



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

January 7, 2015 - 4:00 PM

Regular Meeting

1. CALL TO ORDER, ROLL CALL, AND AGENDA CHANGES

Seat 1	Mark Rumold	Seat 7	Lee Hepner
Seat 2	Ali Winston	Seat 8	Todd David
Seat 3	Josh Wolf	Seat 9	Chris Hyland – Vice Chair
Seat 4	Rishi Chopra	Seat 10	Louise Fischer
Seat 5	Allyson Washburn - Chair	Seat 11	Fiona Hinze
Seat 6	David Pilpel		

Ex-officio (*non-voting*) Clerk of the Board of Supervisors or his or her designee

Ex-officio (*non-voting*) Mayor or his or her designee

The meeting was called to order at 4:02 p.m. Members Wolf, Chopra, and Hepner were noted absent. There was a quorum.

Member Hepner was noted present at 4:04 p.m.

Agenda Changes: None.

2. Approval of minutes from the December 3, 2014, meeting.

Chair Washburn and Member Pilpel proposed clerical corrections to the December 3, 2014, meeting minutes.

Member Pilpel, seconded by Member Hyland, moved to approve the December 3, 2014, meeting minutes as amended.

Public Comment:

None.

The motion PASSED without objection.

Member Wolf was noted present at 4:07 p.m.

3. **File No. 14047:** Complaint filed by Thomas Peele against Supervisor Katy Tang, San Francisco Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(c), 67.25(a), and 67.29-7 for failure to respond to an Immediate Disclosure Request in a timely and complete manner. (00:03:30 - 01:26:00)

Member Pilpel disclosed his association with Supervisor Katy Tang and stated that he could remain impartial in the matter. The Task Force discussed recusal issues.

Deputy City Attorney Nicholas Colla answered questions regarding recusal.

Member David, seconded by Member Fischer, moved to recuse Members Rumold, Winston, and Wolf from the matter. Member David withdrew the motion following further discussion.

Member Winston, seconded by Member David, moved to recuse himself (Member Winston) from the matter.

Public Comment:

Peter Warfield stated that recusal is not imposed on a member and that information found by Task Force members should be admissible;

Thomas Picarello requested that Member Winston restate his reason for recusal and opposed the motion.

The motion PASSED by the following vote:

Ayes: 9 - Rumold, Winston, Wolf, Pilpel, Hepner, David, Fischer, Hinze, Washburn

Noes: 1 - Hyland

Absent: 1 - Chopra

Thomas Peele (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Dyanna Quizon, Aide to Supervisor Katy Tang (Respondent), provided a summary of the Supervisor's defense. There were no speakers in support of the Respondent. A question and answer period followed. Wilson Ng, Records Manager, Board of Supervisors, answered questions regarding email searches. Mr. Ng stated that the Clerk of the Board is currently working with the City Attorney to develop policies regarding the organization and retention of email. The Respondent provided a rebuttal. The Complainant provided a rebuttal.

Member Pilpel, seconded by Member Hyland, moved to issue the Order of Determination finding Supervisor Katy Tang, Board of Supervisors, in violation of Administrative Code (Sunshine Ordinance), Sections 67.21(c) and 67.25(a) for failure to assist a requester in identifying the existence, form, and nature of any record and directing a request to the proper office or staff person and failure to respond in a timely and complete manner. In addition, the Task Force will work with the Clerk of the Board's office on policies and procedures regarding email retention and searchability.

Public Comment:

Paula Datesh provided suggestions for additional violations;
Peter Warfield opined that Supervisor Tang 's office was not interested in performing an adequate search;
Bruce Wolfe provided comments regarding record retention and response deadlines;
Thomas Picarello stated that members of the Board Supervisors are required to maintain records and that the Clerk of the Board should not be involved;
Male Speaker provided comments unrelated to the complaint (banking and mortgages).

The motion PASSED by the following vote:

Ayes: 9 - Rumold, Wolf, Pilpel, Hepner, David, Fischer, Hinze, Hyland, Washburn

Recused: 1 - Winston

Absent: 1 - Chopra

Chair Washburn referred the matter to the Education, Outreach, and Training Committee and requested that Supervisor Tang's office attend and provide additional details regarding their office policy for processing public records requests.

4. **File No. 14095:** Complaint filed by Bob Planthold against Supervisor Malia Cohen, Supervisor Scott Wiener, and former Supervisor David Chiu, Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.7 and 67.15(a) and California Government Code, Sections 54954.2 and 54954.3 for failing to provide adequate opportunity for public comment at the Land Use and Economic Development Committee meetings of September 15, 2014, and September 29, 2014, and the Government Audit and Oversight Committee meeting of September 11, 2014. (01:32:00 - 02:08:00)

The Task Force discussed jurisdiction as to former Supervisor David Chiu.

Member Hyland, seconded by Member Hinze, moved to find jurisdiction over Supervisor Malia Cohen, Supervisor Scott Wiener, and the Government Audit and Oversight Committee.

Deputy City Attorney Colla answered questions regarding jurisdiction.

Public Comment:

Bruce Wolfe opined that the complaint cannot be changed during discussion of jurisdiction.

Member Hyland withdrew the motion.

Member Rumold, seconded by Member David, moved to find jurisdiction over Supervisor Malia Cohen and Supervisor Scott Wiener, Board of Supervisors.

Public Comment:

Peter Warfield expressed concern that former members of the Board of Supervisors should be held accountable for actions taken while in office; Thomas Picarello stated that there is no legal basis to exclude former Supervisor David Chiu from the complaint.

The motion PASSED without objection.

Bob Planthold (Complainant) requested a continuance in order to analyze Deputy City Attorney Colla's December 30, 2014, memorandum to the Task Force. Andres Power, Aide to Supervisor Scott Wiener (Respondent), commented on the notice of hearing and the agenda packet availability online. Andrea Bruss, Aide to Supervisor Malia Cohen (Respondent), stated that she had no objection to the continuance request. It was stated that some devices may not be able to access links to the agenda packet material.

Member Hyland, seconded by Member Hinze, moved to CONTINUE the matter to the call of the chair.

Public Comment:

Peter Warfield opined that the Complaint Procedures allow a Complainant to request a continuance.
Thomas Picarello opined that the continuance should be allowed.

The motion PASSED by the following vote:

Ayes: 9 - Rumold, Winston, Wolf, Pilpel, Hepner, Fischer, Hinze, Hyland, Washburn
Noes: 1 - David
Absent: 1 - Chopra

5. **Public Comment:** Members of the public may address the Sunshine Ordinance Task Force (SOTF) on matters that are within SOTF's jurisdiction, but not on today's agenda. (01:26:00 - 01:32:00)

Paula Datesh provided updates on the San Francisco Arts Commission website and meeting procedures.
Thomas Picarello commented on the process for hearing complaints.

The meeting was in recessed 6:13 p.m. to 6:33 p.m. (02:11:05 - 02:31:05)

6. **File No. 14087:** Complaint filed by Jason Gibbs against the Library Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.15(c) for failure to provide adequate time for public testimony at the September 18, 2014, meeting. (02:31:05 - 02:37:43)

Prior to the recess Sue Blackman, Library Commission Secretary (Respondent), commented that the Complainant was not present.

Member Pilpel, seconded by Member Wolf, moved to continue the matter the February 4, 2015, Task Force meeting.

Public Comment:

Peter Warfield stated that there should be more clarity as to the process when the complainant is not present and that hearings should be able to occur without the complainant's present.

The motion PASSED without objection.

The Task Force Administrator will contact the Complainant and confirm a rescheduled hearing date.

7. **File No. 14097:** Complaint filed by Michael Castagnola against the San Francisco Fire Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.25, and 67.29-7 for failure to respond to requests for public records in a timely and complete manner. (02:37:43 - 02:46:12)

It was noted that the Complainant was not present. Rhab Boughn, Compliance Office and Public Records Officer, San Francisco Fire Department (Respondent), stated that he had no objection to the continuance.

Member David, seconded by Member Hinze, moved to continue the matter to the call of the chair.

Public Comment:

None.

The motion PASSED without objection.

The Administrator will contact the Complainant and confirm a rescheduled hearing date.

8. **Recommendation from the Compliance and Amendments Committee.**

A. File No. 14100: Complaint filed by Craig Gold against the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21(b) for failure to respond to a request for public records in a timely and complete manner. (02:45:12 - 03:02:00)

Member Hepner, Chair of the Compliance and Amendments Committee, provided an overview of the committee hearing and recommendation on File No. 14100.

Member Hyland, seconded by Member Rumold, moved to accept the Compliance and Amendments Committee's recommendation to find jurisdiction over the matter and find a violation of Administrative Code (Sunshine Ordinance), Section 67.21(b) for failure to respond to a request for public records in a timely and complete manner.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 10 - Rumold, Winston, Wolf, Pilpel, Hepner, David, Fischer, Hinze, Hyland, Washburn

Noes: 0 - None

Absent: 1 - Chopra

9. **Update: Ethics Commission’s policy regarding Sunshine Ordinance Task Force referrals.** (03:02:00 -03:05:00)

Member Hepner provided an overview of the discussion on the Ethics Commission’s December 16, 2014, meeting regarding referrals from the Task Force.

Public Comment:

None.

10. **Update: St. Croix (Ethics Commission) v. Superior Court of the City and County of San Francisco.** (03:05:00 - 03:10:00)

Deputy City Attorney Colla provided an update on the litigation and summarized that attorney-client privilege is allowed in general and specifically regarding advice provided from the City Attorney’s office to departments regarding compliance with the Sunshine Ordinance.

Public Comment:

None.

11. **Update: Notice to Board of Supervisors regarding Sunshine Ordinance Task Force Members’ Absences.** (03:10:00 - 03:13:00)

The Task Force discussed the draft memorandum to the Board of Supervisors regarding Task Force members’ absences.

The Task Force Administrator will amend the memorandum to add that Task Force members have been reminded of the attendance requirements.

12. **Administrator’s Report.** (03:13:00 - 03:20:00)

Acting Task Force Administrator Derek Evans presented the Administrator’s Report.

Public Comment:

None.

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

Various Task Force members requested further discussion to clarify the roll of the Complaint Committee.

Member Hepner requested hearings on extending the Department Head calendar requirement to members of the Board of Supervisors and the use of stingrays cell phone interceptor.

Member David requested development of a procedure for “no shows” and continuances.

Public Comment:

None.

14. **ADJOURNMENT**

There being no further business the meeting was adjourned at 7:26 p.m. in memory of those who lost their life during the terror attacks in Paris, France on this day.

APPROVED: 02/04/2015



**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.