



SUNSHINE ORDINANCE TASK FORCE
Compliance and Amendments Committee
CITY AND COUNTY OF SAN FRANCISCO
MINUTES - DRAFT

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

June 21, 2016 - 4:00 PM

Regular Meeting

Members: Louise Fischer (Chair), Frank Cannata, Bruce Wolfe

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

Chair Louise Fischer called the meeting to order at 4:04 p.m. On the call of the roll Members Fischer, Cannata and Wolfe were noted present.

There was a quorum.

Item No. 4 (File No. 16041) was withdrawn by the Complainant.

2. Approval of the April 19, 2016, Compliance and Amendments Committee meeting minutes.

The committee discussed the approval of the proposed minutes.

Member Wolfe, seconded by Member Cannata, moved to approve the April 19, 2016, minutes.

Public Comment:

Peter Warfield commented on the order of the agenda items and provided suggestions related to minutes approval process.

The motion PASSED by the following vote:

Ayes: 3 - Wolfe, Cannata, Fischer

Noes: 0 - None

The Compliance and Amendments Committee held hearings on File Nos. 16023, 16041, 16042, 16043 and 16054 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.

3. **File No. 16023:** Complaint filed by Nick Pasquariello against Mayor Edwin Lee and Steve Kawa, Office of the Mayor, 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.

Member Cannata, seconded by Member Wolfe, moved to find jurisdiction on the matter.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Wolfe, Cannata, Fischer

Noes: 0 - None

Nick Pasquariello (Complainant) provided a summary of the complaint and requested the Task Force to find violations. Mr. Pasquariello stated that his request was directed only to Mayor Edwin Lee and Chief of Staff Steve Kawa and not the entire Office of the Mayor. There were no speakers in support of the Complainant. Carl Nicita, Office of the Mayor (Respondent), provided a summary of the department's position. Mr. Nicita stated an extension of time to respond to the Immediate Disclosure Request was invoked and that a response to Mr. Pasquariello's request from the entire Office of the Mayor was provided in a timely manner. There were no speakers in support of the Respondent. A question and answer period followed. The Complainant and Respondent were allowed to provide rebuttals.

Upon review of the complaint the Committee unanimously agreed that the request or records was directed to Mayor Edwin Lee and Chief of Staff Steve Kawa and not the entirety of the Office of the Mayor. While the provision of records from the entirety of the Office of the Mayor was most likely provided in the abundance of caution to ensure that all records were provided, it was not directly responsive to the request and had the effect of inundating the Complainant with unresponsive documents.

The Committee **requests/suggests** that the Respondents provide a response that limits the responses to Mayor Edwin Lee and Chief of Staff Steve Kawa eliminated responses from other members of the Office of the Mayor.

In addition, a majority of the Committee disagreed with the Respondent's decision to not treat the request as appropriately filed as an Immediate Disclosure Request. Pursuant to Administrative Code, Section 67.25 (b), an extension of time (10 days) may be warranted due to the voluminous nature of the information requested, its location in a remote storage facility or the need to consult with another interested department. However, there are no provisions that allows the Respondent to discount the validity of an Immediate Disclosure Request and apply a 10 day response time. In addition the Committee does not believe that circumstance/qualifying factors that allow for the extension of time to respond to an Immediate Disclosure Request were met.

Member Wolfe, seconded by Member Cannata moved to refer the matter to the Sunshine Ordinance Task Force with the recommendation to find that the Task Force has jurisdiction and to find that Mayor Edwin Lee and Chief of Staff Steve Kawa, Office of the Mayor, violated Administrative Code (Sunshine Ordinance), Section 67.21 (b) by failing to respond to a public records request in an appropriate manner and Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely manner.

Chair Washburn request that the question be divided.

Member Wolfe objected to the decision of Chair Fischer to allow only one public comment period for both portions of the divided motion instead of allowing public comment on each motion separately.

Public Comment:

Peter Warfield stated that the Task Force needs to review their bylaw and procedures. Mr. Warfield stated that it is up to the members of the public to decide if they would like to use less than three minutes for public comment and not the chair of the Committee. Mr. Warfield agreed with the Committee that the departments cannot decide what qualifies as an Immediate Disclosure Request.

The motion to find violation of Administrative Code (Sunshine Ordinance), Section 67.21 (b) PASSED by the following vote:

Ayes: 3 - Wolfe, Cannata, Fischer
Noes: 0 - None

The motion to find violation of Administrative Code (Sunshine Ordinance), Section 67.25 PASSED by the following vote:

Ayes: 2 - Wolfe, Cannata
Noes: 1 - Fischer

4. **File No. 16041:** Complaint filed by Roman Berenshteyn against Animal Care and Control for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Item No. 4 (File No. 16041) was withdrawn by the Complainant prior to the meeting.

Items Nos. 5 and 6 (File Nos. 16042 and 16043) were called and heard together.

5. **File No. 16042:** Complaint filed by Ann Treboux against the War Memorial Board of Trustees 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 days after the meeting (January 14, 2016, draft minutes).

Member Wolfe, seconded by Member Fischer, moved to find jurisdiction on File Nos. 16042 and 16043.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Wolfe, Cannata, Fischer

Noes: 0 - None

Ann Treboux (Complainant) provided a summary of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Jennifer Norris, Executive Secretary, War Memorial Board of Trustees (Respondent), provided a summary of the department's position. Ms. Norris acknowledged that the minutes for January 14, 2016, were not posted online in a timely manner. Ms. Norris stated that the minutes for April 14, 2016, were not posted online but were made available upon request in a timely manner. Ms. Norris assured the Committee that the cause of the errors has been found and addressed. There were no speakers in support of the Respondent. A question and answer period followed. The Complainant and Respondent were allowed to provide rebuttals.

The Committee noted that Administrative Coded (Sunshine Ordinance), Section 67.16, does not specifically state that draft minutes must be posted on the Body's internet site. However, Administrative Code, Section 67.9 (a), does state that to the extent possible, documents on file with the clerk, which are intended for distribution to all shall be made available through the Body's internet site to the extent possible.

Member Wolfe, seconded by Member Cannata, moved to refer the matter to the Sunshine Ordinance Task Force with the recommendation to find that the Task Force has jurisdiction and to find that the War Memorial Board of Trustees violated Administrative Code (Sunshine Ordinance), Section 67.16 by failing to respond to make the draft minutes for the January 14, 2016, and April 14, 2016, available for inspection and copying upon request no later than ten working days after the meeting (File Nos. 16042 and 16043).

Public Comment:
None.

The motion to find violation of Administrative Code (Sunshine Ordinance), Section 67.16, PASSED by the following vote:

Ayes: 3 - Wolfe, Cannata, Fischer
Noes: 0 - None

Chair Fischer opined that she believes that the Respondent has addressed the cause of the violations and does not believe additional referrals to Committee for training or compliance is required at this time.

6. **File No. 16043:** Complaint filed by Ann Treboux against the War Memorial Board of Trustees 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 days after the meeting (April 14, 2016, draft minutes).

Please see Item No. 5 (File No. 16042) for a summary of the discussion and actions.

7. **File No. 16054:** Complaint filed by Ann Treboux against the War Memorial Board of Trustees for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.7, by failing to post a current agenda on its internet site at least 72 hours before a regular meeting.

Member Cannata, seconded by Member Fischer, moved to find jurisdiction on matter.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 3 - Wolfe, Cannata, Fischer
Noes: 0 - None

Ann Treboux (Complainant) provided a summary of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Jennifer Norris, Executive Secretary, War Memorial Board of Trustees (Respondent), provided a summary of the department's position. Ms. Norris acknowledged that the agenda for June 9, 2016, was accidentally posted under the minutes sections online by a new employee performing the function for the first time. Ms. Norris stated that once the error was pointed out the problem was corrected prior to the start of the meeting. In addition, Ms. Norris stated that physical copies of the agenda were posted in the appropriated locations both inside and outside of the building.

Member Cannata, seconded by Member Wolfe, moved to refer the matter to the Sunshine Ordinance Task Force with the recommendation to find that the Task Force has jurisdiction and to find that the War Memorial Board of Trustees violated Administrative Code (Sunshine Ordinance), Section 67.7 by failing to post the June 9, 2016, agenda on its internet site at least 72 hours before a regular meeting.

Public Comment:

None.

The motion to find violation of Administrative Code (Sunshine Ordinance), Section 67.7, PASSED by the following vote:

Ayes: 3 - Wolfe, Cannata, Fischer

Noes: 0 - None

Chair Fischer opined that she believes that the Respondent has addressed the cause of the violations and does not believe additional referrals to Committee for training or compliance is required at this time.

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:

Charles Pitts requested information regarding his complaints pending before the Task Force.

Ann Treboux stated that her complaint filings are not malicious and provided a summary of her experiences with several departments.

9. **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*)
 - File No. 15139: Order of Determination – Mooney v. Assessor/Recorder

Task Force Administrator Victor Young provided a summary of issues pending before the Compliance and Amendments Committee.

Public Comment:

None.

10. **ADJOURNMENT**

There being no further business the meeting was adjourned at 6:06 p.m.

APPROVED: DRAFT

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.