

Date: July 26, 2011

Item No. 33

File No. \_\_\_\_\_

## SUNSHINE ORDINANCE TASK FORCE

### AGENDA PACKET CONTENTS LIST\*

- Report: Compliance and Amendments Committee**
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Completed by: Chris Rustom

Date: July 21, 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.



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**SUNSHINE ORDINANCE TASK FORCE  
COMPLIANCE AND AMENDMENTS COMMITTEE  
DRAFT MINUTES**

Tuesday, July 12, 2011  
4:00 p.m., City Hall, Room 406

- Committee Members:** Allyson Washburn, David Snyder, Richard Knee, Bruce Wolfe, Hope Johnson
- Call to Order:** 4:02 p.m.
- Roll Call:** Present: Washburn, Snyder, Knee, Wolfe, Johnson
- Deputy City Attorney:** Jerry Threet (not present)  
**Clerk:** Chris Rustom
- Agenda Changes:** Item 13 heard after Item 4

1. Approval of March 8, 2011, regular meeting minutes.  
  
Starts about 0:00:00 **Member Wolfe, seconded by Member Knee, motioned to continue the item to the next meeting.**  
  
**Public Comment:** None  
  
**The motion carried on the following vote:**  
Ayes: Snyder, Knee, Wolfe, Johnson, Washburn
2. Approval of April 12, 2011, regular meeting minutes.  
  
Starts about 0:00:00 **Member Knee, seconded by Member Johnson, motioned to continue the item to the next meeting.**  
  
**Public Comment:** None  
  
**The motion carried on the following vote:**  
Ayes: Snyder, Knee, Wolfe, Johnson, Washburn
3. Approval of May 10, 2011, regular meeting minutes.  
  
Starts **Member Wolfe, seconded by Member Knee, motioned to approve the minutes.**

about  
0:00:00

**Public Comment:** None

**The motion carried on the following vote:**

Ayes: Snyder, Knee, Wolfe, Johnson, Washburn

4. 11023 Hearing on the status of the May 18, 2011, Order of Determination of William Clark v Arts Commission.

Starts  
about  
0:11:50

**Heard:** Complainant William Clark and Julio Mattos of the Arts Commission updated Task Force members on the status of the case.

**Member Johnson, seconded by Member Knee, motioned to refer the matter back to the full Task Force with the recommendation that Street Artists Program Director Howard Lazar be referred to the District Attorney and the Board of Supervisors for failure to comply with the Order of Determination**

**Public Comment:** Allen Grossman said the only person who is knowledgeable on the reclassification issue is Mr. Lazar and he should be told to attend the next Task Force hearing to provide the answers. Patrick Monette-Shaw said Section 67.34 should be rewritten to hold individual City employees responsible for their actions, and for departments, agencies, boards and commissions to be treated as individuals as does the Supreme Court. Robert Clark said Mr. Lazar was responsible for Ms. Russell's job reclassification process, and that Mr. Lazar had the answers to all the questions the complainant has. Tomas Picarello said the Task Force should be friendly to the complainant and assist in identifying the custodian of records.

**The motion carried on the following vote:**

Ayes: Snyder, Knee, Wolfe, Johnson, Washburn

5. 11013 Hearing on the status of the April 26, 2011, Order of Determination of Patrick Monette-Shaw v the Controller's Office and the Ethics Commission.

Starts  
about  
0:54:10

Member Knee left the room because he has been recused in this matter.

**Heard:** Complainant William Clark, John St. Croix of the Ethics Commission and Tonia Lediju of the Controller's Office stated their individual positions on the case.

**Member Johnson, seconded by Member Wolfe, motioned to refer the matter back to the full task Force with the recommendation that Mr. St. Croix and Ms. Lediju be found in willful violation and official misconduct for failure to comply with the Order of Determination and the matter be forwarded to the District Attorney and the Ethics Commission for enforcement while a copy of the referral be sent to the San Francisco Civil Grand Jury.**

**Public Comment:** Dr. Derek Kerr said whistleblower complaints are not entirely confidential because many City employees at various departments get to see the details of the investigation. In the process, he said, details are leaked and retaliation occurs. Dr. Maria Rivero said she and Dr. Kerr were simply asking for a copy of a

memo between two departments and not for confidential information related to the whistleblower investigation. Tomas Picarello said the Committee should not be relitigating the issue because it's task is to only see if the departments have complied with the Orders of Determination. Allen Grossman said the willful failure of Mr. St. Croix and Ms. Lediju to comply with the Order of Determination should be deemed official misconduct and that finding must be investigated by the ethics commission of the City or a nearby jurisdiction. Charles Pitts said seeking Oakland's assistance was similar to going sideways. He suggested going upwards to the State Attorney General's Office in order for it to become a lawsuit.

**The motion carried on the following vote:**

Ayes: 4 - Snyder, Wolfe, Johnson, Washburn

Recused: 1 - Knee

Member Knee returns to the podium.

6. 11014 Hearing on the status of the May 18, 2011, Order of Determination of Patrick Monette-Shaw v Ethics Commission.

Starts about 1:43:00 **Heard:** Complainant William Clark and John St. Croix of the Ethics Commission stated their positions on the case.

**Member Snyder, seconded by Member Johnson, motioned to refer the matter back to the full task Force with the recommendation that Mr. St. Croix be found in willful violation and official misconduct for failure to comply with the Order of Determination and the matter be forwarded to the District Attorney and the Ethics Commission for enforcement while a copy of the referral be sent to the San Francisco Civil Grand Jury.**

**Public Comment:** Dr. Derek Kerr said the issue started because of the number of delays in response for documents related to the whistleblower complaint. He said the answer would have been to provide him with redacted documents or let him look at the documents in camera. He added that although he was the whistleblower he was never interviewed or contacted about the complaint. Tomas Picarello said he was saddened that Mr. St. Croix feels vilified. He said he does not think the Civil Grand Jury that issued a report on the Ethics Commission had an agenda before they started their investigation. Allen Grossman said the District Attorney only handles matters that involve crime and because of it the Task Force needs to decide what crime Mr. Croix committed in failing to do his duty as a department head.

**The motion carried on the following vote:**

Ayes: Snyder, Knee, Wolfe, Johnson, Washburn

7. 11015 Hearing on the status of the May 18, 2011, Order of Determination of Larry Littlejohn against the Sheriff's Department.

Starts about 2:06:00 **Heard:** The Complainant was not present. No one in the audience spoke or presented evidence in support of the complainant. Freya Horne represented the Sheriff's Department and provided a status report.

**Public Comment:** Tomas Picarello said the matter should be concluded if there is an Order of Determination and the complainant does not appear.

No motion was made.

Matter concluded.

8. 11016 Hearing on the status of the May 5, 2011, Order of Determination of Andrew Sisneros against the San Francisco Municipal Transportation Agency.

Starts about 2:12:00 **Heard:** Complainant Andrew Sisneros and Ayn Antonio of the Municipal Transportation Agency stated their positions on the case.

**Member Wolfe, seconded by Member Johnson, motioned to refer the matter back to the full task Force with the recommendation that Carolyn Celaya be referred to the Ethics Commission for enforcement as well as the production of records Mr. Sisneros seeks.**

**Public Comment:** Tomas Picarello said referrals that do not include willful and serious violations can be sent to the Ethics Commissions for enforcement. Dorian Maxwell said Ms Antonio be included in the referral because she is in a managerial position as superintendent of a division.

**The motion carried on the following vote:**

Ayes: Snyder, Knee, Johnson, Wolfe, Washburn

9. 11028 Hearing on the status of the May 24, 2011, Order of Determination of Charles Pitts against Supervisor Jane Kim.

Starts about 2:54:00 **Heard:** Complainant Charles Pitts and Supervisor Jane Kim's legislative aide Matthias Mormino stated their positions on the case.

**Member Johnson, seconded by Member Wolfe, motioned to recommend to the full Task Force that a letter be sent to the Supervisors regarding email retention as well as reminding them of their obligations under Section 67.21(c).**

**Public Comment:** Tomas Picarello said the Task Force should have challenged Supervisor Kim's claim that she appointed three members to the Shelter Monitoring Committee without speaking to anybody and without having any documents related to the appointments. Allen Grossman said Section 67.9, says documents that are handed out at meetings are public documents and they should be made available to the public.

**The motion carried on the following vote:**

Ayes: Snyder, Knee, Wolfe, Johnson, Washburn

10. 11030 Hearing on the status of the May 24, 2011, Order of Determination of Charles Pitts against Supervisor Mark Farrell.

Starts  
about  
3:42:51

**Heard:** Complainant Charles Pitts presented his case. Tomas Picarello spoke in support of Mr. Pitts. Supervisor Mark Farrell's legislative aide Catherine Stefani detailed her response.

**Member Johnson, seconded by Member Wolfe, motioned to recommend to the full Task Force that a letter be sent to the Supervisors regarding email retention as well as reminding them of their obligations under Section 67.21(c).**

**Public Comment:** Allen Grossman said he Task Force could send the letters but it really depends on the quality of the supervisor. He said it was not easy to get honest political representation.

**The motion carried on the following vote:**

Ayes: Snyder, Knee, Wolfe, Johnson, Washburn

11.

Next steps on Ethics Commission proposed policy for handling Sunshine-related complaints.

Starts  
about  
4:08:00

**Member Knee, seconded by Member Wolfe, motioned to have the item heard at a special meeting of the Compliance and Amendments Committee or at the next Sunshine Ordinance Task Force meeting, whichever comes first.**

**Public Comment:** Allen Grossman said just three members of this five-member committee could meet on a certain day next week and dispose of the matter easily.

**The motion carried on the following vote:**

Ayes: Snyder, Knee, Wolfe, Johnson, Washburn

12.

Administrator's Report.

Starts  
about  
4:27:15

Mr. Rustom made the report.

Public Comment: None.

13.

Public Comment on items not listed on the agenda.

Starts  
about  
0:52:20

Patrick Monette-Shaw told the Task Force not to believe what they see in the press about the whistleblower report because the Citizens' Audit Review Board was formed during a General Obligation Bond Oversight Committee meeting within the past year and not seven years as claimed.

14.

Announcements, questions, and future agenda items from Committee members.

Starts  
about  
4:27:30

Member Wolf said he may take up the issue of having emails sent to the Supervisors to be bcc'd to the Clerk of the Board at the technology committee that has yet to be formed.

## **Adjournment**

*There being no further business, the Compliance and Amendments Committee adjourned at the hour of 8:41 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>