

Date: August 24, 2010

Item No. 31

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

## SUNSHINE ORDINANCE TASK FORCE

### AGENDA PACKET CONTENTS LIST\*

- Administrators Report
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

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**



**City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. (415) 554-7724  
Fax No. 415) 554-7854  
TDD/TTY No. (415) 554-5227**

---

**MEMORANDUM**

---

**TO:** Sunshine Ordinance Task Force

**DATE:** August 17, 2010

**SUBJECT:** Administrator's Report

---

1. Requests from community persons:

From July 21, 2010, through August 17, 2010, the Task Force's office responded to approximately 387 calls/e-mails/office visits from persons requesting information regarding the Sunshine Ordinance, or to mediate request for records.

2. 2010 Complaint Log

3. Communications Received Log

4. Orders of Determination

#10027 Barry Taranto v SF Municipal Transportation Agency Boardn

5. Referral Letter

#10018, Svetlana Ptashnaya v. Department of Aging and Adult Services

## Complaints 2010

Date Received	Complainant	Department/Respondent	Status
1/12/2010	Nick Pasquarello 10001	General Services Agency	Task Force 02/23/2010, No jurisdiction
1/22/2010	Nancy Cross 10002	Law Library	Task Force 02/23/2010, No jurisdiction
1/22/2010	Nancy Cross 10003	ECS Sanctuary	Task Force 02/23/2010, No violation
1/22/2010	Rita O'Flynn 10004	City Attorney's Office	Task Force 02/23/2010, Withdrawn
2/2/2010	Emil Lawrence 10005	MTA	Complaint 03/09/10, Task Force 3/23/2010, No violation
2/4/2010	Paula Datesh 10006	Arts Commission	Complaint 03/09/10, No jurisdiction
2/22/2010	Chris Daly 10007	Mayor's Office	Complaint 03/09/10, Task Force 3/23/2010, violated 67.21(b), 67.21(e), 67.25(b), Task Force 04/27/10, referred to EC and BOS
3/3/2010	Sandra Brotherton 10008	Dept. of Emergency Management	Complaint 04/27/10, Task Force 4/27/2010, No further action
3/10/2010	Majeld Crawford 10009	City Attorney's Office	Complaint 5/11/10, TF 5/25/2010, violated 67.26, 67.27, TF 6/22/10, referred to EC
3/26/2010	Paula Datesh 10010	Arts Commission	Complaint 5/11/10, TF 5/25/2010, TF 6/22/10, 07/27/2010, 08/24/2010
3/26/2010	Juan De Anda 10011	Public Health	Task Force 04/27/10, contd 05/25/10, tabled
3/29/2010	Ellen Tsang 10012	Planning Department	Task Force 04/27/10, violated 67.21(e), 67.25, TF 6/22/10, no further action
4/5/2010	Nick Pasquarello 10013	Dept. of Technology	Task Force 05/25/10, violated 67.21(b), TF 6/22/10, CAC 8/10/10, TF 08/24/2010
4/9/2010	Michael Robinson 10014	Rent Board	Complaint 5/11/10, no jurisdiction
4/14/2010	Ellen Tsang 10015	Planning Department	Task Force 05/25/10, violated 67.21, 67.25, 67.26 and 67.27, TF 6/22/10, referred to EC
4/10/2010	Ray Hartz 10016	Rent Board	Complaint 5/11/10, TF 5/25/2010, violated 67.24(c)(1)(i) and (ii), TF 6/22/10, matter concluded
4/10/2010	Ray Hartz 10017	Rent Board	Complaint 5/11/10, TF 5/25/2010, No further action
5/18/2010	Svetlana Ptashnaya 10018	Aging and Adult Services	Complaint 6/8/2010, TF 6/22/10, violated 67.21(c), 67.21(e) 67.24(c)(7) & 67.27, CAC 07/13/2010, TF 7/27/2010, referred to EC
5/21/2010	Alvin Xex 10019	First 5 (San Francisco)	Complaint 6/22/10, Tabled
4/26/2010	Kenneth Kinnard 10020	Human Rights Commission	Complaint 5/11/10, no jurisdiction
4/28/2010	Anonymous 10021	Recreation and Parks Department	Task Force 5/25/10, withdrawn 5/24/10
5/3/2010	Suzanne Dumont 10022	Recreation and Parks Department	Complaint 6/8/2010, TF 6/22/10, violated 67.27, CAC 07/13/2010, Matter concluded
5/21/2010	Alvin Xex 10023	First 5 (San Francisco)	Complaint 07/13/10, Tabled

### Complaints 2010

5/25/2010	Ray Hartz 10024	San Francisco Police Dept	Complaint TF 6/22/10 Contd 07/27/2010, no further action
5/25/2010	Ray Hartz 10025	San Francisco Police Commission	TF 6/22/10, violated 67.29 & 67.21(e), CAC 07/13/2010, 08/10/2010, TF 08/24/2010
5/25/2010	Ray Hartz 10026	City Attorney's Office	TF 6/22/10, Contd. 07/27/2010, 07/27/2010, Withdrawn 07/27/2010
6/1/2010	Barry Taranto 10027	MTA Board of Directors	Task Force 7/27/10, vio 67.7, EOTC 08/12/2010
6/1/2010	Charles Pitts 10028	Local Homeless Coordinating Board	Task Force 7/27/10, Matter concluded
6/1/2010	Charles Pitts 10029	Local Homeless Coordinating Board	Task Force 7/27/10, Matter concluded
6/4/2010	Michael Wright 10030	SF Human Services Agency	Complaint 7/13/10, 07/27/2010, 08/24/2010
6/23/12010	Charles Pitts 10031	Local Homeless Coordinating Board	Task Force 7/27/10, 08/24/2010
6/23/2010	Mike Addario 10032	Human Rights Commission	Complaint 7/13/10, Closed 06/28/2010, False Claim
6/23/2010	Milindha Morahela 10033	Arts Commission	Complaint 7/13/10, Withdrawn 7/13/2010
6/28/2010	Nick Pasquariello 10034	Department of Technology	Complaint 7/13/10, 07/27/2010, 08/24/2010
7/2/2010	Nick Pasquariello 10035	Bay Area Video Coalition	TF 08/24/2010, Complaint 09/14/2010
7/1/2010	Tomas Picarello 10036	SRO Task Force	Complaint 08/10/2010, TF 08/24/2010
7/7/2010	Suzanne Dumont 10037	Recreation and Parks Department	Task Force 08/24/10
7/9/2010	Jason Grant Garza 10038	Dept. of Public Health	TF 08/24/2010
7/27/2010	Suzanne Dumont 10039	Recreation and Parks Department	TF 09/28/2010
7/28/2010	Ellen Tsang 10040	Planning Department	TF 09/28/2010
7/28/2010	William & Robert Clark 10041	Mayor's Office, Board of Supervisors, Arts Commission	Complaint 09/14/2010
8/2/2010	Cal Tilden 10042	Recreation and Parks Department	Complaint 09/14/2010

COMMUNICATIONS RECEIVED LOG  
July 21, 2010, through August 17, 2010

DATE	FROM	DESCRIPTION	
1	7/21/2010	Rita O'Flynn	Disclosure request
2	7/21/2010	Natalia Aldana	JVS board meetings
3	7/22/2010	Allen Grossman	July 27 meeting
4	7/22/2010	Richard Knee	IDR
5	7/22/2010	Michelle Torres	MUNI surveillance tape
6	7/22/2010	Steve	IDR
7	7/22/2010	Priscilla Morse	IDR
8	7/23/2010	Combs	Records request
9	7/23/2010	Edwin Lee	Index of Records
10	7/23/2010	Mirkarimi	Newsletter
11	7/25/2010	Suzanne Dumont	Sunshine request
12	7/26/2010	pdatesh	Hearing reminder
13	7/26/2010	Jason Grant Garza	Prove it
14	7/26/2010	Richard Knee	Prove it
15	7/26/2010	Suzanne Manneh	July 27 agenda
16	7/26/2010	Richard Knee	July 27 agenda
17	7/26/2010	Angela Calvillo	July 27 agenda
18	7/26/2010	Allen Grossman	July 27 agenda
19	7/26/2010	Library Users Assoc	July 27 agenda
20	7/27/2010	Richard Knee	IDR
21	7/27/2010	Randall Evans	IDR
22	7/27/2010	Anmarie Mabbutt	Publication access request
23	7/27/2010	Allen Grossman	July 27 agenda
24	7/27/2010	Rita O'Flynn	Request for disclosure
25	7/27/2010	Allen Grossman	July 27 agenda
26	7/27/2010	Allen Grossman	July 27 agenda
27	7/27/2010	Ramona & Greg Mayon	Too big to jail
28	7/28/2010	City Hall Management	Newsletter
29	7/28/2010	Rita O'Flynn	Request for disclosure
30	7/28/2010	Kimo Crossman	Live audio or video
31	7/28/2010	Rita O'Flynn	Request for disclosure
32	7/28/2010	SF Guardian Editorial	Newsom wants job he denied supervisors
33	7/29/2010	Ellen Tsang	Records request
34	7/29/2010	Richard Knee	Complaint with Ethics
35	7/29/2010	Ray Hartz	Complaint with Ethics
36	7/29/2010	Mary LaMattery	City College Sunshine
37	7/29/2010	Richard Knee	Complaint with Ethics
38	7/29/2010	Ray Hartz	Complaint with Ethics
39	7/29/2010	Ray Hartz	Complaint with Ethics
40	7/29/2010	Rita O'Flynn	Request for disclosure
41	7/29/2010	Zzzz	Mike Addario
42	7/29/2010	Richard Knee	Complaint with Ethics
43	7/29/2010	1st Amendment	Newsletter
44	7/29/2010	SF Guardian Editorial	Newsom's hypocrisy
45	7/29/2010	Richard Knee	Complaint with Ethics
46	7/29/2010	Ray Hartz	Complaint with Ethics
47	7/30/2010	Brian Smith	Records request
48	7/30/2010	Jana Clark	Contacts with Ray Hartz
49	7/30/2010	Ray Hartz	Complaint with Ethics
50	7/30/2010	Richard Knee	Contacts with Ray Hartz
51	7/30/2010	Jenna Carson	SFMTA response
52	7/30/2010	SF Guardian Editorial	Legal Brahmins against Nava
53	8/2/2010	Ellen Tsang	Records request
54	8/2/2010	MTABoard	SFMTA response
55	8/2/2010	mpetrelis	Mock AIDS funeral
56	8/2/2010	Hope Johnson	Recordings request
57	8/3/2010	Ray Hartz	Complaint with Ethics
58	8/3/2010	SF Guardian Editorial	Killer on the loose?
59	8/6/2010	mpetrelis	Prop & judge
60	8/6/2010	Tenants 769	Hyde Street
61	8/6/2010	Tenants 769	Hyde Street
62	8/10/2010	Rita O'Flynn	Request for disclosure

COMMUNICATIONS RECEIVED LOG

63	8/10/2010 Rita O'Flynn	Potential fraud
64	8/10/2010 Jason Grant Garza	Sunshine complaint
65	8/10/2010 Richard Knee	Sunshine complaint
66	8/10/2010 Zzzz	Street artists
67	8/10/2010 Rita O'Flynn	Request for disclosure
68	8/11/2010 Ray Hartz	IDR
69	8/11/2010 SF Guardian Editorial	Readers blast PayPal
70	8/11/2010 Richard Knee	Sue Cauthen
71	8/11/2010 Ray Hartz	Sue Cauthen
72	8/12/2010 Jason Grant Garza	Sunshine complaint
73	8/12/2010 mpetrelis	City Hall blog/video/pictures
74	8/12/2010 SF Guardian Editorial	Bay Guardian verdict upheld
75	8/16/2010 Jason Grant Garza	Prove it
76	8/16/2010 Richard Knee	Prove it
77	8/17/2010 Rita O'Flynn	Request for disclosure

**SUNSHINE ORDINANCE  
TASK FORCE**



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. (415) 554-7724  
Fax No. 415) 554-7854  
TDD/TTY No. (415) 554-5227

**ORDER OF DETERMINATION**  
August 6, 2010

**DATE THE DECISION ISSUED**  
July 27, 2010

*BARRY TARANTO V MUNICIPAL TRANSPORTATION AGENCY BOARD (CASE NO.  
10027)*

**FACTS OF THE CASE**

Complainant Barry Taranto ("Complainant") alleges that the Municipal Transportation Agency Board of Directors ("MTA") violated the Ralph M. Brown Act and the Sunshine Ordinance at its June 1, 2010, meeting. Specifically, the Complainant alleges that Director Malcolm Heinicke asked Deputy Director Chris Hayashi to approach the podium to answer questions regarding the timeline for the taxi hearing notification, a topic Complainant alleges was not on the meeting agenda, and that this discussion lasted for more than five minutes.

**COMPLAINT FILED**

On June 1, 2010, Complainant filed a complaint against the MTA for the alleged violation of public meetings laws, and, in particular, the Ralph M. Brown Act and the Sunshine Ordinance.

**HEARING ON THE COMPLAINT**

On July 27, 2010, the Complainant presented his claim before the Task Force. The Respondent Agency was represented by MTA Board Secretary Roberta Boomer.

The Complainant told the Task Force that during the June 1, 2010, MTA Board meeting, members of the public had commented on the importance of abiding by the 72-hour notice posting rule because a recent meeting on taxi medallions had to be canceled because the deadline was not met. The Complainant said Mr. Heinicke questioned Ms. Hayashi, who oversees the taxi administration, on the issue at the end of the Public Comment portion of the meeting. After Ms. Hayashi had responded to his question, Mr. Heinicke asked her about other aspects of the medallion issue, the Complainant said. That violated the Brown Act because the verbal exchange was extensive and the item was not on the agenda, the Complainant said.

Ms. Boomer said Mr. Heinicke was addressing an issue that had been raised during the Public Comment session and that his line of questioning was directed at making sure that the public was getting its concerns resolved expeditiously. Ms. Boomer said the issue was not discussed by any other board member and that Ms. Hayashi's responses were lengthy compared to Mr. Heinicke's short and brief questions.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented, the Task Force finds that the agency violated the Ordinance.

## DECISION AND ORDER OF DETERMINATION

The Task Force finds that the MTA Board violated Section 67.7(d) of the Sunshine Ordinance. The Board shall send a representative knowledgeable in this matter to appear before the Education, Outreach and Training Committee on August 12, 2010.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on July 27, 2010, by the following vote: ( Johnson / Williams )

Ayes: Snyder, Cauthen, Washburn, Chan, Johnson, Williams, Knee



Richard A. Knee, Chair  
Sunshine Ordinance Task Force

c: Jana Clark, Deputy City Attorney  
Barry Taranto, Complainant  
Roberta Boomer, Respondent



SUNSHINE ORDINANCE  
TASK FORCE



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. (415) 554-7724  
Fax No. 415) 554-7854  
TDD/TTY No. (415) 554-5227

August 17, 2010

San Francisco Ethics Commission  
25 Van Ness Avenue, Suite 220  
San Francisco CA 94102

**Referral of Sunshine Ordinance Complaint #10018, Svetlana Ptashnaya v. Department of Aging and Adult Services**

This is a referral from the June 22, 2010, Order of Determination from the Sunshine Ordinance Task Force against the Department of Aging and Adult Services for failure to comply with the Order of Determination in that it did not provide information related to an internal investigation of a department employee. The referral is made pursuant to Sunshine Ordinance Section 67.30(c).

**Background**

On May 19, 2010, Svetlana Ptashnaya filed a complaint with the Sunshine Ordinance Task Force alleging that the Department of Aging and Adult Services failed to respond adequately to her February 11, 2010, Public Records Request to Julie Peck, Program Manager for Adult Protective Services ("APS"), for the results of APS's investigation into Ms. Ptashnaya's complaint against APS employee Ethelbert Ogbuehi.

**Task Force Hearing and Order of Determination**

The matter was heard on June 22, 2010, and it was noted that the Department did not send a person knowledgeable on the issue to the hearing as required under Section 67.21(e) of the Sunshine Ordinance. The Department had earlier informed the Task Force by fax that the information Ms. Ptashnaya requested was "statutorily protected under the Welfare and Institutions Code, Sections 15630 and 10850."

The Task Force agreed with the Department that state law covered information related to the Department and its clients, but Ms. Ptashnaya's request was on a distinctly separate issue, the alleged misconduct of a public agency employee. Her request, Task Force members said, was for information related to an employee's disciplinary hearing, and documents related to it should have been released pursuant to Section 67.24(c)(7) of the Ordinance. The Task Force said the Department could redact or delete parts of the document or documents that contained confidential information related to any welfare issue; the Task Force pointed out that under

the Sunshine Ordinance and the California Public Records Act, disclosable portions of records containing both disclosable and exempt information must be provided to requestors.

In light of the foregoing, the Task Force found the Department of Aging and Adult Services in violation of Section(s) 67.21(c), 67.21(e), 67.24(c)(7) and 67.27 of the Sunshine Ordinance for not assisting the requestor, for not sending a knowledgeable representative to the hearing, for not releasing documents related to employee misconduct and for not providing written justification to the requestor for withholding information. The Department was directed to produce copies of the documents that Ms. Ptashnaya requested within five calendar days of the issue date of the Order of Determination and to appear before the Compliance and Amendments Committee on July 13, 2010, to discuss compliance with the Order of Determination.

### **Hearings at the Compliance and Amendments Committee**

A hearing on the status of the Department's compliance with the Order of Determination was held on July 13, 2010. Cindy Rasmussen, Supervisor of the Department's Adult Protection Services division, informed the Task Force that all documents within a welfare client's file were confidential and could not be disclosed. Members asked her if portions of the investigation report could be segregated by redacting or deleting welfare-case issues. Ms. Rasmussen said such segregation was not possible, and that all documents that can be released have been provided to Ms. Ptashnaya. Members then voted to send the matter to the next full Task Force meeting for referral to an enforcement agency for failure to comply with the Order of Determination.

### **Referral by Task Force**

At the Task Force hearing on July 27, 2010. Ms. Ptashnaya again said she had not received anything from the Department. It was noted that the department was again not represented at the hearing.

This request and referral are made under Section 67.30(c) of the Sunshine Ordinance whereby the Task Force shall make referrals to a municipal office with enforcement power under this Ordinance whenever it concludes that any person has violated any provision of this Ordinance.

### **Supporting Materials**

The enclosed CD contains material in reference to this referral including (1) the June 22, 2010, Task Force Order of Determination, (2) documents regarding this complaint that have been submitted to the Sunshine Ordinance Task Force, (3) the minutes from the

Ethics Commission

August 17, 2010

Page 3 of 3

Task Force meetings on June 22, 2010, the minutes from the Compliance and Amendments Committee meeting on July 13 and the draft minutes from the Task Force meeting on July 27, 2010.

If you need any further information, including audio recordings of any of the meetings referenced above, please contact me or the Task Force Administrator at (415) 554-7724.



Richard A. Knee, Chair  
Sunshine Ordinance Task Force



David Snyder, Member, Seat #1\*  
Sunshine Ordinance Task Force

cc: Jerry Threet, Deputy City Attorney  
Jana Clark, Deputy City Attorney  
Svetlana Ptashnaya, Complainant  
Trent Rhorer, Respondent  
E. Anne Hinton, Respondent  
Julie Peck, Respondent  
Cindy E. Rasmussen, Respondent

\*Seat #1 on the Task Force is designated for an attorney nominated by the Society of Professional Journalists, Northern California Chapter.

