



# 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

December 2, 2015 - 4:00 PM

## Regular Meeting

Seat 1	Mark Rumold	Seat 7	Lee Hepner
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 4:08 p.m. Members Wolf, Chopra, Haines, Hepner and Hyland were noted absent. There was a quorum.

Member Wolf was noted present at 4:16 p.m.

Vice-Chair Hyland was noted present at 4:24 p.m.

Chair Washburn stated that Item No. 7 (File No. 15120) would be taken out of order and heard immediately after Roll Call.

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

*(The Compliance and Amendments Committee held a hearing on October 20, 2015, to review File Nos. 15029 and 15067 and issued a report and/or recommendation for the Sunshine Ordinance Task Force's (SOTF) review. 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.*

2. **File No. 15029:** Complaint filed by Michael Petrelis against President London Breed, Board of Supervisors, for violating Administrative Code (Sunshine Ordinance), Section 67.21(e), for failure to send a knowledgeable representative to the Sunshine Ordinance Task Force hearing regarding failure to respond to an Immediate Disclosure Request in a timely and/or complete manner. (00:34:00 – 00:42:00)

*(The Compliance and Amendments Committee recommended that the SOTF find that a violation of Administrative Code (Sunshine Ordinance), Section 67.21 for failure to respond to a public records request in a timely and/or complete manner.)*

Michael Petrelis (Complainant) provided an update on the status of the complaint. A question and answer period followed.

**Vice-Chair Hyland, seconded by Member Rumold, moved to adopt the recommendation of the Compliance and Amendments Committee to find that the Task Force has jurisdiction and find a violation of Administrative Code (Sunshine Ordinance), Section 67.21 for failure to respond to a public records request in a timely and/or complete manner.**

Public Comment:  
None.

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

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Fischer, Hinze, Hyland, Washburn  
Noes: 0 - None  
Absent: 3 - Chopra, Hepner, Haines

- File No. 15067:** Complaint filed by Michael Petrelis against President London Breed, Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, for failure to respond an Immediate Disclosure Request in a timely and/or complete manner. (00:42:00 – 00:47:00)  
*(The Compliance and Amendments Committee recommended that the SOTF find that a violation of Administrative Code (Sunshine Ordinance), Section 67.21 for failure to respond to a public records request in a timely and/or complete manner.)*

Michael Petrelis (Complainant) provided an update on the status of the complaint. A question and answer period followed.

**Vice-Chair Hyland, seconded by Member Rumold, moved to adopt the recommendation of the Compliance and Amendments Committee to find that the Task Force has jurisdiction and find a violations of Administrative Code (Sunshine Ordinance), Section 67.21 and 67.25 for failure to respond to an Immediate Disclosure Request in a timely and/or complete manner.**

Public Comment:

Peter Warfield expressed support for the motion and requested additional information as to the reason for the violation.

Ray Hartz stated that there are no penalties for ignoring public records requests and commented on President Breed's conduct.

Peter Alexander provided general comments on lawyer involvement.

Ann Treboux provided general comments.

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

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Fischer, Hinze, Hyland, Washburn

Noes: 0 - None

Absent: 3 - Chopra, Hepner, Haines

**Recommendation from the Complaint Committee.**

*(The Complaint Committee held a hearing on October 27, 2015, to review File Nos. 15117 and issued a report and/or recommendation for the Sunshine Ordinance Task Force's (SOTF) review. 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. 15117:** Complaint filed by Roy Brubaker against the San Francisco Municipal Transportation Agency for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, for failure to respond to various Immediate Disclosure Requests in a timely and/or complete manner. (01:10:00 - 01:19:00)  
*(The Complaint Committee recommended that the SOTF find that there were no violations of Administrative Code (Sunshine Ordinance), Chapter 67.)*

The Task Force discussed the recommendation of the Complaint Committee.

**Vice-Chair Hyland, seconded by Member Pilpel, moved to adopt the recommendation of the Complaint Committee to find that the Task Force has jurisdiction and find that there were no violations of Administrative Code (Sunshine Ordinance), Chapter 67.**

Public Comment:

None.

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

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Fischer, Hinze, Hyland, Washburn

Noes: 0 - None

Absent: 3 - Chopra, Hepner, Haines

5. **File No. 15078:** Complaint filed by Richard Denton against the San Francisco Public Utilities Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.26, and 67.27, for failure to respond to a request for public records in a timely and/or complete manner. (01:43:00 – 02:47:00)

The matter was previously adjudicated by the Task Force on October 7, 2015, and violations of Sunshine Ordinance, Sections 67.21(b), 67.26, and 67.27, were found. Richard Denton (Complainant) was not able to attend and provided written suggestions regarding the proposed Order of Determination submitted by Member Rumold. Susan Gautier, San Francisco Public Utilities Commission (Respondent), answered questions from the Task Force.

Deputy City Attorney Jerry Threet commented on the matter.

**Member Hyland, seconded by Member Hinze, moved to find an additional violation of Sunshine Ordinance, Section 67.34, willful failure.**

Public Comment:

Bruce Wolfe stated that the Controller should be provided a copy of the Order of Determination.

Peter Warfield expressed support for the motion and provided a statement regarding the threshold for a willful violation.

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

Ayes: 2 – Eldon, Hyland

Noes: 6 – Rumold, Wolf, Pilpel, Fischer, Hinze, Washburn

Absent: 3 - Chopra, Hepner, Haines

**Member Rumold, seconded by Member Pilpel, moved to adopt the Order of Determination as amended.**

Public Comment:

Peter Warfield expressed concern regarding the wording change to the Order of Determination. In addition, Mr. Warfield suggested that Complainants be allowed to provide input in development of the Orders of Determination in the future.

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

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Fischer, Hinze, Hyland, Washburn

Noes: 0 - None

Absent: 3 - Chopra, Hepner, Haines

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. (00:47:00 – 01:10:00)

Speakers:

Bob Planthold requested follow-up information regarding his complaint filed in 2014.

Ray Hartz commented on the handling of his complaints heard by the Task Force on November 4, 2015, and stated that the combining of his complaints was not fair.

Peter Warfield commented on the November 4, 2015, Task Force meeting and stated that it was chaotic and without procedure. Mr. Warfield also stated that the Task Force Administrator was hijacking the complaint process.

Ann Treboux commented on large number of scheduled complaint hearings for December 15, 2015.

Michael Petrelis stated that the Task Force needs to establish time limits for complaint hearings for both Task Force members and the affected parties.

7. **File No. 15120:** Complaint filed by Anonymous against the San Francisco Municipal Transportation Agency (SFMTA) for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, for failure to respond to an Immediate Disclosure Request in a timely and/or complete manner. (00:03:00 – 00:34:00)

**Member Pilpel, seconded by Member Hinze, moved to find jurisdiction.**

Public Comment:  
None.

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

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Fischer, Hinze, Hyland, Washburn  
Noes: 0 - None  
Absent: 3 - Chopra, Hepner, Haines

Anonymous (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Leda Rozier and Caroline Celaya, San Francisco Municipal Transportation Agency (SFMTA) (Respondent), presented the department's position, acknowledged the late response and stated that steps have been taken to prevent reoccurrence of the same violation. 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.

**Member Pilpel, seconded by Member Hinze, moved to find the San Francisco Municipal Transportation Agency in violations of Administrative Code (Sunshine Ordinance), Section 67.21 and 67.25 for failure to respond to an Immediate Disclosure Requested in a timely and complete manner.**

Public Comment:

Peter Warfield expressed support for the motion and commented on SFMTA's process for responding to requests for public records.

Ray Hartz commented on the SFMTA's process for responding to request for public records.

Michael Petrelis objected to the hearing of complaints out of order and expressed the need for the Task for to create a time limit for testimony and questions.

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

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Fischer, Hinze, Hyland, Washburn  
Noes: 0 - None  
Absent: 3 - Chopra, Hepner, Haines

Chair Washburn referred the matter to the Compliance and Amendments Committee and requested that the SFMTA perform an expanded search from only motions, actions, regulations and rules to include all documents and records regarding proposed and implemented changes to the MUNI 33 Stanyan/Ashbury bus routing for the period of January 1, 2014, through August 7, 2015. In addition, it is requested that the SFMTA provide the results of the expanded search to the Complainant within 5 working days of the issuance of the Order of Determination and to provide notice of compliance to the Task Force.

8. **File No. 15143:** Complaint filed by Bob Planthold against Sonja Kos and Becky Hogue of the Pedestrian Safety Advisory Committee for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.7, for failure to meet agenda posting requirements and California Government Code, Sections 54952(b) and 64952.6, for taking actions without a quorum. (01:19:00 – 01:43:00)

**Member Pilpel, seconded by Member Hinze, moved to find jurisdiction.**

Public Comment:  
None.

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

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Fischer, Hinze, Hyland, Washburn  
Noes: 0 - None  
Absent: 3 - Chopra, Hepner, Haines

Bob Planthold (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Louis Liss, San Francisco Municipal Transportation Agency (Respondent) acknowledged that there was a failure to post the agenda 72 hours prior to the meeting and stated that the votes taken during the meeting in question have been voided and the matters will be reheard. A question and answer period followed. The Respondent provided a rebuttal. The Complainant provided a rebuttal.

Deputy City Attorney Jerry Threet commented on the matter.

**Member Pilpel, seconded by Member Hinze, moved to find a violation of Administrative Code (Sunshine Ordinance), Section 67.7 for failure to post the meeting agenda 72 hours prior to the meeting.**

Public Comment:

Bruce Wolfe noted that the Task Force can find violations of California Brown Act pursuant to Sunshine Ordinance Section 67.30(c).

Ray Hartz questioned what is a majority of the Task Force and provided statistics on the matter, suggesting that due process is violated when Task Force members fail to attend meetings.

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

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Fischer, Hinze, Hyland, Washburn

Noes: 0 - None

Absent: 3 - Chopra, Hepner, Haines

Chair Washburn referred the matter to the Education, Outreach and Training Committee for discussion regarding development of support and training for policy and advisory bodies.

9. **File No. 15153:** Hearing to review vexatious use of Administrative Code (Sunshine Ordinance), Chapter 67, and to consider solutions to prevent abuse of the Sunshine Ordinance. (02:47:00 - )

The Task Force may consider, but is not limited to, the following topics:

- Guidelines and recourse for departments to work with vexatious public record requesters.
- Policy regarding applying “Rule of Reason” to public records requests.

The Task Force discussed the matter. Deputy City Attorney Jerry Threet commented on the matter.

**Public Comment:**

Susan Gard (Human Resources Department) commented on various issues facing the department in regards to responding to public records requests and provided various suggestions.

Peter Warfield expressed opposition to the development of a policy regarding vexatious requests.

Bruce Wolfe cautioned the Task Force on the creation of such a policy as transparency is needed.

Ray Hartz expressed opposition to the development of a policy regarding vexatious requests.

Male Speaker expressed agreement with the previous speakers.

Dr. Derek Kerr expressed agreement with the previous speakers.

Chair Washburn, seconded by Member Pilpel, moved to continue the matter to the call of the chair.

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

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Fischer, Hinze, Hyland, Washburn

Noes: 0 - None

Absent: 3 - Chopra, Hepner, Haines

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

The Task Force discussed the matter.

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

Public Comment:

Peter Warfield commented on the many continuances of the matter and requested that it be heard first at the next Task Force meeting.

Ray Hartz expressed agreement with Mr. Warfield and stated that rules are important.

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

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Fischer, Hinze, Hyland, Washburn

Noes: 0 - None

Absent: 3 - Chopra, Hepner, Haines

**11. Sunshine Ordinance Task Force and committee meeting schedule – 2016.**

The Task Force discussed the matter.

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

Public Comment:

Peter Warfield stated that the schedule slams the door on complainants.

Ray Hartz stated that the Task Force needs to stick to the schedule and that members should attend all of the scheduled meetings. Mr. Hartz also stated his intention to file a complaints with the Ethics Commission against Vice-Chair Hyland.

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

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Fischer, Hinze, Hyland, Washburn

Noes: 0 - None

Absent: 3 - Chopra, Hepner, Haines

**12. Administrator’s Report, Complaints and Communications.**

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

The Task Force discussed the Administrator’s Report, Complaints and Communications.

**Vice-Chair Hyland, seconded by Member Eldon, moved to not accept the Complainants File Nos. 15161 and 15162 as they are duplicative of complaints that have previously been adjudicated by the Task Force.**

Public Comment:



Ray Hartz stated that the Task Force cannot reject complaints and that the Administrator is making decisions without the consent of the Task Force. Bruce Wolfe commented on the intended role of the Administrator.

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

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Fischer, Hinze, Hyland, Washburn  
Noes: 0 - None  
Absent: 3 - Chopra, Hepner, Haines

**Public Comment:**

Ray Hartz commented on the process for requesting a rehearing and the Task Force's communications policy. In addition, Mr. Hartz accused Administrator Young of intentionally scheduling matters in a manner to prevent the attendance of the complainant.

Peter Warfield stated his belief that the procedures are being changed without review and commented on the process for requesting a rehearing.

The Task Force took no further actions on the Administrator's Report.

Items 13 and 14 were called together.

**13. Approval of minutes from the Sunshine Ordinance Task Force Complaint Committee October 27, 2015, and November 17, 2015, meetings.**

The Task Force discussed the matter.

Member Pilpel, seconded by Member Wolf; move to continue Items Nos. 13 and 14 to the next meeting of the Task Force.

**Public Comment:**

Peter Warfield questions the actions of the Task Force.

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

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Fischer, Hinze, Hyland, Washburn  
Noes: 0 - None  
Absent: 3 - Chopra, Hepner, Haines

**14. Approval of minutes from the Sunshine Ordinance Task Force November 4, 2015, meetings.**

See Item No. 13 for actions.

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

Member Pilpel provided several updates regarding body worn cameras, the Ethics Commissions' new director, and several pending complaints.

Public Comment:

Bruce Wolfe stated that minutes should be considered at the beginning of the meeting and commented on the downloading of the agenda packet.

Ray Hartz stated that certain agenda items did not contain supporting materials.

Peter Warfield stated that the Task Force is not knowledgeable of the action taken by the Administrator and the lack of procedures which should be documented.

16. **ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:05 p.m.

**APPROVED: 1/6/2016**



**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.