



# 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

April 6, 2016 - 4:00 PM

#### Regular Meeting

Seat 1	Mark Rumold	Seat 7	Vacant
Seat 2	Eric Eldon	Seat 8	Shaun Haines
Seat 3	Josh Wolf	Seat 9	Chris Hyland - <b>Vice Chair</b>
Seat 4	Rishi Chopra	Seat 10	Louise Fischer
Seat 5	Allyson Washburn - <b>Chair</b>	Seat 11	Fiona Hinze
Seat 6	David Pilpel		

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 Washburn called the meeting to order at 4:04 p.m. Members Chopra, Haines, and Eldon were absent. There was a quorum.

Charles Pitts (Complainant in Item No. 11) requested that Item No. 11 be continued to a future date.

**Member Hinze, seconded by Member Wolf, moved to continue Item No. 11 to the call of the chair.**

Public Comment:  
None.

**The motion PASSED by the following vote:**

Ayes: 7 - Rumold, Wolf, Pilpel, Fischer, Hinze, Hyland, Washburn  
Noes: 0 - None  
Absent: 3 - Eldon, Chopra, Haines

Bob Planthold (Complainant in Item No. 9) and Patrick Monette-Shaw (Complainant in Item No. 10) requested that Item Nos. 9 and 10 be moved towards the beginning of the agenda as an American with Disability (ADA) accommodation.

**Public Comment:**

Michael Petrelis objected to the change of the agenda and stated that the request is an abuse of the ADA.

Ray Hartz stated that the Task Force must comply with ADA requests.

Bob Planthold stated that he advised Mr. Petrelis of the potential ADA request.

Charles Pitts stated that the Task Force should create a policy to determine how ADA requests that change the agenda order should be handled.

**Member Pilpel moved to hear Item Nos. 9 and 10 after Item No. 2. There being no second, the motion FAILED.**

**Member Hinze, seconded by Vice-Chair Hyland, moved to hear Item Nos. 9 and 10 after Item No. 1.**

**The motion PASSED by the following vote:**

Ayes: 7 - Rumold, Eldon, Wolf, Pilpel, Fischer, Hyland, Washburn

Noes: 0 - None

Absent: 3 - Chopra, Haines, Hinze

2. **File No. 15163:** Complaint filed by Michael Petrelis against Steve Kawa and the Mayor's Office for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.25, 67.29-7, and 67.34, by failing to completely respond to a public records request for the calendar of Chief of Staff, Steve Kawa.. (01:50:00 – 02:37:00)

Member Rumold provided an overview of his proposed Order of Determination for the Task Force's consideration. Michael Petrelis (Complainant) and Carl Nicita, Mayor's Office (Respondent), responded to questions from the Task Force regarding the matter.

Deputy City Attorney Colla answered questions related to the matter.

**Member Hinze, seconded by Vice Chair Hyland, moved to continue the matter to the call of the chair.**

**Public Comment:**

Patrick Monette-Shaw expressed support for the continuance and commented on the proposed Order of Determination.

Ray Hartz stated that the Mayor is responsible for ensuring that his department complies with the Sunshine Ordinance and commented on Task Force quorum issues.

Ann Treboux provided general comments on the matter.

**The motion PASSED by the following vote:**

Ayes: 6 - Rumold, Eldon, Wolf, Pilpel, Hyland, Washburn

Noes: 0 - None

Absent: 4 - Chopra, Haines, Hinze, Fischer

Pursuant to Administrative Code (Sunshine Ordinance), Section 67.16, following is a 150-word summary submitted by Patrick Monette-Shaw regarding File No. 15163:

*"I support the draft Order of Determination Member Rumold prepared for this complaint, and the recommendation to forward this case to the Ethics Commission for willful failure under Sunshine §67.34. However, Rumold's claim on page 3 of the Order of Determination that California Government Code §34090 "authorizes City governments to destroy records if their retention is not otherwise required" appears incorrect. §34090(d) does **not** permit the destruction of **original** records less than two years old, and §34090.5 permits destruction only when **all** of four named specific conditions are met. In Mr. Kawa's case, **none** of those four conditions were met: The Order of Determination needs amending. It doesn't name City Attorney Herrera for providing bad advice concerning the Mayor's Records Retention Policy. The Task Force or the Ethics Commission should order the City Attorney to revise Records Retention Policies in every City Department to comply with §34090's two-year retention period."*

3. **File No. 16003:** 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 allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.27, by failing to respond to a public records request in a timely and/or complete manner and failing to provide justification for withholding information. ). (02:37:00 - )

Nicholas Fram on behalf of the Panel (Complainant) provided an overview of the complaint. Lt. Kathryn Waaland, Police Department (Respondent), presented the department's position and the status of compliance with the public records request.

Member Pilpel provided corrections to the Order of Determination.

**Vice Chair Hyland, seconded by Member Hinze, move to refer the matter to the Compliance and Amendments Committee to monitor the process of document production.**

Public Comment:

Ray Hartz stated that the Police Department has not complied with the deadline to provide public records and that the Task Force cannot extend the deadline.

**The motion PASSED by the following vote:**

Ayes: 6 - Rumold, Eldon, Wolf, Pilpel, Hyland, Washburn

Noes: 0 - None

Absent: 4 - Chopra, Haines, Hinze, Fischer

**Recommendation from the Compliance and Amendments Committee.**

*(The Compliance and Amendments Committee held a hearing on February 16, 2016, to review File Nos. 15167, 16007, and 16005 and issued a report and/or recommendation for the review of the Sunshine Ordinance Task Force (SOTF). Upon review of the Committee's recommendations the SOTF shall: 1) accept the recommendation of the Committee; or 2) schedule the complaint for a hearing before the SOTF at a future date.*

4. **File No. 15167:** Complaint filed by Michael Petrelis against the Fire Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.7, by failing to post an agenda that contains a meaningful and clear description of each item of business to be transacted or discussed at a meeting (Item No. 6, San Francisco Fire Commission's December 17, 2015, Agenda).

*(The Compliance and Amendments Committee recommended that the SOTF has jurisdiction and to find a violation of Administrative Code (Sunshine Ordinance), Section 67.7, for failure to post an agenda that contains a meaningful and clear description of each item of business to be discussed at a meeting.)*

**Michael Petrelis (Complainant) verbally withdrew File Nos. 15167 and 16007.****Public Comment:**

Ray Hartz stated that Mr. Petrelis' frustrations with the Task Force caused the withdrawal and further stated that the Task Force is not treating complainants fairly.

5. **File No. 16007:** Complaint filed by Michael Petrelis against the San Francisco Police Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.7, by failing to post an agenda that contains a meaningful and clear description of each item of business to be transacted or discussed at a meeting (San Francisco Police Commission's January 6, 2016, Agenda.)

*(The Compliance and Amendments Committee recommended that the SOTF has jurisdiction and to find a violation of Administrative Code (Sunshine Ordinance), Section 67.7, for failure to post an agenda that contains a meaningful and clear description of each item of business to be discussed at a meeting.)*

**Michael Petrelis (Complainant) verbally withdrew File Nos. 15167 and 16007.**

## Public Comment:

Ray Hartz stated that Mr. Petrelis' frustrations with the Task Force caused the withdrawal and further stated that the Task Force is not treating complainants fairly.

6. **File No. 16005:** Complaint filed by Charles Pitts against the San Francisco Police Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25(a), by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

*(The Compliance and Amendments Committee recommended that the SOTF has jurisdiction and to find a violation of Administrative Code (Sunshine Ordinance), Sections 67.25(a) and (b), for failure to notify the requester by the close of business on the business day following the request that additional time was needed to respond to the Immediate Disclosure Request.)*

The Task Force reviewed the recommendation of the Compliance and Amendments Committee.

**Member Pilpel, seconded by Vice Chair Hyland, moved to accept the recommendation of the Compliance and Amendments Committee and find that the Police Department violated Administrative Code (Sunshine Ordinance), Section 67.25(a), by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.**

## Public Comment:

None.

**The motion PASSED by the following vote:**

Ayes: 6 - Rumold, Eldon, Wolf, Pilpel, Hyland, Washburn

Noes: 0 - None

Absent: 4 - Chopra, Haines, Hinze, Fischer

7. **Public Comment:** Members of the public may address the Sunshine Ordinance Task Force (SOTF) on matters that are within the SOTF's jurisdiction, but not on today's agenda.

**Speakers:**

Michael Petrelis stated that the request to change the order of the agenda is an abuse of the ADA and withdrew his complaints (File Nos. 15167 and 16007).

Ann Treboux discussed the lack of requested contact information on complaints and her experiences with fraud when working with Thomas Picarello.

Ray Hartz expressed support for Mr. Petrelis' withdrawal and stated that Task Force Order of Determinations were useless.

Patrick Monette-Shaw stated that he was unaware of the ADA request but does not believe that it was an abuse. Mr. Monette-Shaw suggested that Member Pilpel be barred from providing comments at other Board and Commission meetings.

Charles Pitts suggested that he was not being treated fairly by the Task Force Administrator.

Chair Washburn announced that she was recently informed that Member Fischer will be leaving the meeting at approximately 6:00 p.m. and that Member Pilpel requested to be recused from hearing File No. 16012. Upon the request of Vice Chair Hyland, Member Pilpel disclosed his participation and comments at the Ethics Commission's January 24, 2016, meeting and stated his desire to avoid the appearance of bias. Vice Chair Hyland opined that Member Pilpel should still be able to participate impartially in the hearing of File No. 16012. (01:25:00 - )

The Task Force discussed possible actions due to the possibility that the Task Force will lose quorum due to Member Pilpel's proposed recusal and pending absence of Member Fischer.

8. **File No. 16012:** Complaint filed by Ray Hartz against LeeAnn Pelham, Executive Director of the Ethics Commission and the Ethics Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.7(b), by failing to provide a description that is meaningful and sufficiently clear to alert a person of average intelligence and education whose interests are affected by an agenda item (Ethics Commission January 25, 2016, Agenda – Item 7).

The Task Force discussed possible actions due to the possibility that the Task Force will lose quorum due to Member Pilpel's proposed recusal and pending absence of Member Fischer.

**Member Hinze, seconded by Member Fischer, moved to continue the matter to the call of the chair.**

**Public Comment:**

Ray Hartz (Complainant), objected to the continuance of the matter and provided a summary of his past experiences with the Task Force.

**The motion PASSED by the following vote:**

Ayes: 7 - Rumold, Eldon, Wolf, Pilpel, Fischer, Hyland, Washburn

Noes: 0 - None

Absent: 3 - Chopra, Haines, Hinze

Member Fischer was noted absent at 7:01 p.m.

9. **File No. 16010:** Complaint filed by Patrick Monette-Shaw and Bob Planthold against the San Francisco Municipal Transportation Agency (SFMTA) and the SFMTA Board of Directors for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.7(b) and 67.9(a), by failing to post on the body's internet site or otherwise make available any explanatory documents for an agenda item and failing to post on the body's internet site other documents anticipated for discussion or consideration at a public meeting (SFMTA Board of Director's February 2, 2016, Agenda). (00:08:00 – 00:46:00)

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

Public Comment:

None.

**The motion PASSED by the following vote:**

Ayes: 7 - Rumold, Eldon, Wolf, Pilpel, Fischer, Hyland, Washburn

Noes: 0 - None

Absent: 3 - Chopra, Haines, Hinze

Bob Planthold and Patrick Monette-Shaw (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Roberta Boomer, San Francisco Municipal Transportation Agency (SFMTA) (Respondent), presented the department's position. Ms. Boomer stated that the documents in question were posted as soon as they were available on the day prior to the meeting. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainants provided rebuttals.

The Task Force stated that it did not believe that the Sunshine Ordinance specifically addresses posting requirement for supporting documents. However, the Task Force opined that an amendment to the Sunshine Ordinance may be needed in the future to address requirements for posting supporting documents in a timely manner. Member Pilpel volunteered to draft a memo to city departments to express the Task Force's opinion.

Public Comment:

Ray Hartz stated that the Task Force application of the Sunshine Ordinance is too literal and the intent of the Sunshine Ordinance should be addressed.

Michael Petrelis stated that the Task Force needs to set time limit for hearings and limit the time for members to speak.

Ann Treboux suggested that the comments stay on topic.

**Due to the lack of a motion, the Task Force found no violation and concluded the matter.**

10. **File No. 16020:** Complaint filed by Patrick Monette-Shaw against Tom Nolan, Ed Reiskin, Roberta Boomer, San Francisco Municipal Transportation Agency (SFMTA), and the SFMTA Board of Directors for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.15, by failing to allow a member of the public to directly address the body concerning an item prior to action and abridging or prohibiting public criticism (SFMTA's February 2, 2016, meeting agenda). (00:46:00 – 01:35:00)

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

Public Comment:

None.

**The motion PASSED by the following vote:**

Ayes: 7 - Rumold, Eldon, Wolf, Pilpel, Fischer, Hyland, Washburn

Noes: 0 - None

Absent: 3 - Chopra, Haines, Hinze

Member Pilpel disclosed his working relationship with the SFMTA and personal knowledge of the subject matter.

Patrick Monette-Shaw (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Roberta Boomer, San Francisco Municipal Transportation Agency (SFMTA) (Respondent), presented the department's position. Ms. Boomer stated that it is the practice of the SFMTA Board of Directors not to distribute documents submitted during public hearings in order to provide equal access to all members of their Board who may have disabilities. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainants provided rebuttals.

Deputy City Attorney Colla answered questions related to the matter.

The Task Force stated that it does not believe the Sunshine Ordinance specifically addresses distribution of documents during a public meetings. However, the Task Force opined that an amendment to the Sunshine Ordinance may be needed in the future to address the distribution of documents during public meetings. Member Pilpel volunteered to draft a memo to all city departments to express the Task Force's opinion.



**Member Wolf, seconded by Vice Chair Hyland, moved to find the SFMTA in violation of Administrative Code (Sunshine Ordinance), Section 67.15(c) and California Government Code, Section 54954.3(b), for implementing unreasonable restrictions on public comment by failing to distribute documents from members of the public during a meeting.**

Public Comment:

Ray Hartz stated that ADA restrictions should be applied to all members of the Board.

Ann Treboux stated that the Task Force Agenda lists the wrong SFMTA Board meeting date.

Frank Cannatta commented on the SFMTA's unwritten policy to restrict distribution of documents from the public.

**The motion FAILED by the following vote:**

Ayes: 3 - Wolf, Hyland, Washburn

Noes: 4 - Rumold, Pilpel, Fischer, Hinze

Absent: 3 - Chopra, Haines, Eldon

**Due to the lack of an additional motion, the Task Force found no violation and concluded the matter.**

11. **File No. 16027: Determination of Jurisdiction – Complaint filed by Charles Pitts against Episcopal Community Services** (under Administrative Code Chapter 12L).

**The matter was continued to the call of the chair under Agenda Changes.**

12. **Hearing: Sunshine Ordinance Task Force 2014/2015 Annual Report.** ). (03:21:00 – 03:30:00)

The Task Force discussed the proposed Annual Report and extended the timeframe of the report to April 6, 2016.

**Member Wolf, seconded by Member Hinze, moved to continue the matter to the call of the chair.**

Public Comment:

Ray Hartz stated that the annual report should be sent to departments who were specially mentioned in the annual report.

**The motion PASSED by the following vote:**

Ayes: 6 - Rumold, Eldon, Wolf, Pilpel, Hyland, Washburn

Noes: 0 - None

Absent: 4 - Chopra, Haines, Hinze, Fischer

13. **File No. 16006:** Hearing - Proposed amendments and updates to Administrative Code (Sunshine Ordinance), Chapter 67, via Ballot Initiative and/or other avenues. ).  
(03:30:00 - )

The Task Force reviewed the proposed amendments to the Sunshine Ordinance.

Richard Knee and Bruce Brugmann (Steering Committee for San Franciscan’s Sunshine) presented their proposed amendments to the Sunshine Ordinance and commented on the Deputy City Attorney’s analysis of their proposed amendments.

Deputy City Attorney Colla answered questions related to the matter.

**Member Pilpel, seconded by Member Hinze, moved to continue the matter to the call of the chair.**

Public Comment:

Ray Hartz stated that the Task Force Administrator does not provide assistance to members of the public to walk through the complaint process.

**The motion PASSED by the following vote:**

Ayes: 6 - Rumold, Eldon, Wolf, Pilpel, Hyland, Washburn

Noes: 0 - None

Absent: 4 - Chopra, Haines, Hinze, Fischer

14. **File No. 14030: Amendments to the Sunshine Ordinance Task Force Complaint Procedures.**

**Member Hinze, seconded by Vice Chair Hyland, moved to continue Item Nos. 14 and 15 to the next meeting of the Task Force.**

Public Comment:

None.

**The motion PASSED by the following vote:**

Ayes: 6 - Rumold, Eldon, Wolf, Pilpel, Hyland, Washburn

Noes: 0 - None

Absent: 4 - Chopra, Haines, Hinze, Fischer

15. **Approval of minutes from the Sunshine Ordinance Task Force February 3, 2016, and March 2, 2016, meetings.**

**Member Hinze, seconded by Vice Chair Hyland, moved to continue Item Nos. 14 and 15 to the next meeting of the Task Force.**

Public Comment:

None.

**The motion PASSED by the following vote:**

Ayes: 6 - Rumold, Eldon, Wolf, Pilpel, Hyland, Washburn  
Noes: 0 - None  
Absent: 4 - Chopra, Haines, Hinze, Fischer

16. **Administrator’s Report, Complaints and Communications. ). (04:50:00 – )**

Task Force Administrator Victor Young presented the Administrator’s Report.

Member Pilpel suggested that additional information be added to future agendas under the Administrator’s Report.

No action was taken.

Public Comment:  
None.

17. **Announcements, Comments, Questions, and Future Agenda Items.**

Vice Chair Hyland expressed concern over the excessive absences of Member Chopra and suggested that a letter be written to the Board of Supervisors to request Member Chopra’s removal.

Member Rumold stated that the April 6, 2016, Task Force meeting was his last and expressed thanks to the Task Force for the experience.

Public Comment:  
None.

18. **ADJOURNMENT**

There being no further business the meeting was adjourned at 9:35 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: May 4, 2016**