

Sunshine Ordinance Task Force



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<http://www.sfgov.org/sunshine/>

**SUNSHINE ORDINANCE TASK FORCE  
REGULAR MEETING  
MINUTES**

Tuesday, July 26, 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** 4:00 P.M.

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

**Agenda Changes:** Item 36 heard after Item 1, Items 23 and 24 heard after Item 10, and Items 5 and 6 called as one.

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

**Wolfe, seconded by Member West, motioned to excuse Member Knee.**

**Public Comment:** Jason Grant Garza.

The motion carried by the following vote:

Ayes: 9 - Snyder, Cauthen, Manneh, Washburn, Costa, Wolfe, Chan, West, Johnson  
Absent: 2 – Knee, Knoebber

1. 11023 The Compliance and Amendments Committee has recommended that Street Artists Program Director Howard Lazar be referred to the District Attorney and the Board of Supervisors for failure to comply with the Order of Determination in File No. 11023\_ William Clark v Arts Commission.  
Starts around

0:10:25

**Heard:** Complainant William Clark spoke on the referral. Respondent was represented by Arts Commission's Director of Programs Jill Manton.

**Member Snyder, seconded by Wolfe, motioned to refer Street Artists Program Director Howard Lazar to the District Attorney and the Board of Supervisors for failure to comply with the Order of Determination in File No. 11023\_ William Clark v Arts Commission. The Order of Determination and the Controller's report on the Arts Commission are to be attached to the referral.**

**Public Comment:** Patrick Monette-Shaw said the Task Force should only tack on more charges to those already found by the Compliance and Amendments Committee. Mike Addario said he supported the motion because street artists want to know their money was spent.

**The motion carried on the following vote:**

Ayes: 9 - Snyder, Cauthen, Manneh, Washburn, Costa, Wolfe, Chan, West, Johnson

Excused: 2 - Knee, Knoebber

2. 11013 The Compliance and Amendments Committee has recommended that John St. Croix of the Ethics Commission and Tonia Lediju of the Controller's Office be found in willful violation and official misconduct for failure to comply with the Order of Determination in File No. 11013\_Patrick Monette-Shaw v the Controller's Office and the Ethics Commission, the matter be forwarded to the District Attorney and the Ethics Commission for enforcement, and a copy of the referral letter be sent to the San Francisco Civil Grand Jury.
- 1:16:32

**Heard:** Patrick Monette-Shaw spoke on the referral. John St. Croix of the Ethics Commission and Tonia Lediju of the Controller's Office had nothing to add to their prior statements.

**Member Washburn, seconded by Member Costa, motioned to accept the recommendation of the Compliance and Amendments Committee and to have a copy of the referral sent to Mayor Ed Lee and the San Francisco Civil Grand Jury.**

**Public Comment:** JGG said he was denied health care at Healthy San Francisco when Mayor Lee was the City Administrator; and when he tried to complain, he was told by staff that they do not accept complaints. Based on his experience, he questioned the value of sending a copy of the referral to Mayor Lee. Tomas Picarello said the Task Force should consult with the City Attorney's Office because the motions are deviating for the agenda language.

**The motion carried on the following vote:**

Ayes: 9 - Snyder, Cauthen, Manneh, Washburn, Costa, Wolfe, Chan, West, Johnson  
Excused: 2 - Knee, Knoebber

3. 11014 The Compliance and Amendments Committee has recommended that John St. Croix of the Ethics Commission be found in willful violation and official misconduct for failure to comply with the Order of Determination in File No. 11014\_Patrick Monette-Shaw v the Ethics Commission, the matter be forwarded to the District Attorney and the Ethics Commission for enforcement, and a copy of the referral letter be sent to the San Francisco Civil Grand Jury.

1:42:00

**Heard:** Patrick Monette-Shaw spoke on the referral. John St. Croix of the Ethics Commission did not make a statement.

**Member Cauthen, seconded by Member Costa, motioned to accept the recommendation of the Compliance and Amendments Committee and to have a copy of the referral sent to Mayor Ed Lee and the San Francisco Civil Grand Jury.**

**Public Comment:** Dr. Derek Kerr said the whistleblower program was under Mayor Lee when he was the City Administrator. He said he and Dr. Maria Rivero were the whistleblowers involved in Mr. Monette-Shaw's complaint. Allen Grossman reminded the Task Force that the Executive Director of the Ethics Commission is not a mayoral appointee. Ray Hartz, Director San Francisco Open Government, said the Mayor needs to know more about how many department heads and employees are violating the Sunshine Ordinance by denying the citizens of the City and County of San Francisco their rights. The mayor, he said, is the only person in the city who could make the Sunshine Ordinance really work for the public.

**The motion carried on the following vote:**

Ayes: 9 - Snyder, Cauthen, Manneh, Washburn, Costa, Wolfe, Chan, West, Johnson  
Excused: 2 - Knee, Knoebber

4. 11016 The Compliance and Amendments Committee has recommended that Carolyn Celaya of the San Francisco Municipal Transportation Agency be referred to the Ethics Commission for failure to comply with the Order of Determination in File No. 11016 Andrew Sisneros against the SFMTA, and for assistance in the production of records that Mr. Sisneros seeks.

1:56:00

**Heard:** Andrew Sisneros spoke on the referral. The Respondent was not present. No one in the audience presented facts and evidence on behalf of the Respondent.

**Member Cauthen, seconded by Member Costa, motioned to accept the**

**recommendation of the Compliance and Amendments Committee and to add a violation of Section 67.21(e) for not sending a knowledgeable person to the hearing.**

**Public Comment:** Steve Zeltzer of United Public Workers for Action said there seem to be systemic retaliation against employees who file complaints with the Task Force as well as with Cal/OSHA. He said that by not appearing, the department representatives are showing their contempt to the residents of the City and County of San Francisco who are paying their salaries. David Reardon said he is a Muni bus operator and has personally perceived unethical behavior at many managerial levels. Allen Grossman said the person who runs MTA should be added to the referral if the Task Force wants to add willful failure. Ray Hartz, Director San Francisco Open Government, said one reason for the non-appearance could be that they now know they are in the wrong and do not know how to get out of the embarrassing situation. Michael J. Benardo said he is a Muni bus operator and is fed up with the firing of employees. He said San Francisco is a union town and should not be treated like other cities. Jason Grant Garza said the Ethics Commission would respond the same way as before because the Task Force has still not responded to the commission's proposed policy on handling complaints.

Member Chan noted absent.

**The motion carried on the following vote:**

Ayes: 8 - Snyder, Cauthen, Manneh, Washburn, Costa, Wolfe, West, Johnson

Excused: 2 - Knee, Knoebber

Absent: 1 - Chan

5. 11028 The Compliance and Amendments Committee has recommended that the Task Force send a letter to Members of the Board of Supervisors regarding email retention in File No. 11028\_Charles Pitts v Supervisor Jane Kim, and also to remind them of their obligations under Section 67.21(c).  
2:17:30

**Heard:** Charles Pitts spoke on the referral. Legislative aide Christine Stephanie spoke on behalf of Supervisor Mark Farrell and Supervisor Jane Kim.

**Wolfe, seconded by Member West, motioned to accept the recommendation of the Compliance and Amendments Committee.**

**Public Comment:** Jason Grant Garza questioned the wisdom of sending the letters because members of the Board of Supervisors are supposed to know the law and teach others how to follow the law. Tomas Picarello said Mr. Pitts' request included other documentation besides emails. Mr. Pitts, he said, did not get the relief he was seeking from the Task Force. David Reardon said as a Muni bus operator he had to follow rules that were several inches thick and was surprised to hear that Supervisor Sean Elsbernd did not know the rules

governing email retention. Ray Hartz, Director San Francisco Open Government, said the supervisors are working on assumptions whereas they should be sitting down with the Clerk of the Board and discussing the requirements.

**The motion carried on the following vote:**

Ayes: 8 - Snyder, Cauthen, Manneh, Washburn, Costa, Wolfe, West, Johnson

Excused: 2 - Knee, Knoebber

Absent: 1 - Chan

6. 11030 The Compliance and Amendments Committee has recommended that the Task Force send a letter to Members of the Board of Supervisors regarding email retention in File No. 11030\_Charles Pitts v Supervisor Mark Farrell, and also to remind them of their obligations under Section 67.21(c).

7. Next steps on Ethics Commission proposed policy for handling Sunshine-related complaints.

3:01:45

**Heard:** Compliance and Amendments Committee Chair Allyson Washburn explained the accomplishments that have been made since receiving the proposal from the Ethics Commission. Allen Grossman described the manner and approach he and Member Snyder took to edit the document.

**Public Comment:** Ray Hartz, Director San Francisco Open Government, suggested sending the letter directly to the Ethics Commissioners and let them give it to their staff. He also said the Task Force should expect stiff opposition to the proposal from Ethics Commission staff. Jason Grant Garza wanted to know what the Task Force would do if the Ethics Commission rejected the proposal. He said one solution would be for the Task Force to make public the hurdles it faces and then step down till more authority is granted.

**Member Costa, seconded by Member Manneh, motioned to accept and approve the proposed document and have it sent to the Compliance and Amendments Committee for final transmittal to the Ethics Commission.**

Public Comment: None.

**The motion carried on the following vote:**

Ayes: 8 - Snyder, Cauthen, Manneh, Washburn, Costa, Wolfe, West, Johnson

Excused: 2 - Knee, Knoebber

Absent: 1 - Chan

8. 10071 Hearing on complaint filed by Jason Grant Garza against the Haight Ashbury Free Clinics for not providing him with documents related to two visits he made in 2010.

3:49:08

**Heard:** Jason Grant Garza presented his case. Denise Williams, the Compliance Director at Haight Ashbury Free Clinics, provided the response.

**Public Comment:** None.

No motion was made. Matter concluded.

9. 11035 Continued hearing on complaint filed by Marlon Crump against the Police Commission for allegedly violating Sunshine Ordinance Sections 67.15(d) and 67.25.  
4:19:10

**Heard:** Complainant Marlon Crump presented his case. The Respondent was Lt. Eric Vintero of the Police Department.

**Public Comment:** Ray Hartz, Director San Francisco Open Government, said Police Commission President Thomas Mazzucco and Vice President Joe Marshal have repeatedly violated his constitutional right by interrupting him while he is providing public comment at commission meetings. He also said the Task Force needs to see if the commission was intimidating because that would indicate a power play.

No motion was made. Matter is concluded.

10. 11043 Continued hearing on complaint filed by Alicia Gamez against the Department of Public Health for allegedly not providing her with certain documentation and also for allegedly violating open meeting laws.  
4:53:15

**Heard:** Alicia Gamez presented her case. Morning Star also spoke on behalf of the complainant. Tom Rivard of the Department of Public Health provided the response.

**Vice Chair Wolfe, seconded by Member Washburn, motioned to find Tom Rivard and the Noise Ordinance Task Force in violation of Sunshine Ordinance Sections 67.6 for not announcing the time and place of the meetings, 67.7 for not meeting agenda requirements for regular meetings, 67.7-1 for not meeting public notice requirements for meetings, 67.9 for not making agendas and related materials public, 67.13 for preventing the public to attend meetings, 67.15 for not allowing public testimony at meetings, 67.16 for not providing the meeting minutes, 67.21 for preventing access to public records, 67.22 for not releasing oral public information, 67.25 for not responding in a timely manner, 67.26 for withholding records, 67.27 for not providing written justifications for withholding of records, 67.29-7 for not maintaining correspondence and records, Section 6253 of the California Public Records Act for not meeting the time limits set for responding to public records requests Brown Act Sections 54953 for not meeting the requirement that meetings**

be open and public, 54954 for not announcing the time and place of regular meetings, 54954.2 for not posting agendas, and 54954.3 for not allowing public testimony. The Noise Ordinance Task Force was ordered to appear before the Compliance and Amendments Committee on August 9, 2011, to show how the violations have been rectified. The Committee was ordered to refer the matter back to the Task Force with a recommendation that letters be sent to the Director of Public Health, the Board of Supervisors and the Mayor expressing concern that the Noise Ordinance Task Force is meeting without guidelines. The letters are to include copies, if any, of suggestions made by the Noise Ordinance Task Force to the Board of Supervisors.

**Public Comment:** Patrick Monette-Shaw said he did not understand how the task force posted agendas and yet did not allow the public to participate. He said the department violates the agenda requirements countless times by not clearly providing the topic of discussion. That violation, he said, should be part of the motion.

**The motion carried on the following vote:**

Ayes: 7 - Manneh, Washburn, Costa, Wolfe, Chan, West, Johnson

Excused: 2 - Knee, Knoebber

Absent: 1 – Snyder

Recused: 1 - Cauthen

**Chair Johnson, seconded by Member Costa, motioned to find the Department of Public Health and Dr. Bathia, in violation of Sections 67.21 for preventing access to public records, 67.22 for not releasing oral public information, 67.25 for not responding in a timely manner, 67.26 for withholding records, and 67.27 for not providing written justification for withholding of records. The matter was forwarded to the Compliance and Amendments Committee.**

**Public Comment:** None.

**The motion carried on the following vote:**

Ayes: 7 - Manneh, Washburn, Costa, Wolfe, Chan, West, Johnson

Excused: 2 - Knee, Knoebber

Absent: 1 – Snyder

Recused: 1 - Cauthen

11. 11044 Determination of jurisdiction on complaint filed by Allen Grossman against the Assessor-Recorder's Office for allegedly failing to respond within 10 days for public records. (action item) (attachment) (10 min)

Continued.

12. 11044 Hearing on complaint filed by Allen Grossman against the Assessor-Recorder's Office for allegedly failing to respond within 10 days for public records.  
Continued.
13. 11051 Determination of jurisdiction on complaint filed by the San Francisco Urban Forest Coalition against the Assessor-Recorder's Office for allegedly withholding documents.  
Continued.
14. 11051 Hearing on complaint filed by the San Francisco Urban Forest Coalition against the Assessor-Recorder's Office for allegedly withholding documents.  
Continued.
15. 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.  
Continued.
16. 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.  
Continued.
17. 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.  
Continued.
18. 11047 Hearing on complaint filed by Dorian Maxwell against the San Francisco Municipal Transportation Agency for allegedly not keeping withholding to a minimum.  
Continued.
19. 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.  
Continued.
20. 11042 Hearing on complaint filed by Cynthia Carter against the San Francisco Municipal Transportation Agency for allegedly denying her access to her



personnel file.

21. 11048 Determination of jurisdiction on complaint filed by Pastor Gavin against Supervisors Chiu and Supervisor Mar for allegedly violating Sunshine Ordinance requirements for public notices and agendas.

Continued.

22. 11048 Hearing on complaint filed by Pastor Gavin against Supervisors Chiu and Supervisor Mar for allegedly violating Sunshine Ordinance requirements for public notices and agendas.

Continued.

23. 11049 Determination of jurisdiction on complaint filed by George Wooding against the Recreation and Park Department for allegedly withholding correspondence.

6:11:30

**Member West, seconded by Member Manneh, motioned to find jurisdiction.**

**Public Comment:** None

**The motion carried on the following vote:**

Ayes: 7 – Cauthen, Manneh, Washburn, Costa, Wolfe, West, Johnson

Excused: 2 - Knee, Knoebber

Absent: 1 – Snyder, Chan

24. 11049 Hearing on complaint filed by George Wooding against the Recreation and Park Department for allegedly withholding correspondence.

**Heard:** Complainant George Wooding presented his case. Olive Gong of the Recreation and Park Department provided the response.

**Chair Johnson, seconded by Vice Chair Wolfe, motioned to find Mark Buell of the Recreation and Parks Commission, and Philip Ginsburg, Sara Ballard and Olive Gong of the Department of Recreation and Park in violation of Sections 67.25 for failure to respond to the Immediate Disclosure Request before the end of the next business day, 67.26 for not keeping withholding to a minimum, 67.27 for failure to justify the withholding of records, and 67.21(c) for not assisting the requestor.**

**Public Comment:** None

**The motion carried on the following vote:**

Ayes: 7 – Cauthen, Manneh, Washburn, Costa, Wolfe, West, Johnson

Excused: 2 - Knee, Knoebber

Absent: 1 – Snyder, Chan

The matter is forwarded to the Compliance and Amendments Committee.

25. Amending Article VI, Sec. 1 of the Sunshine Ordinance Task Force By-Laws to eliminate or suspend the Complaint Committee.  
Continued.
26. Amending Article VI, Sec. 1 of the Sunshine Ordinance Task Force By-Laws to create a Technology Committee.  
Continued.
27. Discussion on the possible replacement of the City Attorney's Office representative as legal counsel for the Task Force.  
Continued.
28. Supervisor of Records Report.  
Continued.
29. Approval of January 4, 2011, special meeting minutes.  
Continued.
30. Approval of January 20, 2011, special meeting minutes.  
Continued.
31. Approval of January 25, 2011, regular meeting minutes.  
Continued.
32. Report: Complaint Committee meeting of July 12, 2011.  
Continued.
33. Report: Compliance and Amendments Committee meeting of July 12, 2011.  
Continued.
34. Report: Education, Outreach and Training Committee meeting of July 14, 2011.  
Continued.

35. Administrator's Report.

Continued.

36. 0:57:20 Public comment on matters not listed on the agenda.

Tomas Picarello said the Task Force should hear new complaints first and then consider the Compliance and Amendment Committee's recommendations. Ray Hartz, Director San Francisco Open Government, said departments automatically seek the 14-day extension without fully understanding the request. He also said one of the reasons the hearings take too long is because the wrong person is sent to the hearings and the matter gets bogged down. Peter Warfield, Executive Director of the Library Users Association, said the Ordinance section that speaks to oral information needs to be visited and strengthened because some departments are under the impression that they do not need to produce oral information. He also said the Ethics Commission has decided to forward the Jewelle Gomez case to the Mayor. Marlon Crump said the people of San Francisco expect members of the Office of Citizen Complaints to be fair and just. Pastor Gavin praised the members for being meticulous in their line of questioning because the citizens come to seek justice from the Task Force. She also said some members of the public are in need of reasonable accommodation. Steve Zeltzer of the United Public Workers for Action said he has observed that many departments refuse to provide the public with the documents that they request. He suggested that the Task Force keep track of the representatives and send the data to the Civil Grand Jury. Jason Grant Garza said he was denied due process because the Task Force changed the 6-vote rule after hearing his complaint. Patrick Monette-Shaw said the Task Force should also write a letter to the Mayor to show it's support for what the Ethics Commission did in the Gomez case. Charles Pits said he would like to know the policy and procedure regarding video submission because he has introduced a clip in support of a complaint.

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

7:07:15

## **Adjournment**

*The hour being close to City Hall closing time, the Task Force adjourned at the hour of 11:14 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>

**APPROVED: November 5, 2014**



Victor Young  
Administrator  
Sunshine Ordinance Task Force

N.B. The Minutes of this meeting set forth all actions taken by the Sunshine Ordinance Task Force on the matters stated, but not necessarily in the chronological sequence in which the matters were taken up.