

Date: April 28, 2009

Item No. 6 & 7
File No. 09015

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Raymond Banks v HIV Health Services Planning Council
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Completed by: Chris Rustom

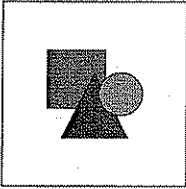
Date: April 24, 2009

***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.

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MEMORANDUM

April 20, 2009

RAYMOND BANKS v. SAN FRANCISCO HIV HEALTH SERVICES PLANNING COUNCIL (09015)

COMPLAINT

THE COMPLAINANT ALLEGES THE FOLLOWING FACTS:

Complainant Raymond Banks is a member of the San Francisco HIV Health Services Planning Council. The Council is a federally mandated and supported program made up of volunteers who in San Francisco are appointed by the Mayor of San Francisco. The authority for the Council comes from Title I and II of the Ryan White CARE Act of 2006. From November 2008 up until the time that Raymond Banks filed his complaint with the SOTF, Raymond Banks requested contract information about Veronica Neal of VAKN Consulting. When the information was not immediately available, Raymond Banks filed his complaint with the SOTF.

(As a side issue not related to the complaint, Raymond Banks was fighting charges made against him by members of the Council which alleged that his conduct was detrimental to the operation of the Council.)

COMPLAINANT FILES COMPLAINT:

On March 18, 2009 Raymond Banks filed a complaint against the Council alleging violations of the Sunshine Ordinance and the Public Records Act.

THE RESPONDENTS REPLIED AS FOLLOWS:

On April 14, 2009 a member of the San Francisco HIV Health Services Planning Council and a representative of the San Francisco Department of Public Health that administers the funding from the Ryan White CARE Act stated that the Planning Council did advise and assist DPH in the administration of the federal grant. In addition, the Council member stated that the requested information was not timely provided because the person responsible for the documents was out of the office and the request was not forwarded to another responsible person in her absence.

(Note: given the statements made at the Complaint Committee hearing, I reversed my opinion and stated that the Task Force did have jurisdiction to hear this complaint under section 67.3(d)(7) of the Sunshine Ordinance.)

Memorandum**APPLICABLE STATUTORY SECTION:**

1. Sunshine Ordinance, San Francisco Administrative Code Section 67.1 addresses Findings and Purpose.
2. Sunshine Ordinance, San Francisco Administrative Code Section 67.21 addresses general requests for public documents.
3. Sunshine Ordinance, San Francisco Administrative Code Section 67.24 public information that must be disclosed.
4. Sunshine Ordinance, San Francisco Administrative Code Section. 67.26 deals with withholding kept to a minimum.
5. Sunshine Ordinance, San Francisco Administrative Code Section. 67.27 deals with justification for withholding.
6. California Public Records Act, Government Code Section 6253 deals with public records open to inspection; agency duties and time limits.
7. California Public Records Act, Government Code Section 6255 deals with justification for withholding of records.
8. California Constitution, Article I, Section 3 addresses Assembly, petition, open meetings.

APPLICABLE CASE LAW: NONE

Memorandum

ISSUES TO BE DETERMINED

1. FACTUAL ISSUES

A. Uncontested Facts:

- The complaint is within the subject matter jurisdiction of the Task Force.
- The Complainant made a public records request.
- The Council did not provide the documents within the time requirements of the Sunshine Ordinance.

B. Contested facts/ Facts in dispute:

The Task Force must determine what facts are true.

i. Relevant facts in dispute:

- Whether the delay by the Council in providing the records was justified?

QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS: none

LEGAL ISSUES/LEGAL DETERMINATIONS;

- Were sections of the Sunshine Ordinance (Section 67.21), Brown Act, Public Records Act, and/or California Constitution Article I, Section three violated?
- Was there an exception to the Sunshine Ordinance, under State, Federal, or case law?

CONCLUSION

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

THE TASK FORCE FINDS THAT THE ALLEGED VIOLATIONS TO BE TRUE OR NOT TRUE.

Memorandum

THE CALIFORNIA CONSTITUTION AS AMENDED BY PROPOSITION 59 IN 2004 PROVIDES FOR OPENNESS IN GOVERNMENT.

Article I Section 3 provides:

- a) The people have the right to instruct their representative, petition government for redress of grievances, and assemble freely to consult for the common good.
- b)(1) The people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.
 - 2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.
 - 3) Nothing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.
 - 4) Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that person may not be deprived of life, liberty, or property without due process of law, or denied equal protection of the laws, as provided by Section 7.
 - 5) This subdivision does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings or public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.
 - 6) Nothing in this subdivision repeals, nullifies, supersedes, or modifies protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committee, and caucuses provided by Section 7 of Article IV, state law, or legislative rules adopted in furtherance of those provisions: nor does it affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses.

Memorandum
ATTACHED STATUTORY SECTIONS FROM CHAPTER 67 OF THE SAN
FRANCISCO ADMINISTRATIVE CODE (THE SUNSHINE ORDINANCE)
UNLESS OTHERWISE SPECIFIED

Section 67.1 addresses Findings and Purpose

The Board of Supervisors and the People of the City and County of San Francisco find and declare:

- (a) Government's duty is to serve the public, reaching its decisions in full view of the public.
- (b) Elected officials, commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. The people do not cede to these entities the right to decide what the people should know about the operations of local government.
- (c) Although California has a long tradition of laws designed to protect the public's access to the workings of government, every generation of governmental leaders includes officials who feel more comfortable conducting public business away from the scrutiny of those who elect and employ them. New approaches to government constantly offer public officials additional ways to hide the making of public policy from the public. As government evolves, so must the laws designed to ensure that the process remains visible.
- (d) The right of the people to know what their government and those acting on behalf of their government are doing is fundamental to democracy, and with very few exceptions, that right supersedes any other policy interest government officials may use to prevent public access to information. Only in rare and unusual circumstances does the public benefit from allowing the business of government to be conducted in secret, and those circumstances should be carefully and narrowly defined to prevent public officials from abusing their authority.
- (e) Public officials who attempt to conduct the public's business in secret should be held accountable for their actions. Only a strong Open Government and Sunshine Ordinance, enforced by a strong Sunshine Ordinance Task Force can protect the public's interest in open government.
- (f) The people of San Francisco enact these amendments to assure that the people of the City remain in control of the government they have created.
- (g) Private entities and individuals and employees and officials of the City and County of San Francisco have rights to privacy that must be respected. However, when a person or entity is before a policy body or passive meeting body, that person, and the public, has the right to an open and public process.

Memorandum

Section 67.21 addresses general requests for public documents.

This section provides:

- (a) Every person having custody of any public record or public information, as defined herein, ... shall, at normal times and during normal and reasonable hours of operation, without unreasonable delay, and without requiring an appointment, permit the public record, or any segregable portion of a record, to be inspected and examined by any person and shall furnish one copy thereof upon payment of a reasonable copying charge, not to exceed the lesser of the actual cost or ten cents per page.
- (b) A custodian of a public record shall as soon as possible and within ten days (emphasis added) following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered to the office of the custodian by the requester orally or in writing by fax, postal delivery, or e-mail. If the custodian believes the record or information requested is not a public record or is exempt, the custodian shall justify withholding any record by demonstrating, in writing as soon as possible and within ten days following receipt of a request, that the record in question is exempt under express provisions of this ordinance.

Section 67.25 provides:

- a.) Notwithstanding the 10-day period for response to a request permitted in Government Code Section 6256 and in this Article, a written request for information described in any category of non-exempt public information shall be satisfied no later than the close of business on the day following the day of the request. This deadline shall apply only if the words "Immediate Disclosure Request" are placed across the top of the request and on the envelope, subject line, or cover sheet in which the request is transmitted. Maximum deadlines provided in this article are appropriate for more extensive or demanding requests, but shall not be used to delay fulfilling a simple, routine or otherwise readily answerable request.
- b.) If the voluminous nature of the information requested, its location in a remote storage facility or the need to consult with another interested department warrants an extension of 10 days as provided in Government Code Section 6456.1, the requestor shall be notified as required by the close of business on the business day following the request.
- c.) The person seeking the information need not state his or her reason for making the request or the use to which the information will be put, and requesters shall not be routinely asked to make such a disclosure. Where a record being requested contains information most of which is exempt from disclosure under the California Public Records Act and this article, however, the City Attorney or custodian of the record may inform the requester of the nature and extent of the non-exempt information and inquire as to the requester's purpose for seeking it, in order to suggest alternative sources for the information which may involve less redaction or to otherwise prepare a response to the request.

Memorandum

Section 67.26 provides:

No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure under express provisions of the California Public Records Act or of some other statute. Information that is exempt from disclosure shall be masked, deleted or otherwise segregated in order that the nonexempt portion of a requested record may be released, and keyed by footnote or other clear reference to the appropriate justification for withholding required by section 67.27 of this article. This work shall be done personally by the attorney or other staff member conducting the exemption review. The work of responding to a public-records request and preparing documents for disclosure shall be considered part of the regular work duties of any city employee, and no fee shall be charged to the requester to cover the personnel costs of responding to a records request.

Section 67.27 provides:

Any withholding of information shall be justified in writing, as follows:

- a.) A withholding under a specific permissive exemption in the California Public Records Act, or elsewhere, which permissive exemption is not forbidden to be asserted by this ordinance, shall cite that authority.
- b.) A withholding on the basis that disclosure is prohibited by law shall cite the specific statutory authority in the Public Records Act or elsewhere.
- c.) A withholding on the basis that disclosure would incur civil or criminal liability shall cite any specific statutory or case law, or any other public agency's litigation experience, supporting that position.
- d.) When a record being requested contains information, most of which is exempt from disclosure under the California Public Records Act and this Article, the custodian shall inform the requester of the nature and extent of the nonexempt information and suggest alternative sources for the information requested, if available.

THE CALIFORNIA PUBLIC RECORDS ACT IS LOCATED IN THE STATE GOVERNMENT CODE SECTIONS 6250 ET SEQ. ALL STATUTORY REFERENCES, UNLESS STATED OTHERWISE, ARE TO THE GOVERNMENT CODE.

Section 6253 provides.

- a.) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the records after deletion of the portions that are exempted by law.
- b.) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of

Memorandum

duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

c.) Each agency, upon a request for a copy of records, shall within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefore....

Section 6255 provides:

a.) The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.

b.) A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing.



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2009 MAR 18 PM 2:18

BY [Signature]

SUNSHINE ORDINANCE TASK FORCE

1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102

Tel. (415) 554-7724; Fax (415) 554-7854

http://www.sfgov.org/sunshine

SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission

Shant - Council Support

Name of individual contacted at Department or Commission

Greg Zhovnerboff
674-4777

- Alleged violation public records access
- Alleged violation of public meeting. Date of meeting

Sunshine Ordinance Section

(If known, please cite specific provision(s) being violated)

Please describe alleged violation. Use additional paper if needed. Please attach any relevant documentation supporting your complaint.

Refusal to comply w/ repeated
request for contracts and
invoices w/ verification
also see attached grievance

Do you want a public hearing before the Sunshine Ordinance Task Force? yes no
 Do you also want a pre-hearing conference before the Complaint Committee? yes no

(Optional) Name Raymond Banks Address _____
 Telephone No. 415-574-6881 E-Mail Address 4poetics@gmail.com
 Date 3/18/09 [Signature]
 Signature
 I request confidentiality of my personal information. yes no

¹ NOTICE: PERSONAL INFORMATION THAT YOU PROVIDE MAY BE SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE, EXCEPT WHEN CONFIDENTIALITY IS SPECIFICALLY REQUESTED. YOU MAY LIST YOUR BUSINESS/OFFICE ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS IN LIEU OF YOUR HOME ADDRESS OR OTHER PERSONAL CONTACT INFORMATION. Complainants can be anonymous as long as the complainant provides a reliable means of contact with the SOTF (Phone number, fax number, or e-mail address).



San Francisco HIV Health Services Planning Council
San Francisco Eligible Metropolitan Area
San Francisco, San Mateo, and Marin Counties

Steve Manley, *Co-Chair*
Mark Molnar, *Co-Chair*
Laura Thomas, *Co-Chair*

Re: HIV Health Services Planning Council Member Raymond Banks

Date: June 10, 2008

Randy Allgaier
John Andrews
Margot Antonetty
Raymond Banks
Jeff Byers
Billie J. Cooper
Bart Ellison
Wade Flores
Donald Frazier
Chris Harris
Naim Harrison
Kelly Hart
Mary Lawrence Hicks
Cynthia Hoffman
Ronald Lee Juell
Johnson Livingston
Marcus Mabry
David Navarro
Catherine Newell
Ken Pearce
Maritza Penagos
Susan Philip
Veronica Pillatzke
Jerry Prentice
Gerardo Ramos
Stacia Scherich
George Simmons
Charles Siron
Donald Soto
Sparkie Spaeth
George Stevens
Ellen Sweetin
Jose Villarce

Dear Mayor Newsom,

Raymond Banks has been a member of the HIV Health Services Planning Council since September 1, 2007. Since that time he has engaged in a repeated pattern of inflammatory e-mail communications and has disseminated them to other (sometimes all) Council Members, management personnel at the Department of Public Health and most recently, to at least one member of the Health Commission. Additionally he has engaged in behavior that has been disruptive to the business of the Council by harassing members of Council Support and filing baseless grievances.

Mr. Banks has been warned against such behavior both in personal discussions with the three Co-Chairs of the Council and in writing. His behavior has only deteriorated over time. (A copy of the warning letter is enclosed.)

His actions are clearly outside the standards of expected behavior for Council Members. Written copies of those standards have been given to him and discussed, yet the pattern of disruptive behavior has continued and in fact has become more frequent over time. Often, before any reasonable response can be given, new allegations or complaints are generated and distributed. The content of these correspondences are inflammatory and often slanderous, and have been widely distributed both within and outside the Planning Council, impugning the reputation of Council leadership and Council Support, particularly the Director, Jack Newby.

When a pattern of disruptive behavior first became apparent to the Co-Chairs, we decided that the best course of action was to counsel him verbally and provide him with a written letter of warning defining the nature of the inappropriate behavior and the possible consequences if it continued. A copy of the letter is enclosed. We met with Mr. Banks and gave him a copy of a warning letter on January 10, 2008. It included:

Jack Newby
Director

Joe Lynn
*HIV Consumer
Rights Advocate*

Ray West
*Administrative
Coordinator*

Enrique Asis
*Training and
Evaluation
Coordinator*

Channing Wayne
*Administrative
Assistant*



San Francisco HIV Health Services Planning Council

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Kelly Hart
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Cynthia Hoffman
Ronald Lee Juell
Johnson Livingston
Marcus Mabry
David Navarro
Catherine Newell
Ken Pearce
Maritza Penagos

Philip
Anica Pillatzke
Jerry Prentice
Gerardo Ramos
Stacia Scherich
George Simmons
Charles Siron
Donald Soto
Sparkie Spaeth
George Stevens
Ellen Sweetin
Jose Villarce

Jack Newby
Director

Joe Lynn
*HIV Consumer
Rights Advocate*

Ray West
*Administrative
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Enrique Asis
*Training and
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Channing Wayne
*Administrative
Assistant*

- Pointing out that his e-mail correspondence sent out to members of the Council and others attacked the credibility and professionalism of the leadership of the Council including the Director.
- Noting disparaging remarks made to Planning Council Support staff accusing one staff member of being a "racist" and another of being a "traitor".
- Attempting to organize a boycott of the 2007 Cultural Competency training that was being given to all Council Members and Council Support.

He was given a written copy of expected standards of behavior as outlined in a document entitled "Rules of Respectful Behavior" and we discussed aspects of standards of conduct that all Council Members are expected to adhere to.

His response during the counseling session was that we (Council Co-Chairs) were "*members of an oligarchy*" that is running the Council and that we were "*acting like the Ku Klux Klan*". We assured him that our only intent was to mitigate the disruptive behavior to avoid real consequences in the future.

His additional response to this letter of warning was to file a grievance against the Co-Chairs. He stated that he was not disputing the content of the warning letter, but the right of the Co-Chairs to take such action. We (Co-Chairs) not only view our actions as something entirely appropriate under such circumstances but that it was in fact our obligation to address this behavior directly. We chose to deal with the matter in an informal and confidential manner. Having cited sections of the Council Policy and Procedure Manual and consulting with a Parliamentarian who had recently conducted training for the Council on Roberts Rules of Order, we concluded that issuing a warning letter was entirely appropriate. The Parliamentarians' opinion was clear that the principles of Roberts Rules, which the Council operates under, clearly supported our actions. Mr. Banks's response was "*as an African American, this seems like a high tech lynching.*"

After many requests we finally received a written copy of Mr. Banks's grievance on February 25, 2008. We then tried to establish a meeting with all relevant parties, Council Co-Chairs, Jack Newby the Director of the Council and



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*Training and
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Coordinator*

Channing Wayne
*Administrative
Assistant*

Raymond Banks. Mr. Banks refused to attend such a meeting unless he could bring additional parties into the discussions for "cross examination". It was our opinion that was not appropriate since this was not a 'trial'. It was then suggested that we attempt to find a neutral third party to facilitate a settlement. Mr. Banks agreed and we began discussing possible candidates. We were close to identifying an individual when on February 28th Mr. Banks notified Jack Newby that because he was restarting school he wished to postpone any further action on his grievance until June. We all agreed.

The Co-Chairs met with Planning Council Support staff, at their request, on May 12, 2008. At this meeting the Co-Chairs learned that Mr. Banks' pattern of insulting behavior towards Planning Council Support had continued unabated, and Planning Council Support staff requested that the Co-Chairs take action in regards to this behavior. The Co-Chairs repeatedly attempted to schedule a meeting with Mr. Banks to discuss these issues, and these requests to meet were repeatedly refused.

It should be noted that Mr. Banks has had access to the Council's Consumer Rights Advocate, his mentor and to Veronica Neal, a consultant the Planning Council has hired to help us integrate 'Cultural Humility' into our practices. Ms. Neal has also tried to schedule meetings with Mr. Banks and the Co-Chairs to discuss issues that have come up between Planning Council Support staff, and has also been refused. Mr. Banks has been offered third party arbitration, including Veronica Neal, or someone of his own choosing that we could agree to. He has refused all arbitration options.

In total Mr. Banks has filed five grievances, registered numerous complaints and at least 18 requests for information which far exceeds total requests from the other 39 Council Members and Co-Chairs put together. The sheer volume of these requests has put an extraordinary burden on Council Support. All requests to date have been fulfilled. In many cases, the information was never picked up by Mr. Banks after the requests were completed.

Mr. Banks's behavior indicates that he is far more interested in generating complaints and grievances than in getting them resolved or doing the work of the Council.

Written documentation and further details supporting all these statements is available upon request.



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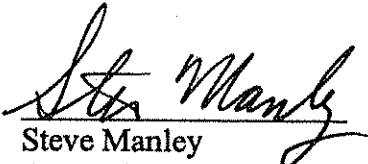
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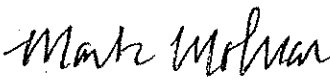
Ray West
*Administrative
Coordinator*


Enrique Asis
*Training and
Evaluation
Coordinator*

Channing Wayne
*Administrative
Assistant*

For all the stated reasons we, the Co-Chairs of the HIV Health Services Planning Council, respectfully request that Raymond Banks be dismissed from the Council effective immediately.


Steve Manley
Co-Chair, HHSPC


Mark Molnar
Co-Chair, HHSPC


Laura Thomas
Co-Chair, HHSPC

2/9/09

Dear Membership Committee,

I am requesting the involuntary removal of the HIV Health Services Planning Council Co Chairs, Steve Manley, Mark Molnar, and Laura Thomas under section 7.8 in the Policy and Procedure Manual for the following reasons:

1. The letter to Mayor Newsome violated section 7.8 subsection 2, Removal for Cause Process in the Policy and Procedure Manual because it states that involuntary removal procedures must be processed through the membership committee and ultimately approved by the full council. This is the third unauthorized action against me by the co chairs.
2. Mark Molnar made a false statement in his interview with membership committee on 2/18/09 when he claimed that the co chairs refused to rescind the letter of 1/10/08. However, an email from the consumer rights advocate dated 1/30/08 clearly contradicts Mark's testimony. There are more examples of the co chairs making untrue statement to membership committee during their testimony. They should be removed because they did not tell the truth to the investigating authority.
3. The Steve Manley also made a false statement to the membership committee when he said that there were not any secret files with information on council members. Again the letter to Mayor Newsome clearly contradicts this claim because when I previously requested my file, the letter to Mayor Newsome was not included. If it had been in my file, I would have filed for the removal of the co chairs long before these recent petitions.
4. The letter to the Mayor by the co chairs makes numerous false claims that can be easily disproven with many emails and I will do so in detail during the removal proceedings. Furthermore, there are omissions of facts. I suggest that this was done in order to justify my removal. For example, they omitted the apology I made on 12/17/07. Again, in order to be brief, I will present just one more example. The co chairs stated in their letter to the Mayor that all my requests for information have been filled. This claim is simply not true because I have never received the demographic information I requested. I simply wanted to know how many people of color have left the council since 2004. As of the date of this letter, I still have not received that information. The co chairs should be removed because they made false statements to the Mayor.
5. The co chairs violated Section 2, subsection d that states the investigation, upon request of the accused, may include a public hearing and opportunity to confront and present witnesses relevant to the complaint. I was denied this opportunity.
6. The co chairs violated section 67.17, my Constitutional Rights, and Roberts Rules of Order because they deprived me of my right to be heard before my peers, the right to present testimony, confront and present witnesses before the council

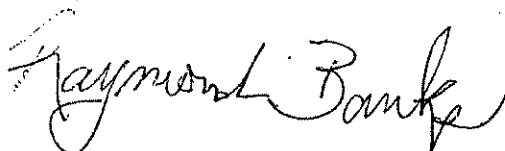
prior to sending the letter to the Mayor. "The fundamental requisite of due process of law is the opportunity to be heard." *Grannis vs. Ordean*, 234 U.S. 385, 394 (1914).

7. The co chairs sent the letter requesting my removal without the knowledge and consent of the full council. Their actions were secret and covert and I believe in violation of the notion of transparency which this council values and the Sunshine Ordinance.
8. In the letter to Mayor Newsome, the co chairs stated that they gave me a copy of Rules of Respectful Behavior. This claim is not true because to my knowledge, there is no such document. Since this document does not exist, how can they say that they gave it to me?
9. I request that membership determine whether the letter to Mayor Newsome, 6/10/08, was as an act of retaliation because I had filed a grievance dated 6/3/08 and I carbon-copied the entire council. Furthermore, according to my records, 6/3/08 was also the date that Steve Manley sent an email stating that I was to contact Jack Newby for the parliamentarian's complete opinion. Jack Newby sent the complete parliamentarian's opinion on 6/4/08. If it is determined that the co chairs retaliated against me by sending a letter to the Mayor requesting my removal because I had exercised my the right of inquiry and the right to file a grievance, then the co chairs should be involuntarily removed.

To summarize, I request that the co chairs be removed because they made false statements to the membership committee during their testimony on 2/18/09, and made false to statements in a letter to Mayor Newsome dated 6/10/08, and have used 3 procedures that are not authorized by the full council, the policies and procedure manual, or the bylaws against me. I also request under the Sunshine Ordinance, the California Public Records Act, and the Freedom of Information Act any and all notes of the co chairs such as interviews with witnesses, dates and times of these interviews, the questions asked and the replies during these interviews while investigating me and their decision to send a letter to Mayor Newsome asking for my removal.

I want to thank the Membership Committee for allowing me this opportunity to convey my concerns. If you need any further information, please contact me. I hope that this issue will be processed in an expeditious and timely fashion.

Sincerely,

A handwritten signature in cursive script that reads "Raymond Banks". The signature is written in black ink and is positioned above the printed name.

Raymond Banks



melvin banks
<4poetics.i@gmail.com>
03/23/2009 07:22 AM

To: sotf@sfgov.org
cc
bcc
Subject: Fwd: Response for request for information dated 11/10/08

History: This message has been forwarded

Dear Sunshine,

In the letter to the Mayor, the co chairs stated that they would provide information to substantiate their claims to the Mayor upon his request. Yet, when I request the information in November, the custodian of the public record, Greg Zhovreboff stated in the email that I am forwarding that the information does not exist. There is an inconsistency between the email and the letter to the Mayor. My complaint number is 09015 and I am requesting that this information be added to the complaint.

Thank you,

Raymond Banks, Council Member
The San Francisco HIV Health Services Planning Council

----- Forwarded message -----

From: **Greg Zhovreboff** <gzhovreboff@shanti.org>
Date: Thu, Nov 20, 2008 at 5:03 PM
Subject: Response for request for information dated 11/10/08
To: melvin banks <4poetics.i@gmail.com>

Dear Raymond,

Thank you for your request for public records on November 10, 2008. I've attached the request in PDF format to this email.

No such responsive documents exist. As Mark Molnar mentioned in his response to you regarding a similar request, the documents you reference ("notes of the co chairs such as interviews with witnesses"; "minutes of the co chairs discussions with Kevin Burns"), "are not documents that are ascertainable from records of meeting minutes or meeting recordings" and "have more to do with an individual or group thought process rather than actual council discussion topics or decisions."

Sincerely,

—
Greg Zhovreboff
Director
San Francisco HIV Health Services Planning Council

direct (415) 674-4777 | mobile (415) 939-0849

gzhovreboff@shanti.org

730 Polk Street, 3rd Floor
San Francisco, CA 94109
<http://www.sfcarecouncil.org>

**Join us on December 1st, 2008 as we honor World AIDS Day and commence Shanti's
35th year of service to the community.**

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RBanks PI Request Form 111008.PDF

LISTEN

TEXT ONLY

PRINT

A

A

A

Public Records Request Form

10 COPY

REQUEST FOR PUBLIC RECORDS

To facilitate the effort to inspect, copy and acquire documents pursuant to the California Public Records Act, Government Code Section 6250, and the San Francisco Sunshine Ordinance, San Francisco Administrative Code Section 67.1, the Sunshine Ordinance Task Force recommends that

1. The requester and the department treat each other with respect and politeness
2. The requester specify a time they are available to review the public records
3. The requester indicate if the request is an Immediate Disclosure Request (within 24 hours)

The cost for copies is 10 cents per page (20 cents per page for two-side copies), except for mass-produced records for agenda items for policy body meetings. Postage costs are additional.

PLEASE SEND REQUESTS FOR PUBLIC DOCUMENTS TO THE RESPONSIBLE DEPARTMENT. DO NOT SEND REQUESTS TO THE SUNSHINE ORDINANCE TASK FORCE.

PUBLIC RECORDS REQUEST FORM

To: Custodian of Records

Date: 11/10/08

Shanti

710 Polk St SFCA

Department

Department Address

Name of Requester: Raymond Banks

Requester Address: _____

City/State/Zip: _____

Telephone: 415-574-6881

Number to be called when documents are available or to clarify request

(Indicate times when you can be contacted)

Subject or Item

(Please be as specific as possible)

Requested: See Attached

✓

I want to see the records. Please call me at the above phone number when the records are ready for viewing. Do not make copies on my behalf. I will review the documents first and then indicate those documents I wish copied.

I want copies of the pages in the records that I have marked.

I want the entire records copied.

I want the information mailed to the address above.
If payment is required before releasing copies, please let me know

*Immediate Disclosure Requests: (Requests satisfied no later than the close of business on the day following the day of the request.) This deadline shall apply only if the words "Immediate Disclosure Request" are placed across the top of the request and on the envelope, subject line, or cover sheet in which the request is transmitted.

Rec'd 11/10/08

Sunshine Public Records Request Form

I request under the Sunshine Ordinance, the California Public Records Act, and the Freedom of Information Act any and all notes of the co chairs such as interviews with witnesses with dates and times during their investigation of me and their decision to deprive me of due process. I also requests minutes of the co chairs discussions with Kevin Burns under Administrative Code Section 12L (Nonprofits) which applies to non-profits that receive at least \$250,000 per year in funding provided by or through the City and County of San Francisco. I respectfully request that the above information be made available to me within 10 days as per California Public Records Act



melvin banks
<4poetics.i@gmail.com>
03/23/2009 11:10 AM

To soft@sfgov.org
cc
bcc

Subject additional background information concerning complaint
#09015

History: This message has been forwarded.

Dear Sunshine,

I believe that the attached information is important in order to understand the scope of the complaint. If you have any further questions, please call me at 415-574-6881 or email me.

Thank you,



Raymond Banks semantics2.doc Myconstitutional rights5.doc

2/25/08

Dear Laura Thomas, Mark Molnar, and Steve Manley,

The disciplinary action of 1/10/08 appears problematic for a variety of reasons. Therefore, I wish to file a grievance. In order to be brief I will only my primary concerns. First, I claim that there is a problem regarding the syntax or structure of the actions taken on January 10, 2008. For instance, there appears to have been a conflict of interest and I was deprived of due process cross examine witnesses against me, and to provide testimony on my behalf. From my understanding, those issues are being scrutinized.

However, I am far more concerned about the semantics or meaning of the actions by the co chairs. One of the bullet points states that I used the term racist when characterizing the behavior of certain council support staff. I interpret this statement to mean that I am not allowed to speak up about racism. More importantly, I will be disciplined or punished for speaking up. To put it another way, I am denied my African American lens of interpretation. More precisely, that view does not count. This is Black History Month. While watching a documentary, I watched various leaders of the civil rights movement speak out against perceived inequities. They were punished. Whites, mostly Southern, did not see any inequities or anything wrong with the system. There is a message here if one cares to reflect.

The semantics of the action by the co chairs seems to be problematic at the macro level. By this I mean that the co chairs actions can be construed as inconsistent with council's goal of cultural competency. If one listens to the recording of the meeting with the co chairs, one hears cultural arrogance instead of cultural humility, cultural insensitivity instead of cultural sensitivity, etc. Considering that the co chairs attended the training, one must ask are the co chairs committed to the council's goal of the cultural competency. If

not then perhaps we need co chairs that are sincerely committed to cultural competency and creating an environment that does not punish minorities for having their views.

Another bullet point states that I attempted to boycott the cultural competency training. Boycott has been a major tool of change for African Americans. From the bus boycott, boycotting Denny's, boycotting Mobil Oil; boycott has been a successful for addressing prejudice and racism. Again I was punished for using the tools of the civil rights movement or my people. Furthermore, after talking to one council member, I changed my mind. The point here is that I was punished for even thinking about it. One issue that has not been considered is that there is not a safe space for minorities to voice their concerns without fear of retaliation.

I admit that racism can be subject to interpretation and hard to prove. However, perhaps an analogue could prove useful. Homophobia and misogyny permeate practically every facet of society. For those who have encountered homophobia or misogyny, know that the feeling of being treated unfair or differently, is seldom blatant. In fact, it is subtle, but significant. If one perceives these issues on the council, then does one have to suffer because if one speaks out they will be disciplined I suggest that the same applies to racism? I do not think so.

In order to resolve these issues, I ask for the following. First, that the written warning on 1/10/08 be withdrawn. Second that there needs to be policies and procedures that protect the rights of council members. I will withdraw this grievance if the above conditions are met.

Sincerely,

Raymond Banks

Any typographical errors or grammatical mistakes are unintentional and I apologize for them.

2/25/08

Please sign to indicate that you have received my grievance.

Laura Thomas

Mark Molnar

Steve Manley

Thank you

Raymond Banks

11/10/08

Dear Membership Committee,

I am requesting the involuntary removal of the HIV Health Services Planning Council Co Chairs, Steve Manley, Mark Molnar, and Laura Thomas under section 7.8 in the Policy and Procedure Manual for the following reasons:

1. I was deprived of my right to free speech when I was punished for using the term "racist" when characterizing the actions of a former employee from council support who was also Mark's co worker. The individual that I was talking to was another African American. By being punished for using the term "racist", the co chairs are turning back the clock on Civil Rights that my ancestors have fought and died for. Additionally, this action fosters a safe haven for "racism" and creates a "hostile" environment for advocating for underserved populations and people of color with HIV/AIDS.
2. I was deprived of due process that is inherent of all institutions enacted by Congress with Federal funding the right to appeal the decisions of the Council. In the first three minutes of the tape of my meeting with the co chairs on 1/10/08, I requested to appeal the co chair's decision. My right to appeal was later justified by an opinion by a consultant who is a parliamentarian whose services were solicited by the co chairs, Laura Thomas, Mark Molnar, Steve Manley, and council support or Shanti. However, I was denied access to my right to appeal for six months and I am still being denied my right to appeal.
3. The co chairs forged the parliamentarian's opinion by deleting sections that may be seen as favorable to me and placed his name at the bottom of the email to me as justification, under Robert's Rules of Order, for their decision on 1/10/08. Since this is a public document, I am claiming that they forged and falsified public records.
4. There was a falsification of public records during the Steering Retreat of 5/9/08 when Mark Molnar stated that there was not a procedure of resolution on the action of 1/10/08 and that it needed to be created. However, he did not reveal to the full opinion of the council's consultant, the parliamentarian, to the members attending the Steering Retreat. The fact that he did not present all the information available to him prevented the council from making informed decisions concerning council member's rights and responsibilities.
5. The Rules of Respectful Engagement are not applied impartially and equitably. At the Steering Retreat, 5/9/08 a council member interrupted me even though I

had the floor and he continued to do so. The co chairs, all three, remained silent while I was subject to this breach of Decorum under Robert's Rules of Order. Michelle Long, Director of the AIDS Office, was a witness to this incident. However, I have been cited for breaches of the Rules of Respectful Engagement. The council member that interrupted me was white and I am black. It appears that he was not counseled about his behavior because the same council member committed the same breach of Decorum at a meeting on 7/24/08. Hilda Jones of the AIDS Office witnessed this incident. Therefore, it seems that they apply the rules to blacks and not whites.

6. Policies and procedures were created independently of the full Planning Council by the co chairs. The co chairs did not follow procedure when Jack Newby filed a grievance against me. According to the policy and procedure manual, the grievance was supposed to be forwarded to the co chair of memberships for proceeding. This was not done. Furthermore, the co chairs created a procedure, which included the director of Shanti, Kevin Burns, Mark Molnar's boss, that was not ratified by the full council as a legitimate procedure. Moreover, co chairs placed a gag order on the proceedings that precluded me from seeking advice and counsel. There is not any procedural justification in the policy and procedure manual for these actions. Again, the full council did not ratify these procedures.

I request under the Sunshine Ordinance, the California Public Records Act, and the Freedom of Information Act any and all notes of the co chairs such as interviews with witnesses with dates and times during their investigation of me and their decision to deprive me of due process. I also requests minutes of the co chairs discussions with Kevin Burns under Administrative Code Section 12L (Nonprofits) which applies to non-profits that receive at least \$250,000 per year in funding provided by or through the City and County of San Francisco. I respectfully request that the above information be made available to me within 10 days as per California Public Records Act. I submit my public records request form to Greg Zhovreboff, the Director of Planning Council Support as the Custodian of Records for the Planning Council.

I want to thank the Membership Committee for allowing me this opportunity to convey my concerns. If you need any further information, please contact me. I hope that this issue will be processed in an expeditious and timely fashion.

Sincerely,

Raymond Banks

Council Member and Membership Committee Member



melvin banks
<4poetics.i@gmail.com>
03/26/2009 09:25 AM

To: sotf@sfgov.org
cc: "T. J. Lee" <tle@shanti.org>
bcc:
Subject: Shanti has not honored my request

Dear Sunshine,

I wish to inform you that Greg Zhoverboff has taken a leave of absence for an indefinite period of time. The attached email chain for information has not been honored. I attempted to contact the executive director of Shanti, Mr. Roy, on 3/25/09 but he did not return my call. Can you please expedite my request? I really need a copy of both contract with Veronica Neal.

Thank you

Raymond Banks

----- Forwarded message -----

From: **melvin banks** <4poetics.i@gmail.com>

Date: Tue, Mar 3, 2009 at 3:06 PM

Subject: please compare contrast my request and your reply. there are additions.

To: Donald Frazier <dfrazier@southeast4health.org>, Greg Zhovreboff <gzhovreboff@shanti.org>, hilda.jones@sfdph.org, Mary Lawrence Hicks <mlhicks@php.ucsf.edu>, "michelle.long@sfdph.org" <Michelle.Long@sfdph.org>, Wade Flores <walksinwater@netzero.net>

Dear Greg,

this is today's addendum to my request.

I want to know why the question that Donald wanted submitted to the co chairs about the letter written to the Mayor was not submitted or asked? Who decided not to ask the co chairs that question? Was it a council support decision, a committee decision or the other committee co chair decision? if you have any further questions, please let me know.

Thanks,
Raymond Banks

My request

rommelvin banks<4poetics.i@gmail.com>
to Donald Frazier <dfrazier@southeast4health.org>,
Greg Zhovreboff <gzhovreboff@shanti.org>,
hilda.jones@sfdph.org,
michelle.long@sfdph.org
date Mon, Mar 2, 2009 at 4:10 PM
subject It is not my intention to overburden you but to seek the truth.
mailed-bygmail.com

Dear Greg,

Since I have not heard from you as you stated in your email of 2/27/09, I am requesting the following information. First, I request a copy of the complaint requesting the involuntary removal of the co chairs sent via email and not in Google documents. I am unfamiliar with that program and I am having problems. Second, I request a copy of the recording of the disciplinary meeting of 1/10/08, the testimony of the co chairs on 2/18/09, and my testimony on 2/25/09. If possible I request that you place the entire recording on one CD. I also request a copy of the letter that the co chairs sent to the Mayor but not as a Google document. I also wish to request a copy of Jack Newby's email. If you recall, you stated that you only from April of 2008 forward. I also am asking for all of Mark's email's concerning me including email surrounding the decision to send a letter to the Mayor. I am also requesting a copy of the contracts that Council Support had with Veronica Neal and the amount of those contracts. Finally, I would like to know who she talked to when Veronica says that "Key stakeholders have identified numerous root causes for the current conflict situation including but not limited to the following: aggressive behavior, disrespect, lack of understanding, mental health issues. More precisely, who made this claim about mental health issues and how was it substantiated? Due to the recent revelations of actions of the Co Chairs Molnar, Thomas, and Manley, I hope to receive this information in a timely manner. Although these issues were before Shanti hired you, you are the custodian of record and unfortunately I do not have any other avenues of information available.

your response

Greg Zhovreboff<gzhovreboff@shanti.org>
to "Raymond Banks (4poetics.i@gmail.com)" <4poetics.i@gmail.com>
date Mon, Mar 2, 2009 at 4:36 PM
subject Summary of requested materials
mailed-by shanti.org
hide details 4:36 PM (21 hours ago)
Reply
Hi, Raymond,

As I understand it, these are the materials you are requesting from Council Support staff.

*

Copy of contract and invoices relating to the work with Veronica Neal (VAKN Consulting) - requested 2/26/09

*

Copy of co-chairs testimony (recording) - requested 3/2/09

*

Copy of the 1/10 meeting (recording) - requested 3/2/09

*

Print out of Donald Frazier correspondence to Council Support Staff - requested 3/2/09

*

Copy of the questions sent out to Membership Committee - requested 3/2/09

*

Written copy of Veronica's June 9th findings - requested 3/2/09

*

Copy of the letter to the Mayor requesting removal - requested 3/2/09

Please let me know if I've left anything off.

Thanks,

--

Greg Zhovreboff
Director
San Francisco HIV Health Services Planning Council

my final response

melvin banks <4poetics.i@gmail.com>
to Greg Zhovreboff <gzhovreboff@shanti.org>,
Donald Frazier <dfrazier@southeast4health.org>,
"hilda.jones@sfdph.org" <hilda.jones@sfdph.org>,
"michelle.long@sfdph.org" <michelle.long@sfdph.org>
date Mon, Mar 2, 2009 at 5:46 PM
subject Re: Summary of requested materials
mailed-by gmail.com
hide details 5:46 PM (19 hours ago)

Reply

Greg,
i request that any of the material that you send is not in the form of google docs. i do not

understand how to use that program. i also would like that the recordings to be placed on a single cd. furthermore, i believe that Veronica stated that she was contracted at two separate times. therefore, i wish to have a copy of each contract and it accompanying invoice. i would also like to know who decided to withhold her report from the full council. if it was presented to the full council please provide the date. i request a copy of Donald's initial email in which he wanted a question to be submitted to the co chairs and why was that question asked of the co chairs? in other words, who decided not to ask that question? unfortunately, this is a very complex situation with multiple layers to unravel. therefore, after reviewing the information requested, there be a need to additional requests. i sincerely appreciate your cooperation.

thanks,
raymond banks



"T. J. Lee" <tlee@shanti.org>

03/26/2009 10:02 AM

To melvin banks <4poetics.i@gmail.com>, "sotf@sfgov.org"
<sotf@sfgov.org>

cc

bcc

Subject Complaint # 09015

To Whom It May Concern;

We are working on getting a copy of the contract for Veronica Neal and have requested it both via email and voicemail. It should be noted that Ms. Neal is on maternity leave through the end of March and is not available. Due to dramatic changes in Council Support last year the new staff here is not aware of the location a copy of the contract here. Director Greg Zhovreboff has been out on a personal leave since Monday, March 16, 2009 and will not return until at the earliest April 16, 2009. He is not checking voicemail or receiving emails. Unfortunately, a copy of this complaint was not sent to my attention until a day or so after it was received. The Executive Director of Shanti, Mr. Roy was out of the office on March 25, 2009 traveling and unable to check voicemail to receive any calls. Please make sure that I am included in all future communication involving this complaint since I will be handling it because of Mr. Zhovreboff's leave. I do not know why I was not included in the original email notification, but please understand that it has slowed the response by one day because the department assistant was waiting for the Mr. Zhovreboff to return and handle this issue.

Please feel free to contact me with any questions or issues.

T.J. Lee
Program Coordinator
San Francisco HIV Health Services Planning Council
(415) 674-4768



melvin banks
<4poetics.i@gmail.com>
03/26/2009 11:38 AM

To "T. J. Lee" <tlee@shanti.org>
cc: "sotf@sfgov.org" <sotf@sfgov.org>
bcc
Subject Re: Complaint # 09015

Dear T.J.

Are you claiming that Shanti does not have a copy of both contracts and that you are waiting for Veronica Neal to return from maternity leave to give Shanti a copy of the contracts? Please clarify? Can you please forward the invoices? Why should I have to wait almost 6 weeks for this information because one person is not available? Also, please read email from Veronica Neal in red.

Thank you.
Raymond Banks



melvin banks
<4poetics.i@gmail.com>
04/02/2009 11:36 AM

To SOTF <sotf@sfgov.org>
cc tlee@shanti.org
bcc
Subject amended complaint

Dear Sunshine,

I wish to amend my complaint. I claim that the Co Chairs Molnar, Manley, Thomas of the San Francisco HIV Health Services Planning Council also violated the Article VI sections 1 and section 4 of the Council Bylaws which state **“When a vote is required for removal of a Council member, the final decision shall be made by the full Council. Policies concerning probation or dismissal must have a process for appeal by the affected council member”** and **“The Council member shall be terminated by the Mayor upon recommendation of the Council”** respectively. I argue that the letter sent to Mayor Newsom by on 6/10/09 did not have the approval of the full council because it was sent without the knowledge of the full and since it was sent secretly and covertly, deprived me of my right to appeal. Therefore, I was deprived of due process or an appeal. Since the Mayor can appoint or terminate council members and the actions of the co chairs do not comport the fact that any initiation of termination has to be done in a public forum in front of the full council, I believe that Sunshine has jurisdiction of this amended complaint under **SEC. 67.1 FINDINGS AND PURPOSE**.

Sincerely,

Raymond Banks



melvin banks
<4poetics.l@gmail.com>
04/01/2009 03:27 PM

To: tlee@shanti.org
cc: Kaushik Roy <kroy@shanti.org>, sotf@sfgov.org
bcc:
Subject: sunshine ordinance

T.J,

Unfortunately, Hilda is out. Therefore, I will stop by tomorrow or the next to examine your invoices and your subcontracts as per sunshine for information gathering purposes.

Thanks,

Raymond Banks

**SEC. 67.21. PROCESS FOR GAINING ACCESS TO PUBLIC RECORDS;
ADMINISTRATIVE APPEALS.**

(a) Every person having custody of any public record or public information, as defined herein, (hereinafter referred to as a custodian of a public record) shall, at normal times and during normal and reasonable hours of operation, without unreasonable delay, and without requiring an appointment, permit the public record, or any segregable portion of a record, to be inspected and examined by any person and shall furnish one copy thereof upon payment of a reasonable copying charge, not to exceed the lesser of the actual cost or ten cents per page.



melvin banks
<4poetics.i@gmail.com>
04/02/2009 09:18 AM

To "T. J. Lee" <tlee@shanti.org>
cc sotf@sfgov.org
bcc
Subject Re: sunshine ordinance

T.J,

I believe you have to obey the law. If not, please provide reasons that you or council support do not have to obey the law.

Sincerely,
Ray

On Wed, Apr 1, 2009 at 5:13 PM, T. J. Lee <tlee@shanti.org> wrote:
Hello Council Member Banks,

Per our previous email on this matter you will have to contact Hilda Jones, the Grantee's representative, to view the information that you requested. If she is out of the office, as you say below, than you will have to wait until she returns to make arrangements with her to see the information.

Thank you,

T.J. Lee

Program Coordinator

San Francisco HIV Health Services Planning Council

From: melvin banks [mailto:4poetics.i@gmail.com]
Sent: Wednesday, April 01, 2009 3:27 PM
To: T. J. Lee
Cc: Kaushik Roy; sotf@sfgov.org
Subject: sunshine ordinance

T.J,

Unfortunately, Hilda is out. Therefore, I will stop by tomorrow or the next to examine your invoices and your subcontracts as per sunshine for information gathering purposes.

Thanks,

Raymond Banks

**SEC. 67.21. PROCESS FOR GAINING ACCESS TO PUBLIC RECORDS;
ADMINISTRATIVE APPEALS.**

(a) Every person having custody of any public record or public information, as defined herein, (hereinafter referred to as a custodian of a public record) shall, at normal times and during normal and reasonable hours of operation, without unreasonable delay, and without requiring an appointment, permit the public record, or any segregable portion of a record, to be inspected and examined by any person and shall furnish one copy thereof upon payment of a reasonable copying charge, not to exceed the lesser of the actual cost or ten cents per page.



"T. J. Lee" <tlee@shanti.org>

04/02/2009 10:18 AM

To melvin banks <4poetics.i@gmail.com>

cc "soft@sfgov.org" <soft@sfgov.org>

bcc

Subject RE: sunshine ordinance

Hello Council Member Banks,
Please read the email trail below. I have instructed you twice to call Hilda Jones, the Grantee's representative and administrator of the documents that you requested. Per a conversation between Greg Zhovreboff and Michelle Long, all requests for contracts and invoices need to be placed with the Grantee, the Department of Public Health, through Ms. Jones its representative. I checked with DPH and was told that Ms. Jones was out sick, but is now back in the office and that she is aware of your request and will respond to it in a timely manner.

T.J. Lee
Program Coordinator
San Francisco HIV Health Services Planning Council

From: melvin banks [mailto:4poetics.i@gmail.com]
Sent: Thursday, April 02, 2009 9:19 AM
To: T. J. Lee
Cc: soft@sfgov.org
Subject: Re: sunshine ordinance

T.J,
I believe you have to obey the law. If not, please provide reasons that you or council support do not have to obey the law.

Sincerely,
Ray

On Wed, Apr 1, 2009 at 5:13 PM, T. J. Lee <tlee@shanti.org> wrote:

Hello Council Member Banks,

Per our previous email on this matter you will have to contact Hilda Jones, the Grantee's representative, to view the information that you requested. If she is out of the office, as you say below, than you will have to wait until she returns to make arrangements with her to see the information.

Thank you,

T.J. Lee

Program Coordinator

San Francisco HIV Health Services Planning Council



melvin banks
<4poetics.i@gmail.com>
04/02/2009 11:17 AM

To "T. J. Lee" <tlee@shanti.org>
cc "sotf@sfgov.org" <sotf@sfgov.org>
bcc
Subject Re: sunshine ordinance

On Thu, Apr 2, 2009 at 10:18 AM, T. J. Lee <tlee@shanti.org> wrote:
Hello Council Member Banks,

Please read the email trail below. I have instructed you twice to call Hilda Jones, the Grantee's representative and administrator of the documents that you requested. Per a conversation between Greg Zhovreboff and Michelle Long, all requests for contracts and invoices need to be placed with the Grantee, the Department of Public Health, through Ms. Jones its representative. I checked with DPH and was told that Ms. Jones was out sick, but is now back in the office and that she is aware of your request and will respond to it in a timely manner.

T.J. Lee

Program Coordinator

San Francisco HIV Health Services Planning Council

From: melvin banks [mailto:4poetics.i@gmail.com]
Sent: Thursday, April 02, 2009 9:19 AM
To: T. J. Lee
Cc: sotf@sfgov.org
Subject: Re: sunshine ordinance

T.J.,

I believe you have to obey the law. If not, please provide reasons that you or council support do not have to obey the law.

Sincerely,

Ray



melvin banks
<4poetics.i@gmail.com>
04/06/2009 04:12 PM

To SOTF <sotf@sfgov.org>
cc Donald Frazier <dfrazier@southeast4health.org>, John
Andrews <smileyandrews@comcast.net>, Chris Harris
<Chris.Harris@sfgov.org>, "T. J. Lee" <tlee@shanti.org>,
bcc

Subject Clarification of City Attorney's opinion

History: This message has been replied to.

Dear Sunshine,

I do not understand the reasoning provided by the City Attorney, that since the council is funded federally, SOFT does not have jurisdiction over my complaint. For instance, Article VI, Section 10 Sunshine Ordinance. "All Council meeting procedures are conducted in accordance with the San Francisco Sunshine Ordinance." If you examine the below emails, it seems that members of the Council appear believe that the Sunshine Ordinance is applicable to its policies and procedure especially in regards to communication and information. Can someone provide clarification for other members of the council and myself regarding the domain and application of Sunshine? At the next membership meeting, I will suggest that Sunshine provide training for the full council.

Thank you,

Raymond Banks

Randy Allgaier, M.A."



to me

Hide options

12/5/07

From: Randy Allgaier, M.A. <randy@allgaierhawn.net>

To: melvin banks <4poetics.i@gmail.com>

Date: Dec 5, 2007 12:20 PM

Subject: A thought on how to communicate via email

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Raymond,

In order to avoid any problems with the Sunshine Ordinance Task Force, I encourage you to put all email recipients in the bcc line of the email. This way the email gets to everyone- but it appears to go only to each individual and no one can do a "respond all" and risk us being in violation of Sunshine.

Randy

From: Jack Newby < jnewby@shanti.org >	
---	--

To: melvin banks <4poetics.i@gmail.com>

Cc: Anthony Evans <toniboy69simmie@yahoo.com>, Bart Ellison <bart.ellison@sfgov.org>, "Billie J. Cooper" <msbilliecooper@yahoo.com>, cathynewell@sbcglobal.net, Robles94102@aol.com, Chris Harris <Chris.Harris@sfgov.org>, Cynthia Anne Hoffman <choffman@cccyo.org>, David Navarro <dacalifas@yahoo.com>, Donald Frazier <dfrazier@westside-health.org>, dsoto@lssnorcal.org, esweetin@co.sanmateo.ca.us, gstevens@ix.netcom.com, gsimmons@cccyo.org, Gerardo Ramos <gramos@sfaf.org>, jbyers1@dhs.ca.gov, Jerry Prentice <J1Prentice@aol.com>, John Andrews <smileyandrews@comcast.net>, Johnson Livingston <blanchedupree3@yahoo.com>, Jose

Luis Villarce <jvillarce@yahoo.com>, Kelly Hart <angelhart47@gmail.com>,
kwpsf@aol.com, lgthomas@gmail.com, Marcus Mabry <marcus94124@aol.com>,
margot antonetty@dph.sf.ca.us, ritzpen@gmail.com, Mark Molnar <mmolnar@shanti.org
>, mlhicks@php.ucsf.edu, Naim Harrison <naimharrison@yahoo.com>,
randy@allgaierhawn.net, sspaeth@co.marin.ca.us, Stacia Anne Scherich <
staciascherich@hotmail.com>, Steve Manley <steveminsf@sbcglobal.net>,
Susan.Philip@sfdph.org, tracy.brown@tlhealth.org, vgirlandson@yahoo.com,
walksinwater@netzero.net, Ray West <rwest@shanti.org>, Enrique Asis <
easis@shanti.org>, Channing Wayne <cwayne@shanti.org>, Dennis Wheeler <
dwheeler@shanti.org>

Date: Dec 4, 2007 2:45 PM

Subject: RE: women and minority affairs committee

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Hi,

PLEASE do not "reply all" in any response to this e-mail. It is a violation of the Sunshine Ordinance. Also, you should probably refrain from any replies, since it might be construed as a seriatum meeting. Please save any comments for the noticed meeting.

Jack Newby, Director

San Francisco HIV Health Services Planning Council

730 Polk Street, 3rd Floor

San Francisco, CA 94109

Phone: 415-674-4777

Fax: 415-674-0373

Cell: 415-710-4141

Dear Sunshine,

I wish to amend my complaint against the San Francisco HIV Health Service Planning Council Co-Chairs Laura Thomas, Mark Molnar, and Steve Manley because of the following reasons:

1. I claim that the SOTF has jurisdiction of my complaint because of Section 67.3 Definitions, (d) "Policy Body" shall mean, under (7) "any advisory board, commission, or council created by a federal, state, or local grant whose members are appointed by city officials, employees or agents." (Added by Ord. 265-293, App. 8/16/93; amended by Ord. 129-98, App. 4/17/98; Proposition G, 11/2/99)
2. I was deprived of my right to free speech when I was punished for using the term "racist" when characterizing the actions of a former employee from council support who was also Mark's co worker. The individual that I was talking to was another African American. By being punished for using the term "racist", the co chairs are turning back the clock on Civil Rights that my ancestors have fought and died for. Additionally, this action fosters a safe haven for "racism" and creates a "hostile" environment for advocating for underserved populations and people of color with HIV/AIDS.

a. **SEC. 67.17. PUBLIC COMMENT BY MEMBERS OF POLICY BODIES.**

Every member of a policy body retains the full constitutional rights of a citizen to comment publicly on the wisdom or propriety of government actions, including those of the policy body of which he or she is a member. Policy bodies shall not sanction, reprove or deprive members of their rights as elected or appointed officials for expressing their judgments or opinions, including those which deal with the perceived inconsistency of non-public discussions, communications or actions with the requirements of state or federal law or of this ordinance. The release of specific factual information made confidential by state or federal law including, but not limited to, the privilege for confidential attorney-client communications, may be the basis for a request for injunctive or declaratory relief, of a complaint to the Mayor seeking an accusation of misconduct, or both. (Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

3. I was deprived of due process that is inherent of all institutions enacted by Congress with Federal funding the right to appeal the decisions of the Council. In the first three minutes of the tape of my meeting with the co chairs on 1/10/08, I requested to appeal the co chair's decision. My right to appeal was later justified by an opinion by a consultant who is a parliamentarian whose services were solicited by the co chairs, Laura Thomas, Mark Molnar, Steve Manley, and council support or Shanti.

However, I was denied access to my right to appeal for six months and I am still being denied my right to appeal.

- a. "It would be my preference at this point to allow the system to work, that is to allow yourself the opportunity to make your case to the committee and to allow the co-chairs to provide a response. And then to let the committee make a recommendation to the entire Board for a final decision. When one side wins and the other doesn't in a dispute, the very core of parliamentary procedures dictates that all parties then move on -- the party that feels its position was not adopted can choose to leave the group or continue as a productive member of the group. And the group should always allow that party to continue as a member of the group (unless expulsion was called for in the group's decision, but that's another matter all together).

I would choose not to try to take sides at this point as I feel I was initially contacted to represent the entire Council as a consultant about running smoother meetings and abiding by the rules of order and the bylaws. If I was given full access to the facts originally and access to the bylaws, then my opinion above does not waver and I would have no reason to change that opinion."

Sincerely,

David Mezzera

Registered Parliamentarian

4. The co chairs forged the parliamentarian's opinion by deleting sections that may be seen as favorable to me and placed his name at the bottom of the email to me as justification, under Robert's Rules of Order, for their decision on 1/10/08. Since this is a public document, I claiming that they forged and falsified public records.

- a. Steve Manley's email dated 2/19/08

As promised to you by this Friday, here is the justification for the Co-Chairs actions in issuing a letter of warning to you.

The rights and responsibilities of Council Co-Chairs to counsel members regarding their behavior are documented in the Council Policy and Procedures and Article VII of the By-Laws as well as Roberts Rules of Order. We used the "informal dispute mechanism" as referred to in the Council By-Laws when we issued the letter of January 10, 2008 and notified the Co-Chairs of the Membership Committee as prescribed in the Policy and Procedure manual.

We also got an opinion from David Mezzera, the Registered Parliamentarian who spoke at the last Council meeting on Robert's Rules. The following is a partial text of his response when the question of the Co-Chairs authority to take a disciplinary action was posed to him. **The full text can be made available if you request it.**

"Based on the scenario above that you sent me and after reviewing your bylaws and appropriate sections of Robert's Rules of Order Newly Revised (RONR), my opinion is that - although such informal disciplinary action taking place outside the confines of a meeting is not specifically prescribed in RONR - such action is not precluded from taking place and that such action is actually permitted within a meeting."

"In the chapter on Disciplinary Procedures, RONR states (p. 624) that "although ordinary societies seldom have occasion to discipline members, an organization or assembly has the ultimate right to make and enforce its own rules, and to require that its members refrain from conduct injurious to the organization or its purposes."

"Also, as you pointed out to me, your bylaws (Art. VII) provide for formal grievances and appeals and it would be my opinion that the co-chairs acted within the philosophical domain of that Article using "informal dispute mechanisms," which are the exact words of the bylaws." - David Mezzera

I have forwarded your e-mail to the Membership Committee Co-Chairs and the other two Council Co-Chairs for their consideration.

Steve Manley

a. Actual parliamentarian's decision

ent: Friday, January 18, 2008 12:53 PM

To: Jack Newby

Subject: Re: SF HIV Health Services Planning Council - Meeting Agenda

On another matter: Our co-chairs recently spoke to a member about his behavior

that was felt to be disruptive at the meetings, and was harassing to staff.

They confirmed this meeting in writing. The member is complaining that the

co-chairs did not have the right to take this action. It is my understanding

under Robert's Rules that the Chair/Co-Chairs do have the right to counsel

members regarding their behavior. We do have a specific discipline and removal

policy that is quite extensive, but it does not include the type of informal procedure that was followed in this case. Does Robert's Rules provide this type

of authority to the chair/co-chairs?

--

Dear Jack,

Based on the scenario above that you sent me and after reviewing your bylaws and

appropriate sections of Robert's Rules of Order Newly Revised (RONR), my opinion is that - although such informal disciplinary action taking place outside the confines of a meeting is not specifically prescribed in RONR - such action is not precluded from taking place and such action is actually permitted within a meeting according to RONR. This may seem like a contradiction, but let me explain. Where I provide a direct quotation from RONR, I'll give a page number as reference.

RONR indicates the duties of the Presiding Officer of an assembly, including (p. 434) "to enforce the rules relating to debate and those relating to order and decorum within the assembly," and "to expedite business in every way compatible with the rights of the members." If such is not happening, then the Presiding Officer must have the authority to deal with the indecorum or to insure the rights of the members.

In the chapter on Disciplinary Procedures, RONR states (p. 624) that "although ordinary societies seldom have occasion to discipline members, an organization or assembly has the ultimate right to make and enforce its own rules, and to require that its members refrain from conduct injurious to the organization or its purposes." It goes on to state that "punishments that a society can impose generally fall under the headings of reprimand, fine (if authorized in the bylaws), suspension or expulsion." Pages 626-27 explain how a Presiding Officer can call a member to order during the meeting for any breeches of order. It also permits that reprimands be given to members for indiscretions or lack of order.

Another most-telling statement in RONR is on p. 433, lines 20-23: "At the same time, any presiding officer will do well to bear in mind that no rules take the place of tact and common sense on the part of the chairman."

With all of that said, if a Council member is disruptive at a meeting, (s)he can be called to order in public, but a respected colleague of mine has always said that a better way to deal with such disruption is to take the person to lunch and discuss common objectives of the organization and behaviors that challenge the fulfillment of those objectives. It sounds to me that the co-chairs did just that - talking to the person in private without the public scrutiny of calling the person to order within the meeting. To me, that was using tact and common sense in dealing with the disruption.

Also, as you pointed out to me, your bylaws (Art. VII) provide for formal grievances and appeals and it would be my opinion that the co-chairs acted within the philosophical domain of that Article using "informal dispute mechanisms," which are the exact words of the bylaws. They also provided written documentation of the consultation, and it would be my opinion that the person complaining could submit an appeal for the entire Council to adjudicate. Although this is not exactly what Art. VII is referring to, it seems to be keeping with the purpose of that article and certainly is in keeping with RONR that the assembly ultimately has the authority by vote to deal with disruptive members.

I hope this sheds some light on the situation outlined above.

--

David Mezzera

~~~~~

Registered Parliamentarian,

California State Association of

Parliamentarians (Past President)

5. The letter to Mayor Newsome violated section 7.8 subsection 2, Removal for Cause Process in the Policy and Procedure Manual because it states that involuntary removal procedures must be processed through the membership committee and ultimately approved by the full council. This is the third unauthorized action against me by the co chairs. Furthermore,
6. Furthermore, I claim that the Co Chairs Molnar, Manley, Thomas of the San Francisco HIV Health Services Planning Council also violated the Article VI sections 1 and section 4 of the Council Bylaws which state **"When a vote is required for removal of a Council member, the final decision shall be made by the full Council. Policies concerning probation or dismissal must have a process for appeal by the affected council member"** and **"The Council member shall be terminated by the Mayor upon recommendation of the Council"** respectively. I argue that the letter sent to Mayor Newsom by on 6/10/09 did not have the approval of the full council because it was sent without the knowledge of the full council and since it was sent secretly and covertly, deprived me of my right to appeal. Therefore, I was deprived of due process or an appeal.
7. The co chairs violated Section 7.8 sub-section 2, part d of the council policy and procedure manual that states the investigation, upon request of the accused, may include a public hearing and opportunity to confront and present witnesses relevant to the complaint. I was denied this opportunity.
8. The co chairs violated section 67.17, my Constitutional Rights, and Roberts Rules of Order because they deprived me of my right to be heard before my peers, the right to present testimony, confront and present witnesses before the council prior to sending the letter to the Mayor. "The fundamental requisite of due process of law is the opportunity to be heard." Grannis vs. Ordean, 234 U.S. 385, 394 (1914).
9. In your letter to Mayor Newsom, you (the co chairs) stated "written documentation and further details supporting all these statements is available upon request." Therefore, I request the written documentation and details that you were going to provide to the Mayor under the Sunshine Ordinance and the California Public Records Act.

Raymond Banks



melvin banks  
<4poetics.i@gmail.com>  
04/10/2009 01:45 PM

To SOTF <sotf@sfgov.org>  
cc tlee@shanti.org  
bcc  
Subject amended complaint

On Fri, Apr 10, 2009 at 10:30 AM, SOTF <[sotf@sfgov.org](mailto:sotf@sfgov.org)> wrote:

This is a reminder that a hearing is scheduled with the Complaint Committee of the Sunshine Ordinance Task Force, regarding the above titled complaint, to determine whether the Task Force has jurisdiction over this matter, and to clarify the complaint.

Date: Tuesday, April 14, 2009  
Location: City Hall, Room 406  
Time: 3:30 p.m.

Complainants: Your attendance is required at this meeting/hearing.

Respondents/Departments: Pursuant to Section 67.21 (e) of the Ordinance, the custodian of records or a representative of your department, who can speak to the matter, is required at the meeting/hearing.

To access the agenda please click on the link below. Then click on the associated item number to access the packet material related to your item.

[http://www.sfgov.org/site/sunshine\\_page.asp?id=102235](http://www.sfgov.org/site/sunshine_page.asp?id=102235)

Chris Rustom, Administrator  
Sunshine Ordinance Task Force  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, CA 94102-4689  
OFC: (415) 554-7724  
FAX: (415) 554-7854  
[SOTF@sfgov.org](mailto:SOTF@sfgov.org)



3Sunshineamendedcomplaint.doc

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1. I claim that the SOTF has jurisdiction of my complaint because of Section 67.3 Definitions, (d) "Policy Body" shall mean, under (7) "any advisory board, commission, or council created by a federal, state, or local grant whose members are appointed by city officials, employees or agents." (Added by Ord. 265-293, App. 8/16/93; amended by Ord. 129-98, App. 4/17/98; Proposition G, 11/2/99)
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California State Association of

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Raymond Banks

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