

Date: August 24, 2010

Item No. 1

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

## SUNSHINE ORDINANCE TASK FORCE

### AGENDA PACKET CONTENTS LIST\*

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Completed by: Chris Rustom

Date: August 19, 2010

**\*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  
SPECIAL MEETING  
DRAFT MINUTES**

Tuesday, March 23, 2010  
4:00 p.m., City Hall, Room 408

**Task Force Members**

Seat 1	Erica Craven-Green (Vice Chair)	Seat 8	(Vacant)
Seat 2	Richard Knee (Chair)	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Suzanne Manneh	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** 4:00 P.M.

**Roll Call** Present: Craven-Green, Knee, Cauthen, Washburn, Knoebber, Chan, Goldman, Williams  
Excused: Manneh, Johnson

**Agenda Changes:** Item 15 heard before Item 10.

**Deputy City Attorney:** Jerry Threet  
**Clerk:** Chris Rustom

1. Approval of January 5, 2010, special meeting minutes.  
  
Motion to approve January 5, 2010, special meeting minutes. ( Cauthen / Washburn )  
  
Public Comment: Peter Warfield said the minutes were not provided in advance and should not be approved.  
  
Ayes: Craven-Green, Cauthen, Washburn, Knoebber, Chan, Goldman, Williams, Knee
2. Approval of January 26, 2010, meeting minutes.  
  
Motion to approve January 26, 2010, special meeting minutes. ( Goldman / Cauthen

Public Comment: Peter Warfield, Executive Director of the Library Users Association, said the minutes need more information.

Ayes: Craven-Green, Cauthen, Washburn, Knoebber, Chan, Goldman, Williams, Knee

3. Approval of February 23, 2010, meeting minutes

Continued to April 27, 2010.

Peter Warfield, Executive Director of the Library Users Association, said the minutes need more information. Francisco DaCosta said committees need to take the minutes seriously because it reflects a speaker's emotion and sentiment on the subject he or she is addressing.

Continued without objection

4. 09069 The Compliance and Amendments Committee has referred to the Task Force a recommendation that #09069 Asian Law Caucus v Mayor's Office be forwarded to the Ethics Commission on the basis of willful failure to comply with the Order of Determination, willful failure to comply with the requirement to appear at hearings, and willful failure to provide justification for withholding.

The complainant was not present. There was no one in the audience to present facts and evidence on behalf of the complainant.

The respondent was not present. There was no one in the audience to present facts and evidence on behalf of the complainant.

Item continued to April 27, 2010, as requested by the complainant. Without objection.

5. 09075 The Compliance and Amendments Committee has referred to the Task Force without recommendation the issue of whether the City Attorney's Office's failure to comply with the Order of Determination in #09075 Bred Starr v City Attorney's Office should be referred to another body for further action.

Complainant Bred Starr was not present. There was no one in the audience to present facts and evidence on behalf of the complainant.

Jack Song of the City Attorney's Office said Ms. Starr made a request in September 2009 about some documents regarding Mary Ellen O'Brien of the Department of Parking and Traffic. His office provided Ms. Starr with two disciplinary letters sent to Ms. O'Brien. On further conversations with Ms. Starr, the office learned that she wanted a confidential City Attorney memo that was mentioned in a January 2004 Chronicle newspaper. That document could not be released because it comes under the attorney-client privilege and attorney work product doctrine.

Member Craven-Green said there would not be any benefit to referring this to

any enforcement agency and hoped that someday the California Appeals Court would rule on the matter.

Mr. Song did not have any closing remarks.

Public Comment: Peter Warfield of the Library Users Association said he was not familiar with the complaint but the Task Force's evaluation of whether the Order of Determination was met was more important than debating whether an enforcement agency would take any action.

No further action. Matter concluded.

6. 10005 Determination of jurisdiction on complaint filed by Emil Lawrence against the Municipal Transportation Agency for allegedly cancelling meetings improperly.

Motion to find jurisdiction ( Goldman / Knoebber )

Public Comment: None

On the motion

Ayes: Craven-Green, Cauthen, Washburn, Knoebber, Chan, Goldman, Williams, Knee

7. 10005 Hearing on complaint filed by Emil Lawrence against the Municipal Transportation Agency for allegedly canceling meetings improperly.

Complainant Emil Lawrence said he has been living in San Francisco for 41 years and has been a taxi driver for 14 years. He said he has addressed the Taxi Commission and the MTA Commission for over five years on subjects related to taxis. The MTA used to hold its meetings once every two weeks but for the past few months meetings are being held sporadically. He said the agendas for the January and February meetings were not posted in a regular and timely manner as required by the Ordinance. He said the MTA needs to get back to a regular schedule and that while the MTA has doubled its budget the number of meetings has decreased.

Roberta Boomer, Commission Secretary of the MTA, said she has submitted evidence to the Task Force that shows that the posting of agendas and the cancellation of meetings meets the requirements of the Sunshine Ordinance and the Brown Act.

Ms. Boomer did not have any closing remarks. Mr. Lawrence said the MTA is responsible to about 450,000 riders and taxi drivers. He said the MTA creates chaos when it decides to reschedule and cancel meetings and this kind of practice has to end. He said the MTA is creating confusion because of the issues surrounding its finances and schedules.

Member Cauthen said she knows where Mr. Lawrence is coming from but does not see a violation. Member Knoebber agreed.

Motion to find no violation ( Cauthen / Goldman )

Public Comment: Francisco DaCosta said there needs to be a central location in City Hall where notices and cancellations of meetings are to be posted.

On the motion

Ayes: Craven-Green, Cauthen, Washburn, Knoebber, Chan, Goldman, Knee  
Noes: Williams

8. 10007 Determination of jurisdiction on complaint filed by Supervisor Chris Daly against Michael Yarne and Joe Arellano of the Mayor's Office for allegedly failing to respond at the end of a 10-day extension period to a request.

Motion to find jurisdiction ( Goldman / Knoebber )

Public Comment: None

On the motion

Ayes: Craven-Green, Cauthen, Washburn, Knoebber, Chan, Goldman, Williams, Knee

9. 10007 Hearing on complaint filed by Supervisor Chris Daly against Michael Yarne and Joe Arellano of the Mayor's Office for allegedly failing to respond at the end of a 10-day extension period to a request for "all written communication between Michael Yarne and the Planning Department, the Mayor's Office of Housing and the Controller between October 1, 2009, and January 31, 2010."

April Veneracion, an aide to Supervisor Chris Daly, said a document request to the Mayor was made on February 4 and a response requesting a 10-day extension was received on February 5. On February 11 the Mayor's Office said the request was broad. She sent a follow-up email to the Mayor's Office on February 17 and received an Out of Office reply after which she spoke to Laura Hauser of the Mayor's Office of Communication who assured her that the email would go to the appropriate person. A second request was sent March 2 and she emphasized that the current request was not related to first request. She said she received two binders and was told they were related to the second request. She said she had not received documents specified in the first request.

The respondent was not present. There was no one in the audience to present facts and evidence on behalf of the respondent.

Task Force members said they did not know if documents specified in the second request were withheld. All that was said was that the City Attorney was reviewing the documents before releasing it to Supervisor Daly. They also noted that there was no reason to believe the rule of reason as it is formulated in state case law applied to Sunshine requests.

No closing statements were made.

Motion to find violation of Sections 67.21 (b) for failure to produce documents, 67.21 (e) for not sending a knowledgeable representative to the hearing and 67.25 (b) for invoking the 10 days and not responding within the limited time frame. ( Craven-Green / Goldman )

Public Comment: Peter Warfield said it is always appropriate to make an Immediate Disclosure Request but he doesn't use it if he knows time was needed to get the documents he wants. He said an IDR forces the agency to respond by the next business day whereas if an IDR was not used one would be waiting forever for the documents to be produced.

On the motion

Ayes: Craven-Green, Cauthen, Washburn, Knoebber, Chan, Goldman, Williams, Knee

Matter referred to the Compliance and Amendments Committee.

10. Report: Complaint Committee: meeting of March 9, 2010.

Committee Chair Nick Goldman made the report.

Public Comment: None

11. Report: Compliance and Amendments Committee: special meeting of March 3, 2010.

Committee Chair Erica Craven-Green made the report.

Public Comment: Peter Warfield thanked the chair for allowing the public to comment on the amendments section by section and not the document as a whole. He also said a statement outlining the changes and its reasons should accompany the amendments.

12. Report: Compliance and Amendments Committee: meeting of March 9, 2010

Committee Chair Erica Craven-Green made the report.

Public Comment: Peter Warfield said he would like to request a copy of the amendments.

13. Report: Education, Outreach and Training Committee meeting of March 11, 2010.

Committee Chair Sue Cauthen made the report.

Public Comment: Peter Warfield said the Task Force was having an inappropriate discussion about the Sunshine awards that was part of the committee report and not noticed in today's agenda.

14. Administrator's Report.

Mr. Rustom made the report.

Public Comment: None

15. Public comment for items not listed on the agenda.

Peter Warfield, Executive Director of the Library Users Association, said the Task Force should review the proceedings of the Education, Outreach and Training Committee's January and February meetings and check on its legality.

16. Announcements, comments, questions, and future agenda items from the Task Force.

Chair Knee announced that special meetings on the amendments will be held on March 30 and April 6 at 5 p.m. in Rm 406.

Public Comment: Peter Warfield said the Task Force needs to look into the availability of agendas and its supporting documents, meetings that begin and continue without a quorum, the complainant informed of any communication that was produced as a sidebar and complaint deadlines.

Adjournment:

The meeting was adjourned at 7:15 p.m.

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

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