

Date: July 28, 2009

Item No. 6 & 7
File No. 09033

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Sue Cauthen v Library Commission
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Completed by: Chris Rustom

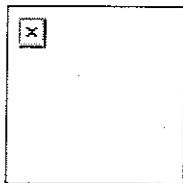
Date: July 16, 2009

***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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DENNIS J. HERRERA
City Attorney

ERNEST H. LLORENTE
Deputy City Attorney

DIRECT DIAL: (415) 554-4236
E-MAIL: ernest.llorente@sfgov.org

MEMORANDUM

July 20, 2009

SUE CAUTHEN v. SAN FRANCISCO PUBLIC LIBRARY COMMISSION (09033)

COMPLAINT

THE COMPLAINANT ALLEGES THE FOLLOWING FACTS:

Complainant Sue Cauthen is the Chair of the Citizen's Advisory Committee for the San Francisco Public Library. The CAC was established by the Board of Supervisors. In her capacity as CAC Chair, Sue Cauthen regularly attends the San Francisco Public Library Commission. At the June meeting of the SFPL, Sue Cauthen attempted to speak during the general public comment portion of the agenda which is at the beginning of the agenda. The topic were some concerns about the North Beach Library. On the agenda was a topic concerning the North Beach Library but not the topic that Sue Cauthen wanted to speak on. When Sue Cauthen began to speak, the President of the Commission, Jewelle Gomez allegedly cut her off and said that she was out of order and had to speak only when the agenda item on the North Beach Library was called later in the meeting. Sue Cauthen attempted to explain that she was not speaking on the topic that would be discussed later in the meeting but on another subject involving that branch. Nevertheless, President Gomez allegedly stopped Sue Cauthen from speaking.

COMPLAINANT FILES COMPLAINT:

On June 23, 2009, Sue Cauthen filed a complaint against the Library Commission for its refusal to allow public comment.

JURISDICTION

Based on the allegations of the complaint and the sections of the Ordinance stated below, the Task Force has jurisdiction to hear this matter. In addition the parties in this case do not contest jurisdiction.

APPLICABLE STATUTORY SECTION;

1. Sunshine Ordinance Section 67.15 which deals with Public Testimony
2. Sunshine Ordinance Section 67.7 which deals with agenda requirements.
3. State Government Code Section 54957.9 deals with meeting disruptions.

Memorandum

APPLICABLE CASE LAW:

none

ISSUES TO BE DETERMINED

1. FACTUAL ISSUES

A. Uncontested Facts:

- The Library Commission had a meeting with an agenda item involving the North Beach Library.
- Sue Cauthen attempted to speak during general public comment on a topic involving the North Beach Library.

B. Contested facts/ Facts in dispute:

The Task Force must determine what facts are true.

i. Relevant facts in dispute:

- Whether the Commission stopped Sue Cauthen from speaking at general public comment.
- Whether the Commission provided an opportunity for Sue Cauthen to speak on the issue that concerned her.

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 protect 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 67.7 deals with Agenda Requirements for public meetings and provides:

(a) At least 72 hours before a regular meeting, a policy body shall post an agenda containing a meaningful description of each item of business to be transacted or discussed at the meeting. Agendas shall specify for each item of business the proposed action or a statement the item is for discussion only. In addition, a policy body shall post a current agenda on its Internet site at least 72 hours before a regular meeting.

(b) A description is meaningful if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item. The description should be brief, concise and written in plain, easily understood English. It shall refer to any explanatory documents that have been provided to the policy body in connection with an agenda item, such as correspondence or reports, and such documents shall be posted adjacent to the agenda or, if such documents are of more than one page in length, made available for public inspection and copying at a location indicated on the agenda during normal office hours.

(c) The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.

(d) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a policy body may respond to statements made or questions posed by persons exercising their public testimony rights, to the extent of asking a question for clarification, providing a reference to staff or other resources for factual information, or requesting staff to report back to the body at a subsequent meeting concerning the matter raised by such testimony.

(e) Notwithstanding subdivision (d), the policy body may take action on items of business not appearing on the posted agenda under any of the following conditions:

(1) Upon a determination by a majority vote of the body that an accident, natural disaster or work force disruption poses a threat to public health and safety.

(2) Upon a good faith, reasonable determination by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that (A) the need to take immediate action on the item is so imperative as to threaten serious injury to the public interest if action were deferred to a subsequent special or regular meeting, or relates to a purely commendatory action, and (B)

Memorandum

that the need for such action came to the attention of the body subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was on an agenda posted pursuant to subdivision (a) for a prior meeting of the body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(f) Each board and commission enumerated in the charter shall ensure that agendas for regular and special meetings are made available to speech and hearing impaired persons through telecommunications devices for the deaf, telecommunications relay services or equivalent systems, and, upon request, to sight impaired persons through Braille or enlarged type.

(g) Each policy body shall ensure that notices and agendas for regular and special meetings shall include the following notice:

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

**FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
OR TO REPORT A VIOLATION OF THE ORDINANCE,
CONTACT THE SUNSHINE ORDINANCE TASK FORCE**

(h) Each agenda of a policy body covered by this Sunshine Ordinance shall include the address, area code and phone number, fax number, e-mail address, and contact person's name for the Sunshine Ordinance Task Force Information on how to obtain a free copy of the Sunshine Ordinance shall be included on each agenda.

Section 67.15 of the San Francisco Administrative Code provides for public testimony as follows:

a.) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address a policy body on items of interest to the public that are within policy body's subject matter jurisdiction, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Section 67.7(e) of this article. However, in the case of a meeting of the Board of Supervisors, the agenda need not provide an opportunity for members of the public to address the Board on any item that has already

Memorandum

been considered by a committee, composed exclusively of members of the Board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the Board.

b.) Every agenda for special meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item prior to action thereupon.

c.) A policy body may adopt reasonable regulations to ensure that the intent of subdivisions (a) and (b) are carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Each policy body shall adopt a rule providing that each person wishing to speak on an item before the body at a regular or special meeting shall be permitted to be heard once for up to three minutes. Time limits shall be applied uniformly to members of the public wishing to testify.

The State Brown Act is located in the California Government Code Sections 54950 et seq.

Government Code Section 54957.9 provides:

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupt the meeting, the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session.



<complaints@sfgov.org>
06/23/2009 10:39 AM

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

Submitted on: 6/23/2009 10:39:21 AM

Department: Public Library

Contacted: Jewelle Gomez, president of Library Commission

Public_Records_Violation: No

Public_Meeting_Violation: Yes

Meeting_Date:

Section(s)_Violated:

Description: Not allowed to make public comment

Hearing: Yes

Pre-Hearing: No

Date: 6/23/2009

Name: Sue Cauthen

Address:

City:

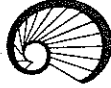
Zip:

Phone: 391-0737

Email:

Anonymous:

Confidentiality_Requested: No



San Francisco Public Library
100 Larkin Street, San Francisco, CA 94102

June 26, 2009

Chris Rustom
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

Re: Complaint #09033 Sue Cauthen v. Library Commission

Dear Mr. Rustom:

I am writing in response to Complaint #09033, Sue Cauthen v. Library Commission. The Library received a copy of the complaint by email on June 24, 2009. The complaint form was not accompanied by any supporting documents.

The complaint form alleges that the President of the Library Commission committed a public meeting violation which is described on the form simply as "Not allowed to make public comment." The Library does not contest the Sunshine Ordinance Task Force's jurisdiction to hear a matter concerning public comment. Accordingly, the Library does not request a hearing before the Complaint Committee on this matter.

However, the complaint form is incomplete in three ways: (1) the section for "Meeting Date" is left blank, (2) the section for "Section(s) Violated" is left blank, and (2) the description of the alleged violation is so general that it does not in any way convey the basis for the complaint. These pieces of information would assist the Library in evaluating and responding adequately to Ms. Cauthen's complaint. Accordingly, the Library respectfully requests that Ms. Cauthen promptly submit a completed complaint form with the information noted above.

Respectfully submitted,

Sue Blackman
Library Commission Secretary/Custodian of Records



"Sue A. Blackman"
<sblackman@sfpl.org>
07/21/2009 11:41 AM

To 'SOTF' <sotf@sfgov.org>
cc
bcc

Subject Complaint #09030, Sue Cauthen v. Library Commission

Mr. Rustom,

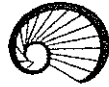
Attached please find a letter responding to Complaint #09030 filed by Sue Cauthen against the San Francisco Public Library Commission. Please distribute the letter to the members of the Sunshine Ordinance Task Force. Thank you.

Sue Blackman
Secretary, Library Commission
San Francisco Public Library
100 Larkin Street
San Francisco, CA 94102
415.557.4233

The San Francisco Public Library is dedicated to free and equal access to information, knowledge, independent learning and the joys of reading for our diverse community.



Official SFPL use only 7.21.09 ltr.pdf



San Francisco Public Library
100 Larkin Street, San Francisco, CA 94102

July 21, 2009

Honorable Members, Sunshine Ordinance Task Force
c/o Chris Rustom
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Re: Complaint #09030, Sue Cauthen v. Library Commission

Dear Task Force Members:

This letter responds to Complaint #09030, which was filed by Sue Cauthen on June 23, 2009 against the San Francisco Public Library Commission (the "Commission"). For the reasons set forth below, the complaint is without merit and should be dismissed.

The Complaint

The complaint alleges that the Commission violated public meeting laws, and describes the alleged violation as "Not allowed to make public comment." The complaint form does not identify the date of the alleged violation, the section of the Sunshine Ordinance allegedly violated, or the factual basis for the alleged violation. In a letter dated June 26, 2009, the Library requested that Ms. Cauthen file a completed complaint form containing this missing information. On June 30, 2009, the Library received an email from Chris Rustom of the Task Force stating that Ms. Cauthen had identified the meeting date as June 4, 2009, but containing no other information about the complaint.

To date, the Library has received no further information regarding this complaint. Accordingly, the Library's response as set forth below is based on what we believe to be the basis for the complaint.

The June 4, 2009 Library Commission Meeting

The agenda for the June 4th Commission meeting provided an opportunity for General Public Comment at the beginning of the meeting (designated as Item #1) and contained five specific agenda items, the first of which (designated as Item #2) was "Peer Review of Proposed Design For the North Beach Branch Library." This agenda item, which was designated for discussion only, included an architect's presentation of the proposed design for a new North Beach branch library, followed by a critique from "peer reviewers" consisting of an outside private architect and the Contra Costa County Librarian. Because of the high level of community interest in the proposed new North Beach branch library, an unusually large number of people – 26 – turned out to give public comment on this agenda item (Item #2).

During General Public Comment (Item #1), a member of the public started to speak about the North Beach branch library. The Commission President asked her to please hold her comments until Item #2, when members of the public would have the opportunity to speak about the North Beach branch library. The member of the public

complied with this request and sat down. Immediately thereafter, Ms. Cauthen came to the podium and also started to speak about the North Beach branch library. The President interrupted and asked her, as she had the previous speaker, to hold her comments on the North Beach branch library until Item #2, when everyone would have the opportunity to comment on that subject. Ms. Cauthen initially refused to stop speaking, argued with the President, and then finally sat down.

When General Public Comment had concluded and the Commission took up Item #2, Ms. Cauthen was given three minutes to comment on the North Beach branch library, as were the 25 other members of the public who had waited to speak on the subject. The President allowed members of the public -- including Ms. Cauthen -- to speak about a range of issues related to the North Beach branch library, including the City's acquisition of 701 Lombard Street by eminent domain, community participation in the decision-making process for building a new North Beach Library, the proper location for a new library, the environmental review process for a new branch library, and other matters.

The Complainant's Right of Public Comment Was Honored

a) The Commission President Properly Exercised Her Authority To Restrict Public Comment To The Topic At Hand

By limiting comment during the General Public Comment period to items not listed elsewhere on the agenda, and permitting public comment on Agenda Item #2 for matters related to the North Beach branch library, the Commission President properly exercised her discretion to manage the meeting in an efficient manner.

It is well established by the courts that chairs of public meetings may restrict public speakers to the subject of an agenda item, or stop a speaker whose speech becomes irrelevant or repetitious. See *White v. City of Norwalk*, 900 F.2d 1421, 1425 (9th Cir. 1990). In determining at what point speech becomes unduly repetitious or irrelevant, the "role of a moderator involves a great deal of discretion." *Id.* at 1426. Such limitations on public comment serve to ensure the public body is not "prevented from accomplishing its business in a reasonably efficient manner." *Id.*; see also *Kindt v. Santa Monica Rent Control Bd.*, 67 F.3d 266 (9th Cir. 1995) (recognizing public body's "legitimate interest in conducting efficient, orderly meetings").

Item #1 on the Commission's agenda -- "General Public Comment" -- is to allow members of the public to comment on matters that are within the Commission's subject matter jurisdiction and that are not to be discussed elsewhere on the agenda. The courts have recognized this distinction between general public comment and public comment on specific agenda items. See e.g., *Galbiso v. Orosi Public Utility Dist.*, 167 Cal.App.4th 1063, 1079 (2008) ("there must be a period of time provided for general public comment on any matter within the subject matter jurisdiction of the legislative body, as well as an opportunity for public comment on each specific agenda item as it is taken up by the body") (emphasis added).

In this case, by limiting comment during the General Public Comment period to matters that were not listed elsewhere on the agenda, and asking members of the public to hold comments related to the North Beach branch library until Item #2, the President properly exercised her discretion to "restrict [] public speakers to the subject at hand" and to ensure the Commission could accomplish "its business in a reasonably efficient manner." *White*, 900 F.2d at 1425-26.

The Commission's interest in completing its business in an efficient manner was particularly strong in this case, where 26 persons in the audience wanted to speak about the North Beach branch library. Indeed, as explained below, had the Commission President gone ahead and allowed Ms. Cauthen to speak twice about matters related to the North Beach branch library under both Items #1 and #2, the President would have risked violating the Sunshine Ordinance's uniformity requirement, unless the other 25 persons in the audience were also allowed to speak twice about the North Beach branch library under both Items #1 and #2, resulting in potentially up to 2 and half hours of public comment on that branch library alone. Such a scenario could have threatened a loss of quorum and undermined the Commission's ability to complete its meeting agenda in a timely manner.

By limiting the period for General Public Comment to matters not related to the North Beach branch library, and permitting comment on matters related to that branch library during the discussion of Item #2, the Commission President acted well within her discretion as chair to keep members of the public on the agenda topic at hand, and to ensure the Commission completed its business in a timely manner.

b) The Complainant Had An Opportunity To Offer Public Comment On The North Beach Branch Library

Everyone wishing to comment on matters related to the North Beach branch library – including Ms. Cauthen – had an opportunity to speak for up to three minutes on that subject during the Commission's consideration of Item #2. Ms. Cauthen exercised her right of public comment at that time. No provision of the Brown Act or Sunshine Ordinance was violated.¹ Rather, the Commission President honored Ms. Cauthen's right of public comment.

The Commission President's Actions Ensured Compliance with the Sunshine Ordinance's Uniformity Requirement

In addition, the President's actions ensured compliance with the Sunshine Ordinance's requirement that time limits on public comment be applied to members of the public uniformly. See S.F. Admin. Code § 67.15(c).

As described above, the person who immediately preceded Ms. Cauthen during the General Public Comment period had started to speak about the North Beach branch library but was interrupted by the Commission President and asked to hold her comments until Item #2. That person promptly complied with the President's request and sat down. Immediately thereafter, Ms. Cauthen also sought to speak about the North Beach branch library during the General Public Comment period, and the President told her the same thing as she had the previous speaker.

Had the President permitted Ms. Cauthen to speak during General Public Comment about the North Beach branch library, and again under Item #2, Ms. Cauthen would

¹ The Brown Act requires that every agenda for a regular meeting "provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body" Cal. Gov. Code § 54954.3. The Sunshine Ordinance similarly provides a right of public testimony. S.F. Admin. Code §67.15(a).

have received a total of six minutes to speak on matters related to the North Beach branch library, while the rest of the members of the public waiting for Item #2, including the speaker who had preceded Ms. Cauthen during the General Public Comment period, was limited to three minutes each. But Section 67.15(c) of the Sunshine Ordinance does not allow disparate treatment of public speakers in this manner. See S.F. Admin. Code § 67.15(c).

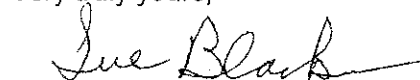
Indeed, under Section 67.15's uniformity requirement, had the President allowed Ms. Cauthen to discuss the North Beach branch library during the General Public Comment period, she would have been obligated to allow all 25 other persons to comment on that subject under both Items #1 and #2. This would have created a potential scenario of 26 persons speaking on the subject for up to three minutes each under Item #1 and again under Item #2 – a total of up to two and a half hours (156 minutes) of public comment on the North Beach branch library. Otherwise, the Commission President would have risked violating the uniformity requirement had Ms. Cauthen been allowed to comment on the North Beach branch library during the General Public Comment period.

Conclusion

Nothing in the Commission President's actions at the June 4, 2009 meeting violated the law. To the contrary, she acted well within her discretion as chair of the meeting, and honored Ms. Cauthen's right of public comment. Ms. Cauthen had an opportunity to comment on matters pertaining to the North Beach branch library, and all members of the public, including Ms. Cauthen, were treated the same with respect to public comment. Accordingly, the Task Force should dismiss Ms. Cauthen's complaint.

We hope this letter will be of assistance to the Task Force. If I can be of further assistance with respect to this complaint, please do not hesitate to contact me.

Very truly yours,



Sue Blackman
Custodian of Records
Library Commission Secretary

Office of
SUZANNE D. CAUTHEN
1321 Montgomery Street
San Francisco, California 941333

415 391 0737

July 21, 2009

TO: Chris Rustom, Administrator
Sunshine Ordinance Task Force

FM: Sue Cauthen

RE: Denial of Public Comment

I was denied an opportunity to speak during general public comment at the beginning of the Library Commission meeting June 4, 2009. Commission chair Jewelle Gomez refused to permit me to speak

I should have been permitted to speak on two grounds:

1. The item on which I wished to speak was not being considered elsewhere on the agenda.
2. The Commission's agenda stated that public comment at the beginning of the meeting "is to allow members of the public to comment generally on matters within the Commission's purview."

GROUND ONE:

General public comment was the first item on the agenda. The second item was "Peer Review of the Proposed Design for the North Beach Branch Library." I did not intend to speak on the latter subject in general public comment. I intended to discuss a non-design issue regarding the North Beach and other San Francisco branch libraries. But as soon as the chair heard the words, "North Beach," she cut me off. She told me I had to wait till the next item to speak.

As the video tape of the meeting indicates, I attempted to tell Chair Gomez that I was not going to speak on North Beach library design or the peer review but she began shouting

“sit down!” at me. I continued to attempt to clarify that North Beach library design was not what I wished to comment on but she continued yelling at me. I counted eight shouts of “sit down” in a harsh and belligerent tone.

The wording of the second item on the agenda was sufficiently restrictive that Chair Gomez should have permitted general public comment on an item not related to North Beach design or the peer review of it. However, she was apparently either unable to hear me over her yelling or did not wish to permit me to speak on an item not related to North Beach library design.

If Item 2, the North Beach library design item, had been worded “North Beach Library Project,” it would have been understandable for Chair Gomez to ask that I save my comments till Item 2. But the wording of Item 2 was extremely restrictive. In fact, considering the chair’s broad interpretation of the item, the wording was not sufficiently clear to meet the standard in Section 67.4 (a) of the Sunshine Ordinance. This section states that an agenda item must constitute a “meaningful description” of the business to be transacted or discussed.

In addition, it is incumbent on chairs of civic bodies to treat the public with politeness and respect. The conduct of the Library Commission chair did not become a public official.

GROUND TWO:

Even if I had been going to speak generally on an item that fell within the purview of Item 2, it would have been appropriate under the language the Commission used to describe the Public Comment item at the beginning of the meeting.

Per the language I have circled on the Commission’s June 4 agenda, it clearly states that public comment at the beginning of the meeting “is to allow members of the public to comment generally on matters within the Commission’s purview.”

The Commission itself changed this wording at the next meeting on June 18 and subsequently to add that such comments must refer to subjects “that do not appear on the agenda.” This addition, which I have circled, indicates that the Commission realized that more specific language was needed to clarify their intent.



San Francisco Public Library

NOTICE OF MEETING

A regular meeting of the San Francisco Public Library Commission will be held as follows:

DATE: Thursday, June 4, 2009
TIME: 4:30 PM
PLACE: Koret Auditorium, Main Library, lower level

The meeting will be called to order.

1. PUBLIC COMMENT

(This item is to allow members of the public to comment generally on matters within the Commission's purview as well as to suggest new agenda items for the Library Commission's consideration.)

2. PEER REVIEW OF PROPOSED DESIGN FOR THE NORTH BEACH BRANCH LIBRARY DISCUSSION

(Presentation and discussion of peer review of proposed design for a new North Beach Branch Library).

Explanatory documents: Peer reviewer bios; and North Beach Branch Schematic Design Packet.

3. CITY LIBRARIAN'S REPORT by Luis Herrera DISCUSSION

(This item is to allow the City Librarian to report on recent Library activities and make announcements). The City Librarian will give updates on the following topics: FY 09/10 Budget; Library Fee Amnesty; Summer Reading Program; Poet Laureate and One City One Book.

Explanatory Documents: FY 09/10 Budget Presentation; and Poet Laureate Press Release

4. LABOR UNION REPORT DISCUSSION

(This item is to allow representatives of library labor organizations to report on employee matters within the Commission's purview as well as to suggest new agenda items for the Library Commission's consideration.)

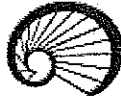
5. APPROVAL OF THE MINUTES ACTION

Presentation, discussion and possible action to approve the minutes of the regular meeting of May 7, 2009.

Explanatory document: minutes.

6. ADJOURNMENT (requires motion & public comment) ACTION

Sue Blackman Library Commission Secretary, 6/1/2009



San Francisco Public Library

NOTICE OF MEETING

A regular meeting of the San Francisco Public Library Commission will be held as follows:

DATE: Thursday, June 18, 2009
TIME: 4:30 PM
PLACE: Koret Auditorium, Main Library, lower level

The meeting will be called to order.

Note: *The Commission will hear public comment on each item on the agenda before or during consideration of that item.*

1. GENERAL PUBLIC COMMENT

(This item is to allow members of the public to address the Commission on matters that are within the subject matter jurisdiction of the Commission and that do not appear on the agenda.)

new language

2. RESOLUTION HONORING FORMER LIBRARY COMMISSIONER AL HARRIS

ACTION

(Presentation, discussion and possible action to approve resolution honoring former Library Commissioner Al Harris.)

Explanatory documents: Draft Resolution honoring former Library Commissioner Al Harris

3. PROPOSED LEASE FOR CAFÉ IN MAIN LIBRARY LOWER LEVEL

ACTION

(Discussion and possible action to recommend the Board of Supervisors approve a proposed two-year lease for a café in the lower level of the Main Library.)

Explanatory documents: Draft Library Commission Resolution and letter from Department of Real Estate to Board of Supervisors.

4. BOND PROGRAM MANAGER'S REPORT

DISCUSSION

(This is a discussion item to allow the Branch Library Bond Program Manager to report on recent bond program related activities and make announcements.)

This report will consist of an *informational presentation*: none; *regular reports*: program budget, schedule, and construction reports; active projects; and community outreach; and *special reports*: Peer Review Responses: Golden Gate Valley Branch and Bayview/Anna E. Waden Branch.

Explanatory documents: Current Budget Report; Library Commission Schedule Report; and Golden Gate Valley and Bayview/Anna E. Waden Branches Peer Review Responses.

June 14, 2009

Mayor Gavin Newsom
City Hall
1 Dr. Carlton B. Goodlett Way
S.F., CA 94102

Re: Library Commission

Dear Gavin:

Please read this letter before assigning it to one of your aides.

On June 4 shortly after their regular 4:30 meeting began, Jewelle Gomez, president of the Library Commission, shouted down the speaker Sue Cauthen during the public comment period. Ms. Cauthen had uttered only two words – “North Beach...” when Ms. Gomez said loudly “Sit down, we haven’t reached the agenda yet.” (The North Beach Library demolition was the first item on the agenda.) Ms. Cauthen persisted, a total of 8 or 9 attempts to speak, never getting further than the two words “North Beach...” and each time Ms. Gomez shouted louder and louder “Sit down!” until she was bellowing and the Commission lawyer was on her feet approaching her. Ms. Cauthen finally gave up and sat down, never having had the chance to explain that she was planning to comment on other aspects of the North Beach Library.

Ms. Cauthen is a seasoned Commission presence who attends almost all the Commission meetings. She is also the president of the Sunshine Task Force and Chair of the Supervisors’ Library Advisory Committee. She was and is fully aware of Commission protocol and that the Library Demolition was slated to be heard after the Public Comment period.

I urge you to view the video of this Commission meeting, at which time I think you will be stunned by the raw hostility and contempt for the public displayed by your appointee Jewelle Gomez. I am told that such an inappropriate abuse of power on her part has occurred before, also that another regular Commission attendee once felt compelled to sue the Commission in order to secure respect for the democratic process by this public agency.

Sincerely,

Joan Wood, North Beach (415) 776-4567

Cc: Library Commission
Sue Cauthen

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