



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

August 6, 2014 – 4:00 PM

Regular Meeting

Seat 1	Mark Rumold	Seat 7	Lee Hepner
Seat 2	Ali Winston	Seat 8	Todd David
Seat 3	Josh Wolf	Seat 9	Chris Hyland – Vice Chair
Seat 4	(Vacant)	Seat 10	Louise Fischer
Seat 5	Allyson Washburn - Chair	Seat 11	Bruce Oka (Hold Over)
Seat 6	David Pilpel		

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

The meeting was called to order at 4:06 p.m. Members Fischer and Pilpel were noted absent. There was a quorum. Member Fischer was noted present at 4:53 p.m.

Item No. 9 (File No. 14053) was withdrawn.

Items No. 2, 3, 4 and 5 were considered together.

2. **File No. 14037:** Complaint filed by Anonymous against Jonas Ionin, Planning Department, for allegedly violating Sunshine Ordinance Sections 67.21(b) and 67.25(a) for failure to respond to a request for public records submitted on March 25, 2014.

Member David, seconded by Member Hyland, moved to continue the matter to the call of the chair.

Public Comment:

Thomas Picarello requested a copy of the request for continuance and expressed opposition to the delay.

Richard Knee stated that the matter should be continued to the call of the chair.

Peter Warfield expressed support for the continuance and stated that each complaint should have a separate hearing.

Ray Hartz stated that changes to the agenda should be minimal.

Paula Datesh expressed support for continuance.

The motion passed by the follow vote:

Ayes: 5 – Rumold, Winston, Wolf, Hepner, Washburn

Noes: 3 – David, Oka, Hyland

Absent: 2 - Pilpel, Fischer

3. **File No. 14038:** Complaint filed by Anonymous against Lulu Hwang, Planning Department, for allegedly violating Sunshine Ordinance Sections 67.21(b) and 67.25(a) for failure to respond to a request for public records submitted on March 25, 2014.

Member David, seconded by Member Hyland, moved to continue the matter to the call of the chair.

Public Comment:

Thomas Picarello requested a copy of the request for continuance and expressed opposition to the delay.

Richard Knee stated that the matter should be continued to the call of the chair.

Peter Warfield expressed support for the continuance and stated that each complaint should have a separate hearing.

Ray Hartz stated that changes to the agenda should be minimal.

Paula Datesh expressed support for continuance.

The motion passed by the follow vote:

Ayes: 5 – Rumold, Winston, Wolf, Hepner, Washburn

Noes: 3 – David, Oka, Hyland

Absent: 2 - Pilpel, Fischer

4. **File No. 14039:** Complaint filed by Anonymous against Josephine Chen, Planning Department, for allegedly violating Sunshine Ordinance Sections 67.21(b) and 67.25(a) for failure to respond to a request for public records submitted on March 25, 2014.

Member David, seconded by Member Hyland, moved to continue the matter to the call of the chair.

Public Comment:

Thomas Picarello requested a copy of the request for continuance and expressed opposition to the delay.

Richard Knee stated that the matter should be continued to the call of the chair.

Peter Warfield expressed support for the continuance and stated that each complaint should have a separate hearing.

Ray Hartz stated that changes to the agenda should be minimal.

Paula Datesh expressed support for continuance.

The motion passed by the follow vote:

Ayes: 5 – Rumold, Winston, Wolf, Hepner, Washburn

Noes: 3 – David, Oka, Hyland

Absent: 2 - Pilpel, Fischer

5. **File No. 14040:** Complaint filed by Anonymous against Rick Cooper, Planning Department, for allegedly violating Sunshine Ordinance Sections 67.21(b) and 67.25(a) for failure to respond to a request for public records submitted on March 25, 2014.

Member David, seconded by Member Hyland, moved to continue the matter to the call of the chair.

Public Comment:

Thomas Picarello requested a copy of the request for continuance and expressed opposition to the delay.

Richard Knee stated that the matter should be continued to the call of the chair.

Peter Warfield expressed support for the continuance and stated that each complaint should have a separate hearing.

Ray Hartz stated that changes to the agenda should be minimal.

Paula Datesh expressed support for continuance.

The motion passed by the follow vote:

Ayes: 5 – Rumold, Winston, Wolf, Hepner, Washburn

Noes: 3 – David, Oka, Hyland

Absent: 2 - Pilpel, Fischer

6. **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. (01:38:00 -01:55:00)

William Clark stated that committee referrals should be placed first on the agenda.

Paula Datesh expressed concern over the conduct of the Justin Herman Plaza market manager.

Mica Ringel provided an update on the Ethics Commission decision on his case and the finding that the Planning Department violated the Sunshine Ordinance.

James Chafee expressed concern over the failure of the Task Force in regard to enforcing public comment rules for the budget process.

Richard Knee expressed concerns over the statements of previous speakers regarding attorney membership on the task force and suggested that section 67.24b not be stricken.

Ray Hartz stated that the civil liberties of the public is under attack.

Thomas Picarello agreed with the reorganization of the committees but suggested that the Task Force perform their own analysis and not defer to the opinion of the City Attorney's Office.

Patrick Monette-Shaw requested the censor of Member Pilpel.

Peter Warfield stated that Mr. Chafee won his case and that enforcement of decisions should not be outsourced to committees.

Dorian Maxwell stated his pro open government stance and further stated that he was retaliated against and eventually terminated after winning two Orders of Determination against the SFMTA.

7. **File No. 14019:** The Education, Outreach and Training Committee has referred File No. 14019 to the Sunshine Ordinance Task Force - Complaint filed by William Clark against Dennis Herrera, Jack Song and Gabriel Zitrin, City Attorney's Office, for violating Sunshine Ordinance Section 67.29-7 for failure to maintain appropriate records in a businesslike manner. (00:15:00 -01:38:00)

Member David provided a summary of the Education, Outreach and Training Committee's discussion of the complaint.

William Clark (Complainant) provided an overview of the complaint and requested the Task Force to find violations. Gabriel Zitrin, City Attorney's Office, presented an overview of the Office of the City Attorney's defense. A question and answer period followed.

Member Rumold, seconded by Member Winston, moved to refer the matter to the Compliance and Amendments Committee and requested that the City Attorney's Office review their record and provide, in redacted form if necessary, all records related to the request made by William Clark in File No. 14019, including but not limited to emails, phone logs, and time logs and its referenced documents.

Public Comment:

Paula Datesh commented on various issues regarding the Arts Commission.

Robert Clark commented on various aspects of the complaint and requested that the City Attorney state that they have no responsive documents.

Thomas Picarello stated that the Education, Outreach and Training Committee referred the matter to the Task Force for consideration of willful violation.

Richard Knee stated that a chronology of the complaint should be considered and that Section 67.24 was still effective at the time of the complaint filing.

Ray Hartz stated that there was willful ignorance in the withholding of records.

Patrick Monette-Shaw stated that the Task Force should wait for the final decisions of relevant court cases.

Peter Warfield stated that the City Attorney continually violated the Sunshine Ordinance.

The motion passed by the follow vote:

Ayes: 8 – Rumold, Winston, Wolf, Hepner, Fischer, Oka, Hyland, Washburn

Noes: 1 – David

Absent: 1 - Pilpel

8. **File No. 14048:** Complaint filed by Cecilia Hairston-Omondi against Donald Ellison and the San Francisco Municipal Transportation Agency for allegedly violating the Sunshine Ordinance Sections 67.1, 67.21, 67.25, 67.26 and 67.27 for failure to respond to an Immediate Disclosure Request in a timely and complete manner dated May 7, 2014. (01:55:00 – 03:07:00)

Member Hyland, seconded by Member Hepner, moved to find jurisdiction of File No. 14048.

Public Comment:
None.

The motion passed without objection.

Cecilia Hairston-Omondi (Complainant) provided an overview of the complaint and requested the Task Force to find violations. Donovan Maxwell spoke in support of the Complainant. Kathy Fowles, San Francisco Municipal Transportation Agency (Respondent), presented an overview of the department's defense. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent provided a rebuttal. The Complainant provided a rebuttal.

Deputy City Attorney Nicholas Colla commented on the matter.

Member David, seconded by Member Fischer, moved to find Donald Ellison and the San Francisco Municipal Transportation Agency in violations of Sunshine Ordinance Sections 67.21(b) and 67.21(e) for failure to comply with a request for public records and failure to provide a knowledgeable representative to respond to questions.

Public Comment:

Peter Warfield stated that the department head should be named in the Order of Determination.

Patrick Monette-Shaw stated that individuals in departments should be named in the Order of Determination.

The motion passed by the follow vote:

Ayes: 8 – Winston, Wolf, Hepner, David, Fischer, Oka, Hyland, Washburn

Noes: 1 – Rumold

Absent: 1 - Pilpel

Chair Washburn referred the matter to the Compliance and Amendments Committee and requested that Donald Ellison appear before the committee. It is requested that that the San Francisco Municipal Transportation agency review the request from the Complainant, provide any outstanding requested records, and provide a summary of the response to each of the requests from the Complainant. At the minimum the summary shall include 1) statement as to how each of the requests or questions were addressed and what documents were provided; 2) statement as to why a document, if any, was withheld; and 3) statement as what documents do not exist.

The meeting was recessed from 7:12 p.m. to 7:32 p.m.

9. **File No. 14053:** Complaint file by James Dixon against Edward Reiskin and the San Francisco Municipal Transportation Agency for allegedly violating Sunshine Ordinance Sections 67.21 and 67.25 for failure to respond to a request for public records in a timely and complete manner dated February 14, 2014.

The complainant withdrew Item No. 9 (File No. 14053).

10. **File No. 14065: Civil Grand Jury Report - Ethics in the City: Promise, Practice or Pretense.** (03:07:00 -)

Robert van Ravenswaay, Larry Bush and Elena Schmidt (Foreperson), Civil Grand Jury, provided a summary and answered questions regarding the Civil Grand Jury report and advised the Task Force that a short delay beyond the deadline of responding to the Civil Grand Jury report should not be a problem.

Deputy City Attorney Nicholas Colla commented on the matter.

Discussion regarding Recommendation 17a and 17b:

- Add calendar training to Ethics Training.
- Calendars available from Departments did not list all require fields.
- Sunshine does not include the Board of Supervisors.
- Ethics should convert calendars to an electronic/searchable document for posting online.
- Wolf – SOTF should not tell departments how to separate workload.
- Department heads should make calendars available on their website and there is no need for a central location.
- All calendars should be maintained in a central location for ease of monitoring. Funding and staffing are issues.
- Departments can post calendars on their own website and link to a central website.
- The Task Force would like to provide input into what data is required, department heads should be responsible for the postings, and the Task Force suggests method of implementation. The matter should be included in the annual Sunshine training .
- The Task Force supports the recommendation.

Public Comment on 17(a):

Patrick Monette-Shaw provided suggestions to the Task Force's response.

Peter Warfield commented on the matter.

Thomas Picarello stated that the Task Force response is too complicated and suggested that the Ethics Commission should monitor for compliance.

Public Comment on 17(b):

Patrick Monette-Shaw expressed support for the recommendation and made various suggestions.

Richard Knee agreed that the Board of Supervisors should post their calendars and further suggested that a letter be written to the Supervisors to request that and amendment to the Sunshine Ordinance be made to include Board of Supervisors' calendars.

Peter Warfield expressed support for the recommendations and urges the Task Force to consider enforcement.

Thomas Picarello expressed support for the recommendations.

Discussion regarding Recommendation 20a:

- The Task Force should be the entity to perform the function of the Blue Ribbon Committee.
- The Task Force has no authority over the Mayor's Office and can only provide suggestions.
- All bodies should be able to address transparency in government.
- The Blue Ribbon Committee can work in conjunction with the Task Force.
- The Task Force does not have authority over the matter and should not provide suggestions.

Public Comment:

Patrick Monette-Shaw provided suggestions regarding recommendation 20a to be more proactive and disagrees with the recommendation.

Peter Warfield disagreed with the formation of a Blue Ribbon Committee by the Mayor.

Thomas Picarello partially disagreed with the proposed Task Force and suggested that the Mayor and the Board of Supervisors should set up the Blue Ribbon Committee together.

Discussion regarding Recommendation 20b:

- Hearing Officer would not adjudicate the matter.
- Any possible way to expedite completes should be considered.
- Add precedent review to the hearing process.

Public Comment:

Patrick Monette-Shaw disagreed with the proposed response of the Task Force and disagrees with the use of a hearing officer and a consent agenda. More than one member needs to provide recommendation.

Thomas Picarello expressed support for the SOTF response.

Peter Warfield stated that the process to respond to the Civil Grand Jury Report is chaotic. The City Attorney representative should be providing additional information.

Continued to the August 26, 2014, meeting of the Task Force without objection.

11. Approval of Minutes from the July 22, 2014, Meeting.

Member Rumold, seconded by Member David, moved to approve the July 22, 2014, meeting minutes.

Public Comment:

Peter Warfield expressed disagreement with the summary of his public comment.

The motion passed by the following vote:

Ayes: 8– Rumold, Winston, Hepner, David, Fischer, Oka, Hyland, Washburn

Noes: 1 – Wolf

Absent: 1 – Pilpel

12. **Sunshine Ordinance Task Force Complaint Backlog, Possible Solutions and Meeting Schedule.**

Victor Young, Administrator, Sunshine Ordinance Task Force, provided a summary of the meeting schedule and committee membership.

Public Comment:

Peter Warfield objected to Tuesday meetings due to the conflict with the Board of Supervisors' meetings day.

Continued to the next meeting of the Task Force without objection.

13. **Sunshine Ordinance Task Force - Administrator's Report.**

Victor Young, Administrator, Sunshine Ordinance Task Force, presented the Administrator's Report.

Public Comment:

Peter Warfield requests that the administrator's report be made available online prior to the start of the meeting.

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

Member Rumold requests a hearing regarding policies concerning peace officer hearings and the balance between the rights of the public versus the privacy concerns of peace officers.

Member Wolf provided a summary of his research into the Copley decision and the resulting policy to hold certain peace officers hearings in closed session.

15. **ADJOURNMENT**

There being no further business the meeting was adjourned at 9:23 p.m.

APPROVED: 8/26/2014



Victor Young
Administrator
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.