

Date: January 8, 2008

Item No. 18

File No. 07091

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Complaint by: Dr. Ahimsa Porter Sumchai v. Supervisor Maxwell**
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

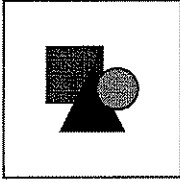
Completed by: Frank Darby

Date: January 2, 2008

***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.



DENNIS J. HERRERA
City Attorney

ERNEST H. LLORENTE
Deputy City Attorney

DIRECT DIAL: (415) 554-4236
E-MAIL: ernest_lloriente@ci.sf.ca.us

MEMORANDUM

December 27, 2007

***AHIMSA PORTER SUMCHAI v. SUPERVISOR SOPHIE MAXWELL
(07091)***

THE COMPLAINANT ALLEGES THE FOLLOWING FACTS:

On October 29, 2007, Dr. Ahimsa Porter Sumchai attended the Land Use Subcommittee Meetings of the Board of Supervisors with intentions to provide public comment on Agenda Item # 1 which was the San Francisco Electrical Reliability Plan. Supervisor Sophie Maxwell chairs the Land Use Subcommittee. During the course of the October 29, 2007 hearings, Supervisor Maxwell changed the order in which the agenda items were to be heard and put agenda item # 1, the Electrical Reliability Plan to later in the hearing process. Because of the change in the time when agenda item # 1 was to be heard, Dr. Ahimsa Porter Sumchai could not stay to provide public comment.

THE COMPLAINANT FILES A COMPLAINT:

On November 14, 2007, Dr. Ahimsa Porter Sumchai filed a complaint against Supervisor Sophie Maxwell alleging that Supervisor Maxwell change in the time when agenda item # 1 was to be heard violated the Sunshine Ordinance.

APPLICABLE STATUTORY SECTIONS:

1. California Constitution, Article I, Section 3 that states the general principals of public records and public meetings.
2. Sunshine Ordinance Section 67.1 that addresses Findings and Purpose.
3. Section 67.15 of the Sunshine Ordinance addresses public comment at meetings.

APPLICABLE CASE LAW:

None for this case

ISSUES TO BE DETERMINED

FOX PLAZA · 1390 MARKET STREET, SIXTH FLOOR · SAN FRANCISCO, CALIFORNIA 94102-5408
RECEPTION: (415) 554-3800 · FACSIMILE: (415) 437-4644

c:\docume-1\tsotf-1 bos\locals-1\temp\notes\ef3400457200.doc

Memorandum**1. FACTUAL ISSUES****A. Uncontested Facts:**

The parties agree to the following facts:

- Dr. Ahimsa Porter Sumchai attended the October 29, 2007 Land Use Committee meeting with intentions of providing public comment on item # 1, which was the Electrical Reliability Plan.
- Supervisor Maxwell chaired the public meeting.
- Supervisor Maxwell changed the order of items to be heard and item # 1 was scheduled for later in the meeting.
- Dr. Ahimsa Porter Sumchai because of conflicts in her schedule left the meeting before item # 1 was called.

B. Contested facts/ Facts in dispute:

The Task Force must determine what facts are true.

i. Relevant facts in dispute:

Whether the Chair of the Land Use Committee violated the Ordinance by scheduling item #1 on the agenda at a later time in the hearing process?

QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS:

What were the reasons for the rescheduling of the agenda items?

2. LEGAL ISSUES/ LEGAL DETERMINATIONS:

- **What sections of the Sunshine Ordinance, and/or Brown Act, were violated?**
- **Did Supervisor Maxwell violate Section 67.15 of the Sunshine Ordinance?**
- **Was there an exception to the Sunshine Ordinance, under State, Federal, or case law?**

CONCLUSION

Memorandum

THE TASK FORCE FINDS THE FOLLOWING FACTS:

THE TASK FORCE FINDS THAT THE ALLEGED VIOLATIONS TO BE **TRUE OR NOT TRUE.**

Memorandum

**THE CALIFORNIA CONSTITUTION AS AMENDED BY PROPOSITION 59 IN 2004
ARTICLE I, SECTION 3**

§3 Openness in Government

- a) The people have the right to instruct their representative, petition government for redress of grievances, and assemble freely to consult for the common good.
- b)(1) The people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.
 - 2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.
 - 3) Nothing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.
 - 4) Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that person may not be deprived of life, liberty, or property without due process of law, or denied equal protection of the laws, as provided by Section 7.
 - 5) This subdivision does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings or public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.
 - 6) Nothing in this subdivision repeals, nullifies, supersedes, or modifies protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committee, and caucuses provided by Section 7 of Article IV, state law, or legislative rules adopted in furtherance of those provisions: nor does it affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses.

Memorandum**ATTACHED STATUTORY SECTIONS FROM CHAPTER 67 OF THE SAN
FRANCISCO ADMINISTRATIVE CODE (THE SUNSHINE ORDINANCE)
UNLESS OTHERWISE SPECIFIED**

Section 67.1 addresses Findings and Purpose

The Board of Supervisors and the People of the City and County of San Francisco find and declare:

- (a) Government's duty is to serve the public, reaching its decisions in full view of the public.
- (b) Elected officials, commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. The people do not cede to these entities the right to decide what the people should know about the operations of local government.
- (c) Although California has a long tradition of laws designed to protect the public's access to the workings of government, every generation of governmental leaders includes officials who feel more comfortable conducting public business away from the scrutiny of those who elect and employ them. New approaches to government constantly offer public officials additional ways to hide the making of public policy from the public. As government evolves, so must the laws designed to ensure that the process remains visible.
- (d) The right of the people to know what their government and those acting on behalf of their government are doing is fundamental to democracy, and with very few exceptions, that right supersedes any other policy interest government officials may use to prevent public access to information. Only in rare and unusual circumstances does the public benefit from allowing the business of government to be conducted in secret, and those circumstances should be carefully and narrowly defined to prevent public officials from abusing their authority.
- (e) Public officials who attempt to conduct the public's business in secret should be held accountable for their actions. Only a strong Open Government and Sunshine Ordinance, enforced by a strong Sunshine Ordinance Task Force can protect the public's interest in open government.
- (f) The people of San Francisco enact these amendments to assure that the people of the City remain in control of the government they have created.
- (g) Private entities and individuals and employees and officials of the City and County of San Francisco have rights to privacy that must be respected. However, when a person or entity is before a policy body or passive meeting body, that person, and the public, has the right to an open and public process.

Memorandum

Section 67.15 of the San Francisco Administrative Code provides for public testimony as follows:

a.) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address a policy body on items of interest to the public that are within policy body's subject matter jurisdiction, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Section 67.7(e) of this article. However, in the case of a meeting of the Board of Supervisors, the agenda need not provide an opportunity for members of the public to address the Board on any item that has already been considered by a committee, composed exclusively of members of the Board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the Board.

b.) Every agenda for special meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item prior to action thereupon.

c.) A policy body may adopt reasonable regulations to ensure that the intent of subdivisions (a) and (b) are carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Each policy body shall adopt a rule providing that each person wishing to speak on an item before the body at a regular or special meeting shall be permitted to be heard once for up to three minutes. Time limits shall be applied uniformly to members of the public wishing to testify.

d.) A policy body shall not abridge or prohibit public criticism of the policy, procedures, programs or services of the City, or of any other aspect of its proposals or activities, or of the acts or omissions of the body, on the basis of that performance of one or more public employees is implicated, or on any basis other than reasonable time constraints adopted in regulations pursuant to subdivision c) of this section.



DENNIS J. HERRERA
City Attorney

ERNEST H. LLORENTE
Deputy City Attorney

DIRECT DIAL: (415) 554-4236
E-MAIL: ernest.llorente@sfgov.org

December 3, 2007

Sue Cauthen, Chair
Members of the Complaint Committee

Re: Dr. Ahimsa Porter Sumchai v. Supervisor Sophie Maxwell (07091)

Dear Chair Cauthen and Members of the Complaint Committee:

This letter addresses the issue of whether the Sunshine Ordinance Task Force ("Task Force") has jurisdiction over the complaint of Dr. Ahimsa Porter Sumchai against San Francisco Supervisor Sophie Maxwell.

BACKGROUND

Dr. Ahimsa Porter Sumchai attended the Land Use Subcommittee Meetings of the Board of Supervisors with intentions to provide public comment on Agenda Item # 1 which was the San Francisco Electrical Reliability Plan. Supervisor Sophie Maxwell chairs the Land Use Subcommittee. During the course of the October 29, 2007 hearings, Supervisor Maxwell changed the order in which the agenda items were to be heard and put agenda item # 1, the Electrical Reliability Plan to later in the hearing process. Because of the change in the time when agenda item # 1 was to be heard, Dr. Ahimsa Porter Sumchai could not stay to provide public comment.

COMPLAINT

On November 14, 2007, Dr. Ahimsa Porter Sumchai filed a complaint against Supervisor Sophie Maxwell alleging that Supervisor Maxwell change in the time when agenda item # 1 was to be heard violated the Sunshine Ordinance.

SHORT ANSWER

Based on Complainant's allegation and the applicable sections of the Sunshine Ordinance and the California Public Records Act, which are cited below, the Sunshine Ordinance Task Force *does* have jurisdiction over the allegation. The allegations are covered under 67.15 of the Ordinance.

DISCUSSION AND ANALYSIS

Article I Section 3 of the California Constitution as amended by Proposition 59 in 2004, the State Public Records Act, the State Brown Act, and the Sunshine Ordinance as amended by

Letter to the Complaint Committee
Page 2
December 3, 2007

Proposition G in 1999 generally covers the area of Public Records and Public Meeting laws that the Sunshine Ordinance Task Force uses in its work.

The Sunshine Ordinance is located in the San Francisco Administrative Code Chapter 67. All statutory references, unless stated otherwise, are to the Administrative Code.

Section 67.15 generally covers Public Comment during Policy Body meetings.

In this case, Dr. Ahimsa Porter Sumchai claims that Supervisor Sophie Maxwell as chair of the Land Use Subcommittee changed the time when agenda item # 1 was to be heard during the meeting and in so doing deprived Dr. Ahimsa Porter Sumchai of the opportunity to provide public comment because she had to leave the meeting before the agenda item was called. The Task Force has subject matter jurisdiction and will have to determine if there is a violation of the Ordinance.



SUNSHINE ORDINANCE TASK FORCE
 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102
 Tel. (415) 554-7724; Fax (415) 554-7854
<http://www.sfgov.org/sunshine>

SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission Board of Supervisors Land Use Committee

Name of individual contacted at Department or Commission Chair - Supervisor Sophie Maxwell

_____ Alleged violation public records access
 _____ Alleged violation of public meeting. Date of meeting _____

Sunshine Ordinance Section Chapter 67
Public comment - willful delay, interruption, obstruction
 (If known, please cite specific provision(s) being violated)

Please describe alleged violation. Use additional paper if needed. Please attach any relevant documentation supporting your complaint.

On Monday October 29, 2007 the Agenda of the Land Use Committee of the Board of Supervisors documented Item #1 to be heard - The San Francisco Electrical Reliability Plan. I arrived at ~1:20 p.m. prepared to speak in opposition to the adverse health effects of the plan. The item was changed to the final hearing at 4:00 pm. I was forced to leave without being heard at 3:30 pm.

Do you wish a public hearing before the Sunshine Ordinance Task Force? yes no

(Optional)¹
 Complainant Name Dr. Abinisa Sumchai Address 236 West Portal #563, S.F. 94127
 Telephone No. (415) 835-4763 E-Mail Address asumchai@SEBayview.com
 Date 11/14/07 Abinisa Porter Sumchai, M.D.
 Signature

¹ NOTICE: PERSONAL INFORMATION THAT YOU PROVIDE IS SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE, EXCEPT WHEN CONFIDENTIALITY IS SPECIFICALLY REQUESTED. COMPLAINANTS CAN BE ANONYMOUS AS LONG AS THE COMPLAINANT PROVIDES A RELIABLE MEANS OF CONTACT WITH THE SOTF (PHONE NUMBER, FAX NUMBER, OR E-MAIL ADDRESS).

11/14/07

Dear Mr. Darby,

Enclosed is a complaint I am submitting, at the recommendation of the SOTF complaint committee in the matter of the delay in public comment of four hours duration for an item posted #1 on the agenda of the October 29, 2007 Land Use committee of the BOS, chaired by Supervisor Sophie Maxwell.

Supervisor Maxwell continues to display evidence of willful, deliberate collusion with other city government interests in efforts to repress, censor and obstruct voiced opposition to development activities in Southeast San Francisco with demonstrated negative impacts to human health and the environment. This is the

- Over -

64508404

© RPG

(2)

third SOTF complaint I have initiated naming Supervisor Maxwell as the primary party in Sunshine Ordinance violations. The two prior complaints were found to be grounded in merit.

The October 29, 2007 Land Use Hearing featured as its #1 agenda item the San Francisco Electrical Reliability Project which proposes siting three polluting combustion turbine peaker plants in Southeast San Francisco. Opposition to the measure voiced by Bayview advocates, the Sierra Club, Green Party, PUC Commission and Department of the Environment caused Maxwell to bring the item on short notice - before the BOS.

I am concerned that Supervisor Maxwell deliberately delayed the hearing on this matter to discourage opponents. I was forced to leave after three hours due to work schedule demands.

I am most concerned that I might have been personally targeted in retaliation for my previous complaints or to obstruct testimony by someone prepared to refute Dr. Mitch Katz of the DPH.

(3)

I am most concerned the four hour delay in scheduling represents flagrant governmental racism, as the constituency forced to wait was predominantly a low income community of color with an established hx of opposition to environmental toxins.

I would like you to pull the two prior complaints I have filed with SOTF to make sure commissioners are aware of the basic pattern of conduct that continually surfaces in Supervisor Maxwell's conduct toward this easily defined group.

I am also asking, per the order of determination made at the filing of my prior complaint, what measures Supervisor Maxwell implemented to make sure she no longer engages in violations of Chapter 67. I am convinced she has no commitment to respecting public comment or basic freedom of speech in matters pertaining to the dangerous development practices she protects in District 10.

Please provide confirmation of your receipt of this complaint.

Chimera Porter Sumchai 499



ahimsa sumchai
<asumchai@hotmail.com>
10/30/2007 02:47 PM

To <board_of_supervisors@ci.sf.ca.us>,
<sophie.maxwell@sfgov.org>, <aaron.peskin@sfgov.org>,
<frandacosta@att.net>, <marie@greenaction.org>,
cc
bcc
Subject Sunshine Ordinance violation complaint form-Supervisor
Maxwell Land Use 10.29/07

I am submitting the third complaint I have filed against Supervisor Sophie Maxwell for yesterdays willful and deliberate delay of public testimony on the San Francisco Reliability Project that was officially posted on the agenda as item 1 and heard last and four hours after the 1pm start of the meeting. I will be submitting a complaint of flagrant racism in the decision exercised to delay this hearing and subject a predominantly African American constituency to obstruction in the governmental process. I waited for three hours and took time out of my work schedule to attend this hearing and was forced to leave early.

Dr. Ahimsa Porter Sumchai NSCA-CPT



ahimsa sumchai
<asumchai@hotmail.com>
11/08/2007 01:09 PM

SOTF <soft@sfgov.org>,
To <board_of_supervisors@ci.sf.ca.us>, <m26sf@aol.com>,
<frandacosta@att.net>, <patnlisa@sbcglobal.net>,
cc
bcc

Subject CAC Hearing Scheduled: November 14, 2007

History:  This message has been forwarded.

I will attend this hearing. Supervisor Maxwell has recently failed in her compliance with Sunshine Ordinance guidelines in a recent public hearing on siting the Combustion Turbine Peakers in which she deliberately delayed public comment for four hours on an item scheduled number one on the agenda to prevent key people from testifying. Rather than file a new complaint I will present my concerns at the compliance hearing.

Dr. Ahimsa Porter Sumchai NSCA-CPT



ahimsa sumchai
<asumchai@hotmail.com>
11/26/2007 02:25 PM

To SOTF <sof@sfgov.org>, <sophie_maxwell@sfgov.org>, Jon
Lau <jon.lau@sfgov.org>, Alice Guidry
<alice.guidry@sfgov.org>
cc
bcc
Subject Sunshine Complaint Received: #07091_Ahimisha Sumchai
vs Supervisor Sophie Maxwell

My name is Dr. Ahimsa Porter Sumchai...please correct this for the official record.

Dr. Ahimsa Porter Sumchai NSCA-CPT

> Subject: Sunshine Complaint Received: #07091_Ahimisha Sumchai vs Supervisor Sophie Maxwell



ahimsa sumchai
<asumchai@hotmail.com>
11/26/2007 05:53 PM

To <sof@sfgov.org>
cc
bcc
Subject To Marie Harrison...Sunshine Complaint Received:
#07091_Ahimisha Sumchai vs Supervisor Sophie Maxwe

Dr. Ahimsa Porter Sumchai NSCA-CPT

From: marie@greenaction.org
To: asumchai@hotmail.com
Subject: RE: To Marie Harrison...Sunshine Complaint Received: #07091_Ahimisha Sumchai vs Supervisor Sophie Maxwe
Date: Mon, 26 Nov 2007 16:15:47 -0800

Ahimsa,
To my knowledge she did not, and I only found out about it after setting for over an hour,
Francisco told me about its move
Marie

From: ahimsa sumchai [mailto:asumchai@hotmail.com]
Sent: Monday, November 26, 2007 2:25 PM
To: marie@greenaction.org
Subject: To Marie Harrison...Sunshine Complaint Received: #07091_Ahimisha Sumchai vs Supervisor Sophie Maxwe

Marie,
Can you recall if Sophie announced at the beginning of the October 29, 2007 Land Use hearing if the agenda item I was being held until the end of the meeting. If not, this is a clear cut violation of the public testimony section of the Sunshine Ordinance and I would like you to submit a complaint.

Dr. Ahimsa Porter Sumchai NSCA-CPT

Credentials of Distinction

Ahimsa Porter Sumchai, M.D., NSCA-CPT
Sports Medicine and General Practice
Nutrition Consultant



236 W. Portal #563
San Francisco, CA 94127
(415) 835-4763

asumchai@hotmail.com • www.ahimsa.citymax.com

Certified by the NSCA Certification Commission

*The only personal training certification to be accredited by the
National Commission for Certifying Agencies since 1996*



11/14/07

Sunshine Ordinance Task Force

1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102
Tel. (415) 554-7724; Fax (415) 554-7854
<http://www.sfgov.org/sunshine>

Thank you for your interest in the implementation of the San Francisco Sunshine Ordinance.

The Sunshine Ordinance adopted by the citizens of the City & County of San Francisco declares that:

- (a) Government's duty is to serve the public, reaching its decisions in full view of the public.
- (b) Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance will assure that their deliberations are conducted before the people and that City operations are open to the people's review.

The role of the Sunshine Ordinance Task Force is to advise the Board of Supervisors and provide information to other City departments on appropriate ways in which to implement the Ordinance. The Task Force is responsible for developing appropriate goals to ensure the practical and timely implementation of the Ordinance and to report to the Board on practical or policy problems encountered in the administration of the Ordinance.

If you have encountered problems regarding compliance with the Ordinance, the Public Records Act or the Ralph M. Brown (Public Meetings) Act, we ask that you fill out the attached complaint form. Please deliver the form to Frank Darby, Administrator of the Sunshine Ordinance Task Force, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683.

We attempt to resolve complaints informally where possible, through the affected departments and the City Attorney's office. Matters which cannot be adequately resolved, or matters which involve substantial policy considerations, may be set for hearing at a Task Force meeting. The Task Force meets the fourth Tuesday of each month at 4:00 p.m. at City Hall, Room 408.

NOTICE: PERSONAL INFORMATION THAT YOU PROVIDE IS SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE, EXCEPT WHEN CONFIDENTIALITY IS SPECIFICALLY REQUESTED. COMPLAINANTS CAN BE ANONYMOUS AS LONG AS THE COMPLAINANT PROVIDES A RELIABLE MEANS OF CONTACT WITH THE SOTF (PHONE NUMBER, FAX NUMBER, OR E-MAIL ADDRESS).

Sec. 67.15. Public Testimony.

(a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address a policy body on items of interest to the public that are within policy body's subject matter jurisdiction, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Section 67.7(e) of this article. However, in the case of a meeting of the Board of Supervisors, the agenda need not provide an opportunity for members of the public to address the Board on any item that has already been considered by a committee, composed exclusively of members of the Board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the Board.

(b) Every agenda for special meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item prior to action thereupon.

(c) A policy body may adopt reasonable regulations to ensure that the intent of subdivisions (a) and (b) are carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Each policy body shall adopt a rule providing that each person wishing to speak on an item before the body at a regular or special meeting shall be permitted to be heard once for up to three minutes. Time limits shall be applied uniformly to members of the public wishing to testify.



(d) A policy body shall not abridge or prohibit public criticism of the policy, procedures, programs or services of the City or of any other aspect of its proposals or activities, or of the acts or omissions of the body, on the basis that the performance of one or more public employees is implicated; or on any basis other than reasonable time constraints adopted in regulations pursuant to subdivision (c) of this section.

(e) To facilitate public input, any agenda changes or continuances shall be announced by the presiding officer of a policy body at the beginning of a meeting, or as soon thereafter as the change or continuance becomes known to such presiding officer. (Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

Sec. 67.16. Minutes.

DVDs

Bran O'Flynn

RVD
HRA
FOST

April 16, 2007 2nd Inndet

Delay & interrupt
Abingoa Sunsh

April 9
May 2006 Land Use Subcommittee

South Bayshore Plan
speaks

~~1st Alex Laboy ally~~

RBA

Bran O'Flynn
Minstr Muhamud

May 7th th - RBA
Minstr Muhamud
Franzica DeCush

Interrupt of Public cont
Delay of speaks in
opposit



City and County of San Francisco Meeting Agenda

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

Land Use and Economic Development Committee

Members: *Sophie Maxwell, Gerardo Sandoval, Jake McGoldrick*

Clerk: *Mary Red (415) 554-4442*

Monday, October 29, 2007

1:00 PM

City Hall, Room 263

Regular Meeting

Meeting Convened

Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding City representatives, except that public speakers using translation assistance will be allowed to testify for twice the amount of the public testimony time limit. If simultaneous translation services are used, speakers will be governed by the public testimony time limit applied to speakers not requesting translation assistance. Members of the public who want a document placed on the overhead for display should clearly state such and subsequently remove the document when they want the screen to return to live coverage of the meeting.

AGENDA CHANGES

REGULAR AGENDA

1. 071058 [Support for development of City-controlled electric generation project].
Supervisors Maxwell, Dufty, Ammiano, Peskin
Resolution supporting the Combustion Turbine project proposed by the Public Utilities Commission for the development of a City-controlled combustion turbine project to promote the goals of the City's Electricity Resource Plan, and endorsing the financial term sheet for the CT project.

7/17/07, REFERRED FOR ADOPTION WITHOUT COMMITTEE REFERENCE AGENDA AT THE NEXT BOARD MEETING.
7/24/07, REFERRED to Land Use and Economic Development Committee. Supervisor Daly requested that this matter be referred to Committee.
Supervisors Dufty and Ammiano requested to be added as co-sponsors.
10/23/07, SUBSTITUTED. Supervisor Maxwell submitted a substitute resolution bearing new title.
10/23/07, ASSIGNED to Land Use and Economic Development Committee.
The Chair intends to entertain a motion to send this item to Board on October 30, 2007 as a committee report.

2. **070617 [Zoning - modifying the definition of liquor store to remove prohibitions on grocery stores and similar uses]**

Supervisor Alioto-Pier

Ordinance amending Planning Code Sections 790.55, 790.102, 249.5, 781.8, 781.9, 782, 783, and 784 to remove grocery stores and other similar uses from prohibitions placed on the establishment of liquor stores in certain districts; and making environmental findings and findings of consistency with the General Plan and priority policies of Planning Code Section 101.1.

~~5/8/07, ASSIGNED UNDER 30-DAY RULE to Land Use and Economic Development Committee, expires on 6/7/2007.~~

5/18/07, REFERRED TO DEPARTMENT. Referred to Planning Commission for review and comment.

5/25/07, RESPONSE RECEIVED. Planning Department exemption from CEQA.

8/7/07, Board adopted an extension of 45-days for review by Planning Commission; see File 071140.

10/3/07, RESPONSE RECEIVED. Planning Commission Resolution 17488 and Planning Department Executive Summary.

10/10/07, RESPONSE RECEIVED. Office of Economic Analysis, Economic Impact Report.

10/15/07, AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE. Heard in committee. Speakers: Sarah Ballard, Aide to Supervisor Alioto-Pier; Tara Sullivan-Lenane, Planning Department; Supervisor Sandoval; Rich Hollis, Mayor's Office of Economic and Workforce Development; Ted Egan, Controller's Office; Supervisor Maxwell; John Nulty; Giselle Quezada, ACORN; Earl Rogers, S. F. Rescue Mission; Richard Robinson; David Baker, North of Market Planning Coalition; Richard Hopson; Cheryl Adams, Deputy City Attorney; Supervisor McGoldrick; Larry Badiner, Planning Department.

Amendment of the Whole

10/15/07, CONTINUED AS AMENDED. Continued to October 22, 2007.

10/22/07, AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE. Heard in committee. Speakers: Supervisor Alioto-Pier; Supervisor Sandoval; Cheryl Adams, Deputy City Attorney; Antoinette Mobley; Third Street Commercial Corridor Project; Michael Janis, Southeast Food Access Working Group; Jacob Moody, BVHP Foundation; Julian Davis, TEDP; Tomiquia Moss; Christina Carpenter; Earl Rodgers.

Amendment of the Whole

10/22/07, CONTINUED AS AMENDED. Continued to October 29, 2007, to go to Board as committee report on October 30, 2007.

3. **061163 [Zoning - Conditional Use for Change in use of an elementary or secondary school]**

Supervisor Alioto-Pier

Ordinance amending the Planning Code to add Section 209.3A and Section 217.1 to require conditional use authorization for any project involving the change in use of an elementary or secondary school; making environmental findings and findings of consistency with the General Plan and priority policies of the Planning Code Section 101.1.

8/8/06, ASSIGNED UNDER 30 DAY RULE to Land Use and Economic Development Committee, expires on 9/7/2006.

8/14/06, REFERRED TO DEPARTMENT. Referred to Planning Commission for review and comments.

8/22/06, RESPONSE RECEIVED. Exempt from CEQA, non-physical exemption.

11/7/06, RESPONSE RECEIVED. Planning Commission Executive Summary; Map of elementary and secondary schools in S. F.; Planning Resolution 17336 recommending adoption.

11/22/06, CLERICAL CORRECTION. Corrections to page 2 lines 3 and 7, delete the word "motion" and insert the word "Resolution".

12/6/06, CONTINUED. Heard in committee. Speakers: Sarah Ballard, Aide to Supervisor Alioto-Pier; Supervisor McGoldrick; Supervisor Maxwell; Matthew Kellerman, SFUSD; Supervisor Mirkarimi; Miguel Marquez, Attorney for SFUSD; Anita Denz; Richard Kaplan; Robert Klausner; Espanola Jackson.
Continued to January 31, 2007.

1/31/07, CONTINUED TO CALL OF THE CHAIR. Heard in committee. Speakers: Supervisor Alioto-Pier; Supervisor Maxwell; Supervisor McGoldrick; David Goldin, Chief Facilities Officer, SFUSD; Bob Klausner.

10/22/07, CONTINUED. Heard in committee. Speakers: Supervisor Alioto-Pier; David Goldin; Supervisor Peskin; Supervisor Maxwell.

Continued to October 29, 2007, may go to Board as committee report on October 30, 2007.

4. 071394 [Urging restoration of two-way traffic on Ellis and Eddy Streets]
Supervisor Daly
Resolution urging the Municipal Transportation Agency to restore two-way traffic on the length of Eddy and Ellis Streets, to consolidate the Muni 31 and 27 routes onto Eddy Street, and to develop detailed plans and a phased implementation strategy for transportation and streetscape improvements to these streets to enhance their role as east-west pedestrian, bicycle, and transit corridors.
-
- 10/2/07, RECEIVED AND ASSIGNED to Land Use and Economic Development Committee.
-
5. 071097 [Urging restoration of two-way traffic on Hayes Street]
Supervisor Mirkarimi
Resolution urging the Municipal Transportation Agency to restore two-way traffic on the block of Hayes Street between Gough and Franklin streets, to restore the pedestrian crossing of Gough Street on the south side of Hayes Street, and develop a detailed plan and implementation strategy for streetscape improvements to the Hayes Valley Commercial District along Hayes Street between Franklin and Laguna streets.
- 7/24/07, REFERRED FOR ADOPTION WITHOUT COMMITTEE REFERENCE AGENDA AT THE NEXT BOARD MEETING.
7/31/07, REFERRED to Land Use and Economic Development Committee. Supervisor Mirkarimi requested that this matter be referred to Committee.
6. 071343 [Street encroachment sensu sculpture as a gateway icon for Japantown on Webster Street]
Supervisor Mirkarimi
Ordinance granting revocable permission to the Japanese Cultural and Community Center of Northern California to occupy a portion of the public right-of-way for the installation of a sensu sculpture on the median of Webster Street between Geary Boulevard and Post Street in the Japantown neighborhood; waiving permit and right-of-way occupancy assessment fees; and making environmental findings and findings of consistency with the General Plan and the priority policies of Planning Code Section 101.1.
- 9/18/07, RECEIVED AND ASSIGNED to Land Use and Economic Development Committee.
10/11/07, REFERRED TO DEPARTMENT. Referred to Planning Department for environmental review and Department of Public Works for review and documents.
10/22/07, RESPONSE RECEIVED. Received all necessary documents referred to in legislation.
7. 071432 [Street encroachment on Linden Street between Gough Street and Octavia Boulevard]
Supervisor Mirkarimi
Ordinance granting revocable permission to 300 Linden LLC to occupy the public right-of-way to construct street encroachment improvements on a portion of Linden Street, an unaccepted public right-of-way, between Gough and Octavia Boulevard, including new landscaping, raised stamped and colored asphalt paving, ADA approved detectable warning material, raised planters and granite curbstones for seating; waiving right-of-way occupancy assessment fees; and making environmental findings and findings of consistency with the General Plan and the priority policies of Planning Code Section 101.1.
- 10/16/07, RECEIVED AND ASSIGNED to Land Use and Economic Development Committee.
10/23/07, RESPONSE RECEIVED. Received all necessary documents referred to in legislation.

ADJOURNMENT

IMPORTANT INFORMATION

NOTE: Persons unable to attend the meeting may submit to the City, by the time the proceedings begin, written comments regarding the agenda items above. These comments will be made a part of the official public record and shall be brought to the attention of the Board of Supervisors. Any written comments should be sent to: Committee Clerk of the Land Use and Economic Development Committee, San Francisco Board of Supervisors, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102 by 5:00 p.m. on the day prior to the hearing. Comments which cannot be delivered to the committee clerk by that time may be taken directly to the hearing at the location above.

*NOTE:
Pursuant to Government Code Section 65009, the following notice is hereby given: if you challenge, in court, the general plan amendments or planning code and zoning map amendments described above, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Supervisors at, or prior to, the public hearing.*

LEGISLATION UNDER THE 30-DAY RULE**(Not to be considered at this meeting)**

Rule 5.40 provides that when an ordinance or resolution is introduced which would CREATE OR REVISE MAJOR CITY POLICY, the committee to which the legislation is assigned shall not consider the legislation until at least thirty days after the date of introduction. The provisions of this rule shall not apply to the routine operations of the departments of the City or when a legal time limit controls the hearing timing. In general, the rule shall not apply to hearings to consider subject matter when no legislation has been presented, nor shall the rule apply to resolutions which simply URGE action to be taken.

**071425 [Planning - Union Street Neighborhood Commercial District - full-service restaurants]
Supervisor Alioto-Pier**

Ordinance amending Planning Code Sections 725.1 and 725.42 of the Union Street Neighborhood Commercial District to provide for a limited number of new full-service restaurant uses that satisfy specific requirements and obtain conditional use authorization, making environmental findings, and making findings of consistency with the General Plan and priority policies of Planning Code Section 101.1.

10/16/07, ASSIGNED UNDER 30 DAY RULE to Land Use and Economic Development Committee, expires on 11/15/2007.
10/25/07, REFERRED TO DEPARTMENT. Referred to Planning Commission and Small Business Commission for review and comments.

10/26/07, RESPONSE RECEIVED. Planning Department, exemption from CEQA.

**071431 [Planning Code - Restoration of Movie Theater Projecting Signs and Marquees]
Supervisor Mirkarimi**

Ordinance amending the San Francisco Planning Code by amending Sections 188, 603, and 604 and by adding Sections 602.25 and 602.26 in order to allow for the reconstruction, rehabilitation, or restoration of noncomplying movie theater projecting signs and marquees; and making findings, including environmental findings and findings of consistency with the priority policies of Planning Code Section 101.1 and the General Plan.

10/16/07, ASSIGNED UNDER 30 DAY RULE to Land Use and Economic Development Committee, expires on 11/15/2007.

10/25/07, REFERRED TO DEPARTMENT. Referred to Planning Commission and Small Business Commission for review and comments.

SUNSHINE ORDINANCE TASK FORCE

Support Documents Replacement Form

The documents this form replaces exceeds 75 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.

: **File #07091** – **Dr. Sumchai vs.** Supervisor Maxwell

FROM: Dr. Sumchai

DVD = October 29, 2007: BOS Land Use & Economic Development Comm. Mtg

This list reflects the explanatory documents provided.

Completed by: Frank Darby

Date: December 5, 2007