

Date: Oct. 25, 2011

Item No. 3

File No. _____

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Draft Minutes: Task Force August 23, 2011**
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Completed by: Chris Rustom

Date: Oct. 20, 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.

Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE
REGULAR MEETING
DRAFT MINUTES**

Tuesday, August 23, 2011
4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	David Snyder, Esq.	Seat 8	Bruce Wolfe (Vice chair)
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Hope Johnson (Chair)
Seat 4	Suzanne Manneh	Seat 11	Jackson West
Seat 5	Allyson Washburn		
Seat 6	James Knoebber	Ex-officio	(Vacant)
Seat 7	Jay Costa	Ex-officio	(Vacant)

Call to Order 4:20 P.M.

Roll Call Present: Snyder, Knee, Washburn, Costa, West, Johnson
Absent: Cauthen, Manneh, Knoebber, Wolfe, Chan

Agenda Changes: Item 27 heard after Item 2.

Deputy City Attorney: Jerry Threet
Clerk: Chris Rustom

Member Knee, seconded by Member Washburn, motioned to excuse Members Cauthen, Manneh, Knoebber, Wolfe and Chan.

Public Comment: None.

The motion carried by the following vote:

Ayes: 6 - Snyder, Knee, Washburn, Costa, West, Johnson
Absent: 5 - Cauthen, Manneh, Knoebber, Wolfe, Chan

1. 11048 Determination of jurisdiction on complaint filed by Pastor Gavin against Supervisor Chiu and Supervisor Mar for allegedly violating Sunshine Ordinance requirements for public notices and agendas.
Approx. 0:18:00

Member Knee, seconded by Member Snyder, motioned to find jurisdiction.

Public Comment: None.

The motion carried by the following vote:

Ayes: 6 - Snyder, Knee, Washburn, Costa, West, Johnson
Excused: 5 - Cauthen, Manneh, Knoebber, Wolfe, Chan

2. 11048 Hearing on complaint filed by Pastor Gavin against Supervisor Chiu and Supervisor Mar for allegedly violating Sunshine Ordinance requirements for public notices and agendas.

Heard: Complainant Pastor Gavin presented her complaint. Speaking in support of the complainant were four member of the public who wished to remain anonymous, Laura Traveler of the Parkmerced Action Coalition, Mitchell Omerberg of the Affordable Housing Alliance and Steve Zeltzer of United Public Workers for Action. Lin-Shao Chin, an legislative aide to Supervisor Eric Mar, provided the response.

Member Knee, seconded by Member Costa, motioned:

- (a) to find Supervisor Eric Mar, the Chair of the Land Use Committee, in violation of Sections 67.7(b) for not providing any explanatory document that was provided to the policy body in connection with an agenda item, and Section 67.15(a) & (b) for failing to adequately notice the substance of the relevant agenda item based on the last minute and substantive change to the item created by the introduction of 14 pages of amendments.**
- (b) to continue the item to the September Task Force meeting and name Board President Chiu, Supervisor Wiener and Supervisor Cohen, the two other committee members, as respondents.**

Public Comment: Ray Hartz, Director San Francisco Open Government, said he supported the motion because the committee, knowing that there was a potential Sunshine Ordinance violation, disregarded the law and went ahead to vote on the item. Tomas Picarello said Board President David Chiu should also be accountable because he introduced the additional documents in question. He said Board President Chiu needs to explain why the documents were introduced without public comment. Nick Pasquarello said all the issues surrounding Board President Chiu and Committee Chair Mar have been discussed and needed to be voted on today and the others at another date.

The motion carried by the following vote:

Ayes: 6 - Snyder, Knee, Washburn, Costa, West, Johnson
Excused: 5 - Cauthen, Manneh, Knoebber, Wolfe, Chan

3. 11043 The Compliance & Amendments Committee has referred Case No. 11043 Alicia Gamez v Department of Public Health back to the full Task Force with a recommendation that it find all Noise Ordinance Task Force meetings, recommendations, and documents invalid, and monitor DPH compliance with the committee's order to produce records based on the Order of Determination.

Approx.
1:29:49

Heard: Complaint Alicia Gamez and Respondent Dr. Rajiv Bathia of the Department of Public Health provided the Task Force with a progress report in complying with the Order of Determination.

Members noted that the Noise Ordinance Task Force, which is expected to sunset in a few weeks, now knows the requirements of the Sunshine Ordinance, and that there was an ongoing dialogue and the production of records between both parties.

Member Washburn, seconded by Member Costa, motioned to send a letter to the Board of Supervisors, the Mayor, the City Attorney and the Department of Public Health to inform them how NOTS violated the public meeting requirements from the very beginning and the possibility of similar bodies violating the same rules, and that when similar bodies are created that the staff be made aware of the rules that govern it, and urge the Board of Supervisors to extend the life of NOTF for a certain period to allow for public participation.

Public Comment: Tomas Picarello said it was unfortunate that NOTF had a deputy city attorney on it and no advice was given to rectify the issue. He said the letter should also go to the Entertainment Commission because it also deals with noise. A neighbor of the complainant presented copies of 50 complaints that were filed with the Police Department. She said the inspector was only concerned by the noise made by the compressor and not the noise made by the patrons and other machinery associated with the business.

Matter concluded.

Five-minute recess declared.

4. 11045 Determination of jurisdiction on complaint filed by William Clark against the Arts Commission for allegedly violating Sections 67.22(e) and 67.21(b) of the Sunshine Ordinance.

Approx.
2:24:12

Member Knee, seconded by Member Costa, motioned to find jurisdiction.

Public Comment: None.

The motion carried by the following vote:

Ayes: 6 - Snyder, Knee, Washburn, Costa, West, Johnson

Excused: 5 - Cauthen, Manneh, Knoebber, Wolfe, Chan

5. 11045 Hearing on complaint filed by William Clark against the Arts Commission for allegedly violating Sections 67.22(e) and 67.21(b) of the Sunshine Ordinance.

Heard: Complainant William Clark presented his case. Julio Mattos presented the Arts Commission's position.

Member Washburn, seconded by Member Costa, motioned to find Howard Lazar of the Arts Commission in violation of Sections 67.21(b) for not releasing the information within 10 days following receipt of the request, 67.22(b) for not releasing information on a timely and responsive basis, and 67.21 (e) for not sending a knowledgeable person to the hearing.

Based on the respondent's protracted pattern of responses; on respondent's repeated violation of the Sunshine Ordinance; and respondent's evident lack of intent to comply with the Sunshine Ordinance in the future, the Task Force finds Mr. Lazar in willful violation under Section 67.34 and has referred the matter to the Ethics Commission.

Public Comment: Robert Clark said Mr. Lazar attended last month's Task Force meeting and could have passed on the information. He said it was outrageous for Mr. Lazar to be able to answer numerous questions from a Chinese delegation but unable to answer one question from the Task Force.

The motion carried by the following vote:

Ayes: 6 - Snyder, Knee, Washburn, Costa, West, Johnson

Excused: 5 - Cauthen, Manneh, Knoebber, Wolfe, Chan

6. 11047 Determination of jurisdiction on complaint filed by Dorian Maxwell against the San Francisco Municipal Transportation Agency for allegedly not keeping withholding to a minimum.

Matter continued to September 27, 2011.

7. 11047 Hearing on complaint filed by Dorian Maxwell against the San Francisco Municipal Transportation Agency for allegedly not keeping withholding to a minimum.

Matter continued to September 27, 2011.

8. 11042 Determination of jurisdiction on complaint filed by Cynthia Carter against the San Francisco Municipal Transportation Agency for allegedly denying her access to her personnel file.

Approx.
2:58:00

Member Knee, seconded by Member Washburn, motioned to find jurisdiction.

Public Comment: None.

The motion carried by the following vote:

Ayes: 6 - Snyder, Knee, Washburn, Costa, West, Johnson
Excused: 5 - Cauthen, Manneh, Knoebber, Wolfe, Chan

9. 11042 Hearing on complaint filed by Cynthia Carter against the San Francisco Municipal Transportation Agency for allegedly denying her access to her personnel file.

Heard: Complainant Cynthia Carter presented his case. Dorian Maxwell spoke in support of the complainant. Kathy Fowlis presented the San Francisco Municipal Transportation Agency's position.

Chair Johnson, seconded by Member Knee, motioned to find Caroline Celaya in violation of Sections 67.21(b) for not providing the documents in a timely manner, 67.21(c) for failure to direct the complainant to where the other documents could possibly be, 67.21(e) for not sending a knowledgeable person to the hearing, and that the MTA provide Ms. Carter with copies of the write ups from her supervisors, mechanical reports on defective busses and the complete Central Control reports relative to her case.

Public Comment: Ray Hartz, Director San Francisco Open Government, said Ms. Carter was at a total disadvantage at her hearing because she could not present a solid defense with facts and figures. A member of the public said it seemed that Ms. Carter's case was not an isolated incident because Mr. Maxwell also has to go through the same experience. He also said the City loses money when it has to hire attorneys when it gets sued for wrongful termination.

The motion carried by the following vote:

Ayes: 6 - Snyder, Knee, Washburn, Costa, West, Johnson
Excused: 5 - Cauthen, Manneh, Knoebber, Wolfe, Chan

Matter referred to Compliance and Amendments Committee.

10. 11046 Determination of jurisdiction on complaint filed by Charles Pitts against the Shelter Monitoring Committee for allegedly calling a recess to discuss an item while a meeting was in progress.
Approx.

Member Knee, seconded by Member Snyder, motioned to continue the matter to the September 27, 2011, meeting.

Public Comment: None.

The motion carried by the following vote:

Ayes: 6 - Snyder, Knee, Washburn, Costa, West, Johnson
Excused: 5 - Cauthen, Manneh, Knoebber, Wolfe, Chan

11. 11046 Hearing on complaint filed by Charles Pitts against the Shelter Monitoring Committee for allegedly calling a recess to discuss an item while a meeting was in progress

See Item 10.

12. 11054 Determination of jurisdiction on complaint filed by Ray Hartz against Luis Herrera of the Public Library for allegedly failing to include his 150-word summaries in the body of the minutes.
Approx.
3:56:20

Member Knee, seconded by Member Costa, motioned to find jurisdiction.

Public Comment: None.

The motion carried by the following vote:

Ayes: 6 - Snyder, Knee, Washburn, Costa, West, Johnson
Excused: 5 - Cauthen, Manneh, Knoebber, Wolfe, Chan

13. 11054 Hearing on complaint filed by Ray Hartz against Luis Herrera of the Public Library for allegedly failing to include his 150-word summaries in the body of the minutes.

Heard: Complainant Ray Hartz presented his case. The Public Library was represented by Sue Blackman and Library Commission Vice President Lee Munson.

Member Costa, seconded by Chair Johnson, motioned to find Luis Herrera of the Public Library in violation of Sections 67.15(d) for abridging public comment, 67.16 for not including the 150-word summary

in the body of the minutes, and 67.34 for willful violation.

Member Knee, seconded by Member West motioned to separate Section 67.15(d) from the motion.

Public Comment: None.

The motion carried by the following vote:

Ayes: 6 - Snyder, Knee, Washburn, Costa, West, Johnson
Excused: 5 - Cauthen, Manneh, Knoebber, Wolfe, Chan

On the motion to find a violation of Sections 67.16 for not including the 150-word summary in the body of the minutes, and 67.34 for willful violation.

Public Comment: None.

The motion carried by the following vote:

Ayes: 6 - Snyder, Knee, Washburn, Costa, West, Johnson
Excused: 5 - Cauthen, Manneh, Knoebber, Wolfe, Chan

On the motion to find a violation of Sections 67.15(d).

Public Comment: None.

The motion carried by the following vote:

Ayes: 4 - Snyder, Costa, West, Johnson
Noes: 2 - Knee, Washburn
Excused: 5 - Cauthen, Manneh, Knoebber, Wolfe, Chan

Chair Johnson, seconded by Member Knee, motioned to rescind the vote.

Public Comment: None.

The motion carried by the following vote:

Ayes: 6 - Snyder, Knee, Washburn, Costa, West, Johnson
Excused: 5 - Cauthen, Manneh, Knoebber, Wolfe, Chan

On the motion to find a violation of Sections 67.15(d).

Public Comment: None.

The motion failed by the following vote:

Ayes: 3 - Costa, West, Johnson
Noes: 3 - Snyder, Knee, Washburn
Excused: 5 - Cauthen, Manneh, Knoebber, Wolfe, Chan

Five minute recess declared.

14. 11055 Determination of jurisdiction on complaint filed by Ray Hartz against Luis Herrera of the Public Library for allegedly failing to assist in identifying documents.

Approx.
4:48:00

Member Washburn, seconded by Member Knee, motioned to find jurisdiction.

Public Comment: None.

The motion carried by the following vote:

Ayes: 6 - Snyder, Knee, Washburn, Costa, West, Johnson
Excused: 5 - Cauthen, Manneh, Knoebber, Wolfe, Chan

15. 11055 Hearing on complaint filed by Ray Hartz against Luis Herrera of the Public Library for allegedly failing to assist in identifying documents.

Heard: Complainant Ray Hartz presented his case. The Public Library was represented by Sue Blackman. Library Commission Vice President Lee Munson spoke in favor of Ms. Blackman.

No motion was made.

Matter concluded.

16. 11056 Determination of jurisdiction on complaint filed by Allen Grossman against Dennis Herrera and Jack Song of the City Attorney's Office for allegedly not responding to an Immediate Disclosure Request on a timely basis and not responding to a request for public information.

Continued to September 27, 2011.

17. 11056 Hearing on complaint filed by Allen Grossman against Dennis Herrera and Jack Song of the City Attorney's Office for allegedly not responding to an Immediate Disclosure Request on a timely basis and not responding to a request for public information.

Continued to September 27, 2011.

18. Issuing public reports evaluating compliance with the Sunshine Ordinance and related California laws by City Departments and Officials pursuant to Sec. 67.30(c).

Approx.
5:07:00

Members discussed the topic and, without objection, continued the matter to the September 27, 2011, meeting because quorum was about to be lost.

Public Comment: Ray Hartz, Director San Francisco Open Government, suggested creating a list of those who repeatedly violate a particular section of the ordinance and then seek their department head's input for inclusion in a report.

19. Amending Article VI, Sec. 1 of the Sunshine Ordinance Task Force By-Laws to eliminate or suspend the Complaint Committee. (discussion and action item)

No quorum.

20. Amending Article VI, Sec. 1 of the Sunshine Ordinance Task Force By-Laws to create a Technology Committee.

No quorum.

21. Supervisor of Records Report.

No quorum.

22. Approval of January 4, 2011, special meeting minutes.

No quorum.

23. Approval of January 20, 2011, special meeting minutes.

No quorum.

24. Approval of January 25, 2011, regular meeting minutes.

No quorum.

25. Report: Compliance and Amendments Committee meeting of August 9, 2011.

No quorum.

26. Administrator's Report.

No quorum.

27. Public comment on matters not listed on the agenda.

Approx.

1:28:15 None.

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

No quorum.

Adjournment

Having lost quorum with the departure of Member Snyder, the Task Force adjourned at the hour of 9:48 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>