



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

September 19, 2017 - 4:30 PM

Regular 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 4:31 p.m. On the call of the roll Chair Cannata and Member Maass were noted present. There was a quorum.

Member Hyland was noted present at 4:38 p.m.

There were no agenda changes.

Public Comment:
None.

2. Approval of the July 10, 2017, Compliance and Amendments Committee meeting minutes.

The Committee discussed the minutes.

Member Maass, seconded by Chair Cannata, moved to approve the July 10, 2017, meeting minutes.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 2 – Maass, Cannata
Noes: 0 – None
Absent: 1 – Hyland

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 (Committee) shall hold a hearing on File Nos. 17090, 17082, 17075, 17091 and 17092 to: 1) determine if the Sunshine Ordinance Task Force (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. 17090:** Complaint filed by Alvin Ja against the Office of Economic and Workforce Development (OEWD) for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to an Immediate Disclosure Request in a complete manner.

Alvin Ja (Petitioner) provided a summary of his complaint and requested the Committee to find a violation. Mr. Ja stated that the records requested are not related to any Request for Proposal and should be provided. Marianne Thompson, Office of Economic and Workforce Development (OEWD)(Respondent) provided a summary of the department’s position. Ms. Thompson stated that the initial response to the request was timely and stated that the information request could not be disclose as there is an active Request for Proposal pending. Ms. Thompson stated upon further review an email was found that could be provided. However, additional discussions with Mr. Ja did not occur as the complaint with the Task Force was filed.

The Committee advised Ms. Thompson that a pending complaint with the Task Force does not prevent her from working with Mr. Ja to provide additional records. The Committee request that the OEWD provide the referenced email to Mr. Ja and that the parties work together to fulfill the public records request.

The Committee requested that the parties inform the Task Force of the results of their further discussions.

Member Hyland, seconded by Member Maass, moved to find that the Task Force has jurisdiction in the matter, to find that the requested records are public and continue the matter to the call of the chair.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 – Hyland, Maass, Cannata

Noes: 0 – None

5. **File No. 17082:** Complaint filed by Anonymous against Luis Herrera and the Public Library 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.

Anonymous (Petitioner) provided a summary of his complaint and requested the Committee to find a violation. Anonymous stated that the Library should inform “parties” if records or incident reports are created regarding the “party”. Anonymous requested the Task Force to review the Library’s policies and procedures regarding incident reports. Sue Blackman, Public Library (Respondent) provided a summary of the department’s position. Ms. Blackman acknowledged that the Library’s response to the public records request was three days late but all records, consisting of a single email, has been provided. Ms. Blackman stated that an incident report was not created as the situation did not rise to that level. Ms. Blackman stated that the Library maintains a copy of their procedures online as part of the patron code of conduct.

The Committee opined that it is not in the purview of the Task Force to review the Library policies and procedures for deciding when to create incident reports. However, the Committee believes that a violation of Sunshine Ordinance 67.25 did occur as the Library acknowledged that they were three days late in responding to the Immediate Disclosure Request.

Member Hyland, seconded by Member Maass, moved to find that the Task Force has jurisdiction in the matter, to find that the requested records are public and to refer the matter to the Task Force for hearing.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 3 – Hyland, Maass, Cannata
Noes: 0 – None

6. **File No. 17075:** Complaint filed by Anonymous against Director John Rahaim and the Planning 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.

Anonymous (Petitioner) provided a summary of his complaint and requested the Committee to find a violation. Anonymous stated that pdf documents he received on CD included attachments that he could not open and were not otherwise provided. Christine Silva (Respondent) provided a summary of the department’s position. Ms. Silva stated that Planning responded to the request on the same day it was received with a request for

an extension but acknowledged that Planning exceeded the 10 day extension before provided a CD with relevant documents. Ms. Silva stated that she was not aware of Anonymous' issues with opening the attachments in the pdf file and will work with Anonymous to provide any missing documents.

The Committee requested that Planning work with Anonymous and provide the remaining documents within 15 days.

The Committee expressed concern over the recent pattern of late responses from the Planning Department. Ms. Silva stated that due to the recent increase of projects in the city there has been a large increase of public records requests. Ms. Silva stated that additional staff has been hired and the backlog of public records requests has been addressed.

The Committee requested that the parties inform the Task Force of the results of their further discussions.

Member Hyland, seconded by Member Maass, moved to find that the Task Force has jurisdiction in the matter, to find that the requested records are public and continued the matter to the call of the chair.

Public Comment:

Ellen Tsang stated that the Planning Department has a habit of not being helpful and for providing unrelated records.

The motion PASSED by the following vote:

Ayes: 3 – Hyland, Maass, Cannata
Noes: 0 – None

7. **File No. 17091:** Complaint filed by Marvin Lambert against the Planning Department and Recreation and Parks for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.24, 67.25, 67.26 and 67.27, by failing to respond to a public records request in a timely and complete manner.

Marvin Lambert (Petitioner) provided a summary of his complaint and requested the Committee to find violations. Mr. Lambert stated that Recreation and Park should not be able to cite attorney client privilege for withholding all requested records as it is overreaching and acts to hide incriminating documents. Christine Silva (Respondent) provided a summary of the department's position. Ms. Silva acknowledged that the response was two days late but all records have been provided. Eric Pawlowsky, Recreation and Parks (Respondent) stated that the department's initial response was responsive documents was timely but additional records were found and provided at a later time. Mr. Pawlowsky stated that additional records previously withheld due to attorney client privilege would not be released.

The Committee requested that Recreation and Park provide additional details regarding their use of attorney client privilege to withhold certain records and that specific codes and law be cited.

The Committee opined that the Planning Department violated Sunshine Ordinance, Section 67.21, as the Planning Department acknowledged that they were two day late in responding to the public records request. The Committee believe that Recreation and Parks violated Sunshine Ordinance Section 67.21, as Recreation and Park stated that they fail to include certain documents with their initial response to the public records request. The Committee requests that the Task Force review and clarify the issue of attorney client privilege in regards to public records requests.

Member Hyland, seconded by Member Maass, moved to find that the Task Force has jurisdiction in the matter, to find that the requested records are public and to refer the matter to the Task Force for hearing.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 – Hyland, Maass, Cannata

Noes: 0 – None

8. **File No. 17092:** Complaint filed by Ellen Tsang against John Rahaim, Anne Brask and the Planning Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to an Immediate Disclosure Request in a timely and complete manner.

Ellen Tsang (Petitioner) provided a summary of his complaint and requested the Committee to find violations. Ms. Tsang stated that the Planning Department has not responded to her August 16, 2017, Immediate Disclosure Request. Christine Silva (Respondent) provided a summary of the department's position. Ms. Silva stated that the Planning Department has received many requests from Ms. Tsang regarding the same issue and believe that they have responded to her various requests. Ms. Silva stated that part of the issue is that Ms. Tsang disagrees with the analysis of the Planning Department and does not accept the documents provided.

The Committee opined that there may have been some confusion due to the various requests. As Ms. Silva could not address the August 16, 2017, Immediate Disclosure Request submitted by Ms. Tsang, the Committee requests that the Planning Department provide a response to the August 16, 2017, request within five business days (September 26, 2017).

The Committee requested that the parties inform the Task Force of the results of their further discussions.

Member Hyland, seconded by Member Maass, moved to find that the Task Force has jurisdiction in the matter, to find that the requested records are public and continued the matter to the call of the chair.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 – Hyland, Maass, Cannata

Noes: 0 – None

9. **ADJOURNMENT**

There being no further business the meeting was adjourned at 6:04 p.m.

APPROVED: November 13, 2017
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.