

Minutes  
Sunshine Ordinance Task Force  
Special Meeting  
April 27, 1999

1. Roll Call

2. Absent: Armstrong, Bernstein, Sutley, Wong

3. Report

One complaint—Philip Armstrong w/Attorney  
Response from Baumgartner regarding complaint from Coalition on Homelessness  
Three other complaints

Bruce Brugmann comments on letter from City Attorney dated 4/23/99. Too late for review for Task Force.

Susan Frankel; letter not prepared for Task Force but as a follow-up.

5. Task Force Members Questions & Comments

Susan Frankel; Jackie Minor will be assisting her on Sunshine matters. Sue \_\_\_\_\_approved as member to Task Force. Awaiting signage from Mayor.

Bob Planthold; continued problems with receiving agenda and materials before meeting. We did not meet the deadline to the Clerk which is one week before deadline.

David Pilpel; agenda sent out in wrong format (e-mail) which caused a one-day delay.

Rachel O'Hara; there is a problem with getting mail from City Hall to 875 Stevenson.

Bruce Brugmann; can we move up one-day the agenda deadline.

David Pilpel; problem is being worked on.

No public comment.

5&6. No discussion items

7. Other Pending Legislation

Bill No. 48 (Sher); Leno supports; several amendments to bill; City has taken a position.  
Bob Planthold; goes before a committee who decides that a position will be taken.  
Bruce Brugmann; we did pass a resolution supporting; should pass back to Ammiano and Yaki who are in Legislature.

8. Discussion on Deliberative Process Privilege

Bruce passed out an opinion paper from Terry Francke which discusses this issue.

67.24 H of Sunshine Ordinance: Read opinion paper in relationship to paper. This part of Sunshine Ordinance should exempt deliberative process. We are on record from last

meeting in disagreement to using the deliberative process privilege. This is a narrow version (Times Mirror case) to hide more information from the public.

David Pilpel: Are there any instances where this privilege is okay?

Bruce Brugmann: No. Using this privilege allows for too much secrecy.

Bob Planthold: When was this document printed/written?

Bruce Brugmann: Received today.

Bob Planthold: Why was this on meeting? Especially so since the requester (H. Bernstein) is not at meeting.

David Pilpel: Reminded members to read dissenting opinion (this was a tight 4-3 vote). This seems to be used more to deny access to public records.

Bruce Brugmann: Is there any information that can be obtained on how this is being used?

Johnny Brannon: Still a question as how long this deliberative process is actually in effect.

David Pilpel asked question of Susan Frankel.

Susan Frankel: Decision made on a case-by-case basis.

Johnny: Is this a change in policy, i.e., is there a bearing that once a policy is finished could all documents be released at that point?

Susan Frankel: Maybe.

Bruce Brugmann: From discussion seems that this is a policy to continue using deliberative process privilege. It is possible for City Attorney to provide to have a count/listing.

Susan Frankel: City Attorney does not set policy or make decision; advises departments who make decision to invoke policy.

David Pilpel: Can City Attorney attempt to get stats on this for past two years?

Bruce Brugmann: Number of times and summary of issue.

David Pilpel: Is there ever a time that the documents are never made available due to privilege?

Susan Frankel: Maybe, but cannot give

Public comment of Section 8:

Attorney from Coalition on Homelessness spoke, but we will come back to her on comments. Judith Appel

9. Sending a letter out regarding taping of meetings

Letter was written by Johnny Brannon.

Johnny Brannon: We need to review letter before sending it; but not received in time.

Moved to agenda next meeting (continued)

Back to Item 8.

Ordinance could be clearer on this point. 67.24 is pretty specific that documents excluded under State law are not exempt under ordinance. Explained further in findings Section 62.55 (State); does not apply to ordinance; ordinance meant to allow drafts and memos; clear distinction between what documents can be excluded using deliberative process privilege.

David Pilpel: State requires that reason be given to use privilege. Has City gone the length to apply facts to privilege; explain why privilege is being evoked.

Attorney from Coalition on Homelessness: No reasons not given as to why privilege is being evoked.

Bruce Brugmann: Any response from City departments?

Judith Appel: As of yet, no difference in response; probably helpful to have First Amendment expert to discuss.

David Pilpel: Section 67.24 vs. 62.55: Need to determine clarification between two.

Bruce Brugmann: Place on next agenda for further discussion.

Susan Frankel: Asked for clarification of what she is researching.

Public Comments:

Sue Kaufmann: Letter from us to Finance Committee & Planning Department—is this appropriate?

David Pilpel: Do you (Sue) have documents that can review?

Eric\_\_\_\_\_, Section 67.17/67.19: Comments during public comments. Individuals told to curtail public comments. What is proper for public comments? (Officials making comments to individuals on how comments are being made.) 2/99 and 4/26/99.

David Pilpel: Eric to discuss with Rachel on what happened to work towards filing a complaint.

Also from Eric\_\_\_\_\_: Can there be a wall clock (timer) to give time?

Bob Planthold: Need to be careful depending on what comments is (he attended Rec meeting where this is one instance.)

10. Task Force Officer Responsibilities & Procedures

David Pilpel: Need to discuss since elections are next meeting.

Bob Planthold: Lack of minutes from meeting; getting agenda to clerk on time; email of agenda—should this be happening; only done as a way to clarify meeting.

David Pilpel: No decision made from this process; discussion of positions.

Media Liaison—used to do media outreach; does press release/information on upcoming meetings.

David Pilpel: Could we send out notices about decisions made by SOTF?

Secretary: Minutes needed; take notes, listen to tape and provide minutes to clerk to provide to members in mailing.

Vice Chair: Responsive and supportive to agenda; can keep us focused; start/run meetings in absence of the Chair; also represent Task Force in hearings of Supervisors.

Chair: Setting up agendas; inviting individuals to meetings/hearings. Liaison with other committees/Board of Supervisors.

Moving to Item 13

David Pilpel cannot attend meeting of 5/25; can meeting be moved to 5/18; consensus of group to move meeting to 5/18.

Meeting suspended.

Bob Planthold: Made motion; Johnny Brannon seconded; motion passed.

11. Outstanding Task Force Work Items

Letters needed

Bruce Brugmann: Individuals making resolutions should send letters for Task Force.

Bob Planthold: Work towards to change rule so that individuals make letters.

David Pilpel: Johnny Brannon and Bruce Brugmann to help David with doing letters.

12. Consideration of San Francisco for Sunshine Initiative

Initiative has been filed; City Attorney to file comment regarding initiative; can we as a Task Force give a comment on initiative?

Bob Planthold: We cannot give an opinion on the initiative but can give a comment to the Board on the initiative.

Comments from Ray\_\_\_\_\_ (San Francisco for Sunshine): Initiative on website of By Guardian to review ([www.SFBS.com](http://www.SFBS.com)); individual members should be able to give comments.

David Pilpel: Request from City Attorney to supply summary of initiative.

14. Agenda Items for Next Meeting

1. Letters needed
2. Election of officers  
\*\*Check with David Pilpel on other items
3. Resolution to Board in support of initiative
4. Summary of San Francisco for Sunshine Initiative from City Attorney