

Date: June 23, 2009

Item No. 2
File No. _____

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Draft Minutes: Task Force for May 26, 2009**
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

Completed by: Frank Darby

Date: June 17, 2009

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

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

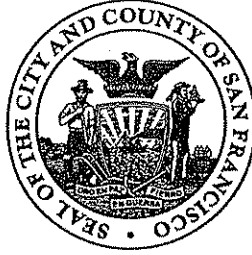
** The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.

(

(

(

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

**SUNSHINE ORDINANCE TASK FORCE
MEETING
DRAFT MINUTES**

Tuesday, May 26, 2009
4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven-Green (Vice Chair)	Seat 8	Kristin Chu (Chair)
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	(Vacant)	Seat 11	Marjorie Ann Williams
Seat 5	Allyson Washburn		
Seat 6	James Knoebber	Ex-officio	Angela Calvillo
Seat 7	Doyle Johnson	Ex-officio	(Vacant)

Call to Order The meeting was called to order at: 4:00 P.M.

Roll Call Present: Craven-Green, Knee, Washburn, Knoebber, Johnson, Chu, Goldman, Williams (in at 4:10)
Excused: Cauthen, Chan

Agenda Changes: Item 8, 9, 10, 11 combined. Item 6 heard before Item 2 and Item 19 before Item 4

Deputy City Attorney: Ernie Llorente
Administrator: Chris Rustom

1. Approval of minutes of April 28, 2009, regular meeting

 Motion to approve minutes (Johnson / Goldman)

 Public Comment: None

 On the motion:
 Ayes: Craven-Green, Knee, Washburn, Knoebber, Johnson, Goldman, Chu
 Excused: Cauthen, Chan, Williams
2. 09014 Public hearing on complaint filed by Dr. Ahimsa Sumchai against the Board of Supervisors for not providing public notices, agendas and public comment opportunities during the Supervisors' meetings with elected officials in Washington, DC.

Complainant Dr. Ahimsa Sumchai said she believes that she has provided the Task Force with an irrefutable documentation that there were Sunshine Ordinance violations when the six-member majority of the Board of Supervisors went to Washington, DC, in March.

Respondent Frank Darby, who is the Records and Information Manager for the Clerk of the Board of Supervisors, said the wrap up session on the last day was part of the agenda and the Board of Supervisors' Budget and Finance Committee agenda for March 11, 2009, reflects that Supervisor Carmen Chu was not present for the wrap up. Because there was no violation, he asked that the Task Force dismiss or find no violation.

Member Craven-Green said she did not see the irrefutable proof that was promised during the April meeting. All there was in her 500-page submission were agendas, schedules and commentaries, and not a document that showed that a majority of Supervisors were at any place at one time. She said she did not see a majority of the Supervisors meeting with their federal representatives a violation of the Ordinance or the Brown Act.

Member Knoebber said he could imagine the Supervisors discussing issues within their jurisdiction but does not see the proof.

Member Washburn asked Dr. Sumchai for evidence that points to a discussion. Dr. Sumchai said it was the meeting with Senator Feinstein that was referenced by the president of the Chamber of Commerce in the Examiner and information provided by the Mayor's Office indicating that the transfer of Treasure Island was discussed. There is clear evidence that all 6 members of the Board of Supervisors had opportunities but the public was not allowed to participated, she said.

Mr. Darby did not rebut. Dr. Sumchai said it appears that Supervisor Bevan Duffy had brought together 6 supervisors by March 9, but how they were chosen is not clear. According to an email sent by the Chamber's Director of Communications, she said there were additional meetings organized once the Supervisors arrived in Washington. Supervisor Chu was not present on the last day of the trip, but it was her understanding that all six supervisors were present for the meeting with Senator Feinstein. She said she did not believe it occurred on March 11.

Ex-officio Tanene Allison wanted to know if the Task Force could have advised the Board not to have a majority of its members travelling together. Mr. Llorente said the issue has never arisen but since it has the Task Force can do so in the form of a letter.

Motion to find no violation and to advise the Board of Supervisors to refrain from having a majority of Supervisors attend non-public meetings (Goldman / Knee)

Public Comment: None

On the motion:

Ayes: Craven-Green, Knee, Washburn, Knoebber, Johnson, Goldman, Chu

Noes: Williams

Excused: Cauthen, Chan

3. 09016 Public hearing on complaint filed by Peter Green against the Department of Public Health for not releasing all communications, including hard copy and e-mails, regarding the proposed EMS regulations.

Complainant Peter Green was not present.

Respondent Dr. John Brown, Medical Director of the San Francisco EMC Agency, said Peter Green requested information on the development of the Ambulance Ordinance. Mr. Green was provided with 21 documents that included worksheets used in developing the fee section of the ordinance and drafts. Mr. Green responded by saying that emails were missing. Dr. Brown said he and his staff searched for emails in their boxes and came up with six that he passed on to Mr. Green. Emails that were exchanged with the City Attorney were not provided. Dr Brown said Mr. Green need only to specify a document and it would be produced to him. Dr Brown said the department is trying to make this an open and transparent process and for the ordinance to pass it would only be beneficial if all issues are worked out before presenting it to the Board of Supervisors.

Member Knobber said he assumes that Mr. Green was not present was because he has received what he requested.

Motion to find no violation (Knoebber / Knee)

Member Craven-Green asked Dr. Brown to check all emails first because it has become the major form of communicating. Because it seemed like Dr. Brown relied on the requester to do a follow up, she said she wanted a statement from Dr. Brown that when a public records request in received, the doctor will, as part of his burden of responding, will search emails and other repositories for information. Dr Brown agreed and added that he searched his email box for the initial response and staff emails for the follow up.

On the motion:

Ayes: Craven-Green, Knee, Washburn, Knoebber, Johnson, Goldman, Williams, Chu

Excused: Cauthen, Chan

4. 09020 Determination of jurisdiction on complaint filed by Anonymous against the MTA for violation of public records access.

Motion to find jurisdiction (Goldman / Knoebber)

Public Comment: None

On the motion:

Ayes: Craven-Green, Knee, Washburn, Knoebber, Johnson, Goldman, Williams, Chu

Excused: Cauthen, Chan

5. 09020 Public hearing on complaint filed by Anonymous against the MTA for violation of public records access.

Complainant Barry Taranto said he clearly asked the receptionist at the MTA front desk for a budget document presented the previous day, the receptionist is not a substitute because she is always at the desk and the MTA hides the board packet by placing the document in a draw. He also said the MTA website is not user friendly. Because of the number of clicks that are needed to get to a certain document and that the document when reached was voluminous.

Respondent Roberta Boomer, secretary to the MTA Board of Directors, said the department has been committed since 1999 to public access and since then has provided links to all documents in the MTA's domain. She then explained the steps needed to get to any document. On the document request, Ms Boomer said the receptionist did not know and Mr. Taranto did not clearly state what he wanted. Because of that the receptionist called for assistance and the document was provided to an agitated Mr. Taranto within five minutes. Jamie Poblitz of the MTA said she was familiar with Mr. Taranto, because of her work with the Taxi Commission. Mr. Taranto, she said, got the document within five minutes of his request.

Member Craven-Green suggested that the MTA bring a copy of the board packet to every meeting. Ms. Boomer said the packet was made up of hundreds of double-sided printed pages and very heavy. For those who do not have a computer, the documents are available at 1 South Van Ness during regular business hours and copies are provided free of charge.

Member Knee asked Mr. Taranto to show how difficult it was to get to a document. Mr. Taranto said he eventually found the documents he wanted but his time was up at the library computer by the time he located it. The public should not waste their time finding public documents, he said.

In rebuttal, Ms Boomer said the document was provided within minutes of his request, the search function has always been on the home page ever since the page was created, and that it takes the same number of clicks to get to a MTA agenda as it does to a Board of Supervisors agenda. She also said the department has received feedback that says the home page is cluttered. That, she said, was the result of the department's commitment to provide the public with as much information as possible.

Mr. Taranto said an organization that spends \$750 million a year needs to make their homepage simpler. He also said signing at the entrance is also a way to discourage the public from participating in local government.

Member Knee said the MTA made a good faith effort to comply with the request and that the department keeps its website current and user friendly,

Motion to find no violation (Knee / Washburn)

Public Comment: Peter Witt paper is not obsolete and it would not be a burden to bring a copy of the packet to the meeting. Not everybody, he said, has a computer.

Member Williams said the departments need to keep in mind the class of residents who are not computer literate.

On the motion:

Ayes: Craven-Green, Knee, Washburn, Knoebber, Johnson, Goldman, Williams, Chu

Excused: Cauthen, Chan

6. 09022 Determination of jurisdiction on complaint filed by Raymond Banks against the SF HIV Health Services Planning Council for not providing requested documents

Motion to find jurisdiction (Goldman / Knoebber)

Public Comment: None

On the motion:

Ayes: Craven-Green, Knee, Washburn, Knoebber, Johnson, Goldman, Williams, Chu

Excused: Cauthen, Chan

7. 09022 Public hearing on complaint filed by Raymond Banks against the SF HIV Health Services Planning Council for not providing requested documents.

Complainant Raymond Banks said he is requesting that the testimony of the co-chairs at the Feb. 18, 2009, special membership meeting be made public. On the 14th the Planning Council appeared before the Compliance and Amendments Committee and made certain statements that prompted him to visit the library to search for some documents. What he found, he said, was that the minutes for Feb. 18 were not available. Furthermore, he said, there were a lot of drafts and no approved minutes. The Council has said that the lapse was because of personnel changes but that was not true, he added.

Respondent Mark Molnar, who is the Interim Planning Council Support Director, said all meetings are audio recorded and that Mr. Banks has yet to request a copy. Steve Manley, one of the co-chairs of the Planning Council, said the minutes are just summaries and that Mr. Banks has not made a request for a copy.

Member Knee wanted to know what would happen if a hearing impaired person wanted a copy of the minutes. Mr. Molnar said the tape would be

transcribed for the requestor.

The Planning Council did not rebut. Mr. Banks said the email from Greg Zhovreboff indicated that the council tried to prevent him from attending the meeting. To his knowledge, the agenda and minutes for the Feb.18, 2009, were never posted. To support his case, he produced a printout of the library web page that showed that there was an agenda posted for Feb. 17, 2009, but there were no minutes.

Member Craven-Green suggested that the Planning Council make amended minutes to include a one sentence summary that reflected each speaker's position on the matter. Mr. Molnar agreed but explained that the reason why the minutes were so brief was because of the sensitivity of the issue.

Motion to find no violation (Knoebber / Goldman)

Public Comment: None

On the motion:

Ayes: Craven-Green, Knee, Washburn, Knoebber, Johnson, Goldman, Chu

Noes: Williams

Excused: Cauthen, Chan

8. 09021 Determination of jurisdiction on complaints filed by Save Our Richmond Environment against the San Francisco PUC for not responding in a timely manner.

Member Craven-Green requested to be recused because her partner works for the SFPUC. Without objection

Motion to find jurisdiction on #8 & #10 (Goldman / Johnson)

Public Comment: None

On the motion:

Ayes: Knee, Washburn, Knoebber, Johnson, Goldman, Williams, Chu

Recused: Craven-Green

Excused: Cauthen, Chan

9. 09021 Public hearing on complaint filed by Save Our Richmond Environment against the San Francisco PUC for not responding in a timely manner.)

The Complainant was not present.

Respondent Suzanne Gauthier said the department has been late in responding to requests but have responded to all 100 requests received by the department this year.

Member Knoebber said he could not support a motion for a violation because he does not know what the complaint was about and what the complainants

received from the department.

In rebuttal, Ms Gauthier said she would like to observe how the Task Force conducts business because at some point the issue of vexatious complainants has to come to the fore.

On #09021

Motion to find violation of 67.21 (b) (Chu / Knoebber)

On the motion:

Ayes: Knee, Washburn, Knoebber, Johnson, Goldman, Williams, Chu

Recused: Craven-Green

Excused: Cauthen, Chan

On #09023

Motion to find no violation (Chu / Knoebber)

On the motion:

Ayes: Knee, Washburn, Knoebber, Johnson, Goldman, Williams, Chu

Recused: Craven-Green

Excused: Cauthen, Chan

Item to be forwarded to the Compliance and Amendments Committee as a discussion item on vexatious complainants.

10. 09023 Determination of jurisdiction on complaints filed by Save Our Richmond Environment against the San Francisco PUC for not providing requested information

See #8

11. 09023 Public hearing on complaint filed by Save Our Richmond Environment against the San Francisco PUC for not providing requested information

See #9

12. 09006 The Compliance and Amendments Committee has referred to the Task Force for further consideration its recommendation that the #09006 Joshua Arce and Eric Brooks v SFPUC matter be forwarded to the Ethics Commission for failure to comply with the Task Force's March 24, 2009, Order of Determination.

Member Craven-Green continued to be recused because her partner works for the SFPUC.

Compliance and Amendments Committee Chair Knee provided a case summary and said it was appropriate to send the matter to the Ethics Commission because he has not seen any effort by the SFPUC to maintain

their records as required by the ordinance. The department's reluctance is willful failure, he said.

DCA Llorente said the agency keeps deleted emails for six months and there was a period where the department could have retrieved the electronic document but did not.

Members discussed the matter amongst themselves and the complainants to find willful failure.

Motion to forward matter to Ethics Commission (Johnson / Knee)

Public Comment: None

Suzanne Gauthier of the SFPUC said she has witnessed the department following a pattern of being accessible to the public and totally opposite of willful failure, malicious, denial of documents and willful misconduct.

On the motion:

Ayes: Johnson, Williams

Noes: Knee, Washburn, Knoebber, Goldman, Chu

Recused: Craven-Green

Excused: Cauthen, Chan

The motion fails

13. 09007 The Compliance and Amendments Committee has referred to the Task Force for further consideration their recommendation that the #09007 David Larkin v Department of Public Works matter be forwarded to the Ethics Commission with a finding of willful failure to comply with the Task Force's March 24, 2009, Order of Determination.

Compliance and Amendments Committee Chair Knee provided a case summary.

Complainant David Larkin said he has not received anything from the department.

Respondent Frank Lee said the department does not have any comment on the motion or the agenda item.

Member Craven-Green provided information on what was discussed during the May 12, 2009, Compliance and Amendments Committee meeting.

Members discussed the matter and a motion was made.

Motion finding willful failure to comply with Section 67.30 (c) of the Sunshine Ordinance to turn over public documents and Section 67.34 for willful failure to comply with the Order of Determination issued on May 5, 2009 (Knoebber /

Knee)

Public Comment: None

On the motion:

Ayes: Craven-Green, Knee, Washburn, Knoebber, Johnson, Goldman, Williams, Chu

Excused: Cauthen, Chan

14. Review proposed amendments to the Ethics Commission's regulations regarding Sunshine Ordinance Task Force referrals. (discussion and possible action) (15 min) (attachment)

Member Knee suggested that fellow members review the proposals and the letters forwarded by Allen Grossman and attend the June 8, 2009, Ethics Commission meeting and make specific proposals on how to deal with Sunshine complaints.

Member Craven-Green thanked Mr. Grossman for his detailed memo in alerting members on the proposals and to encourage participation.

Public Comment: None

15. Report: Complaint Committee meeting of May 12, 2009

Complaint Committee Co-chair James Knoebber made the report.

Public Comment: None

16. Report: Education, Outreach and Training Committee meeting of May 14, 2009

Education, Outreach and Training Committee members Marjorie Williams and Doyle Johnson made a joint report.

Public Comment: None

17. Report: Compliance and Amendments Committee: meeting of May 12, 2009.

Compliance and Amendments Committee Chairperson Richard Knee made the report.

Public Comment: None

18. Administrator's Report

Mr. Rustom made the report.

Public Comment: None

19. Public comment for items not listed on the agenda. Public comment shall be

held at 5:00 p.m., or as soon thereafter as possible.

Peter Witt played an audio recording of a Sunshine committee meeting in March 2004, and provided comment. He also submitted a duplicate comment. (See attached).

20. Announcements, comments, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

None

Adjournment:

The meeting was adjourned at 6:55 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force