fred Carroll, Gloria Hing, Connie Hooker, Paul Jansen, Barry Lipman, Jim Ludwig, Robert Pedrero, Jay Pierrepont, Christian Valentine

Call to Order: 12:13 p.m.

I. Approval of Minutes

The June 17, 2008, meeting minutes were approved as submitted.

II. Director's Report

- Acting Director Peterson noted some management changes to improve communications and provide professional development opportunities. Marketing Director Lora LaMarca is taking on Membership and communications. HR Director Michael Orosco is heading Maintenance. Animal Care Director Bob Jenkins is covering government affairs along with major donor support. Operations Manager Deb Howe is overseeing customer and visitor experience. IT Manager Robert Icard has charge for alternative energy and his first project is converting Trailer D to solar power. Children's Zoo Director Roger Hoppes is handling the director of public programs and sign improvements.
- The mid-managers will have their retreat on Wednesday, October 29.
- Board members worked on Saturday, October 11, in Gauhati's enclosure. Keeper Ingrid Hartney was very pleased with the painting results. Members [REDACTED] and [REDACTED] contributed matching donations for the improvements to the rhino's exhibit. *[Donor names redacted.]*
- An artist-in-residence program has been established to restore old exhibits and create new murals with Member [REDACTED] assistance. *[Donor name redacted.]*
- Regarding CalOSHA, CFO Wayne Reading and City Liaison Carl Friedman created a task force to handle the many work orders not yet addressed.
- Attendance has been dropping from September into October. We hear there is standing room only at the Academy of Sciences. We hope to minimize the impact on our attendance by offering a better value.
- At the Woodland Park Zoo (Seattle), some departments are leaner than ours. The department with the biggest overhead is Operations. Annual fundraising

brought in \$1.8M last year. As we move forward we can use other zoos as examples.

- [Redacted] [Donor name redacted.]
- The next Board meeting will be held at KKR on November 18 at 12 Noon, followed by the Board retreat.
- There were concerns about the legislative analyst's report and Jenkins and Peterson will be meeting with McGoldrick in early November. There is a lot of good in the report but criticism about education and conservation need to be addressed.

III. AZA Inspection

- VP of Government Affairs Bob Jenkins noted that the SF Zoo has been inspected annually since accreditation. As a follow-up to December 2007, the zoo needs to issue a progress report mid-December. Jenkins reported that an inspector, Ed Diebold, director of animal collections at the Riverbanks Zoo & Garden in Columbia, SC, will be at the zoo in mid-to-late January for three days with one day devoted to a survey of the entire zoo. The week of March 22, zoo representatives will appear before the AZA board.
- The SF Zoo has three months to prepare for the inspection. The zoo must look as clean and pristine as possible with the emphasis on housekeeping, post-and-rope, and signage. Inspector Diebold may want to meet with the Executive Committee to discuss the zoo's future.
- Major areas of concern include the level of animal care, organization and maintenance and how it is completed. Jenkins anticipates questions about the organization.
- Chair Podell asked about maintenance issues and Peterson commented on some changes being made in personnel. [Redacted]

[Redacted] [Personnel issue redacted.]

IV. Financial Report

- Finance Committee Chair Bob Muehlhauser thanked CFO Reading for all his support in recent months.
- Muehlhauser commented that at November 2007, the zoo was in its best financial position ever. Following December 25, it was necessary to spend a considerable amount of money. Moving forward to June 2008, there is a \$2.3M deficit due to higher spending and lower revenues, of which \$2M was cash, which is the real problem and eliminated any financial flexibility for the zoo.
- Muehlhauser noted in May 2008, the Finance Committee looked at the budget ending June 2009, at which time he calculated that \$21.8M annually was necessary to run the zoo. This figure was reduced to \$20.3M and the difference of \$1.5M would come from the city, the Board, and membership. The \$20.3M budget was approved by the Recreation and Park Commission.



- Muehlhauser continued that the summer months were good, but numbers were slipping. Reading borrowed \$300K to meet September payroll. The Wells Fargo line of credit is being renegotiated downward.

- [Redacted]  
[Funding source redacted.]

- The zoo needs some alternatives to drive up revenues and reduce expenses. It is difficult for the Board to ask staff to cut expenses more than it has. Membership fees and attendance are down. Development is what is left. The Board could gear up for a campaign to ask donors for large amounts of dollars. Any Development effort must be successful at raising dollars.
- The Finance Committee could be missing some other options. The zoo received a \$500K bequest that will help, but it may have some restrictions.

- [Redacted]  
[Funding source redacted.]

- [Redacted]  
[Funding source redacted.]

- [Redacted]  
[Redacted due to attorney client privilege.]

- [Redacted]  
[Redacted due to attorney client privilege.]

- Member Melinda Henderson offered that the Auxiliary has plans to raise funds in 2009.
- Member Lisa Lenzo thanked Muehlhauser for his work and asked if there were anything to slash from the budget in the next 90 days.
- Member Dianne Taube noted that cuts could be done in conjunction with other changes, such as free PR to increase attendance and asking donors for more dollars.
- Members Toni Krajcar and Lenzo are sending a letter to Board members and the general membership asking for an increase in gifts.
- Chair Podell asked Member Gordon Dean to help Krajcar and Lenzo with their outreach.

- [Redacted]

[Funding source redacted.]

- [Funding source redacted.]
- A special meeting of the Board will be scheduled for Tuesday, October 21, in the Great Hall, time to be determined, to discuss the financial condition of the zoo with all Board members.

V. Committee Reports

- Education (Ed Oates) – The committee is putting together a mission statement for the November board meeting, plus goals and objectives. These will be refined at brought to the January board meeting.
- Auxiliary (Melinda Henderson) –Ice Dreams 2008 has had a good response and should draw about 1000 people. It received \$25K in corporate sponsorship. Nordstrom is partnering with the zoo to sponsor two events along with a cash donation. Another event is being planned with five to ten consulates, showcasing animals from those countries.

Meeting formally adjourned at 2:19 p.m.

**SAN FRANCISCO ZOOLOGICAL SOCIETY  
BOARD OF DIRECTORS' EXECUTIVE COMMITTEE MEETING**

February 24, 2009

12:00 – 1:30 p.m.

Osher Great Hall, Connie & Bob Lurie Education Center

**Attendees:**

**Present:** Toni Freitas-Krajcar, Melinda Henderson, Lisa Lenzo, Barry Lipman, Jim Ludwig, Ed Oates, Louise Patterson, Chair Nick Podell, Ed Poole, Esq., Vice Chair David Stanton, Secretary Craig Tighe

**Dial-in:** Donna Carnes, Marcelle Costello, Christian Valentine

**Staff:** Tanya Peterson, Joe Fitting, Bob Jenkins, Lora LaMarca, Wayne Reading, Harrison Edell, Amelia Haimovitch

Call to Order: 12:15 p.m.

**I. Approval of Minutes**

The December 16, 2008, meeting minutes were approved as submitted.

**II. South American Aviary update**

Harrison Edell, Curator of Birds for the SFZS, gave an update on the currently closed South American Aviary, a building erected following the Great Depression. Because of an estate bequest made to the Zoo in the name of psittacine (parrot) research, Edell proposes to reopen the South American Aviary as a parrot research center in conjunction with UC Davis. Director Peterson has discussed the proposal with the executor of the estate whose initial reaction was very positive, and the two also discussed the opportunity to rescue abandoned parrots. Chairman Podell suggested the proposal be sent to the Board's Design and Construction Committee for further review.

**III. Chairman's Report**

[Redacted text block]

[Funding source redacted.]

**IV. Executive Director's Report**

Director Peterson provided an update on attendance, employee morale and operations. Considering the difficult fiscal climate, the Zoo's employees are maintaining their focus and continue to offer creative ideas for improving animal exhibits.

**V. Business Plan Report**

Vice Chair Stanton reported on the work of the Business Plan subcommittee whose goal is to provide strategic planning for the Society and Zoo operations. The subcommittee has analyzed a number of options that run the gamut from closing portions of the Zoo to adopting a full Master Plan. Board Secretary Tighe asked about the impact on the budget if the full Master Plan was adopted. Stanton estimated the budget would require another \$2 - 3 million in operating revenue.

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Stanton then asked whether the business plan subcommittee has authority to pursue strategies more in line with introduction of an updated Master Plan. Based on the motion of Vice-chair Ludwig - the Executive Committee of the SF Zoological Society recommends that the Master Plan portion of the Business Plan be submitted to the full Board of Directors for its consideration. Seconded by Board member Patterson, the Executive Committee unanimously passed a resolution and sent the plan to the full Board for review and ratification. MSA

**VI. Education Update**

Joe Fitting, Director of Education, presented a request by the Docent Executive Council (DEC) to amend their by-laws. The Executive Committee passed a resolution to amend the by-laws of DEC. MSA

**VII. Committee Reports**

- a. Development (Krajcar/Lenzo) - Board member and Committee Co-Chair Krajcar reported on development events. Also, she reported that the Development Committee will meet before the next Executive Committee meeting to discuss restructuring the Zoo's development and membership departments during difficult economic times.
- b. Legal

[Redacted due to attorney client privilege.]

Meeting adjourned at 2:40 p.m.

**SAN FRANCISCO ZOOLOGICAL SOCIETY**  
**BOARD OF DIRECTORS' EXECUTIVE COMMITTEE MEETING**  
December 16, 12:00 - 1:30 p.m.  
Osher Great Hall, Connie & Bob Lurie Education Center

**Attendees:**

**Present:** Toni Freitas-Krajeac, Layne Gray, Melinda Henderson, Dr. Gloria Hing, Constance Hooker, Lisa Lenzo, Barry Lipman, Jim Ludwig, Bob Muehlhauser, Ed Oates, Louise Patterson, Nick Podell, Ed Poole, David Stanton

**Dial-in:** Donna Carnes, Gordon Dean, Dianne Taube, Christian Valentine

**Staff:** Tanya Peterson, Joe Fitting, Bob Jenkins, Lora LaMarca, Wayne Reading, Carl Friedman, Amelia Haimovitch

**Absent:** Fred Carroll, Paul Jansen, Robert Pedrero, Jay Pierrepont, Craig Tighe

Call to Order: 12:15 p.m.

**I. Approval of Minutes**

The October 14, 2008, meeting minutes were approved as submitted.

**II. Chairman's Report**

Chairman Podell reported on the need to raise \$10-\$15 million per year for the next 5 years for the capital fund. He also reported the status of discussions with various City representatives.

[Redacted due to donor names.]

**III. Director's Report**

Acting Director Peterson gave a Year-End Review. Accomplishments include:

- o Significant Births: Tigers, Aye Aye, Gorilla.
- o "Rescue Zoo" Legislation Defeated
- o City Partnership Re-Kindled
- o Admission Fee Increase approved by City
- o Adopt-an-Exhibit program
- o Artist-in-Residency
- o Rotation and Staff Changes
- o "Joint Zoo" returns to Zoo on a quarterly basis

Peterson reported that attendance for the month of December was 13,579 (actual) vs. 13,920 (budgeted) for a negative variance of (341). However, this negative variance includes a free day attendance of 1892 (actual) vs. 3964 (budgeted). Year-to-date attendance was 432,139 (actual) vs. 460,085 (budgeted) for a negative variance of (27,946). December Admission Fee was +\$17,200 and On-Site Membership Sales were very strong with sales of +\$100,000. Peterson also reported on YTD expenses, board giving and revenues.

Peterson noted the Zoo continues to have some challenges. These include projected revenue decline from events as well as efforts to reduce debt incurred following the December 25, 2007 tragedy.

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Peterson went on to talk about some creative, and inexpensive, ideas employees have come up with to help improve the Zoo. They include:

- o Adopt-an-Exhibit
- o Trading Places (Rotation Program)
- o "Back to Basics" (Improve Product)
- o Director's Advisory Group
- o Incentives for Keeper Talks
- o Signs for Empty Exhibits and Pathways
- o Zoo Sweep
- o City-wide or Special Interest Events
- o Governmental Outreach

**IV. Financial Report**

Muehlhauser made a motion to pass a resolution giving Peterson and Reading, CFO, authorization to sign an agreement with Wells Fargo regarding the Zoo's Line of Credit. MSA

**V. Committee Reports**

a. Legal

[Redacted due to attorney client privilege.]

- b. Development (Krajcar) - The Board has been very generous and board gifts are ahead of budget.
- c. Education and Conservation (Ed Oates) - The committees are putting together mission statements, plus goals and objectives. These will be refined and brought to the January board meeting.

Meeting adjourned at 2:00 p.m.