



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

April 19, 2016 - 4:00 PM

Regular Meeting

Members: Eric Eldon, Allyson Washburn, Shaun Haines

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

Chair Eric Eldon called the meeting to order at 4:06 p.m. On the call of the roll Members Eldon, Washburn and Pilpel were noted present. (*Member Pilpel was appointed to serve in place of Member Haines for the April 19, 2016, meeting.*)

There was a quorum.

There were no agenda changes.

2. File No. 15077: Hearing on the Status of the Order of Determination: Complaint filed by Richard Denton against the Office of the City Attorney for violating Administrative Code (Sunshine Ordinance), Section 67.21(d), by failing to provide a determination as to whether a record is public in a timely manner.

The Complaint and Respondent did not appear.

Richard Denton (Complainant) submitted the follow statement for the committee's review:

"The City Attorney's Office represents the City bureaucracy and—despite its role as Supervisor of Records—is not duty bound to protect the interests of the SOTF or the public since this would be an ethical conflict of interest. In my case the PUC altered public safety records against public policy and with the CAO's knowledge. The CAO nonetheless remained silent in order to protect the PUC—their actual client. If the CAO had fully enforced the Sunshine Ordinance rules they would have compelled their client to expose themselves to litigation in

violation of their legal duty to their client. The CAO cannot represent both the City and the public. This conflict of interest is inescapable as a matter of law, and violations will continue so long as the SOTF relies on the CAO to function as the Supervisor of Records."

Member Pilpel volunteer to draft a letter to the Office of the City Attorney regarding their position to not attend Sunshine Ordinance Task Force meeting.

Member Washburn, seconded by Member Pilpel, moved to find that the Office of the City Attorney complied with the Order of Determination and concluded the matter.

Public Comment:

Silvia Johnson provided general comments.

The motion PASSED by the following vote:

Ayes: 3 - Pilpel, Washburn, Eldon

Noes: 0 - None

Absent: 1- Haines

- File No. 15159: Hearing on the Status of the Order of Determination:** Complaint filed by Tom Borden against Recreation and Parks Department for violating Administrative Code (Sunshine Ordinance), Sections 67.21(b) and (e), by failing to respond to a public records request in a timely and/or complete manner and failing to comply, or incompletely complied, with the request for public records.

Eric Pawlowsky and Denny Kern, Recreation and Parks (Respondent), provided a summary of the department's position and answered questions from the committee. Mr. Kern stated that the policy in question was implemented by General Manager Phil Ginsberg and it is not documented in a written form. Tom Borden (Complainant) provided additional information regarding Recreation and Parks non-compliance with the Sunshine Ordinance.

The committee expressed their concern over the fact that Recreation and Parks is not documenting all of their existing policies and has not allow public input prior to implementation of policies.

Member Washburn, seconded by Member Eldon, moved to refer the matter to the Sunshine Ordinance Task Force with the additional recommendation that the Task Force find Recreation and Parks in violation of Administrative Code (Sunshine Ordinance), Section 67.29-7, for failing to maintain and preserve in a professional and businesslike manner all documents and correspondence, including but not limited to letters, emails, drafts, memorandum, invoices, reports and proposals and shall disclosure all such records. In addition, Member Pilpel volunteered to draft an additional letter to Recreation and Parks regarding the issue.

Public Comment:

Alex Aldrich described his experience regarding the lack of documentation for existing Recreation and Park policies.

The motion PASSED by the following vote:

Ayes: 3 - Pilpel, Washburn, Eldon
Noes: 0 - None
Absent: 1- Haines

4. **File No. 16003: Hearing on the Status of the Order of Determination:** Complaint filed by Jerome Roth on behalf of the Blue Ribbon Panel on Transparency, Accountability and Fairness in Law Enforcement against the San Francisco Police Department for violating Administrative Code (Sunshine Ordinance), Sections 67.21(a)(c) and 67.27, by failing to respond to a public records request in a timely and/or complete manner, failing to provide sufficient assistance to the requester in identifying the existence, form and nature of any records or information maintained and failing to provide appropriate justification for withholding certain records.

Nicholas Fram (Complainant) and Lt. Kathryn Waaland, Police Department (Respondent), provided an update on the status of the public records request and timeline for production of documents.

Member Pilpel, seconded by Member Washburn, moved to find that the Police Department complied with the Order of Determination and concluded the matter. *(The Task Force reserves the right to reopen the complaint pending the provision of the remaining documents within two-weeks).*

Public Comment:

Michael Petrelis commented on the District Attorney uses of private law firms for pro bono work.

The motion PASSED by the following vote:

Ayes: 3 - Pilpel, Washburn, Eldon
Noes: 0 - None
Absent: 1- Haines

5. **File No. 15063: Hearing on the Status of the Order of Determination:** Complaint filed by Michael Petrelis against District Attorney George Gascon and the Office of the District Attorney for violating Administrative Code (Sunshine Ordinance), Sections 67.25(a) and 67.29-5, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner and failing to maintain a daily calendar wherein is recorded the time and place of each meeting or event attended.

Michael Petrelis provided an update on the status of the District Attorney's compliance with the Order of Determination. Alex Bastian and Nikesh Patel, District Attorney's Office (Respondent), provided a summary of the department's compliance with the Order of Determination. A question and answer period followed. The Complainant and Respondent were allowed to provide rebuttals.

The committee requested the Office of the District Attorney to provide a list of improvements and items that should be included in the District Attorney's calendar within 2-weeks. Considerations should be given to the ability to use the document as instructions and direction in the future.

Member Pilpel, seconded by Member Washburn, move to find that the Office of the District Attorney complied with the Order of Determination and concluded the matter.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Pilpel, Washburn, Eldon

Noes: 0 - None

Absent: 1- Haines

The Compliance and Amendments Committee shall hold a hearing on File Nos. 16024 and 16029 to: 1) determine if the Sunshine Ordinance Task Force (SOTF) has jurisdiction; 2) review the merits of the complaints; and/or 3) issue a report and/or recommendation to the SOTF. The SOTF, upon receipt of the report and/or recommendation from the Committee, shall: 1) accept the recommendation of the Committee; 2) schedule the complaint for a hearing before the SOTF at a future date; or 3) immediately hold a hearing on the merits of the complaint.

6. **File No. 16024:** Complaint filed by Michael Petrelis against District Attorney George Gascon and the Office of the District Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.4(a), by failing to provide a notice of meeting or an agenda on their website or upon inquiry by a member of the public (Blue Ribbon Panel on Transparency, Accountability and Fairness in Law Enforcement – February 22, 2016, meeting). (*attachment*)

Member Washburn, seconded by Member Pilpel, moved to find jurisdiction on the matter.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 3 - Pilpel, Washburn, Eldon
Noes: 0 - None
Absent: 1- Haines

Michael Petrelis provided a summary of the complaint and requested the Task Force to find a violation. There were no speakers in support of the Complainant. Alex Bastian and Nikesh Patel, District Attorney's Office (Respondent), provided a summary of the department's position. Nick Fram spoke in support of the Respondent. A question and answer period followed. The Complainant and Respondent were allowed to provide rebuttals.

Upon questioning by the committee it is the understanding of the committee that the Blue Ribbon Panel is a passive meeting body organized by the Office of the District Attorney not subject many noticing requirements.

Member Pilpel, seconded by Member Washburn, moved to refer the matter to the Sunshine Ordinance Task Force with the recommendation to find that the Task Force has jurisdiction and that there were no violations of Administrative Code (Sunshine Ordinance), Chapter 67.

Public Comment:
Silvia Johnson provided general comments.

The motion PASSED by the following vote:

Ayes: 3 - Pilpel, Washburn, Eldon

Noes: 0 - None

Absent: 1- Haines

7. **File No. 16029:** Complaint filed by Michael Petrelis against District Attorney George Gascon and the Office of the District Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to make documents available in any form requested which is available to or easily generated by the department and failure to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Michael Petrelis provided a summary of the complaint and requested the Task Force to find a violation. There were no speakers in support of the Complainant. Alex Bastian and Nikesh Patel, District Attorney's Office (Respondent), provided a summary of the department's position. Silvia Johnson spoke in support of the Respondent. A question and answer period followed. The Complainant and Respondent were allowed to provide rebuttals.

The committee opined that if a department determines that a public records request doesn't qualify as an Immediate Disclosure Request the requester must be so informed by the end of the next business day.

Member Pilpel, seconded by Member Washburn, moved to refer the matter to the Sunshine Ordinance Task Force with the recommendation to find that the Task Force has jurisdiction and that District Attorney George Gascon and the Office of the District Attorney violated Administrative Code (Sunshine Ordinance), Sections 67.21 (c) and 67.25 (a) and (b), by failing to assist a requester in identifying the existence, form and nature of any records or information maintained and failure to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Public Comment:

Silvia Johnson provided general comments.

The motion PASSED by the following vote:

Ayes: 3 - Pilpel, Washburn, Eldon

Noes: 0 - None

Absent: 1- Haines

8. **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:

Michael Petrelis thanked the Task Force and commented of the absences of Members Haines and Chopra from various meetings.
Silvia Johnson provided general comments.

9. **Approval of the February 16, 2016, Compliance and Amendments Committee meeting minutes.**

The committee discussed the proposed minutes.

Member Washburn, seconded by Member Pilpel, moved to approve the February 16, 2016, minutes as amended.

Public Comment:

Silvia Johnson provided general comments.

The motion PASSED by the following vote:

Ayes: 3 - Pilpel, Washburn, Eldon

Noes: 0 - None

Absent: 1- Haines

10. **Announcements, Comments, Questions, Future Agenda Items, and Pending Calendar.**

The following items are pending before the Compliance and Amendments Committee and will be scheduled on a future date.

- File No. 14101: Order of Determination - Grossman v. Dept. of Building Inspection. (*Pending update on completion of program implementation*)

11. **ADJOURNMENT**

There being no further business the meeting was adjourned at 7:15 p.m.

**APPROVED: June 21, 2016
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.