

Date: Oct. 26, 2010

Item No. 5

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

## SUNSHINE ORDINANCE TASK FORCE

### AGENDA PACKET CONTENTS LIST\*

- Draft Minutes: Task Force August 24, 2010**
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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, August 24, 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	(Vacant)
Seat 7	(Vacant)	Ex-officio	(Vacant)

**Call to Order** 4:27 P.M.

**Roll Call** Present: Snyder, Knee, Cauthen, Manneh, Washburn, Wolfe (in at 4:30 p.m.), Chan (in at 7:52 p.m.), Johnson  
Excused: Knoebber, Williams

**Agenda Changes:** Items heard in the following order: 1, 2, 3, 4, 5, 6, 7, 10, 32, 15, 16, 11, 12, 13, 14, 17, 18, 21, 22. Quorum was lost at 11:04 p.m.

**Deputy City Attorney:** Jana Clark  
**Clerk:** Chris Rustom

1. Approval of March 23, 2010, regular meeting minutes.  
  
Motion to approve March 23, 2010, regular meeting minutes. ( Wolfe / Cauthen )  
  
Public Comment: None.  
  
On the motion:  
Ayes: Snyder, Cauthen, Washburn, Wolfe, Johnson, Knee
2. Approval of May 4, 2010, special meeting minutes.  
  
Motion to approve May 4, 2010, special meeting minutes. ( Wolfe / Cauthen )  
  
Public Comment: None.

On the motion:

Ayes: Snyder, Cauthen, Manneh, Washburn, Wolfe, Johnson, Knee

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

Motion to approve May 11, 2010, special meeting minutes. ( Cauthen / Washburn )

Public Comment: None.

On the motion:

Ayes: Snyder, Cauthen, Manneh, Washburn, Wolfe, Johnson, Knee

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

Motion to approve May 25, 2010, special meeting minutes. ( Wolfe / Cauthen )

Public Comment: None.

On the motion:

Ayes: Snyder, Cauthen, Manneh, Washburn, Wolfe, Johnson, Knee

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

Motion to approve June 1, 2010, special meeting minutes. ( Wolfe / Cauthen )

Public Comment: None.

On the motion:

Ayes: Snyder, Cauthen, Manneh, Washburn, Wolfe, Johnson, Knee

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

Continued to September 28, 2010, meeting. Without objection.

7. Approval of July 27, 2010, regular meeting minutes.

Continued to September 28, 2010, meeting. Without objection.

8. Special recognition to Nicholas Goldman for his community service as member of the Sunshine Ordinance Task Force and Chair of the Complaint Committee.

Continued to September 28, 2010, meeting. Without objection.

9. 10013 The Compliance and Amendments Committee has referred to the Task Force a recommendation that File No. 10013, Nick Pasquariello v. Department of Technology, be forwarded to the Ethics Commission due to willful violation for failure to comply with the May 25, 2010, Order of Determination.

Complainant Nick Pasquariello said the Task Force had spoken loud and clear on how BAVC did not comply with the Order of Determination and that the time had come to send the matter to the Ethics Commission for enforcement.

Krisana Hodges said the issue of dates was brought up at the Compliance and Amendments Committee hearing and she was not given the chance to present her side of the story. She said on Dec. 19, 2009, the department produced a number of documents for Mr. Pasquariello. He was also directed by mail to the website where the same documents were available on May 20, she said. The department on May 27 again provided additional documents Mr. Pasquariello requested. The last of the documents, she said, were provided on June 7. Barry Fraser of the Department of Technology verified the timeline for the production of documents and said some documents were produced before the Order of Determination was issued and the rest were handed over within the five-day time frame.

Member Wolfe wanted to know if BVAC had provided Mr. Pasquariello with a printed copy of the contract. Ms. Hodges said there was only one version of the contract and it was held by the department which has also posted a pdf version on its website. She said the department has printed Mr. Pasquariello a copy of the pdf version and for her to print the same file would be a waste of ink, paper and time.

Member Wolfe said complainant had a right to receive a copy of BAVC's contract to compare it with the version he received from the Department of Technology.

To Member Johnson, Ms. Hodges said BAVC does maintain its own copy of the contract and had not provided a copy of that version to complainant."

Answering members' questions, Mr. Pasquariello told members he had provided Ms. Hodges with a mailing address and that she could mail him a copy of the contract. He also said providing the links by email to where the document resided did not meet Sunshine requirements. Ms. Hodges said she has sent Mr. Pasquariello documents by email and the postal service but he has yet to acknowledge receipt. Mr. Pasquariello finally said the department provides him with documents on a CD and that form of delivery was acceptable to him. Ms. Hodges was told to put the contract onto a CD and have it mailed to him. She agreed.

In closing, Ms. Hodges said BAVC is complying with the requirements of Chapter 12L and is also committed to operating transparently. To that extent, she said, BAVC intends to place more documents on the website than it is required under Chapter 12L. This also eliminated the 10 cents per page issue, she said. Mr. Pasquariello said BAVC has not held two public meetings a year as required by the contract and Chapter 12L. He said BAVC was behaving in a dishonest manner and should not be given any City contract. Public access is an extraordinary public service and BAVC has done a terrible disservice, he said.

Motion to refer Mr. Ken Ikeda of the Bay Area Video Coalition to the Ethics Commission for willful violation for failure to comply with the May 25, 2010, Order of Determination. ( Washburn / Wolfe )

Public Comment: Ray Hartz said the law requires that BAVC produce what was asked from them. He also said he would certainly have his own copy of a contract because if there was only one copy, the holder of that copy could manipulate it. Jason Grant Garza wanted to know if there was a guarantee against the Ethics Commission overruling the Task Force's decision. Michael Wright said the Ethics Commission's requirements on willful violation need to be known in order for the Task Force's decision to be sustained. He suggested asking that question at the Commission's next meeting. Jim Morris, a producer with SF Commons, said Mr. Pasquariello was searching for honesty and accuracy. He said BAVC could have put the document on CD at the very beginning instead of having an attorney represent them.

On the motion:

Ayes: Snyder, Manneh, Washburn, Wolfe, Johnson, Knee

Noes: Cauthen

Motion passes.

10. 10025 The Compliance and Amendments Committee has referred to the Task Force a recommendation that File No. 10025, Ray Hartz v. Police Commission, be forwarded to an enforcement agency due to willful violation if the Police Commission fails to demonstrate that its Index of Records fulfills the requirements set by Section 67.29 of the Ordinance.

Complainant Ray Hartz said if he clicks on the Police Commission's General Orders link and there is no additional information available. However, he said that if he went to the agendas and minutes section more information than before was being provided. He said although there was improvement, access was also needed to the vast majority of the documents held by the Police Commission. He said the Police Commission is in control of the documents but is not its owner. He said the Police Commission at its last meeting discussed hiring someone to assist Lt. Reilly respond to public records requests. He said if the General Orders were on the website he could read it and print it rather than having to make a public records request for the document.

Lt. Joe Reilly, Secretary of the Police Commission, said his two-person office's workload is burdensome but they do their best. He said he does not want to comment on the Police Department's website but their General Orders are accessible through that link. He said the Police Commission meets every week and has a lot of support documents that are maintained chronologically. He said a Police Commission resolution directs the viewer to the background information, the agenda as well as the notice and minutes of the meetings. He said all documents are available online. The Police Commission, he said, still produces minutes in bound edition and is indexed by subject. He said the commission maintains the Index of Records the same way as many other departments. He requested the Task Force find for the Police Commission the

same way other departments were found on similar complaints.

Member Wolfe said the complainant is looking at the Index of Records and cannot find any record. Lt. Reilly responded by saying that he does not control the format and specifications of the Index.

Member Johnson noted that the Task Force had agreed at the Compliance and Amendments Committee meeting that Section 67.29 does not require linkage because the Index was only for description purposes and not a document depository.

Member Washburn also told Lt. Reilly that Olga Ryherson of the City Administrator's Office told the committee that her office was working on making improvements to the Index.

In closing, Lt. Reilly said he appreciated all the comments that were made. He also said he was not aware of the improvements but promised full cooperation once the instructions were received.

Mr. Hartz said the new link to the website was what he was asking for from the very beginning. Now, he said who ever goes to the Commission's Index of Records can continue their research at the website.

Chair Knee asked if there was a motion to forward the matter to an enforcement entity.

Public Comment: Jason Grant Garza said the Police Commission representative was misleading the Task Force by saying that one department does not know what another department was doing. He said misleading the public into believing that one could get something off a link is willful violation and official misconduct. Charles Pitts said he believes that the officer just came here to give more excuses and muddy up the waters. He said instead of saying he is not in control of putting things on the web, he blames everybody else.

Chair Knee said Section 67.29 would be amended to include the linkage when the time comes but there is nothing in the language that would bar or prevent the link. If departments and agencies wanted to make the Index useful, he said, they should be making those linkages.

Matter concluded.

11. 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.

Motion to find jurisdiction ( Cauthen / Washburn )

Public Comment: None

On the motion:

Ayes: Snyder, Cauthen, Manneh, Washburn, Wolfe, Johnson, Knee

12. 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.

Complainant Michael Wright said he was denied access to the San Francisco Human Services Agency's Shelter and Resource Center Directors' Monthly Meeting held at 1 p.m. at 77 Otis Street on May 17, 2010. He said the monthly meeting was attended by representatives of shelter providers and contractors, staff from the HAS and the Department of Public Health, and Shelter and Resource Center's directors. He said the gathering of such participants to discuss homeless system policies forces the meeting to be conducted in a public setting. He said the agenda for the Directors' agenda included discussions on the shelter extension policy, the medical marijuana policy, and plans to close a shelter. The meetings were not advertised and notification was by emails to participants. At the Stakeholders meeting at 2:30 pm meeting items from the Directors agenda were carried over but because a majority of the participants in the first meeting do not stay for the second meeting the public is denied a full role in helping shape policy. He claimed that the two-agenda meeting was created because a provider recently requested time to speak on issues outside the presence of non-shelter providers. He said this has led to decisions being made before the public gets involved.

Representatives of the Coalition on the Homeless have requested that all items be placed on an open agenda and only have closed sessions for allowable topics. But, he said, HSA has said they have the right to hold private meetings.

Charles Pitts said he has read the department's response and finds that the meeting was a passive meeting. Mr. Pitts said once inside the building there was a waiting area where the public has to wait until they are buzzed in into the meeting room area. Mr. Pitts claimed that while Mr. Wright was prevented from entering the room other members of the public were allowed in. Jason Grant Garza said he does not see any HAS representative and would like to know the penalties for not attending the meeting because Mr. Wright is entitled to due process and respondent needs to give their side of the story. Thomas Picarello said he has been invited to attend the Directors' meeting but that was when he was a member of the Shelter Monitoring Committee. He said substantial policy issues are discussed at the meetings and the public should be allowed to participate.

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

Member Snyder said in order to reach the merits of the case Task Force members need to know more about the meeting. Unfortunately, he said, there is nothing in the record to assist members in reaching a decision. However, he said the respondent has violated Section 67.21(e) for not sending a knowledgeable representative. He suggested the respondent appear before

the Compliance and Amendments Committee and explain their position.

To Chair Knee, Mr. Wright said he was already in the conference room and sitting at the table when HAS staffer Scott Walton approached him and told him to leave because it was a private meeting.

In closing, Mr. Wright said the non-appearance is an example of the department's bad-faith intention on not reaching a legal agreement on the matter. He said the department was hoping that he not appear and that the matter would be dropped.

Chair Knee said the matter should be continued because the Task Force does not have the information it needs to make an informed decision. He wanted Pamela Tebo found to have willfully violated Section 67.21(e) and refer it to the Ethics Commission. He said Ms. Tebo has taken it upon herself to decide that the Directors' meeting is not a passive meeting body and that she has taken it upon herself to decide that the Sunshine Ordinance does not apply. That is not her decision to make and has no business making decisions for the Task Force. She is going beyond her authority, he said.

Motion to find willful violation of 67.21(e) and refer matter to the Ethics Commission ( Knee / Washburn )

Member Wolfe said the reason the department was not present may lie in the email referring to the restraining order. However, he said, other staff members could have represented the department.

Member Wolfe offered a friendly motion after members discussed how best to resolve the matter.

Motion to find that the San Francisco Human Services Agency Housing and Homeless Division Shelter and Resource Center Director's group is a passive meeting body under Section 67.3(c)(5) of the Ordinance and that the San Francisco Human Services Agency violated Section 67.4(a) and that Pamela Tebo of the Human Services Agency is referred to the Ethics Commission for willfully violating Section 67.21(e) for failing to send a knowledgeable representative to the hearing. The agency needs to attend the September 14, 2010, Compliance and Amendments Committee hearing and produce a written policy that it will abide by Section 67.4(a) of the Sunshine Ordinance. ( Knee / Snyder )

Public Comment: None.

On the motion:

Ayes: Snyder, Cauthen, Manneh, Washburn, Wolfe, Chan, Johnson, Knee

13. 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.



Motion to find jurisdiction ( Cauthen / Washburn )

Public Comment: None

On the motion:

Ayes: Snyder, Cauthen, Manneh, Washburn, Wolfe, Chan, Johnson, Knee

14. 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.

Complainant Charles Pitts said a person sitting behind a window in the lobby of the building can determine the race, class or status of a person wishing to enter the conference room before buzzing the door open or to deny that person access to the meeting room. When he approached the door, he said, she gave him a look over and denied him access to the conference room. He said he tried to enter when someone opened the door but that person physically obstructed his path and told him he could not enter. It was only when the security guard approved of him that he was allowed entrance, he said. The many barriers placed in the way to a public meeting does not conform to the spirit and the letter of the Sunshine Ordinance, he said. The meeting should not be held in this building and given the City's resources; a suitable site could be located, he added.

Thomas Picarello said the building is not public friendly. The first door is never locked but the second is and anybody wanting to attend the Local Homeless Coordinating Board Funding Committee meeting has to wait five to 10 minutes to be buzzed in.

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

Member Wolfe said the department's email response was troubling because staff thinks that the hearings are an administrative process. He also said Ali Schlageter's email mentioned a HSA Security Policy and yet the policy was not provided.

To Member Manneh, Mr. Pitts said he did not ask why he was denied entrance because he does what he needs to do and in this case he was trying to open a door to gain access to a public meeting.

In closing, Mr. Pitts said other people who are not driven as he is would have simply turned around and left because of the restrictions at the facility. He said the funding committee met at that same location after he filed his complaint. He said it showed that the department realized that there was a problem but continued as if nothing had happened.

Motion to find the Local Homeless Coordinating Board in violation of Section 67.13 for preventing entry for inappropriate reasons and Alison Schlageter, the Local Homeless Coordinating Board Policy Analyst, in violation of Section

67.21(e) for failing to send a knowledgeable representative to the hearing. ( Chan / Wolfe )

Public Comment: Jason Grant Garza said Section 67:34, willful failure shall be official misconduct, applies in this case because the department was notified that they needed to attend the hearing. He said Section 67.33 also says that department heads have to let the Ethics Commission know that they understand the Sunshine Ordinance.

On the motion:

Ayes: Snyder, Cauthen, Manneh, Washburn, Wolfe, Chan, Johnson, Knee

Motion passess.

Matter referred to Education, Outreach and Training Committee.

15. 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 find jurisdiction ( Cauthen / Wolfe )

Public Comment: None

On the motion:

Ayes: Snyder, Cauthen, Manneh, Washburn, Wolfe, Johnson, Knee

16. 10034 Hearing on complaint filed by Nick Pasquariello against the Department of Technology for allegedly failing to respond to an Immediate Disclosure Request.

Complainant Nick Pasquariello said on November 20, 2009, he submitted an application for time slots at BAVC/SF Commons offices and one of the conditions he agreed to was that BAVC scan his driver's license to be kept on file "for internal use only." On December 22, 2009, he faxed and sent a certified letter asking for clarification of BAVC's privacy and security protection of the digitally scanned driver's licenses. He said he also emailed the letter to BAVC's Board of Directors and has yet to receive a response. On February 23, 2010, BAVC attorney Krisana Hodges told him that the scanning had been outsourced to Salesforce.com. On May 25, 2010, he said, Ms. Hodges offered to send him a copy of the contract between Salesforce.com and BAVC, but later withdrew her offer.

Ray Hartz said BAVC illegally copied Mr. Pasquariello's driver's license without permission and has since transmitted the data to Salesforce.com. He said BAVC did not have the authorization to take it and neither did it have authorization to send to another entity unless it is part of the contract with the City. Jason Grant Garza said BAVC's silence on the matter is dubious, unethical, immoral but American.

Barry Fraser, an analyst with the Department of Technology, said Mr. Pasquariello faxed an Immediate Disclosure Request on June 24, 2010, requesting copies of contracts between BAVC and Salesforce.com. He said the fax was not delivered to the appropriate department staff and the department only became aware of it when the Task Force notified it that Mr. Pasquariello had filed a complaint. He said the department notified Mr. Pasquariello by mail that it did not have any record responsive to his request. However, on July 15, 2010, BAVC mailed Mr. Pasquariello a link to the Salesforce.com contract. The department found out on August 2, 2010, that Mr. Pasquariello was not aware of BAVC's gesture. Mr. Pasquariello then requested that the department download the document and provide it. The department sent him a copy of the document via email. On August 5, 2010, after Mr. Pasquariello said he had difficulty with email attachments; the department offered him a paper copy but was turned down because he already had a copy. On August 9, 2010, Mr. Pasquariello submitted another IDR to the department requesting a signed copy of the contract. The department responded by saying that it did not have any record responsive to the request. The document, he said, was a click wrap agreement and did not have a signature page. Mr. Fraser admitted that the department was one day late because of the misplaced fax. He also said Mr. Pasquariello had earlier in the day shown him more details on the driver's license agreement and so would like more time to review his allegations. However, he said, that if there were issues it would be about contract compliance and not about Sunshine.

Member Wolfe said under Chapter 12L of the Admin Code, the complaint needs to go to the department first. If it is not resolved, either party can bring the matter to the Task Force for an advisory opinion. But, he said, the Task Force "shall not prejudice the right of the member of the public and/or the nonprofit organization to obtain a review of the City agency or department's recommendation by the Board of Supervisors as provided herein." Therefore, he said, he does not see any violation by the department because the issue is between Mr. Pasquariello and BAVC. When it comes to Section 67.24 on contracts, bids and proposals, again he sees no violation because the contract is specific between the City and the service provider and not beyond it, he said. He suggested that Mr. Pasquariello file a complaint against BAVC under 12L.

Member Johnson said the Task Force needs to be consistent and hold firm to the fact that the department has admitted that it was not able to respond to the IDR as required by law.

In response, the department had nothing to add. Mr. Pasquariello said how could anyone consider the click agreement a contract when names are not mentioned, especially BAVC's.

Motion to find violation of Section 67.25 for failure to respond to an Immediate Disclosure Request in a timely manner. ( Johnson / Cauthen )

Public Comment: None

On the motion:

Ayes: Snyder, Cauthen, Manneh, Washburn, Wolfe, Johnson, Knee

Motion passes.

Chair Knee forwarded the matter to the Education, Outreach and Training Committee and said the committee contact the department and impress upon them the need to make sure that the communication they receive gets to the proper parties in a timely fashion.

17. 10036 Determination of jurisdiction on the complaint filed by Thomas Picarello against the Single Room Occupancy Hotel Safety & Stabilization Task Force for allegedly preventing him from commenting on a proposed action item and allegedly legislating and vetting pending public matters by email.

Motion to find jurisdiction ( Wolfe / Johnson)

Public Comment: None

On the motion:

Ayes: Snyder, Cauthen, Manneh, Washburn, Wolfe, Chan, Johnson, Knee

18. 10036 Hearing of complaint filed by Thomas Picarello against the Single Room Occupancy Hotel Safety & Stabilization Task Force for allegedly preventing him from commenting on a proposed action item and for allegedly legislating and vetting pending public matters by email.

Complainant Thomas Picarello said he attended the SRO Task Force's June 17 meeting and saw on the agenda that Item 5 was "Families in SRO Survey." When the item came up, as verified by the minutes, a substantial discussion ensued and at the end he asked to be able to speak on the topic. He said he was told to give his opinion at the general Public Comment session near the end of the meeting. He said the Task Force meets for one-and-a-half-hours but only allocates five minutes for public comment. He said the Sunshine Ordinance and the Brown Act allow him to speak on any possible action item on an agenda. He also said SRO Task Force members discuss legislation and proposals through emails as proven by the documents submitted to the Sunshine Ordinance Task Force. He said doing so denies the public access and input on a public matter.

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

Mr. Picarello further said that the reason he was told to provide his views on the issue was because the SRO Task Force members had a lengthy discussion on the topic and was running out of time. He also said he was not the only person who was asked to speak at the end.

Chair Knee said the emails are proof that the participants were taking part in ex parte communications and in a seriatim meeting.

In closing, Mr Picarello said a strong message needs to be sent to the SRO Task Force that the practice is illegal. He also said the emails are a small sampling of what was discussed among SRO Task Force members.

Motion to find the SRO Task Force in violation of Sections 67.5 and 67.15(b) for holding a meeting under Section 67.3(b). The Task Force also found Anne Kronenberg, Chair of the Department of Health's SRO Task Force, in violation of Section 67.21(e) for failing to send a knowledgeable representative to the hearing ( Wolfe / Knee)

Public Comment: Charles Pitts said the members of the SRO Task Force should be found in violation. He said he was also at the meeting and that the person who told him and Mr. Picarello that they could not speak was a lawyer. He said the SRO Task Force members wanted to pencil whip the meeting and get the letter out to get the funding.

On the motion:

Ayes: Cauthen, Washburn, Wolfe, Chan, Johnson, Knee

Excused: Snyder, Manneh

19. 10037 Determination of jurisdiction on complaint filed by Suzanne Dumont against the Department of Recreation and Park for allegedly not providing all emails pertaining to the Stow Lake Boathouse.

Withdrawn.

20. 10037 Hearing of complaint filed by Suzanne Dumont against the Department of Recreation and Park for allegedly not providing all emails pertaining to the Stow Lake Boathouse.

Withdrawn

21. 10038 Determination of jurisdiction on complaint filed by Jason Grant Garza against the Department of Public Health for allegedly not providing documents related to an incident at the Tom Waddell Health Center.

Motion to find jurisdiction ( Cauthen / Knee)

Public Comment: None

On the motion:

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

Motion passes.

22. 10038 Hearing of complaint filed by Jason Grant Garza against the Department of Public Health for allegedly not providing documents related to an incident at the Tom Waddell Health Center.

Complainant Jason Grant Garza said this was the latest in a string of appearances he has made before the Task Force. He said only one complaint was remedied and forwarded to the Ethics Commission but nothing came out of it. He said 90 percent of his cases resulted in his favor but somehow no findings were presented. In this case, he wanted to know what the penalty was for the respondent who was not present. He said Eileen Shields of the Department of Public Health was in violation because medical records fall under the Ordinance. He said he went to the Tom Waddell Health Center for urgent medical care because he was denied treatment by Healthy San Francisco. He said no explanation for the refusal was provided. He also requested his records through Crisis Management and that was also denied. He said there was no reason not to give him the records because in 2003 the Task Force had ruled that medical records were under the Sunshine Ordinance.

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

Member Wolfe said the department had violated Section 67.27(b) for withholding on the basis that disclosure is prohibited by law. The respondent should cite the specific statutory authority in the California Public Records Act or elsewhere. He said she does not offer any reference.

Member Wolf said all cities need authorization to disclose health information to ensure that the person in front of them is the person who he or she claims to be.

But Mr. Garza argued that he did not fill out a form in 2002 when the department mailed him his records, and he certainly did not need to fill out one now because the Task Force has already ruled that medical records were covered by the Sunshine Ordinance.

Member Snyder said Ms. Shields email suggests that the Health Insurance Portability and Accountability Act requires a health agency to verify who you are before they release your records to you. That process involves filling out the Authorization to Release/Request for an Individual's Health Information Form.

Member Wolfe noted that he was not going to advise anybody to sign the form that was presented as evidence because he did not know how old these forms were and because he did not know if those were the correct and current forms.

In closing, Mr. Garza said if the Task Force ruled in his favor and sent it to the Ethics Commission nothing would happen. He said that would be like offering citizens a disservice.

Motion to find Eileen Shields of the Department of Public Health in violation of Section 67.21(e) for failing to send a knowledgeable representative to the hearing and to refer the matter to the Ethics Commission. ( Wolfe / Snyder)

Mr. Garza requested that it not be done, but to wait until the regulations regarding Sunshine complaints were finalized by the Ethics Commission.

Member Wolfe said the option was to continue the matter to a date after the guidelines were accepted.

Member Snyder disagreed. He urged for finding a violation if there was a violation and that the Task Force should not be guided by what the complainant wants.

Member Wolfe said sending the Ethics referral letter works on two tracks. The first is it is entered into the employee's record. The second is it becomes part of the report that the Task Force annually presents to the Board of Supervisors.

Member Washburn made a friendly motion to find the Section 67.21(e) violation and the Ethics referral but to continue the matter to the next hearing. The friendly motion was accepted.

Motion to find Eileen Shields of the Department of Public Health in violation of Section 67.21(e) for failing to send a knowledgeable representative to the hearing and to refer the matter to the Ethics Commission, and for the discussion and possible action of the merits of the complaint be continued to the September 28, 2010, meeting. ( Wolfe / Snyder)

Public Comment: None.

On the motion:

Ayes: Snyder, Cauthen, Washburn, Wolfe, Johnson, Knee

23. 10010 Determination of jurisdiction on complaint filed by Paula Datesh against the Arts Commission for allegedly not notifying her of an agenda item.

Continued.

24. 10010 Hearing on complaint filed by Paula Datesh against the Arts Commission for allegedly not notifying her of an agenda item.

Continued.

25. Meeting schedule: Proposal to cancel the Task Force's regular meetings of November 23, 2010, and December 28, 2010, and schedule special meetings on November 30, 2010, and January 4, 2011.

Quorum was lost at 11:04 p.m.

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

Quorum was lost at 11:04 p.m.

27. Establishment of a Sunshine Award to be given out annually by the Task Force.  
Quorum was lost at 11:04 p.m.
28. Report: Complaint Committee: meeting of August 10, 2010.  
Quorum was lost at 11:04 p.m.
29. Report: Compliance and Amendments Committee: meeting of August 10, 2010.  
Quorum was lost at 11:04 p.m.
30. Report: Education, Outreach and Training Committee: meeting of August 12, 2010.  
Quorum was lost at 11:04 p.m.
31. Administrator's Report  
Quorum was lost at 11:04 p.m.
32. 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.

Ray Hartz said his experience in interacting with the various departments and commissions have given him a solid grounding on how employees react when they want to prevent someone from getting what they want. He said public records belong to the citizens of the City and County of San Francisco and nobody else. He said Ellen Tsang's First Amendments Rights were violated when she was denied the documents she needed. He also said his original complaints filed in 2008 and 2009 have never been resolved. The Order of Determination, he said, was for a follow up after six months but nothing has happened since. Jason Grant Garza said the Task Force has sent 14 cases to the Ethics Commission for enforcement and all the cases have been overruled. He said the Task Force is offering the citizens false choice and false hope by sending the cases to the Ethics Commission for enforcement. Charles Pitts said he wanted the Task Force to send a letter to the Local Homeless Coordinating Board because they do not seem to understand the Sunshine Ordinance.

Adjournment:

The meeting was adjourned at 11:04 p.m.

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