Date: April 26, 2011

Item No. 16 & 17
File No. 11017

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- ☒ **Tomas Picarello against Supervisor Carmen Chu**
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Completed by: Chris Rustom **Date:** April 22, 2011

***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.

<complaints@sfgov.org>
03/10/2011 02:53 PM

To <sotf@sfgov.org>
cc
bcc
Subject Sunshine Complaint

To:sotf@sfgov.orgEmail:complaints@sfgov.orgDEPARTMENT:Budget and Finance Committee
CONTACTED:Chairperson Carmen Chu
PUBLIC_RECORDS_VIOLATION:No
PUBLIC_MEETING_VIOLATION:Yes
MEETING_DATE:3-9-11
SECTIONS_VIOLATED:67.7, 67.8 and 67.10
DESCRIPTION:Agenda item # 7 was factually misleading. Agenda item heard in closed session despite my objection. Agenda item concerned funding two city departments and not pending settlement discussions.
HEARING:Yes
PRE-HEARING:No
DATE:3-10-11
NAME:Tomas Picarello
ADDRESS:
CITY:
ZIP:
PHONE:
CONTACT_EMAIL:[redacted]@yahoo.com
ANONYMOUS:
CONFIDENTIALITY_REQUESTED:Yes

Conference with City Attorney

[Convene in Closed Session - Existing Litigation - City as Plaintiff and/or Defendant]
Motion that the Budget and Finance Sub-Committee of the Board of Supervisors convene in closed session with the City Attorney for the purpose of conferring with, or receiving advice from, the City Attorney regarding the following existing lawsuits and claims in which proposed settlements are being considered by the Committee. Administrative Code Section 67.10(d) permit this closed session. Discussion in open session concerning these matters would likely and unavoidably prejudice the position of the City in the pending lawsuits and claims listed below.

7. 110154 [Appropriating $2,809,000 of General Fund Reserve - Fourth Street Bridge Project Litigation Expenses in FY2010-2011]

Sponsor: Mayor

Ordinance appropriating $2,809,000 from the General Fund Reserve to the Department of Public Works for litigation expenses related to the Santa Clara Superior Court Case between Mitchell Engineering/Obayashi Corporation v. City and County of San Francisco for the Fourth Street Bridge Project in FY2010-2011.

(Fiscal Impact.)

2/8/11; RECEIVED AND ASSIGNED to the Budget and Finance Committee.

2/22/11; TRANSFERRED to the Budget and Finance Sub-Committee.

3/2/11; CONTINUED. Heard in Committee. Speakers: Andrew Shen (City Attorney); presented information concerning the matter and/or answered questions raised during the hearing.

Continued to March 9, 2011.

After a closed session, if one occurs, the Committee shall adopt a motion either to disclose or not to disclose.

[Elect To Disclose]
Motion that the Board finds it is in the public interest to disclose information discussed in closed session, and directs the Chair immediately to disclose that information.

[Elect Not to Disclose]
Motion that the Committee finds that it is in the best interest of the public that the Committee elect at this time not to disclose its closed session deliberations listed above.

ADJOURNMENT

April 5, 2011

Sunshine Ordinance Task Force
City Hall, Room
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Sunshine Complaint #11017

Dear Mr. Rustom:

Thank you for your March 25, 2011 email notifying us of Sunshine Complaint #11017.

From my understanding, the complaint filed by, Mr. Tomas Picarello, included the following: 1) that Agenda Item #7 on the Budget and Finance Sub-Committee meeting held on March 9, 2011 was factually misleading, 2) that the item was heard in closed session against the individual's objection and 3) the agenda item concerned funding of two city departments and not pending settlement discussions.

In response to the first issue, the City Attorney and the Clerk of the Board collectively drafts the summary language and noticing language on all Board's agendas. Even though our office is not directly involved with drafting the specific language to describe the legislation, it is important to note that the agenda indicated that a motion to convene in closed session would be considered and that the item being considered is connected to litigation.

In response to the second issue, public comment was considered on the motion to enter into closed session and Mr. Picarello's objection was noted as a part of the public record. However, upon the advice of the City Attorney and in accordance with the law, the Budget and Finance Sub-Committee did vote unanimously on the motion to convene in closed session on the item.

Finally, in response to the third issue, the funding proposed is tied directly to pending litigation. Upon the advice of the City Attorney, the Board considered the appropriateness of and voted for a motion to enter into closed session.

I thank you again for the opportunity to provide additional information to resolve this matter.

Sincerely,

Carmen Chu
District 4 Supervisors
San Francisco Board of Supervisors