

Date: Jan. 3, 2012

Item No. 3

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

## SUNSHINE ORDINANCE TASK FORCE

### AGENDA PACKET CONTENTS LIST\*

- Draft Minutes: Task Force November 29, 2011**

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Completed by: Chris Rustom

Date: Dec. 30, 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

## CITY AND COUNTY OF SAN FRANCISCO

### **Draft** MINUTES

Hearing Room 408  
City Hall, 1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

November 29, 2011 – 4:00 PM

### Special Meeting

**Members:** Hope Johnson (Chair), Bruce Wolfe (Vice-Chair)  
David Snyder, Richard Knee, Sue Cauthen, Suzanne Manneh,  
Allyson Washburn, Jay Costa, Hanley Chan, Jackson West

#### 1. Call to Order, Roll Call and Agenda Changes (4:00 p.m. - 4:02 p.m.)

The meeting was called to order at 4:02 p.m. On the call of the roll, Member Manneh, Member Costa and Member West were noted absent. Member Manneh was noted present at 4:07 p.m. Member West was noted present at 4:10 p.m. Member Chan was noted absent at 7:30 p.m. Member Cauthen was noted absent at 8:30 p.m.

Member Wolfe, seconded by Member Washburn, moved to excuse Member Costa.

Public Comment: Jason Grant Garza said Task Force members should attend all meetings in order to serve the community well.

The motion passed without objection.

#### 2. Changing the time and day of the week the Sunshine Ordinance Task Force holds its regular monthly meetings (4:35 p.m. - 4:40 p.m.)

Chair Johnson moved to continue the item to the December 14 meeting.

Public Comment: Peter Warfield, Executive Director of the Library Users Association, suggested delaying the move to the new schedule so that members can adjust their schedules accordingly.

The motion passed without objection.

#### 3. Approval of Annual Report to the Board of Supervisors (4:40 p.m. - 4:53 p.m.)

Member Cauthen, seconded by Member Knee motioned to move the item to the December 14 meeting.

Public Comment: Peter Warfield, Executive Director of the Library Users Association, said the issue of serial violators, long term issues and the 45-day requirement should also be included in the report.

The motion passed without objection.

**4. Approval of Minutes from the October 25, 2011 Regular Meeting (4:40 p.m. - 4:53 p.m.)**

Member Cauthen, seconded by Member Knee motioned to move the item to the December 14 meeting.

Public Comment: Peter Warfield, Executive Director of the Library Users Association, said he may not be able to attend the December 14 meeting but supports to motion because the document was not in the packet.

The motion passed without objection.

**5. File No. 11058: Determination of jurisdiction on complaint filed by Nick Pasquariello against the Film Commission for allegedly failing to release public records (4:41 p.m. - 5:25 p.m.)**

Member Washburn, seconded by Vice Chair Wolfe, motioned to find jurisdiction.

Public Comment: None.

The motion was passed without objection.

**6. File No. 11058: Hearing on complaint filed by Nick Pasquariello against the Film Commission for allegedly failing to release public records**

Member Washburn, seconded by Member Knee, motioned to find the Film Commission in violation of Sections 67.26 for withholding records and 67.27 for not providing justification for the withholding

Public Comment: Allen Grossman said there was no expectation of privacy when somebody applies for a permit. Peter Warfield, Executive Director of the Library Users Association, said various state and local laws allow for the redaction of certain information and the respondent in this case did not cite any.

The motion, as amended, carried by the following vote:

Ayes: 9 – Snyder, Knee, Cauthen, Manneh, Washburn, Wolfe, Chan, West, Johnson

Excused: 1 – Costa

Chair Johnson referred the matter to the Compliance and Amendments Committee.

**7. File No. 11060: Determination of jurisdiction on complaint filed by Lars Nyman against the Department of Public Works for allegedly failing to produce requested documents. (7:57 p.m. - 8:05 p.m.)**

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

Public Comment: None.

The motion was passed without objection.

**8. File No. 11060: Hearing on complaint filed by Lars Nyman against the Department of Public Works for allegedly failing to produce requested documents.**

The complainant was not present. There was no one in the audience to present facts and evidence in support of the complainant. Frank Lee represented the Department of Public Works.

Chair Johnson, seconded by Vice Chair Wolfe, motioned to dismiss the complaint.

Public Comment: None.

The motion carried on the following vote:

Ayes: 8 – Snyder, Knee, Cauthen, Manneh, Washburn, Wolfe, West, Johnson

Excused: 1 – Costa

Absent: 1 – Chan

**9. File No. 11070: Determination of jurisdiction on complaint filed by Jason Grant Garza against the Department of Public Health for allegedly failing to respond to an Immediate Disclosure Request. (8:05 p.m. - 9:34 p.m.)**

Vice Chair Wolfe, seconded by Member Manneh, motioned to find jurisdiction.

Public Comment: None.

The motion was passed without objection.

**10. File No. 11070: Hearing on complaint filed by Jason Grant Garza against the Department of Public Health for allegedly failing to respond to an Immediate Disclosure Request.**

Complainant Jason Grant Garza presented his case. The Department of Public Health was represented by Public Information Officer Eileen Shields, Compliance Officer Chona Peralta and Privacy Officer Dr. Alice Clegghorn

Vice Chair Wolfe motioned to find the department in violation of Section 67.27(d) for withholding the records. The motion died for lack of a second.

Matter concluded.

Member Snyder, seconded by Member Knee motioned to reopen the matter for public comment.

Public Comment: Peter Warfield said regardless of content, all documents are public records and subject to disclosure. Ray Hartz, Director San Francisco Open Government, said the Library Commission took 25 days to produce 13 in response to an Immediate Disclosure Request.

Vice Chair Wolfe motioned to find the department in violation of Section 67.27(d) for withholding the records. The motion died for lack of a second.

Matter concluded.

Chair Johnson called for a brief recess.

**11. File No. 11081: Determination of jurisdiction on complaint filed by Jason Grant Garza against the Department of Public Health for allegedly not responding to an Immediate Disclosure Request. (9:43 p.m. -10:23 p.m.)**

Vice Chair Wolfe, seconded by Member Knee, motioned to find jurisdiction.

Public Comment: None.

The motion was passed without objection.

**12. File No. 11081: Hearing on complaint filed by Jason Grant Garza against the Department of Public Health for allegedly not responding to an Immediate Disclosure Request.**

Complainant Jason Grant Garza presented his case. The Department of Public Health was represented by Public Information Officer Eileen Shields, Compliance Officer Chona Peralta and Privacy Officer Dr. Alice Clegghorn

Chair Johnson, seconded by Member Washburn, motioned to find the department in violation of Sections 67.21 (c) for failing to assist a requestor, 67.25(a) for failure to respond to an Immediate Disclosure Request and 67.27 for not providing a justification for withholding records.

Public Comment: None.

The motion carried on the following vote:

Ayes: 6 – Snyder, Knee, Washburn, Wolfe, West, Johnson

Excused: 1 – Costa

Absent: 3 – Cauthen, Manneh, Chan

The matter was forwarded to the Compliance and Amendments Committee where the issue of the medical record would continue to be discussed.

**13. File No. 11071: Determination of jurisdiction on complaint filed by Ray Hartz against Dennis Herrera of the City Attorney's Office for allegedly advising City Departments to violate the Sunshine Ordinance. (10:24 p.m. - 10:41 p.m.)**

Vice Chair Wolfe, seconded by Member Knee, motioned to find jurisdiction.

Public Comment: None.

The motion was passed without objection.

**14. File No. 11071: Hearing on complaint filed by Ray Hartz against Dennis Herrera of the City Attorney's Office for allegedly advising City Departments to violate the Sunshine Ordinance.**

Member Knee, seconded by Member Washburn, motioned to move the item to the next meeting.

Public Comment: Peter Warfield said the matter should be heard and not to delay the complainant by postponing the case.

Vice Chair Wolfe, seconded by Member Snyder, motioned to hear #11085 before #11071.

Public Comment: Peter Warfield wanted to know what would happen if time ran out and a decision on his complaint had not been reached.

Member Knee, seconded by Member Washburn, motioned to continue Items 14, 33 and 34.

Public Comment: Zoe Taleporos of the Arts Commission said the agenda should be limited to a certain number of cases because it is unconscionable to have people sit from 4 p.m. to 11 p.m. and yet have their item not heard. Ray Hartz said the Task Force needs to do what it needs to do to hear the complaints. Peter Warfield said he appreciates the time the Task Force spends to try and do justice to the complainants.

The motion carried on the following vote:

Ayes: 5 – Snyder, Knee, Washburn, West, Johnson

Noes: 1 – Wolfe

Excused: 1 – Costa

Absent: 3 – Cauthen, Manneh, Chan

**15. File No. 11072: Determination of jurisdiction on complaint filed by Anonymous against Supervisor Sean Elsbernd for allegedly violating certain sections of the Sunshine Ordinance at a recent Board of Supervisors meeting. (6:44 p.m. - 7:56 p.m.)**

Member Knee, seconded by Vice Chair Wolfe, motioned to find jurisdiction.

Public Comment: None.

The motion passed without objection.

**16. File No. 11072: Hearing on complaint filed by Anonymous against Supervisor Sean Elsbernd for allegedly violating certain sections of the Sunshine Ordinance at a recent Board of Supervisors meeting.**

Pastor Gavin presented her complaint. The respondent was not present. There was no one in the audience to present facts and evidence in support of the respondent.

No motion was made.

Public Comment: Ray Hartz, Director San Francisco Open Government, said Supervisor Elsbernd should have taken his fellow Supervisor's and constituents' concerns into consideration and should have voted against the ParkMerced Development Agreement. Jason Grant Garza said the non-appearance of a knowledgeable represent from the respondent's is a Sunshine violation.

Chair Johnson announced that the matter was concluded.

Member Knee, seconded by Member Manneh, motioned to reopen the matter to allow Vice Chair Wolfe to make a motion

Public Comment: None.

The motion passed without objection.

No motion was made.

Chair Johnson announced that the matter was concluded.

**17. File No. 11073: Determination of jurisdiction on complaint filed by Anonymous against Supervisor Malia Cohen for allegedly violating certain sections of the Sunshine Ordinance at a recent Board of Supervisors meeting.**

Continued.

**18. File No. 11073: Hearing on complaint filed by Anonymous against Supervisor Malia Cohen for allegedly violating certain sections of the Sunshine Ordinance at a recent Board of Supervisors meeting.**

Continued.

**19. File No. 11074: Determination of jurisdiction on complaint filed by Anonymous against Supervisor Carmen Chu for allegedly violating certain sections of the Sunshine Ordinance at a recent Board of Supervisors meeting.**

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

Public Comment: None.

The motion passed without objection

**20. File No. 11074: Hearing on complaint filed by Anonymous against Supervisor Carmen Chu for allegedly violating certain sections of the Sunshine Ordinance at a recent Board of Supervisors meeting.**

Pastor Gavin presented her complaint. Seven members of the public spoke in support of Pastor Gavin. Gillian Gillette, legislative aide to Supervisor Scott Weiner read a statement from Supervisor Carmen Chu.

No motion was made.

Public Comment: Jason Grant Garza said public officials should be held responsible for their actions.

Matter concluded.

**21. File No. 11075: Determination of jurisdiction on complaint filed by Anonymous against Supervisor Scott Wiener for allegedly violating certain sections of the Sunshine Ordinance at a recent Board of Supervisors meeting.**

Continued.

**22. File No. 11075: Hearing on complaint filed by Anonymous against Supervisor Scott Wiener for allegedly violating certain sections of the Sunshine Ordinance at a recent Board of Supervisors meeting.**

Continued.

**23. File No. 11076: Determination of jurisdiction on complaint filed by Anonymous against Supervisor Mark Farrell for allegedly violating certain sections of the Sunshine Ordinance at a recent Board of Supervisors meeting.**

Continued.

**24. File No. 11076: Hearing on complaint filed by Anonymous against Supervisor Mark Farrell for allegedly violating certain sections of the Sunshine Ordinance at a recent Board of Supervisors meeting.**

Continued.

**25. File No. 11077: Determination of jurisdiction on complaint filed by Anonymous against Supervisor David Chiu for allegedly violating certain sections of the Sunshine Ordinance at a recent Board of Supervisors meeting.**

Continued.



- 26. File No. 11077: Hearing on complaint filed by Anonymous against Supervisor David Chiu for allegedly violating certain sections of the Sunshine Ordinance at a recent Board of Supervisors meeting.**

Continued.

- 27. File No. 11078: Determination of jurisdiction on complaint filed by Anonymous against John Rahaim of the Planning Department for allegedly violating certain sections of the Sunshine Ordinance.)**

Continued.

- 28. File No. 11078: Hearing on complaint filed by Anonymous against John Rahaim of the Planning Department for allegedly violating certain sections of the Sunshine Ordinance.**

Continued.

- 29. File No. 11079: Determination of jurisdiction on complaint filed by Anonymous against Deputy City Attorney Cheryl Adams for allegedly violating certain sections of the Sunshine Ordinance.**

Continued.

- 30. File No. 11079: Hearing on complaint filed by Anonymous against Deputy City Attorney Cheryl Adams for allegedly violating certain sections of the Sunshine Ordinance.**

Continued.

- 31. File No. 11080: Determination of jurisdiction on complaint filed by Anonymous against Deputy City Charles Sullivan for allegedly violating certain sections of the Sunshine Ordinance.**

Continued.

- 32. File No. 11080: Hearing on complaint filed by Anonymous against Deputy City Charles Sullivan for allegedly violating certain sections of the Sunshine Ordinance.**

Continued.

- 33. File No. 11085: Determination of jurisdiction on complaint filed by Library Users Association against the Arts Commission for not providing the draft minutes of a meeting.**

Continued.

- 34. File No. 11085: Hearing on complaint filed by Library Users Association against the Arts Commission for not providing the draft minutes of a meeting.**

Continued.

**35. Public Comment** (5:22 p.m. - 5:36 p.m.)

Ray Hartz, Director, San Francisco Open Government appealed to the Task Force to forward his complaint in #10050\_Ray Hartz v Police Commission to the Ethics Commission. (submits summary) Jason Grant Garza said the Chair and Administrator of the Task Force do not respond to his emails on the 45-day rule. Randall Panter said the 45-day rule allows a committee not to take action immediately. Peter Warfield, Executive Director of the Library Users Association, said the Task Force needs to take care of the complaints promptly and make it visible to the public. Allen Grossman said the Task Force needs to review the administrative support it gets because Mr. Rustom has taken an inordinate amount of time off and in his absence the Clerk has not provided adequate coverage. Chair Johnson called a brief recess.

**36. Announcement, Comments, Questions, and Future Agenda Items** (10:36 p.m. - 10:50 p.m.)

Vice Chair Wolfe suggested having all jurisdictional items to be called first to see who is present and who is absent. It would also allow the parties to leave and come back at an estimated time. Chair Johnson instructed Mr. Rustom to forward all emails from both parties who say they will not be attending the meetings.

Public Comment: Ray Hartz said he would prefer to have \$10054 brought back before the Task Force. Peter Warfield said the administrator did not promptly forward him the Arts Commission's response to a recent complainant and requested that all emails from respondents be forward electronically.

**37. Adjournment**

With time being close to City Hall closing hour, the Task Force adjourned at 10:53 p.m.