



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

February 1, 2017 - 4:00 PM

Regular Meeting

Seat 1	Victoria Bareanetsky	Seat 7	Dave Maass
Seat 2	Eric Eldon	Seat 8	Frank Cannata
Seat 3	Josh Wolf	Seat 9	Chris Hyland - Vice Chair
Seat 4	Rishi Chopra	Seat 10	Louise Fischer
Seat 5	Leuwam Tesfai	Seat 11	Fiona Hinze
Seat 6	Bruce Wolfe - Chair		

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

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

Chair Wolfe called the meeting to order at 4:05 p.m. Members Chopra and Hinze were noted absent. Members Eldon, J. Wolfe, and Maass were noted excused. There was a quorum.

Member Hinze was note present at 4:28 p.m.

There were no agenda changes.

2. **Approval of minutes from the Sunshine Ordinance Task Force January 4, 2017, meeting. (00:01:55 – 00:07:15)**

The Task Force discussed the meeting minutes.

Member Cannata, seconded by Vice Chair Hyland, moved to approve the January 4, 2017, meeting minutes.

Public Comment:

Peter Warfield (Library Users Association) requested that the minutes be so that Item 3 states that the department should not have directed the public to another entities website to hunt for records and Item 5 states that the person directly involved in a complaint should attend the hearings.

Member Cannata, seconded by Vice Chair Hyland, moved to amend the motion to approve the January 4, 2017, meetings as amended.

The motion PASSED by the following vote:

Ayes: 6 - Baranetsky, Tesfai, Cannata, Fischer, Hyland, B. Wolfe

Noes: 0 - None

Absent: 2 - Chopra, Hinze

Excused: 3 - Eldon, Wolfe, Maass

3. **File No. 16093:** Review and possible amendments to the Sunshine Ordinance Task Force By-Laws and Complaint Procedures. (00:07:15 – 00:54:30)

- Absence policy (adding an excused provision)
- Minimum requirement to process complaint
- Precedence and Log of Task Force decisions
- Duplicate filings and/or re-adjudication
- Tabling for being unresponsive or non-appearance
- Maximum number of hearings per person/meeting
- Statute of limitations for complaints
- Rules of Reason
- Vexatious Complainants/Respondents
- How to treat Ethics Commission rulings that disagree with the decision of the Task Force
- Other issues related to the Task Force By-Laws and Complaint Procedures

The Task Force discussed the minimum requirements to process complaints and the possibility of adding a statute of limitation to file complaints.

Member Baranetsky, seconded by Member Tesfai, moved to set a six month deadline to file complaints with the Task Force from the date of the denial of a public records request or public meeting violation.

Member Tesfai, seconded by Member Cannata, moved to modify the previous motion to set a three month deadline to file complaints with the Task Force from the date of the initial request for records or public meeting violation.

Public Comment:

Peter Warfield (Library Users Association) opposed the motion to set a deadline for filing complaint and provided samples of possible issues.

Mike Black opposed the motion and described his complaint and the long delay before his complaint filing.

David Pilpel opposed the motion and suggested that the Task Force encourage the public to file timely instead.

The motion FAILED by the following vote:

Ayes: 0 - None

Noes: 7 - Baranetsky, Tesfai, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Absent: 1 - Chopra,

Excused: 3 - Eldon, Wolfe, Maass

The Task Force discussed adding an excused option for Task Force members absent from meeting.

Public Comment:

Peter Warfield (Library Users Association) stated that there is a need for Task Force member accountability and stated the absence of members is a hardship to members of the public as it forces the need for a super majority vote to find violations.

David Pilpel stated that pursuant to Administrative Code, Section 67.30(e), the Task Force set procedures for removal of members and currently only the Board of Supervisors can remove Task Force members.

There were no motions made regarding changes to the absence policy.

4. Sunshine Ordinance Task Force - Chair's Report:

- Review of the validity of Administrative Code, Section 67.3.(b)(4)(C-1)*
“The attendance of a majority of the members of a policy body at an open and noticed meeting of a standing committee of that body, provided that the members of the policy body who are not members of the standing committee attend only as observers.” (00:54:30 – 01:11:00)

Chair Wolfe provided a summary of a possible omissions to the Sunshine Ordinance.

Deputy City Attorney Colla provided comments and responded to questions from the Task Force.

Public Comment:

David Pilpel provided a history of the inadvertent omission of the reference Administrative Code section.

Peter Warfield (Library Users Association) commented on the discussion and stated that the agenda description was puzzling.

No actions were taken.

5. **File No. 16092:** Complaint filed by Anonymous against Dr. Lydia Leung, Department of Public Health, 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. (01:19:00 – 02:25:00)
(On December 20, 2016, the Complaint Committee acting in its capacity to hear complaints heard the matter and referred it to the Task Force for hearing without recommendations.)

Member Hinze, seconded by Member Tesfai, moved to find jurisdiction.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 7 - Baranetsky, Tesfai, Cannata, Fischer, Hinze, Hyland, B. Wolfe
Noes: 0 - None
Absent: 1 - Chopra
Excused: 3 - Eldon, Wolfe, Maass

Anonymous (Petitioner/Complainant) provided an overview of the complaint and requested that the Task Force find violations. Anonymous provided a summary of his previous experience as a member of the Family Health Center and stated that he did not receive the requested documents. There were no speakers in support of the Petitioner/Complainant. Lucia Angel, Department of Public Health (Respondent), provided a summary of the department's position. Ms. Angel stated that the Family Health Center only reports to the clinic staff and described the function/nature of the Center. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Petitioner/Complainant were provided the opportunity for rebuttal.

Deputy City Attorney Colla provided comments and responded to questions from the Task Force.

Member Tesfai, seconded by Member Hinze moved to find that Dr. Lydia Leung, Department of Public Health, did not violate Sunshine Ordinance, Section 67.21 and 67.25(a).

Public Comment:
David Pilpel stated that it doesn't matter if the Family Health Center is a policy body or not as the Immediate Disclosure Request was not responded to in a timely or complete manner.

The Task Force agreed with the statements from the public and opined that the Family Health Center may not be required to maintain certain records due to their structure. However, the Center is still require to respond to Immediate Disclosure requests in a timely manner and redact as needed.

Chair B. Wolfe, seconded by Member Hinze, moved to amend the motion to find that Dr. Lydia Leung, Department of Public Health, violated Administrative Code (Sunshine Ordinance), Section 67.25(a) by failing to respond to an immediate disclosure request in a timely manner.

The Task Force referred the matter to the Compliance and Amendments Committee and requested that Dr. Lydia Leung provide all communications and documents related to the Family Health Center Patient Advisory Committee for the period of January 1, 2014 to September 18, 2016. If required, provide justifications for any redactions or withholdings. In addition, please perform a search for agendas, minutes and any other information related to meetings of the body and provide a summary of the search (i.e. state if no such records were found).

Public Comment:

Peter Warfield (Library Users Association) stated that status of the Family Health Center as a policy or passive meeting body is confusing and stated that the public can make a request for public records to any member of staff.

David Pilpel stated that staff must respond and state what records they have and what they are withholding.

The motion PASSED by the following vote:

Ayes: 7 - Baranetsky, Tesfai, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Excused: 3 - Eldon, Wolfe, Maass

6. **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. ***Public comment shall be taken at 5:00 p.m. or as soon thereafter as possible. (01:11:00 – 01:19:00)***

Speakers:

Peter Warfield (Library Users Association) stated that the public copy of the Sunshine Ordinance is incomplete and requested the Task Force to schedule discussion of the 45 day requirement to make public records determinations. David Pilpel stated that the Task Force Closed Session discussion regarding the Ethics Commission should not occur.

Male Speaker provided comments regarding a possible error to Administrative Code, Section 67.6.

The meeting was recessed from 6:35 PM to 6:46 PM

7. **File No. 16106:** Complaint filed by Anonymous against Andrew Perry, Anne Brask and the Planning Department, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21(c), by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner. (02:25:00 – 02:51:00)
(On December 20, 2016, the Complaint Committee acting in its capacity to hear complaints heard the matter and referred it to the Task Force for hearing with recommendations to find violations.)

Vice Chair Hyland, seconded by Member Cannata, moved to find jurisdiction.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 6 - Baranetsky, Tesfai, Cannata, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 2 - Chopra, Fischer

Excused: 3- Eldon, Wolfe, Maass

The Petitioner/Complainant was not present during the hearing. There were no speakers in support of the Petitioner/Complainant. Christine Silva, Planning Department (Respondent), provided a summary of the department's position. Ms. Silva stated that the department provided responsive documents and that the requested complete checklist for the property in question does not exist. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

Member Tesfai, seconded by Member Hinze, moved to find the Planning Department in violation of Administrative Code, Section 67.21(c), by failing to assist a requester in identifying the existence, form and nature of any records or information maintained by, available to, or in the custody of the department.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - Baranetsky, Tesfai, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Excused: 3 - Eldon, Wolfe, Maass

Chair Wolfe referred the matter to the Compliance and Amendments Committee and directed the Planning Department to work with the Petitioner/Complainant to determine which codes are relevant to the property in question and provide other related records.

The Task Force request that the Petitioner/Complaint attend the Committee meeting. Non-attendance shall result to the closing/conclusion of the complaint.

8. **File No. 16107:** Complaint filed by the Library Users Association against Director Ed Reiskin, San Francisco Municipal Transportation Agency (SFMTA), for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a request for public records in a timely and/or complete manner. (02:51:00 – 03:42:00) *(On December 20, 2016, the Complaint Committee acting in its capacity to hear complaints heard the matter and referred it to the Task Force for hearing with recommendations to find violations.)*

Member Hinze, seconded by Member Fischer, moved to find jurisdiction.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - Baranetsky, Tesfai, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Excused: 3 - Eldon, Wolfe, Maass

Peter Warfield (Library Users Association) (Petitioner/Complainant) provided an overview of the complaint and requested that the Task Force find violations. There were no speakers in support of the Petitioner/Complainant. Will Tabojonda, SFMTA (Respondent), provided a summary of the department's position. Mr. Tabojonda acknowledged that the response to Mr. Warfield's verbal request was delayed. Louis Montoya, Tom Folks, Dustin White and Mike Hanrahan (SFMTA) spoke in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

Chair Wolfe expressed concern that the complaint named Director Ed Reiskin, SFMTA, who was not a party to the complaint and did not name the parties specifically involved in the public records request. Member Tesfai stated that the Complaint Committee was concerned that there was no written evidence to review as the requests for records were verbal.

Deputy City Attorney Colla provided comments and responded to questions from the Task Force.

Member Cannata, seconded by Member Hinze, moved to find Will Tabojonda, SFMTA, violated Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a verbal request for public records in a timely manner.

Public Comment:

David Pilpel stated that certain items discussed were not in the packet and opposed the motion as Director Reiskin was not a party to the complaint and SFMTA. Mr. Pilpel stated that Mr. Warfield is familiar with the SFMTA process

and that public records requests should have been directed to the SFMTA custodian of records.

Michael Petrelis stated that Mr. Warfield's complaint was vexatious and a waste of time of the city staff and the public. Mr. Petrelis request that the Task Force set a time limit for all complaint hearings.

The motion FAILED by the following vote:

Ayes: 4 - Baranetsky, Tesfai, Cannata, Hinze

Noes: 3 - Fischer, Hyland, B. Wolfe

Absent: 1 - Chopra

Excused: 3 - Eldon, Wolfe, Maass

9. **File No. 16109:** Complaint filed by Mike Black against Animal Care and Control for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, 67.24, and 67.26, and Government Code, Section(s) 6252(e) and 6253(a), by failing to respond to a request for Public records in a timely and/or complete manner. (03:42:00 – 04:26:00)

(On December 20, 2016, the Complaint Committee acting in its capacity to hear complaints heard the matter and referred it to the Task Force for hearing with recommendations to find violations.)

Member Hinze, seconded by Member Tesfai, moved to find jurisdiction.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - Baranetsky, Tesfai, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Excused: 3 - Eldon, Wolfe, Maass

Mike Black (Petitioner/Complainant) provided an overview of the complaint and requested that the Task Force find violations. Mr. Black stated that he has yet to receive an un-redacted copy of the dog license application, the dog license and communication related to the decision to not enforce lease laws. There were no speakers in support of the Petitioner/Complainant. Diana Christensen, Animal Care and Control (ACC) (Respondent), provided a summary of the department's position. Ms. Christensen stated that she has recently assumed the duties of the custodian of records and is working on correcting certain public records request procedures. Ms. Christensen stated that due to the voluminous nature of the request, technical issue and misinterpretations by the previous custodian of records, the response to the public records request has been delayed. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

Deputy City Attorney Colla provided comments and responded to questions from the Task Force.

Member Tesfai, seconded by Member Baranetsky, moved to find that Animal Care and Control violated Administrative Code (Sunshine Ordinance), Sections 67.21(d), 67.24(i) and 67.26, by failing to respond to a public records request in a timely and complete manner, withholding records and not citing an appropriate provision of the Sunshine Ordinance and inappropriately withholding records in its entirety.

Vice Chair Hyland request that that question regarding violation of Administrative Code (Sunshine Ordinance), Section 67.26, for inappropriately withholding records in its entirety be divided and voted upon separately in regards to the redaction/withholding of the dog license/application.

Public Comment:

David Pilpel provided a summary of his past experience with the ACC and stated that ACC need to improve their record keeping methods.

The motion to find that Animal Care and Control violated Administrative Code (Sunshine Ordinance), Sections 67.21(d) and 67.24(i) PASSED by the following vote:

Ayes: 6 - Baranetsky, Tesfai, Cannata, Hinze, Hyland, B. Wolfe
Noes: 1 - Fischer
Absent: 1 - Chopra
Excused: 3 - Eldon, Wolfe, Maass

The Task Force referred the matter to the Compliance and Amendments Committee and requested that Animal Care and Control provide records related to the city's dog lease law from January 1, 2014 through February 1, 2016.

The motion to find that Animal Care and Control violated Administrative Code (Sunshine Ordinance), Section 67.26 FAILED by the following vote:

Ayes: 4 - Baranetsky, Tesfai, Cannata, B. Wolfe
Noes: 3 - Fischer, Hinze, Hyland
Absent: 1 - Chopra
Excused: 3 - Eldon, Wolfe, Maass

SPECIAL ORDER

The hearings on File Nos. 16091 and 16099 will not begin earlier than 6:00 p.m.

10. **File No. 16091:** Complaint filed by Michael Petrelis against Director LeeAnn Pelham and Commissioners Paul Renne, Peter Keane and Quentin Kopp (Ethics Commission), for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.15 and 67.21, by not allowing an opportunity for members of the public to directly address a policy body on items of interested to the public that are within the policy body's jurisdiction, abridging or prohibiting public criticism of the policy, procedures programs or services of the City and by failing to respond to a request for public records in a timely and/or complete manner (September 26, 2016, Ethics Commission meeting). (04:26:00 – 04:37:00)

(On January 9, 2017, the Compliance and Amendments Committee acting in its capacity to hear complaints heard the matter and referred it to the Task Force for hearing with recommendations to find no violations.)

Member Hinze, seconded by Member Cannata, moved to find jurisdiction.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - Baranetsky, Tesfai, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Excused: 3 - Eldon, Wolfe, Maass

The Task Force reviewed the video recording of the Ethics Commission meeting. Michael Petrelis (Petitioner/Complainant) provided an overview of the complaint and requested that the Task Force find violations. Mr. Petrelis stated that he was entitled to three minutes of uninterrupted public comment. There were no speakers in support of the Petitioner/Complainant. Jessica Blome, Ethics Commission (Respondent), provided a summary of the department's position. Ms. Blome stated that the public comment timer was paused during the Ethics Commission members' interruption and Mr. Petrelis was provided three minutes for public comment. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

Member Tesfai, seconded by Member Hinze, moved to find that the Director LeeAnn Pelham and Commissioners Paul Renne, Peter Keane and Quentin Kopp (Ethics Commission), did not violated Administrative Code (Sunshine Ordinance), Section 67.15.

Public Comment:

David Pilpel stated that Mr. Petrelis' public comment was interrupted but was eventually allowed three minutes for public comment.

The motion PASSED by the following vote:

Ayes: 7 - Baranetsky, Tesfai, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Excused: 3 - Eldon, Wolfe, Maass

11. **File No. 16099:** Complaint filed by Michael Petrelis against the San Francisco Ethics Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.7(a) and 67.15, by failing to post an agenda containing a meaningful description of each item of business to be transacted or discussed at the meeting and failing to provide an opportunity for members of the public to directly address a policy body on items of interest to the public (October 16, 2016, meeting). (04:37:00 – 05:18:00)
(On January 9, 2017, the Compliance and Amendments Committee acting in its capacity to hear complaints heard the matter and referred it to the Task Force for hearing with recommendations to find violations.)

Vice Chair Hyland, seconded by Member Cannata, moved to find jurisdiction.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - Baranetsky, Tesfai, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Excused: 3 - Eldon, Wolfe, Maass

Michael Petrelis (Petitioner/Complainant) provided an overview of the complaint and requested that the Task Force find violations. Mr. Petrelis stated the Ethics Commission should have agendized the adoption of the Meeting Decorum section in the agenda for review and public comment prior to adoption. There were no speakers in support of the Petitioner/Complainant. Jessica Blome, Ethics Commission (Respondent), provided a summary of the department's position. Ms. Blome stated the Ethics Commission did not create or adopt new policy and only listed existing rules at the end of their agenda for informational purposes. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

Vice Chair Hyland, seconded by Member Hinze, moved to find that the Ethics Commission did not violated Administrative Code (Sunshine Ordinance), Sections 67.7 and 67.15.

Public Comment:

David Pilpel stated that Administrative Code, Section 67.15(c) allows bodies to regulate conduct with official actions.

The motion PASSED by the following vote:

Ayes: 6 - Baranetsky, Tesfai, Fischer, Hinze, Hyland, B. Wolfe
Noes: 1 - Cannata
Absent: 1 - Chopra
Excused: 3 - Eldon, J. Wolf, Maass

POTENTIAL CLOSED SESSION - Conference with City Attorney

[Convene in Closed Session - Existing Litigation – Task Force as Plaintiff and/or Defendant]

Motion that the Sunshine Ordinance Task Force convene in closed session with the City Attorney for the purpose of conferring with, or receiving advice from, the City Attorney regarding the following existing litigation against the Sunshine Ordinance Task Force (File No. 16112). Administrative Code, Section 67.10(d)(1) permit this closed session. After a closed session, if one occurs, the Task Force shall adopt a motion either to disclose or not to disclose.

12. **File No. 16112: Review of Ethics Commission Complaint Nos. 1516-23 and 1516-24 (Joel Warne V. the Sunshine Ordinance Task Force and Nancy Sarieh, Department of Public Health).**

The Task Force did not meet in closed session. Chair Wolfe provided a summary of the issue and the lawsuit against the Task Force.

Public Comment:

David Pilpel stated that the update to the potential closed session should have occurred earlier in the meeting and stated that the Task Force should not be meeting in closed session.

Michael Petrelis thanked the Task Force for the time and attention to Sunshine.

No actions taken. The matter was tabled.

Administrator's Report, Complaints and Communications.

- Task Force and Committee hearing schedule
- Complaints submitted and hearing files created
- Communications to the Task Force
- Summary of pending complaints and other issues

Task Force Administrator Victor Young provided a summary of the Administrator's Report.

Public Comment:

None.

13. **Announcements, Comments, Questions, and Future Agenda Items by Members of the Sunshine Ordinance Task Force.**

There were no announcements or comments.

14. **ADJOURNMENT**

Member Cannata, seconded by Member Hinze, moved to adjourn the meeting.

By a rise in vote the meeting was adjourned without objection at 9:56 p.m.

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.

APPROVED by the Sunshine Ordinance Task Force: March 1, 2017