



SUNSHINE ORDINANCE TASK FORCE
Compliance and Amendments Committee
CITY AND COUNTY OF SAN FRANCISCO
MINUTES

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

January 30, 2017 - 4:30 PM

Special Meeting

Members: Frank Cannata (Chair), Dave Maass and Chris Hyland

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

Chair Frank Cannata called the meeting to order at 4:34 p.m. On the call of the roll Chair Cannata and Members Hyland and Maass were noted present. There was a quorum.

There were no agenda changes.

2. Approval of the November 13, 2017, Compliance and Amendments Committee meeting minutes.

The Committee discussed the minutes.

Member Maass, seconded by Member Hyland, moved to approve the November 13, 2017, meeting minutes.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 – Maass, Hyland, Cannata

Noes: 0 – None

3. Public Comment: Members of the public may address the Committee on matters that are within the Committee's jurisdiction but not on today's agenda.

Speakers:

None.

The Compliance and Amendments Committee shall hold a hearing on File No. 17132 to: 1) determine if the Sunshine Ordinance Task Force has jurisdiction; 2) review the merits of the complaints; and/or 3) issue a report and/or recommendation to the Task Force. The Task Force, upon receipt of the report and/or recommendation from the Committee, shall schedule and conduct a hearing on the merits of the complaint.

4. **File No. 17132:** Complaint filed by Anonymous against Eric Pawlowsky and the Recreation and Parks Department for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

The Complainant was not present and did not provide notice of absence. Eric Pawlowsky, Recreation and Parks (Respondent), provided an overview and responded to questions raised throughout the discussion. Mr. Pawlowsky stated that the department responded to the public records request in a timely manner but are not required to provide records on a rolling basis as they are created. Mr. Pawlowsky stated that pursuant to his discussions with the Complainant, it was his understanding that the request was for future records and not for records created between the first and second request dates. Mr. Pawlowsky stated that the Complainant did subsequently submit an additional public records request which was responded to in a timely manner. An opportunity for rebuttal was provided.

The Committee opined that it is a possibility that the Complaint was requesting all documents created since their last submission in addition to requesting all future documents. The Committee stated that the following issues should be reviewed by the Task Force:

- Were all records provided based upon the original request for records (10/23/17)
- Determine if the 11/18/17 request was a request for records from 10/23/17 to 11/18/17. (The Complainant requested that any subsequent information related to this issue be sent on a rolling basis appears to be subject to interpretation.)
- Can records not yet created be requested to be provided on a rolling basis

Member Maass, seconded by Member Hyland, moved to find that the Task Force has jurisdiction in the matter and to refer the matter to the Task Force for Hearing.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 – Maass, Hyland, Cannata

Noes: 0 – None

5. **File No. 17058: : Hearing on the Status of the Order of Determination** - Complaint filed by Denta Tadesse against John Haley and Tom Nolan, San Francisco Municipal Transportation Agency, for violating Administrative Code (Sunshine Ordinance), Section 67.21(e), by failing to respond to a request for public records in a timely and complete manner.

(On November 1, 2017, the Sunshine Ordinance Task Force referred the matter to the Compliance and Amendments Committee to confirm that the SFMTA Accessibility Division provide a separate confirmation and/or response to the public records request. (The SFMTA provided requested confirmation on 11/3/17.))

Denta Tadesse (Complainant) provided a summary of his complaint and stated that the department has not complied with the Order of Determination. Mr. Tadesse provided additional comments regarding ADA violations. Caroline Celaya, Municipal Transportation Agency (SFMTA) (Respondent) provided a summary of the department's actions to comply with the Order of Determination. It was noted by SOTF Administrator Victor Young that the SFMTA provided the requested confirmation that the SFMTA Accessibility Division has provided all responsive documents.

The Committee opined that the department complied with the Order of Determination and that the Sunshine Ordinance Task Force does not have jurisdiction over ADA compliance issues.

Member Hyland, seconded by Member Maass, moved to find that the department complied with the Order of Determination and tabled/closed the complaint.

Public Comment:

Speakers: None.

The motion PASSED by the following vote:

Ayes: 3 – Maass, Hyland, Cannata

Noes: 0 – None

6. **File No. 17084: Hearing on the Status of the Order of Determination** - Complaint filed by Ray Hartz against Director John Updike and the Department of Real Estate for violating Administrative Code (Sunshine Ordinance), Sections 67.21(e) and 67.25, by failing to respond to an Immediate Disclosure Request in a timely and complete manner. *(On November 1, 2017, the Sunshine Ordinance Task Force referred the matter to the Compliance and Amendments Committee to confirm that the Department of Real Estate provide a copy of the lease and rent roll related to the Friends of the Public Library. (On November 5, 2017, the Department of Real Estate provided the December 11, 2002, lease and a summary of payments made versus payments owned since inception.))*

The Complainant was not present and did not provide notice of their absence. The Respondent was present but had no additional information to provide.

Upon review of the documents the Committee opined that the department complied with the Order of Determination.

Member Maass, seconded by Member Hyland, moved to find that the department complied with the Order of Determination and tabled/closed the complaint.

Public Comment:

Speakers: None.

The motion PASSED by the following vote:

Ayes: 3 – Maass, Hyland, Cannata

Noes: 0 – None

7. **File No. 17085: Hearing on the Status of the Order of Determination** - Complaint filed by Ray Hartz against City Librarian Luis Herrera and the Public Library for violating Administrative Code (Sunshine Ordinance), Section 67.29-7(a), by failing to maintain and preserve in a professional and businesslike manner all documents and correspondence in accordance with the Sunshine Ordinance. *(On November 1, 2017, the Sunshine Ordinance Task Force referred the matter to the Compliance and Amendments Committee to confirm that City Librarian Luis Herrera personally verifies, in writing, that all records related to the lease with the Friends of the Public Library have been provided and that the Public Library does not have any other documents related to the public records request. (On November 6, 2017, the Public Library provided the requested confirmation letter.))*

Member Maass, seconded by Member Hyland, moved to find that the department complied with the Order of Determination and tabled/closed the complaint.

Public Comment:

Speakers: None.

The motion PASSED by the following vote:

Ayes: 3 – Maass, Hyland, Cannata

Noes: 0 – None

8. **File No. 17096:** Complaint filed by Kevin Williams against Kate Patterson and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

(On December 19, 2017, the SOTF referred the matter to the Compliance and Amendments Committee to review documents in possession of the Arts Commission and provided to the Petitioner in response to Mr. Williams' public records request.)

Kevin Williams (Complainant) provided a summary of his complaint and requested that the Committee find violations. Mr. Williams stated that the Director Tom DeCaigny (Arts Commission) directed staff to not provide certain records. Mr. Williams stated that the Arts Commission promised to retrieve documents from other city departments and refused to submit records requests to other city departments. Kate Patterson, Arts Commission (Respondent), provided a summary of the department's position. Ms. Patterson stated that the Arts Commission has provided all records in their possession and has forwarded documents from other city departments to Mr. Williams. Ms. Patterson stated that Mr. Williams was advised as to where additional records not under the control of the Arts Commission may be retrieved and that the Arts Commission never committed to retrieving records from other city departments. Ms. Patterson stated that the Arts Commission should not be required to provide an analysis of records from other departments.

The Committee advised that the Sunshine Ordinance Task Force's jurisdiction is limited to public records request and public meetings. The conduct of staff and departmental policies is not under the jurisdiction of the Task Force.

The Committee requested that the Arts Commission provide a written response, within two weeks, to each of Mr. Williams' twenty-six (26) requests with the following information:

- List of records that the Arts Commission has provided
- List other city department who provided documents that were forwarded to Mr. Williams

- List of records that cannot be provided by the Arts Commission and why it cannot be provided (i.e. Not in possession of the Arts Commission or reason that record cannot be disclosed)
- Referrals information to departments who may be in possession of additional responsive document

Member Hyland, seconded by Member Maass, moved to continue the matter to the call of the chair and authorize Chair Cannata to schedule the matter either before the Compliance and Amendments Committee or the Sunshine Ordinance Task Force based upon his review of the Arts Commission’s and the Complainant’s response.

Public Comment:

Speakers: None.

The motion PASSED by the following vote:

Ayes: 3 – Maass, Hyland, Cannata

Noes: 0 – None

9. Announcements, Comments, Questions, Future Agenda Items, and Pending Calendar by Members of the Committee.

There were no announcements or comments.

10. ADJOURNMENT

There being no further business the meeting was adjourned at 6:03 p.m.

APPROVED: March 20, 2018
Compliance and Amendment Committee
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.