



SUNSHINE ORDINANCE TASK FORCE

CITY AND COUNTY OF SAN FRANCISCO

MINUTES

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

December 5, 2012 – 4:00 PM

Regular Meeting

Members: Kitt Grant (Chair), Louise Fischer (Vice-Chair),
Richard Knee, Suzanne Manneh, Allyson Washburn, David Pilpel,
David Sims, Todd David, Chris Hyland, Bruce Oka

1. **Call to Order, Roll Call, and Agenda Changes.**

The meeting was called to order at 4:06 p.m. Members Sims, David, Oka, and Fischer were noted absent. There was a quorum. Member Sims was noted present at 4:14 p.m. Member Oka was noted present at 4:21 p.m. Member Fischer was noted present at 4:43 p.m.

Member Knee, seconded by Member Pilpel, moved to Excuse Member David.

Speakers: Jason Grant Garza expressed concern that only six members were present; Ray Hartz, Jr., expressed concern about the absence of members; Paula Datesh expressed appreciation for the work of the Task Force; Allen Grossman offered clarification of excused versus an absence of a member of the Task Force; male speaker expressed concern regarding members' absences.

The motion PASSED without objection.

Chair Grant announced that File No. 11090, Patrick Monette-Shaw vs. the Controller's Office (Item No. 7), was resolved between the Complainant and Respondent.

Chair Grant called all Complainants and Respondents present for hearing on the agenda.

Speakers: Roberta Boomer, Municipal Transportation Agency Commission Secretary, expressed concern about Complainant of File No. 12005 continuously not showing for hearings before the Task Force; Jason Grant Garza expressed concern on the order of agenda items.

2. **Election of Chair - Election of Officers; per Article II, Section 3 of the By-Laws.**

Member Pilpel, seconded by Member Washburn, moved to elect Member Grant as the Chair of the Task Force.

Speakers: Jason Grant Garza opposed having the election; Allen Grossman expressed concern on election proceedings; Peter Warfield expressed concern on election proceedings; Ray Hartz, Jr., expressed concern on election proceedings.

The motion PASSED by the following vote:

Ayes: 8 - Knee, Manneh, Washburn, Pilpel, Sims, Hyland, Oka, Grant

Excused: 1 - David

Absent: 1 - Fischer

3. **File No. 11098:** The Compliance and Amendments Committee has referred File No. 11098, Ray Hartz, Jr. against Luis Herrera, City Librarian, back to the Task Force for further action including a recommendation to the Ethics Commission.

Ray Hartz, Jr., (Complainant) provided an overview of the complaint, findings and follow-up, and requested the Task Force to find further violations of the Sunshine Ordinance. Jason Grant Garza spoke in support of the Complainant. A question and answer period followed. Complainant responded to questions and again requested the Task Force to find further violations. Sue Blackman, Library Commission Secretary (Respondent), provided an overview of the Library's defense and follow-up. There were no speakers in support of the Respondent. A question and answer period followed. Respondent waived their opportunity for rebuttal. Complainant provided a rebuttal and further requested the Task Force to find violation.

Speakers: Allen Grossman expressed support for the Complainant; Peter Warfield spoke in support of the Complainant.

Member Knee, seconded by Member Washburn, moved to refer Luis Herrera, City Librarian to the Ethics Commission for failure to comply with the Order of Determination, for violating Sections 67.16 for failure to include Mr. Hartz's public comment summaries in the Library Commission's minutes and 67.34 for willful failure to comply with the Order of Determination.

The motion PASSED by the following vote:

Ayes: 8 - Knee, Manneh, Washburn, Sims, Hyland, Oka, Fischer, Grant

Noes: 1 - Pilpel

Excused: 1 - David

Recess

5:50 p.m. – 6:05 p.m.

4. **File No. 12001:** The Compliance and Amendments Committee has referred File No. 12001, the Library Users Association against the Arts Commission, back to the Task Force for further action including a recommendation to the Ethics.

Peter Warfield (Complainant) provided an overview of the complaint, findings, follow-up, and requested the Task Force to find further violations of the Sunshine Ordinance. There were no speakers in support of the Complainant. A question and answer period followed. Kate Patterson, Arts Commission (Respondent), provided an overview of the Arts Commission's defense and follow-up. There were no speakers in support of the Respondent. A question and answer period followed. Respondent provided a rebuttal. Complainant provided a rebuttal and again requested the Task Force to find violation.

Speakers: Paula Datesh expressed she also has experienced her public comments not being added to the Arts Commission's minutes; Ray Hartz expressed concern with the Arts Commission violating the public's right of public comment and statements made by Commissioners of the Arts Commission which support his allegation; Allen Grossman expressed concern with the term "willful" in the violation.

Member Knee, seconded by Member Manneh, moved to refer the Arts Commission to the Ethics Commission for failure to comply with the Order of Determination, for violating Sections 67.25(a) for failure to respond to the immediate disclosure request in a timely manner, 67.26 for failure to keep withholding to a minimum by improperly redacting the information from the speaker cards, and 67.34 for willful failure to comply with the Order of Determination.

The motion PASSED by the following vote:

Ayes: 7 - Knee, Manneh, Washburn, Sims, Hyland, Oka, Grant

Noes: 2 - Pilpel, Fischer

Excused: 1 - David

5. **Public Comment:**

Speakers: Jason Grant Garza spoke about the rulings on his previous cases; Paula Datesh asked the Task Force to give her complaint priority due to having to reside on the East Coast; Ray Hartz Jr., expressed concern on agencies that repeatedly violate the Sunshine Ordinance; Allen Grossman expressed concern on backlog of complaints and complaints not being heard within 45 days according to complaint process; Peter Warfield expressed concern on pending complaints and backlog.

6. **File No. 11089:** Complaint filed by Robb Birkhead against the City Attorney's Office for allegedly withholding documents.

Member Knee, seconded Member Sims, moved to close File No. 11089 with the option to refile, due to the Complainant not showing for the second time the hearing was scheduled.

There were no speakers. **The motion PASSED without objection.**

7. **File No. 11090:** Complaint filed by Patrick Monette-Shaw against the Controller's Office for not providing data in a requested format.

File No. 11090 was resolved and closed by the Complainant.

8. **File No. 12005:** Complaint filed by Anonymous against the Municipal Transportation Agency for allegedly not providing camera footage.

Member Knee, seconded Member Oka moved to close File No. 12005 with the option to refile, due to the Complainant not showing for the second time the hearing was scheduled.

Speaker: Peter Warfield expressed concern that a mechanism is placed in a complaint that it may be closed.

The motion PASSED by the following vote:

Ayes: 6 - Knee, Manneh, Sims, Oka, Fischer, Grant

Noes: 3 – Washburn, Pilpel, Hyland

Excused: 1 - David

9. **File No. 12018:** Complaint filed by Ray Hartz, Jr. against Greg Suhr, Chief of Police, for allegedly responding to an Immediate Disclosure Request late, incompletely and unlawfully.

Member Knee, seconded by Member Manneh, moved to find jurisdiction.

There were no speakers. **The motion PASSED without objection.**

Ray Hartz, Jr., (Complainant) presented the complaint and requested the Task Force to find violation of the Sunshine Ordinance. There were no speakers in support of the Complainant. Sgt. Richard Goss, Police Department (Respondent), presented the Department's defense and further requested the Task Force to dismiss the complaint. There were no speakers in support of the Respondent. A question and answer period followed. Respondent waived his opportunity for rebuttal. Complainant provided a rebuttal and again requested the Task Force to find violation.

Speakers: Allen Grossman spoke in support of the Complainant; Peter Warfield expressed that there is no such thing as an inappropriate IDR.

Member Knee, seconded by Member Washburn, moved to find violation of Sunshine Ordinance Section 67.25(a) based on the Police Department's failure to respond in a timely matter; and referral to Education, Outreach and Training Committee.

The motion PASSED by the following vote:

Ayes: 7 - Knee, Manneh, Washburn, Pilpel, Hyland, Oka, Fischer,

Noes: 2 – Sims, Grant

Excused: 1 - David

Recess

7:55 p.m. – 8:10 p.m.

10. **Sunshine Ordinance Task Force Bylaws.** Proposal to change the definition of the majority required for voting to take action on substantive matters before the Task Force.

Member Pilpel, seconded by Member Oka moved to accept the amendment of the definition of majority required for voting to take action.

Amendment

12/5/12 – AMENDED Article IV – Meetings, Section 7, Line 4, deleting ‘present’

Speakers: Allen Grossman spoke to his memorandum advising the Task Force Members on the bylaw amendment; Peter Warfield expressed concern for 10-day notice requirement of bylaws.

The motion PASSED by the following vote:

Ayes: 8 - Knee, Manneh, Sims, Oka, Pilpel, Hyland Fischer, Grant

No: 1 – Washburn,

Excused: 1 - David

11. Review of outcomes from Joint Sunshine Ordinance Task Force and Ethics Commission Hearing.

Member Knee summarized outcomes and updated the members on the outcomes of the Ethics Commission’s newly approved recommendations. Member Pilpel suggested the Task Force wait until the Ethics Commission hears pending Task Force referrals before the Task Force reschedules a follow-up meeting with the Ethics Commission.

No Motion Made.

Speaker: Peter Warfield expressed concern over Ethics Commission’s opposition to recording closed sessions.

12. **Approval of Minutes from the May 2, 2012, Regular Meeting.**

Member Knee, seconded by Washburn, moved to CONTINUE to the CALL of the CHAIR.

Speaker: Peter Warfield expressed concern about the motion to continue the minutes.

The motion PASSED without objection.

13. **Approval of Minutes from the June 6, 2012, Regular Meeting**

Member Knee, seconded by Washburn, moved to CONTINUE to the CALL of the CHAIR.

Speaker: Peter Warfield expressed concern about the motion to continue the minutes.

The motion PASSED without objection.

14. **Approval of Minutes from the July 11, 2012, Special Meeting.**

Member Knee, seconded by Washburn, moved to CONTINUE to the CALL of the CHAIR.

Speaker: Peter Warfield expressed concern about the motion to continue the minutes.

The motion PASSED without objection.

15. **Report: Education Outreach and Training Committee meeting of May 10, 2012.**

Report was given by Member Manneh on the May 10, 2012, meeting on behalf of the Education Outreach and Training Committee.

Speaker: Peter Warfield made a recommendation to provide a report of actions of Task Force committees.

16. **Report: Compliance and Amendments Committee meetings of May 15, 2012 and November 20, 2012.**

Report was given by Member Washburn, Chair of the Compliance and Amendments Committee, on the May 15, 2012, and November 20, 2012, meetings on behalf of the Compliance and Amendments Committee.

Speaker: Peter Warfield expressed concern on the backlog of complaints and effects of complaints not being heard in a timely matter.

17. **Administrator's Report.**

Report was given Andrea Ausberry, Sunshine Ordinance Task Force Administrator, on behalf of the Sunshine Ordinance Task Force Office.

Speaker: Peter Warfield expressed appreciation for improvement of Administrator's Report.

18. **Announcements, Comments, Questions, and Future Agenda Items.**

Member Knee shared updates to City and State Laws.

Speaker: Peter Warfield expressed concern on upcoming meetings due to the holidays.

19. **ADJOURNMENT.**

Member Knee, seconded by Member Hyland, moved to ADJOURN.

There were no speakers. **The motion PASSED without objection.**

There being no further business, the Task Force adjourned at 9:23 p.m.

APPROVED: May 1, 2013

A handwritten signature in cursive script, appearing to read "A. Ausberry".

Andrea Ausberry, Administrator
Sunshine Ordinance Task Force