Date: Oct. 26, 2010

Item No. 4
File No.

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- ☒ **Draft Minutes: Task Force June 27, 2010**
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐

Completed by: Chris Rustom **Date:** Oct. 22, 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
REGULAR MEETING
DRAFT MINUTES

Tuesday, July 27, 2010
4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	David Snyder	Seat 8	Bruce Wolfe (Vice chair)
Seat 2	Richard Knee (Chair)	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Hope Johnson
Seat 4	Suzanne Manneh	Seat 11	Marjorie Ann Williams
Seat 5	Allyson Washburn		
Seat 6	James Knoebber	Ex-officio	LaTonia Stokes
Seat 7	Nick Goldman	Ex-officio	(Vacant)

Call to Order 4:06 P.M.

Roll Call Present: Snyder, Knee, Cauthen, Washburn, Chan (in at 4:23), Johnson, Williams
Excused: Manneh, Knoebber, Goldman, Wolfe

Agenda Changes: Item 31 heard before Item 11. Quorum lost at 8:30 p.m.

Deputy City Attorney: Jana Clark
Clerk: Chris Rustom

1. Approval of March 23, 2010, regular-meeting minutes.

   Motion to continue item.

   Public Comment: Ray Hartz said an ongoing problem is that an unrelated document is being associated with his complaints. Thomas Picarello encouraged the Task Force to keep up with the minutes.

   Motion approved without objection.

2. Approval of May 4, 2010, special-meeting minutes.

   Motion to continue item.

   Public Comment: None.

Motion approved without objection.

3. Approval of May 11, 2010, special-meeting minutes.

Motion to continue item.

Public Comment: None.

Motion approved without objection.

4. Approval of May 25, 2010, regular-meeting minutes.

Motion to continue item.

Public Comment: None.

Motion approved without objection.

5. Approval of June 1, 2010, special-meeting minutes.

Motion to continue item.

Public Comment: None.

Motion approved without objection.

6. Approval of June 22, 2010, regular meeting minutes.

Motion to continue item.

Public Comment: None.

Motion approved without objection.

7. 10018 The Compliance and Amendments Committee has referred #10018 Svetlana Ptashnaya v the Department of Adult and Aging Services to the Task Force for possible referral to an enforcement agency for failure to comply with the June 22, 2010, Order of Determination.

Complainant Svetlana Ptashnaya said she has not received any additional information from the respondent.

The respondent was not present. No one in the audience presented facts and evidence in support of the respondent.

Chair Knee recalled that the respondent attended the Compliance and Amendments meeting on July 13, 2010, and clearly stated that she did not intend to comply with the Order of Determination. He also said the department was also in violation of Section 67.21(e).because the respondent was not present.

In closing, Ms. Ptashnaya said she needed the Task Force's help to get the information she wants.

Motion to refer the matter to the Ethics Commission for willful violation of Section 67.21(c) for not assisting the requestor, Section 67.21(e) for not sending a knowledgeable representative to the hearing, and Section 67.24(c)7 for not releasing documents related to an employee's misconduct. (Knee / Williams)

Public Comment: Thomas Picarello said he was in favor of the motion. Ray Hartz suggested mentioning the department head's name because that person is ultimately responsible for the actions of City employees under his or her leadership.

On the motion:
Ayes: Snyder, Cauthen, Washburn, Chan, Johnson, Williams, Knee.

8. 10010 Determination of jurisdiction on complaint filed by Paula Datesh against the Arts Commission for allegedly not notifying her of an agenda item.

Continued to August 24, 2010, regular meeting.

9. 10010 Hearing on complaint filed by Paula Datesh against the Arts Commission for allegedly not notifying her of an agenda item.

Continued to August 24, 2010, regular meeting.

10. 10024 Continued hearing on complaint filed by Ray Hartz against the Police Department for alleged failure to comply with requirements of Section 67.29

Complainant Ray Hartz said the index at the back of a book tells the reader what is available on which particular page. He said the department's index does not follow that example. What the department provides is only a retention schedule, he said. The department is the custodian of records and not the defenders of records, he said.

Lt. Simon Silverman of the Police Department said the Ordinance states that "The index need not be in such detail as to identify files or records concerning a specific person, transaction or other event, but shall clearly indicate where and how records of that type are kept." That is exactly what the department has on its Index of Records and it is also consistent with other City departments' practices, he said. It is the City Administrator who provides the format and his department has followed the guidelines, he said.

Olga Ryerson of the City Administrator's Office said the index identifies records by type and it does help the public identify where the documents are kept and for how long. She also said if a link is found to be broken, a call to the contact number on the CAO's webpage was the answer. She said there are three ways to search for records from the CAO's main page, by department, by

document name, and by department and keyword. She said the department is revising its policy on guidelines and will soon inform City departments.

In closing, Lt. Silverman said based on the language in Section 67.39, the department believes it is in compliance. To go into more details would be a burden to the department, he said. Mr. Hartz said nobody is addressing his concern which is: Does this index help the public get whatever record they want from a particular department? The answer, he said, was "no."

Motion to find violation of Section 67.29 (Washburn / Williams)

Public Comment: Charles Pitts said the Police Department needs to be told to step up to the plate.

On the motion:
Ayes: Washburn, Chan, Williams, Knee
Noes: Snyder, Cauthen, Johnson

Motion fails.

Chair Knee invited members to provide language to be used in drafting a letter to be sent to the Police Department and the City Administrator's Office to urge them to make the Index of Records more meaningful.

Matter concluded.

11. 10026 Prehearing on complaint filed by Ray Hartz against the City Attorney's Office for allegedly violating Section 67.29 of the Ordinance.

Jack Song of the City Attorney's Office said the pre-hearing was no longer necessary because the complainant has provided the requested information.

The complainant had nothing to say.

Member Chan disclosed that he knew Mr. Song but his acquaintance would not affect his judgment.

12. 10026 Determination of jurisdiction on complaint filed by Ray Hartz against the City Attorney's Office for allegedly violating Section 67.29 of the Ordinance.

Complainant Ray Hartz said there are more than 200 attorneys working in the City Attorney's Office and they should be able to compare the requirements of Section 67.29 with what is posted in their Index before asking him to clarify his complaint.

Motion to find jurisdiction. (Johnson / Washburn)

Public Comment: None

On the motion:

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

13. 10026 Hearing on complaint filed by Ray Hartz against the City Attorney's Office for allegedly violating Section 67.29 of the Ordinance.

Complainant Ray Hartz said the index was presented in such a way that there were many ways the Police Department could hide documents from the general public and no one would know about it. He said the Task Force does not pay attention to the fact that the index does not help a person get to know what documents exist and how to see or inspect it. He compared the index to a library that just said certain subjects were on certain floors and the visitor had to go and look for what he or she wanted.

Respondent Jack Song said his office has provided all the information as required by law. He said the link to the City Attorney's Office webpage from the City Administrator's Office website was easily fixable. The index, he said, has been a very useable tool and has assisted the public to get the document they need.

Olga Ryerson of the City Administrator's Office said the public has used the index for the past 10 years and have found it to a usable tool.

In closing, Mr. Song said the language in Section 67.29 was vague and that the various entities need to get together to make it clear and precise. Mr. Hartz said the retention schedule does not reflect what is in the index. He said the simplest way to provide a meaningful listing would be to list the forms the department reorders from a printer on a regular basis.

Motion to find violation of Section 67.29 (Washburn / Knee)

Public Comment: None.

On the motion:
Ayes:, Washburn, Williams
Noes: Snyder, Cauthen, Chan, Johnson, Knee

14. 10027 Determination of jurisdiction on complaint filed by Barry Taranto against the MTA Board of Directors for alleged violating the Ralph M. Brown Act for conversing extensively with an MTA employee on an item not on the agenda

Motion to find jurisdiction (Johnson / Washburn)

Public Comment: None

On the motion:
Ayes: Snyder, Knee, Cauthen, Washburn, Chan, Johnson, Williams

15. 10027 Hearing on complaint filed by Barry Taranto against the MTA Board of Directors for alleged violating the Ralph M. Brown Act for conversing extensively with an MTA employee on an item not on the agenda.

Complainant Barry Taranto said he was an advocate for the taxi industry and attended SFMTA meetings regularly. During the June 1, 2010, SFMTA meeting Mark Gruberg commented on the importance of the 72-hour requirement needed to notice meetings because a recent gathering on medallions had to be cancelled. Commissioner Malcolm Heinicke then questioned Deputy Director of Taxi Services Chris Hayashi, who oversees the taxi administration, on the issue. After Ms. Hayashi had responded he then asked her about other aspects of the medallion issue which was not on the agenda for more than seven minutes.

Roberta Boomer, Secretary to the SFMTA Board of Directors, said several members of the public had expressed their concern about the noticing issue during the Public Comment session and that Mr. Heinicke was only trying to address the issue. Ms. Boomer said Mr. Heinicke's line of questioning was directed at making sure that the public was getting their concerns resolved expeditiously. The issue, she said, was not discussed by any other member of the board. She noted that Ms. Hayashi's responses were rather lengthy while Mr. Heinicke's questions were not.

Member Johnson said she watched the Public Comment session and the minutes only touched on the notice timing issue. The exchange between Mr. Heinicke and Ms. Hayashi was left out of the minutes. She said Mr. Heinicke went a little too far because he deviated a great deal from just the notice. She said a lot of controversial issues were discussed.

To Member Snyder, Ms. Boomer said she believed there was no violation because the exchange was not amongst board members but between a member of the board and staff whom were trying to address the concerns of the public. Ms. Boomer could not provide a section of the Ordinance allowing discussion on an item not on the agenda provided only one member of a board addresses staff.

Ms. Boomer did not give any closing remarks. Mr. Taranto said Mr. Heinicke was on the now-disbanded Taxi Commission and knew what questions to ask. He said it would be understandable if the discussion stopped after the noticing issue, but the deputy city attorney allowed the discussion to continue as the line of questioning branched off.

Motion to find violation of Section 67.7(d) (Johnson / Williams)

On the motion:
Ayes: Snyder, Cauthen, Washburn, Chan, Johnson, Williams, Knee

Matter referred to Education, Outreach and Training Committee.

16. 10028 Determination of jurisdiction on complaint filed by Charles Pitts against the Local Homeless Coordinating Board for allegedly not notifying him of an upcoming meeting.

Motion to find jurisdiction (Cauthen / Williams)

Public Comment: None

On the motion:
Ayes: Snyder, Cauthen, Washburn, Chan, Johnson, Williams, Knee

17. 10028 Hearing on complaint filed by Charles Pitts against the Local Homeless Coordinating Board for allegedly not notifying him of an upcoming meeting.

Complainant Charles Pitts said the Task Force had recommended the Local Homeless Coordinating Board add his name to its agenda email list in late 2009. He said the agency followed up on the recommendation only after he filed the current complaint.

Respondent Ali Schlageter of the Local Homeless Coordinating Board said Mr. Pitts was on the agency's list serve and as proof she had submitted a print out of the document.

In closing, Ms. Schlageter said she did not have anything to add. Mr. Pitts said Ms. Schlageter has interacted with him with hostility several times and to bring up the issue with her would not have been productive.

Motion to find no violation (Snyder / Washburn)

Public Comment: Thomas Picarello said Mr. Pitts has two other complaints on the agenda and the Task Force should hear those before reaching a conclusion on this "he said, she said" issue.

On the motion:
Ayes: Snyder, Washburn, Chan, Williams, Knee
Noes: Cauthen, Johnson

Motion fails.

Chair Knee asked if there was a motion to find a violation. None was made.

Matter concluded.

18. 10029 Determination of jurisdiction on complaint filed by Charles Pitts against the Local Homeless Coordinating Board for allegedly interrupting him while he was speaking during public comment session

Motion to find jurisdiction (Cauthen / Williams)

Public Comment: None

On the motion:
Ayes: Snyder, Cauthen, Washburn, Johnson, Williams, Knee
Excused: Chan

19. 10029 Hearing on complaint filed by Charles Pitts against the Local Homeless Coordinating Board for allegedly interrupting him while he was speaking during public comment session.

Complainant Charles Pitts said he wanted to know why he was cut off while offering public comment and what the agenda item was about. Thomas Picarello said he was present at the June 1, 2010, meeting and the agenda item was about the $20 million McKinney Vento federal funding. He said Mr. Pitts was told to stop speaking on the action item and to voice his concerns during the Public Comment session.

Respondent Ali Schlageter of the Local Homeless Coordinating Board said the reason why Mr. Pitts was cutoff was because his comment did not pertain to the agenda item. The committee was discussing the goals and actions related to the funding while Mr. Pitts wanted to express his opinion about outreach and shelters, which are not associated with the fund. Mr. Michael Wright said it was a simple case of misunderstanding and should not have resulted in a complaint with the Task Force.

Chair Knee suggested to Ms. Schlageter that the agenda should mention Public Comment and not Other Updates as it could be mistaken with, among others, updates to staff and other reports.

In closing, Ms. Schlageter said only the full Local Homeless Coordinating Board discusses and votes on action items. Mr. Pitts said it was an action item because the committee discussed and recommended it to the full board.

Motion to find no violation. (Johnson / Knee)

Public Comment: None

On the motion:
Ayes: Snyder, Cauthen, Washburn, Johnson, Knee
Noes: Williams

Motion fails.

Chair Knee asked if there was a motion to find a violation. None was made.

Matter concluded.

20. 10030 Determination of jurisdiction on complaint filed by Michael Wright against the Human Services Agency for allegedly denying him access to a Housing and Homeless Division meeting

Continued to August 24, regular meeting.

21. 10030 Hearing on complaint filed by Michael Wright against the Human Services Agency for allegedly denying him access to a Housing and Homeless Division

meeting

Continued to August 24, regular meeting.

22. 10031 Determination of jurisdiction on complaint filed by Charles Pitts against the Local Homeless Coordinating Board for allegedly denying him access to a Local Homeless Coordinating Board meeting

Continued to August 24, regular meeting.

23. 10031 Hearing on complaint filed by Charles Pitts against the Local Homeless Coordinating Board for allegedly denying him access to a Local Homeless Coordinating Board meeting

Continued to August 24, regular meeting.

24. 10034 Determination of jurisdiction on complaint filed by Nick Pasquariello against the Department of Technology for allegedly failing to respond to an Immediate Disclosure Request

Motion to continue to August 24, 2010, regular meeting.

Without objection.

25. 10034 Hearing on complaint filed by Nick Pasquariello against the Department of Technology for allegedly failing to respond to an Immediate Disclosure Request

Motion to continue to August 24, 2010, regular meeting.

Without objection.

26. Adoption of 2009-10 Annual Report to the Board of Supervisors

Continued to August 24, regular meeting.

27. Ethics Commission proposed policy for handling Sunshine-related complaints

Continued to August 24, regular meeting.

28. Establishment of a Sunshine Award to be given out annually by the Task Force.

Motion to continue to August 24, 2010, regular meeting.

Without objection.

29. Report: Compliance and Amendments Committee: meeting of July 13, 2010. (Allyson Washburn)

Continued to August 24, regular meeting.

30. Administrator's Report

Continued to August 24, regular meeting.

31. Public comment on matters not listed on the agenda. Public comment shall be taken at 5:00 p.m., or as soon thereafter as possible

Allen Grossman said if only seven members were present and two were against the motion, the outcome was not acceptable and the loophole needed to be fixed. He also said the minutes need to be in detail and posted on a timely basis. William Clark said Mayor Newsom signed an ordinance that increased the membership fee street artists have to pay to the Arts Commission. He claimed the commission raised the fee to process public documents requests. Rob Clark said he and his twin brother had already raised the issue and those concerned and that a complaint would be filed after a few days. Ray Hartz said the outcome of a complainant's grievance depends on the attendance of Task Force members. He also said certain members are not for the complainants but out to protect the City. Thomas Picarello said the meetings need to be recorded so that the public knows what was happening. He said the Board of Supervisors only allots each speaker 210 seconds to talk about a 6.5 billion budget and that the Task Force should not be participating in illegal meetings. Michael Wright said the Board of Supervisors always reduces public comment to two minutes that was insulting because the supervisors could speak non-stop the entire day. He also said Task Force meetings need to be televised. Charles Pitts said the Task Force should seek a City Attorney opinion on the vote issue.

32. Announcements, comments, questions, and future agenda items from the Task Force: None

Adjournment: The meeting was adjourned at 8:45 p.m.

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