



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

May 3, 2017 - 4:00 PM

Regular Meeting

Seat 1	vacant	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 4:04 p.m. Members Chopra, Hyland and J. Wolf were noted absent. There was a quorum.

Vice Chair Hyland was noted present at 4:06 p.m.

Public Comment:

Ann Treboux requested that her complaint be move up on the agenda so her items can be heard together.

Chair Wolfe moved to change the order of the agenda by moving Item No. 8 to follow after Item No. 4.

Public Comment:

None.

The motion passed without objections with Members Chopra, Cannata and J. Wolf being absent.

2. **Approval of minutes from the Sunshine Ordinance Task Force April 5, 2017, meeting.**

The Task Force discussed the April 5, 2017, meeting minutes.

Chair Wolfe moved to approve the April 5, 2017, meeting minutes.

Public Comment:

None.

The motion passed without objections with Members Chopra, Cannata and J. Wolf being absent.

3. **File No. 16108:** Complaint filed by Ann Treboux against Jennifer Norris, War Memorial, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner. (00:06:30 – 00:17:30)

(On March 13, 2017, the Compliance and Amendments Committee referred the matter to the Task Force with the recommendation to find violation.)

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

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 – Eldon, Tesfai, Maass, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 3 – Chopra, Cannata, J. Wolf

Member Maass provided a summary of the Committee hearing and recommendation on the matter.

Ann Treboux (Petitioner) provided an overview of the complaint and requested that the Task Force find violations. There were no speakers in support of the Petitioner. Jennifer Norris, War Memorial (Respondent) provided a summary of the department's position and acknowledged that the response to the Immediate Disclosure Request was not timely. Ms. Norris stated that all records have been provided. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Petitioner were provided the opportunity for rebuttals.

Member Maass, seconded by Member Hinze, moved to find that Jennifer Norris, War Memorial, violated Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely manner.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 – Eldon, Tesfai, Maass, Fischer, Hinze, Hyland, B. Wolfe
Noes: 0 – None
Absent: 3 – Chopra, Cannata, J. Wolf

Member Josh Wolf was noted present at 4:25 p.m.

Vice Chair Hyland, seconded by Member Tesfai, moved to hear Item No. 5 out of order before Item No. 4 as the Petitioner for Item No. 4 was not present.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 – Eldon, J. Wolf, Tesfai, Maass, Fischer, Hinze, Hyland, B. Wolfe
Noes: 0 – None
Absent: 2 – Chopra, Cannata

4. **File No. 17025:** Complaint filed by the SF Urban Forest Coalition against Michael Eng, Jonas Ionin, and Christine Silva, Planning Department, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.24(c), 67.25, and 67.34, for failure to respond to an Immediate Disclosure Request in a timely and/or complete manner. (02:18:00 – 02:49:00)
(On April 25, 2017, the Complaint Committee referred the matter to the Task Force with recommendation to find violation.)

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

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 – Eldon, J. Wolf, Tesfai, Maass, Fischer, Hinze, Hyland, B. Wolfe
Noes: 0 – None
Absent: 2 – Chopra, Cannata

Member Tesfai provided a summary of the Committee hearing and recommendation on the matter.

Allen Grossman (Petitioner) provided an overview of the complaint and requested that the Task Force find violations. Mr. Grossman stated that the production of public records were intentionally delayed and that it is the duty of the Custodian of records to redact records. Christine Silva and Jonas Ionin, Planning Department (Respondent) provided a summary of the department's position and acknowledged that the response to the public

records request was late. Ms. Silva stated the request for personnel records was unusually and that Human Resources and the City Attorney were consulted regarding redaction of certain records. There were no speakers in support of the Petitioner. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Petitioner were provided the opportunity for rebuttals.

Chair Wolfe opined that Sunshine Ordinance, Section 67.26, allows the City Attorney or staff to perform redactions but that records should be provided on a rolling basis as they become available.

Chair Wolfe, seconded by Member Tesfai, moved to find that Michael Eng, Jonas Ionin, and Christine Silva, Planning Department, violated Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely manner as required on a rolling basis.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 8 – Eldon, J. Wolf, Tesfai, Maass, Fischer, Hinze, Hyland, B. Wolfe
Noes: 0 – None
Absent: 2 – Chopra, Cannata

5. **File No. 16118:** Complaint filed by Tom Borden against the Planning Commission and the Recreation and Parks Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.7(g), 67.15 and 67.16, by failing to ensure that notices and agenda for regular and special meetings include Sunshine Information, failing to provide separate public comment opportunity for each item listed on the agenda, and failing to list member of the public who spoke on each matter and whether such speaker supported or opposed the matter and a brief summary of each person's statement in the meeting minutes. (00:30:30 – 02:18:00)
(On March 13, 2017, the Compliance and Amendments Committee referred the matter to the Task Force.)

Member Fischer disclosed her previous association with the Tom Borden (Petitioner)

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

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 8 – Eldon, J. Wolf, Tesfai, Maass, Fischer, Hinze, Hyland, B. Wolfe
Noes: 0 – None
Absent: 2 – Chopra, Cannata

Member Maass provided a summary of the Committee hearing and recommendation on the matter.

Tom Borden (Petitioner) provided an overview of the complaint and requested that the Task Force find violations. Mr. Borden stated that there were two separate issues being discussed and separate public comment should have been allowed on each issue. Luis Dillon spoke in support of the Petitioner. Jonis Ionin, Planning Department (Respondent), provided a summary of the department's position. Mr. Ionin stated that due to staffing issues a person unfamiliar with the agenda posted a link to Sunshine information on the online version of the agenda but the pdf version of the agenda listed the required Sunshine information in its entirety. Mr. Ionin stated that the minutes for the joint meeting have been revised based upon the advice of the Committee and additional details have been added. Mr. Ionin stated that the joint meeting was noticed for the purpose of discussing two issues/motions in which both were part of a single project and that one public comment period was provided for the entire project. Mr. Ionin stated that Planning had also previously provided opportunities for public comment on the Environmental Impact portion of the project. Eric Pawlowsky, Recreation and Parks (Respondent) provided a summary of the department's position. Mr. Pawlowsky stated that Recreation and Parks Commission provided verbatim minutes. Mr. Pawlowsky stated that the two issues/motions are part of one project that were heard together. There were no speakers in support of the Respondents. A question and answer period followed. In response to questions Mr. Ionin stated that it has been past practice of the Planning Commission to conduct joint meetings with other departments. The Respondent and Petitioner were provided the opportunity for rebuttals.

Deputy City Attorney Colla commented on the matter.

The Task Force opined that neither the Planning Commission or the Recreation and Parks Commission provided a brief summary of public comment. The Planning Commission only indicated support or opposition with a plus or negative symbol and the Recreation and Parks Commission provided verbatim public comment. In addition, the Task Force opined that conducting a joint meeting to discuss a project is acceptable but public comment should have been provided for each Commission's motion individually.

Member Tesfai, seconded by Member Hinze, moved to find that the Planning Commission violated Administrative Code (Sunshine Ordinance), Section 67.7(g) by not listing required Sunshine language on the online agenda and moved to find the Planning Commission and the Recreation and Parks Commission violated Administrative Code (Sunshine Ordinance), Section 67.15(a), by failing to allow separate public comment on each motion by each commission.

Member Maass, seconded by Member J. Wolf, moved to amend the motion to include a violation of the entirety of Administrative Code (Sunshine Ordinance), Section 67.15 instead of limiting the violations to 67.15(a) and added a violation of 67.16 against the Planning Commission and the Recreation and Parks Commission for failure to provide a brief written summary of each person's public comment in the minutes.

Public Comment:

None.

The motion to amend the motion passed by the following vote:

Ayes: 8 – Eldon, J. Wolf, Tesfai, Maass, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 2 – Chopra, Cannata

The amended motion to find a violation of Administrative Code (Sunshine Ordinance), Sections 67.7(g), 67.15, and 37.16 PASSED by the following vote:

Ayes: 8 – Eldon, J. Wolf, Tesfai, Maass, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 2 – Chopra, Cannata

The Task Force considered but did not approve a referral to Committee for additional action. Chair Wolfe stated that the Committee may convene a hearing to discuss the issue of joint meeting at their own discretion.

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. *(No Action) Public comment shall be taken at 5:00 p.m. or as soon thereafter as possible.*

Speakers:

Male Speaker stated that the Sunshine Ordinance Task Force is a lame duck and cannot decide what to do. The speaker stated that the Task Force should not be learning about the Sunshine Ordinance during the meeting.

The Task Force recessed at 6:20 p.m. and reconvened at 6:30 p.m.

7. **File No. 17011:** Complaint filed by Carol Lau against the Office of the Treasurer and Tax Collector for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a request for public records in a complete manner. *(02:49:00 – 03:09:00)*
(On March 28, 2017, the Complaint Committee referred the matter to the Task Force with recommendation to find violations.)

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

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 – Eldon, J. Wolf, Tesfai, Maass, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 2 – Chopra, Cannata

Member Tesfai provided a summary of the Committee hearing and recommendation on the matter.

Due to work issues the Petitioner was forced to leave the meeting and was not able to provide testimony. There were no speakers in support of the Petitioner. Debra Lew, Treasurer/Tax Collector (Respondent) provided a summary of the department's position. Ms. Lew stated that due to a strict interpretation of the original request for public records the department did not have any records responsive to the request. Ms. Lew stated that upon receipt of subsequent clarifications and requests, many documents have now been provided to the Petitioner. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Petitioner were provided the opportunity for rebuttals.

Chair Wolfe, seconded by Member Tesfai, moved to find that the Office of the Treasurer and Tax Collector violated Administrative Code (Sunshine Ordinance), Section 67.21(c), by failing to assist a requester in identifying the existence, form, and nature of any record or information maintained by, available to, or in the custody of the custodian.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 – Eldon, J. Wolf, Tesfai, Maass, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 2 – Chopra, Cannata

8. **File No. 17023:** Complaint filed by Ann Treboux against Margaret Baumgartner and the Office of the City Attorney, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a complete and/or timely manner. (00:17:30 – 00:30:00)
(On April 25, 2017, the Complaint Committee referred the matter to the Task Force with recommendation to find violation.)

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

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 – Eldon, J. Wolf, Tesfai, Maass, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 2 – Chopra, Cannata

Member Tesfai provided a summary of the Committee hearing and recommendation on the matter. It was noted that the parties agreed with the recommendation of the Committee and the appearance of the parties at the Task Force hearing was waived.

Ann Treboux (Petitioner) provided an overview of the complaint and requested that the Task Force find violations. There were no speakers in support of the Petitioner. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Petitioner were provided the opportunity for rebuttals.

Member Tesfai, seconded by Member Maass, moved to find that Margaret Baumgartner and the Office of the City Attorney violated Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely manner.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 – Eldon, J. Wolf, Tesfai, Maass, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 2 – Chopra, Cannata

9. **File No. 17036:** Hearing – Application of the Sunshine Ordinance in matters related to Twitter and other social media platforms and development of policies. (03:09:00 – 03:39:00)

Member J. Wolf disclosed that he currently has a pending complaint closely related to the hearing matter.

The Task Force discussed issues related to Twitter and other social mediation platforms. Deputy City Attorney Colla provided a summary of the recent court case and answered questions from the Task Force.

Public Comment:

Male speaker provided information on the court ruling related to public information on private electronic device and legal actions.

No actions taken.

10. **File No. 16093: Review and possible amendments to the Sunshine Ordinance Task Force By-Laws and Complaint Procedures.** (03:39:00 – 03:55:00)

The Task Force discussed possible amendments to the Task Force Complaint Procedures related to the Rule of Reason.

Member Maass volunteered to draft a revised version of the Rule of Reason for inclusion into the Complaint Procedures.

No actions taken.

11. **File No. 17040: Sunshine Ordinance Task Force - Annual Report**

The Task Force discussed the Annual Report.

Chair Wolfe stated his goal of finalizing the Annual Report by the end of July 2017 and requested the member to review the draft report and submit suggestions.

No actions taken.

12. **Sunshine Ordinance Task Force - Chair's Report.** (03:55:00 –)

Chair Wolfe provided a summary of his meeting with the Clerk of the Board of Supervisors regarding City Attorney allotments, ex-officio seats, budgeting and Task Force database tracking creation.

Public Comment:
None.

13. **Election of Officers:** Election of Sunshine Ordinance Task Force Chair and Vice Chair.

Member Tesfai, seconded by Member Maass, nominated Bruce Wolfe as Chair of the Sunshine Ordinance Task Force. There were no other nominations.

Public Comment:
None.

Bruce Wolfe was appointed as Chair of the Sunshine Ordinance Task Force by the following vote:

Ayes: 8 – Eldon, J. Wolf, Tesfai, Maass, Fischer, Hinze, Hyland, B. Wolfe
Noes: 0 – None
Absent: 2 – Chopra, Cannata

Chair Wolfe, seconded by Member Tesfai, nominated Chris Hyland as Vice Chair of the Sunshine Ordinance Task Force. There were no other nominations.

Public Comment:

None.

Chris Hyland was appointed as Vice Chair of the Sunshine Ordinance Task Force by the following vote:

Ayes: 8 – Eldon, J. Wolf, Tesfai, Maass, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 2 – Chopra, Cannata

14. **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. At the direction of Chair Wolfe, Administrator Young summarized a proposed hearing to review issues and differences brought to the attention of the Task Force by Ann Treboux and the Arts Commission to be conducted at a future hearing date.

Public Comment:

None.

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

Member Maass commented on the drone policy of certain city departments.

Member Maass provided a summary of the proposed amendment to the California Public Records Acts and proposed fines for violations.

Public Comment:

None.

16. **ADJOURNMENT**

Member Wolf, seconded by Vice Chair Hyland, moved to adjourn the meeting.

By a rise in vote the meeting was adjourned without objection at 8:31 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: June 7, 2017