



SUNSHINE ORDINANCE TASK FORCE CITY AND COUNTY OF SAN FRANCISCO MINUTES DRAFT

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

August 2, 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 4:00 p.m. Members Chopra, J. Wolf and Hyland were noted absent. There was a quorum.

Vice Chair Chris Hyland was noted present at 4:05 p.m.

Member Tesfai, seconded by Member Fischer moved to hear Item No. 6 (File No. 17027) out of order after Item No. 2.

Public Comment:

William Clark objected to the motion to change the order of the agenda.

The motion PASSED by the following vote:

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

Noes: 0 – None

Absent: 2 – Chopra, J. Wolf

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

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

Member Hinze, seconded by Member Cannata, moved to approve the July 5, 2017, meeting minutes.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 – None

Absent: 2 – Chopra, J. Wolf

3. **File No. 17060:** Complaint filed by Michael Gray against the Police Department 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. (00:16:30 – 00:30:00)

(On June 20, 2017, the Education, Outreach and Training Committee determined that the Task Force has jurisdiction, determined that the requested records are public and referred the matter to the Task Force with a recommendation to find violation of the Sunshine Ordinance.)

The Petitioner was not present during the hearing on the matter. There were no speakers on behalf of the Petitioner. Lt. Katheryn Waaland, Police Department (Respondent), provided a summary the department's position. Lt. Waaland stated that the Police Department responded to the request for records in a timely manner and that the Police Department does not have the requested documents. Lt. Waaland stated that the Police Department was not involved with the job offer or background check in question and that the Petitioner was referred to the party in possession of the documents. Ann Treboux spoke in support of the Respondent. A question and answer period followed. The Respondent and Petitioner were provided the opportunity for rebuttals.

Member Eldon, seconded by Member Fischer, moved to find that the Police Department did not violate Administrative Code (Sunshine Ordinance), Section 67.21.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 – None

Absent: 2 – Chopra, J. Wolf

Member Josh Wolf was noted present at 4:39 p.m.

4. **Request for Reconsideration of Complaint: File No. 17009:** Complaint filed by William Clark against Tom DeCaigny and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.5 and 67.7, by failing to comply with regulations for policy bodies and post agendas for the Community Working Group of the Arts Commission. (00:30:00 – 01:12:00)

(On June 8, 2017, Mr. Clark (Petitioner) requested reconsideration of the Order of Determination's finding that a violation of Sunshine Ordinance, Section 67.4(a), occurred for failure to make a passive meeting accessible to individuals upon inquiry. Mr. Clark believes that due to new evidence the Community Working Group should be considered a policy body and not a passive meeting body. If the Task Force determines that the complaint should be reconsidered a hearing on the merits of the new information will be scheduled on a future date.)

William Clark (Petitioner) provided a summary of the new information submitted and requested that the Task Force reconsider their previous decision and Order of Determination. Ann Trickey provided a summary of the department's position and provided a summary of the Working Groups. A question and answer period followed.

Member Tesfai, seconded by Member Hinze, moved to find that the new information submitted by the Petitioner merits a reconsideration of the Order of Determination and that a hearing be scheduled to review the new information on a future date.

Public Comment:

Ann Treboux provide a summary of her past experiences with the Arts Commission.

Robert Clark expressed support for the motion and provided additional information.

Jason Grant Garza provided unrelated testimony regarding the actions of the Sunshine Ordinance Task force.

Ray Hartz expressed support for the motion and stated that the Working Group is a policy body.

The motion PASSED by the following vote:

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

Noes: 1 – Fischer

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. *(No Action) Public comment shall be taken at 5:00 p.m. or as soon thereafter as possible. (01:12:00 – 01:43:00)*

Speakers:

Ann Treboux provided the follow written summary of her public comment:

“7/12/17, SA Meeting, after meeting was called to order/after gavel went down- Ann Tricky said, she was not going to tolerate slander; abuse and character attacks of staff at meetings. If she felt that there was a menacing tone to public comment, the speaker would be ejected from the room and the public comment censored.

Trickey's rant was 10 minutes. While the audio of the meeting, posted on their web site was turned on only after I mentioned that she needed to turn on the recorder – I did audio tape the entire meeting and her entire speech was recorded.

This is a clear violation of the Sunshine Ordinance – goes against the will of the voters in 1990. It is outrageous that concerned citizens must hold various SFAC staff members meet to the fire on a regular basis because they don't care about this Ordinance. Patterson's verbal attacks at sunshine hearing stupid.”

Ray Hartz stated that he is not harassing departments but is instead establishing a record of behavior. Mr. Hartz stated that public comment should not be interrupted and that interruptions are a violation of freedom of speech.

Jason Grant Garza commented on the list of complaints provided by Mr. Hartz and commented on the previous inaction of the Task Force.

Ellen Tsang commented on the action taken on File No. 17027, stated that the matter should not have been taken out of order, and requested information on how to proceed to reopen the complaint. Ms. Tsang stated that the Petitioner for File No. 17027 was ill and that she was assigned as a representative for the Petitioner.

Diane commented on the pattern of behavior of departments and requested the Task Force to meet with the Board of Supervisors to ensure compliance with federal, state and local laws.

6. **File No. 17027:** Complaint filed by Anonymous against Anne Brask, Christine Silva, John Rahaim and the Planning Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failure to respond to an Immediate Disclosure Request in a timely and/or complete manner. (00:04:00 – 00:16:30)
(On May 23, 2017, the Complaint Committee determined that the Task Force has jurisdiction, determined that the requested records are public and referred the matter to the Task Force with a recommendation to find that there were no violations of the Sunshine Ordinance, Sections 67.21 or 67.25.)

Member Tesfai provided a summary of the findings from the Committee's review of the matter.

Administrator Victor Young noted that the Task Force is in receipt of an email (August 2, 2017, 3:30 p.m.) stating that the Petitioner is ill and that Ellen Tsang was to be appointed as an authorized representative. The Petitioner nor their representative was present during the hearing on the matter. There were no speakers on behalf of the Petitioner. Christine Silva, Planning Department (Respondent), provided a summary of the department's position and stated that all records were provided in a timely manner. Ms. Silva provided a timeline of the response provided by the Planning Department. There were no speakers on behalf of the Respondent. A question and answer period followed. The Respondent and Petitioner were provided the opportunity for rebuttals.

Member Hinze, seconded by Member Fischer moved to continue the matter to a future date. Member Hinze rescinded the motion to continue.

Vice Chair Hyland, seconded by Member Hinze, moved to find that the Planning Department did not violate Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25.

Public Comment:
None.

The motion PASSED by the following vote:

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

7. **File No. 17072:** Complaint filed by Marvin Lambert against the Historic Preservation Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, by failing to make draft minutes of each meeting available for inspection and copying upon request no later than ten working day after the meeting (June 7, 2017, meeting). (01:43:00 – 02:15:00)

(On July 10, 2017, the Compliance and Amendments Committee determined that the Task Force has jurisdiction and referred the matter to the Task Force with a recommendation to find a violation of Sunshine Ordinance, Section 67.16. The appearance of the parties at the hearing was waived as the parties agreed that a violation occurred.)

Member Cannata provided a summary of the findings from the Committee's review of the matter.

Marvin Lambert (Petitioner) provided a summary of the complaint and requested the Task Force to find violations. Mr. Lambert questioned how the Sunshine Ordinance Task Force enforces the Sunshine Ordinance and what punishments can be issued. Mr. Lambert stated that he believes that the Planning Department is violating the spirit of the Sunshine Ordinance if not specific sections of the Sunshine Ordinance. There were no speakers on behalf of the Petitioner. The Respondent was not present but previously agreed that the Planning Department violated Administrative Code (Sunshine Ordinance), Section 67.16, by failing to prepare meeting minutes no later than 10 working days after a meeting. There were no speakers on behalf of the Respondent. A question and answer period followed. The Respondent and Petitioner were provided the opportunity for rebuttals.

Member Tesfai, seconded by Member Hinze, moved to find that the Historic Preservation Commission and the Planning Department violated Administrative Code (Sunshine Ordinance), Section 67.16, for failing to make draft minutes available no later than 10 working days after a meeting.

Public Comment:

Ray Hartz disagreed with the motion and stated that a complaint can be filed before the deadline to respond to a request for public request expired.

Jason Grant Garza comments on the operations of the Task Force.

Diana asked what the Task Force can do to train departments on proper procedures and stated that the Sunshine Ordinance needs more teeth.

The motion PASSED by the following vote:

Ayes: 9 – Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 1 – Chopra

SPECIAL ORDER

The hearings on File Nos. 17048 and 17049 will not begin earlier than 5:30 p.m.

8. **File No. 17048:** Complaint filed by Ray Hartz against Angela Calvillo, Clerk of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.16 and 67.34, by willfully failing to place a written summary of the public comment, if no more than 150 words, into the body of the minutes (March 14, 2017, and March 21, 2017, meetings). (02:15:00 – 02:27:00)

(On June 20, 2017, the Education, Outreach and Training Committee determined that the Task Force has jurisdiction and referred the matter to the Task Force with a recommendation to find violation of the Sunshine Ordinance.)

Ray Hartz (Petitioner) provided a summary of the complaint and requested the Task Force to find violations. Mr. Hartz provided a history of the various Task Force Orders of Determination over multiple hearings regarding the matter and stated that Ms. Calvillo is willfully violating the Sunshine Ordinance. There were no speakers in support of the Petitioner. The Respondent was not present. 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 J. Wolf, seconded by Member Maass, moved to find that Angela Calvillo, Clerk of the Board of Supervisors, violated Administrative Code (Sunshine Ordinance), Section 67.16 and 67.34 by willfully failing to place a written summary of public comment, if no more than 150 words, into the body of the minutes.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 – None

Absent: 2 – Chopra, Tesfai

The matter will be referred to the Ethics Commission.

9. **File No. 17049:** Complaint filed by Jason Grant Garza against Director Barbara Garcia, Philip Katzenberger and Basic Price, Department of Public Health, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.25 and 67.34, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

(02:57:00 – 03:45:00)

(On June 20, 2017, the Education, Outreach and Training Committee determined that the Task Force has jurisdiction, determined that the requested records are public and referred the matter to the Task Force with a recommendation to find violation of the Sunshine Ordinance.)

Jason Grant Garza (Petitioner) provided a summary of the complaint and requested the Task Force to find violations. Mr. Garza played a video of his visit to the Emergency Room at General Hospital and stated that it is not possible that there are no records of his visit. Diane Curto spoke in support of the Petitioner. Brent Andrew, Public Health (Respondent); provided a summary of the department's position and stated that all requested documents have been provided or do not exist. Mr. Andrew stated that, with the exception of the video recordings, all records were provided or a statement was provided stating that the requested records do not exist. The video recordings were provided late. Mr. Andrew suggested that the intent of Mr. Garza's request may have been misinterpreted. Mr. Andrew stated that Mr. Garza's name does not appear on the requested logs but redacted copies of the log can be 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 J. Wolf, seconded by Member Hinze, moved to find that Director Barbara Garcia, Philip Katzenberger and Basic Price, Department of Public Health, violated Administrative Code (Sunshine Ordinance), Section 67.25 by failing to respond to an Immediate Disclosure Request in a timely and complete manner.

Public Comment:

Ray Hartz stated that Mr. Garza was present at General Hospital and that there must be some record or log of the incident.

The motion PASSED by the following vote:

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

Noes: 0 – None

Absent: 2 – Chopra, Tesfai

10. Reports from Sunshine Ordinance Task Force Committees.

- Complaint Committee
- Compliance and Amendments Committee
- Education, Outreach and Training Committee
- Rules Committee
- Information Technology Ad Hoc Committee

Member Cannata commented on the need for the Task Force to review the public comment procedure for complaints. It was requested that the Task Force hold a hearing on the matter at the September 6, 2017, meeting. Mr. Cannata stated that upon discussion the committee decided to change the regular meeting date to the third Tuesday of the month (odd months).

Member J. Wolf provided a summary of the Education, Outreach and Training Committee's recent actions.

Member Hinze stated that the Rules Committee intends to meet on September 26, 2017, to discuss changes to the Task Force Bylaws and Procedures.

Member Maass provided a summary of IT Ad Hoc Committee meeting to discuss Drone Policy, Body Cameras and Police Department public records system.

Public Comment:
None.

No actions taken.

11. Sunshine Ordinance Task Force - Chair's Report.

- Sunlight Foundation update regarding open data in the hands of residents
- City Hall closed circuit televising of meetings and public access

Chair Wolfe provided a summary/update on the Sunlight Foundations work with open records. Chair Wolfe provided an update on the City Hall closed circuit television broadcast of meetings.

The Task Force discussed possible actions to have the Task Force meeting broadcast online.

Member J. Wolf, seconded by Member Eldon, moved to submit a public records request to SFGTV and/or the Department of Technology requesting a copy of the video recording from the City Hall closed circuit television of the Sunshine Ordinance Task Force August 2, 2017, meeting.

Public Comment:

Ray Hartz stated that Sunshine Ordinance, Section 67.14, suggests that compliance with the Sunshine Ordinance should be taken into account when upgrading systems and technology.

The motion PASSED by the following vote:

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

12. 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.

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

Chair Wolfe provided a summary of the intent of the Committees to hearing complaints and cautioned that the Committees should not adjudicate complaints or make recommendations unless the facts are very clear.

Chair Wolfe stated that there are discussion regarding application of the California Public Records Act and the Sunshine Ordinance regarding deadline for responding and extensions of time to respond.

Public Comment:

None.

13. ADJOURNMENT

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

By a rise in vote the meeting was adjourned without objection at 8:50 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: Draft