

Date: May 24, 2011

Item No. 25

File No. _____

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Draft Minutes: Task Force April 26, 2011**
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Completed by: Chris Rustom

Date: May 20, 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.

Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE
REGULAR MEETING
DRAFT MINUTES**

Tuesday, April 26, 2011
4:00 p.m., City Hall, Room 408

Task Force Members

| | | | |
|--------|----------------------|------------|--------------------------|
| Seat 1 | David Snyder | Seat 8 | Bruce Wolfe (Vice chair) |
| Seat 2 | Richard Knee (Chair) | Seat 9 | Hanley Chan |
| Seat 3 | Sue Cauthen | Seat 10 | Hope Johnson |
| Seat 4 | Suzanne Manneh | Seat 11 | Jackson West |
| Seat 5 | Allyson Washburn | | |
| Seat 6 | James Knoebber | Ex-officio | (Vacant) |
| Seat 7 | Jay Costa | Ex-officio | (Vacant) |

Call to Order 4:00 P.M.

Roll Call Present: Knee, Cauthen, Manneh (in at 5:08 p.m.), Washburn, Knoebber (left at 5:27 p.m.), Costa, Wolfe, Chan (left at 10:30 p.m., Johnson (in at 6:09 pm), West (in at 4:50 p.m. and left at 9:56)
Excused: Snyder

Agenda Changes: Items 30 & 31 heard before Item 1, Item 44 heard before Item 2.

Deputy City Attorney: Jerry Threet (left at 9:15)

Clerk: Chris Rustom

1. Starts at 0:03:15 Hearing to consider possible changes to Task Force procedural rules including majority vote requirements for substantive action by the Task Force and policy on unexcused absences by members.

Vice Chair Wolfe, seconded by Member Washburn, motioned to approve the amendments to the By-Laws.

Public Comment: None.

Member Costa, seconded by Vice Chair Wolfe, motioned to sever Article IV, Section 7 from the rest of the amendments.

The motion carried on the following vote:

Ayes: 6 - Manneh, Washburn, Costa, Wolfe, Chan, Knee.
Noes: 1 – Cauthen

Member Cauthen later changed her vote to the affirmative.

Vice Chair Wolfe, seconded by Member Washburn, motioned to approve Article VI, Section 1, preamble; Article VI, Section 1, subsection d; and Article VII.

Public Comment: David Pilpel, a former member of the Task Force, spoke in favor but added that the language in Article VII needs to be consistent.

Member Cauthen, seconded by Member Manneh, motioned to have the words “without being excused” after the words “two meetings” in Article VII.

Public Comment: Kimo Crossman members agreed to attend meetings and if they do not they need to let someone else do the job. Tomas Picarello said the bar to notify the Board of Supervisors should be set at three absences, excused or not excused. David Pilpel said the power of this paragraph is mainly to push the member to participate or to resign.

The motion failed on the following vote:

Ayes: 3 – Cauthen, Manneh, Chan
Noes: 5 - Washburn, Knoebber, Costa, Wolfe, Knee.

The motion to approve Article VI, Section 1, preamble; Article VI, Section 1, subsection d; and Article VII passed on the following vote:

Ayes: 8 - Cauthen, Manneh, Washburn, Knoebber, Costa, Wolfe, Chan, Knee.

Public Comment: Kimo Crossman spoke in favor and added that if the Task Force gets sued, the City Attorney’s Office would have to help with the defence. Tomas Picarello spoke in favor and added that outside counsel should be hired if Ethics refuses to enforce the law. David Pilpel spoke against the motion and asked to have it discussed at a later date.

The motion to approve Article IV, Section 7 passed on the following vote:

Ayes: 8 - Manneh, Washburn, Knoebber, Costa, Wolfe, Chan, Johnson, West
Noes: 1 -Cauthen, Knee

2. 11009 Determination of jurisdiction on complaint filed by Jason Grant Garza against

the San Francisco Community Clinic Consortium for allegedly refusing to provide requested documents.

Heard: Jason Grant Garza was not present. Nobody in the audience presented facts and evidence in support of Mr. Garza. Donald Rubenstein, a representative of the San Francisco Community Clinic Consortium, presented the respondent's case.

Member Cauthen, seconded by Member Washburn, motioned to find no jurisdiction.

Public Comment: None.

The motion passed on the following vote:

Ayes: 9 - Cauthen, Manneh, Washburn, Costa, Wolfe, Chan, Johnson, West, Knee

The matter is concluded

3. 11009 Hearing on complaint filed by Jason Grant Garza against the San Francisco Community Clinic Consortium for allegedly refusing to provide requested documents.

The matter is concluded

4. 11013 Determination of jurisdiction on complaint filed by Patrick Monette-Shaw against the Controller's Office and the Ethics Commission for allegedly refusing to release certain documents exchanged between the two departments.

Member Johnson, seconded by Member Manneh, motioned to have Chair Knee recused from Items 4, 5, 6 and 7 because he said he would be biased against Richard Mo, who is one of the respondents in the matter.

Public Comment: None.

The motion passed on the following vote:

Ayes: 8 - Cauthen, Manneh, Washburn, Costa, Wolfe, Chan, Johnson, West

Excused: 1 - Knoebber

Member Johnson, seconded by Member Manneh, motioned to find jurisdiction.

Public Comment: None.

The motion passed on the following vote:

Ayes: 8 - Cauthen, Manneh, Washburn, Costa, Wolfe, Chan, Johnson, West

Recused: 1 - Knee

Excused: 1 - Knoebber

Lynn S. Carman (2:06:45) Assessor Russ Wolden Jr

5. 11013 Hearing on complaint filed by Patrick Monette-Shaw against the Controller's Office and the Ethics Commission for allegedly refusing to release certain documents exchanged between the two departments.

Hearing: Patrick Monette-Shaw made his presentation. Dr. Derek Kerr and Dr. Maria Rivero spoke in support of Mr. Monette-Shaw. Tonia Lediju of the Controller's Office Whistleblower Program and Richard Moe of the Ethics Commission presented their responses.

Member Cauthen, seconded by Member Manneh, motioned to find the Controller's Office in violation of Section 67.25 for untimely response.

Public Comment: None.

The motion passed on the following vote:

Ayes: 8 - Manneh, Washburn, Costa, Chan, Johnson, West, Cauthen, Wolfe

Recused: 1 - Knee

Excused: 1 - Knoebber

Member Johnson, seconded by Member Washburn, motioned to find the Controller's Office and the Ethics Commission in violation of Section 67.26 for not keeping withholding to a minimum (for not saying who is doing the investigation).

Public Comment: Richard Knee said the Charter may not trump the California Public Records Act and the Task Force needs to consider if withholding is permitted. Tomas Picarello said he was in favor of the motion and is appalled by the departments' stand that says nothing in the investigation is disclosable.

Member Johnson, seconded by Member Costa, motioned to add a violation of 67.27 for failure to justify the withholding.

The motion passed on the following vote:

Ayes: 8 - Manneh, Washburn, Costa, Chan, Johnson, West, Cauthen, Wolfe

Recused: 1 - Knee

Excused: 1 - Knoebber

6. 11014 Determination of jurisdiction on complaint filed by Patrick Monette-Shaw against the Ethics Commission for allegedly refusing to release files and memos related to the Laguna Honda Hospital's patient gift fund.

The Complainant and the Respondent agreed to have the matter heard at the May 24, 2011, hearing.

Chair Knee returns to the dais.

7. 11014 Hearing on complaint filed by Patrick Monette-Shaw against the Ethics Commission for allegedly refusing to release files and memos related to the Laguna Honda Hospital's patient gift fund.

See Item 6.

8. 11003 Determination of jurisdiction on complaint filed by Matt Smith against the District Attorney's Office for allegedly refusing to release files related to an investigation. (action item) (attachment) (5 min)

Member Washburn, seconded by Member Cauthen, motioned to have Member Chan recused because he has had substantive discussions about the case with the Complainant.

The motion passed on the following vote:

Ayes: 8 – Cauthen, Manneh, Washburn, Costa, Wolfe, Johnson, West, Knee

Recused: 1 - Chan

Excused: 1 - Knoebber

Vice Chair Wolfe, seconded by Member Johnson, motioned to find jurisdiction.

Public Comment: None.

The motion passed on the following vote:

Ayes: 8 - Cauthen, Manneh, Washburn, Costa, Wolfe, Johnson, West, Knee

Recused: 1 - Chan

Excused: 1 - Knoebber

9. 11003 Hearing on complaint filed by Matt Smith against the District Attorney's Office for allegedly refusing to release files related to an investigation.

Heard: Complainant Matt Smith presented his case. The response was provided by Katie Miller of the District Attorney's Office.

No motion was presented.

Public Comment: None.

The matter is concluded.

Member Chan returns to the dais.

10. 10059 Hearing to consider possible referral to the Ethics Commission for further enforcement action of Rumi Uno and/or David Hill, of the SF Municipal Transportation Agency, for willful violation of the Sunshine Ordinance(discussion and action item) (attachment) (30 min)

Heard: Complainant Dorian Maxwell presented his case. David Hill provided the SF Municipal Transportation Agency's response.

Member Johnson, seconded by Member Manneh, motioned to have a letter sent to the Board of Supervisors saying that the SF Municipal Transportation Agency is not properly trained in the requirements of the Sunshine Ordinance and to have David Hill referred to the Ethics Commission for violating Section 67.34 for failure to turn over a document.

Member Washburn, seconded by Vice Chair Wolfe, motioned to divide the motion.

The motion passed on the following vote:

Ayes: 9 - Washburn, Costa, Wolfe, Chan, Johnson, West, Cauthen, Manneh, Knee
Excused: 1 - Knoebber

Public Comment: Tomas Picarello said the Oder of Determination should go to the State Attorney-General's Office. Cynthia Carter said Cyndia Chambers of the SFMTA was not new at her job when the incident occurred.

The motion to have a letter sent to the Board of Supervisors passed on the following vote:

Ayes: 9 - Washburn, Costa, Wolfe, Chan, Johnson, West, Cauthen, Manneh, Knee
Excused: 1 - Knoebber

The motion to have David Hill referred to the Ethics Commission for violating Section 67.34 be willfully violation of not handing over a document in a timely manner passed on the following vote:.

Ayes: 8 - Costa, Wolfe, Chan, Johnson, West, Cauthen, Manneh, Knee
Noes: 1 - Washburn,
Excused: 1 - Knoebber

Member Johnson to draft letter to the Board of Supervisors.

11. 11008 Hearing on complaint filed by William Clark against the Arts Commission for allegedly refusing to respond to a public records request.

Heard: William Clark presented his case. Julio Mattos of the Arts Commission presented the response.

Member Cauthen, seconded by Member Manneh, motioned to find the Arts Commission in violation of Section 67.21(b) for not responding in a timely manner and Section 67.21(e) for not sending a person knowledgeable on the complaint.

Public Comment: Amanda Nordquist said the Arts Commission's April 13, 2011, minutes do not reflect what actually happened at the meeting.

Vice Chair Wolfe suggested that the motion also include a requirement that the Arts Commission send the original tape for review by the Compliance and Amendments Committee. Member Cauthen and Member Manneh agreed.

Ayes: 7 - Costa, Wolfe, Johnson, Cauthen, Manneh, Washburn, Knee
Excused: 1 - Knoebber, Chan, West

12. 11015 Determination of jurisdiction on complaint filed by Larry Little John against the Sheriff's Department for allegedly denying access to a jail census.

Continued to May 24, 2011, meeting.

13. 11015 Hearing on complaint filed by Larry Little John against the Sheriff's Department for allegedly denying access to a jail census.

Continued to May 24, 2011, meeting.

14. 11016 Determination of jurisdiction on complaint filed by Andrew Sisneros against the SF Municipal Transportation Agency for allegedly failing to release information related to a driver cam.

Continued to May 5, 2011, meeting.

15. 11016 Hearing on complaint filed by Andrew Sisneros against the Larry Little John against the SF Municipal Transportation Agency for allegedly failing to release information related to a driver cam.

Continued to May 5, 2011, meeting.

16. 11017 Determination of jurisdiction on complaint filed by Tomas Picarello against Supervisor Carmen Chu for allegedly violating meeting laws.

Continued to May 24, 2011, meeting.

17. 11017 Hearing on complaint filed by Tomas Picarello against Supervisor Carmen Chu for allegedly violating meeting laws.

Continued to May 24, 2011, meeting.

18. 11018 Determination of jurisdiction on complaint filed by Charlotte Laughon against Supervisor David Chiu, Supervisor Carmen Chu and Supervisor Eric Mar for allegedly failing to respond to a public records request.

Continued to May 24, 2011, meeting.

19. 11018 Hearing on complaint filed by Charlotte Laughon against Supervisor David Chiu, Supervisor Carmen Chu and Supervisor Eric Mar for allegedly failing to respond to a public records request.

Continued to May 24, 2011, meeting.

20. 11020 Determination of jurisdiction on complaint filed by Charlotte Laughon against the Film Commission for allegedly failing to provide requested information and being untruthful about it.

Continued to May 24, 2011, meeting.

21. 11020 Hearing on complaint filed by Charlotte Laughon against the Film Commission for allegedly failing to provide requested information and being untruthful about it.

Continued to May 24, 2011, meeting.

22. 11021 Determination of jurisdiction on complaint filed by Debra Benedict against the non-profit Tides Center for allegedly violating Administration Code Chapter 12L.

Continued to May 24, 2011, meeting.

23. 11021 Hearing on complaint filed by Debra Benedict against the non-profit Tides Center for allegedly violating Administration Code Chapter 12L.

Continued to May 24, 2011, meeting.

24. 11022 Determination of jurisdiction on complaint filed by Debra Benedict against the non-profit Lutheran Social Services for allegedly violating Administration Code Chapter 12L.

Continued to May 24, 2011, meeting.

25. 11022 Hearing on complaint filed by Debra Benedict against the non-profit Lutheran Social Services for allegedly violating Administration Code Chapter 12L.

Continued to May 24, 2011, meeting.

26. 11023 Determination of jurisdiction on complaint filed by William Clark against the Arts Commission for allegedly not providing information related to an employee's job reclassification.

Continued to May 24, 2011, meeting.

27. 11023 Hearing on complaint filed by William Clark against the Arts Commission for allegedly not providing information related to an employee's job reclassification.

Continued to May 24, 2011, meeting.

28. 11025 Determination of jurisdiction on complaint filed by Susan Dumont against the City Attorney's Office for not responding to an Immediate Disclosure Request.

Continued to May 24, 2011, meeting.

29. 11025 Hearing on complaint filed by Susan Dumont against the City Attorney's Office for not responding to an Immediate Disclosure Request.

Continued to May 24, 2011, meeting.

30. 11026 Determination of jurisdiction on complaint filed by Michael Petrelis against the Police Department for allegedly not allowing public comment during a public forum.

Starts
at
0:00:45

Heard: The complainant requested a continuance. The respondent disagreed.

Member Knoebber, seconded by Vice Chair Wolfe, motioned to continue the matter to the May 24, 2011, meeting.

Public Comment: None.

The motion carried on the following vote:

Ayes: 7 – Cauthen, Washburn, Knoebber, Costa, Wolfe, Chan, Knee

31. 11026 Hearing on complaint filed by Michael Petrelis against the Police Department for allegedly not allowing public comment during a public forum.
Continued to May 24, 2011. See above
32. Approval of January 4, 2011, special meeting minutes.
Continued to May 24, 2011, meeting.
33. Approval of January 20, 2011, special meeting minutes.
Continued to May 24, 2011, meeting.
34. Approval of January 25, 2011, regular meeting minutes.
Continued to May 24, 2011, meeting.
35. Approval of February 17, 2011, special meeting minutes.
Continued to May 24, 2011, meeting.
36. Approval of February 22, 2011, regular meeting minutes.
Continued to May 24, 2011, meeting.
37. Approval of March 17, 2011, special meeting minutes.
Continued to May 24, 2011, meeting.
38. Approval of March 22, 2011, regular meeting minutes.
Continued to May 24, 2011, meeting.
39. Approval of April 21, 2011, special meeting minutes.
Continued to May 24, 2011, meeting.
40. Approval of March 10, 2011, Rules Committee meeting minutes.
Continued to May 24, 2011, meeting.
41. Report: Compliance and Amendments Committee meeting of April 12, 2011.

Continued to May 24, 2011, meeting.

42. Report: Education, Outreach and Training Committee meeting of April 14, 2011.

Continued to May 24, 2011, meeting.

43. Administrator's Report.

Mr. Rustom made the report.

44. Starts at 1:26:30 Public comment on matters not listed on the agenda. Public comment shall be taken at 5:00 p.m., or as soon thereafter as possible

Robert Clark told the Task Force about some comments made at the Arts Commission's April 13, 2011, meeting. William Clark continued his twin brother's presentation. Tomas Picarello said if jurisdiction was not contested there was no need to find jurisdiction.

45. Announcements, comments, questions, and future agenda items from the Task Force members: None.

Adjournment

With the closure of City Hall for the night nearing, the Task Force adjourned at the hour of 10:54 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force, Rm. 244, City Hall, No. 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102, Phone 554-7724 and at <http://www.sfbos.org/index.aspx?page=9811>