



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

February 4, 2015 - 4:00 PM

Regular Meeting

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

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	Rishi Chopra	Seat 10	Louise Fischer
Seat 5	Allyson Washburn - Chair	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

The meeting was called to order at 4:07 p.m. Members Winston, Chopra, and Hepner were noted absent. There was a quorum.

Members Winston and Chopra were noted present at 4:09 p.m.

The Sunshine Ordinance Task Force (SOTF) considered a request to move Item No.7 (File No. 14015) to be heard earlier on the agenda.

Ray Hartz (Complainant) objected to the change of the agenda order as other items on the agenda are related.

Public Comment:

Andres Power, Aide to Supervisor Wiener, commented on the proposed change to the agenda order;

Paula Datesh opposed the change to the agenda order;

Catherine Stefani, Aide to Supervisor Farrell, expressed her need to depart by a specific time;

Thomas Picarello expressed various concerns regard the change to the agenda order.

Chair Washburn changed the order of the agenda of the February 4, 2015, agenda to hear Items 6 and 7 (File Nos. 14096 ad 14105) immediately after Item 3 (File No. 14095).

2. **Approval of minutes from the January 7, 2015, meeting.**

Chair Washburn and Member Pilpel proposed clerical corrections to the January 7, 2015, meeting minutes.

Member Pilpel, seconded by Member Hyland, moved to approve the January 7, 2015, meeting minutes as amended.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Rumold, Winston, Wolf, Pilpel, David, Fischer, Hinze, Hyland, Washburn

Noes: 0 - None

Absent: 2 - Chopra, Hepner

3. **File No. 14095:** Complaint filed by Bob Plainthold against Supervisor Malia Cohen and Supervisor Scott Wiener, Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.7 and 67.15(a), and California Government Code, Sections 54954.2 and 54954.3, for failing to provide adequate opportunity for public comments at the Land Use and Economic Development Committee meetings of September 15, 2014, and September 29, 2014. (00:08:30 - 01:22:00)

On January 7, 2015, the Task Force determined that they have jurisdiction over the matter.

Bob Plainthold (Complainant) provided an overview of the complaint and requested the Task Force to find violations. The Complainant stated that the Board of Supervisors did not make a determination as to whether the matter is substantive as required by Administrative Code (Sunshine Ordinance), Section 67. Bruce Oka and Ray Hartz spoke in support of the Complainant. Andres Power, Aide to Supervisor Wiener, and Yoyo Chan, Aide to Supervisor Cohen (Respondents) provided a summary of the Supervisor'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. Nicholas Colla, Deputy City Attorney for the Task Force, commented on the complaint.

Member Rumold volunteered to analyze the question regarding what is considered to be substantive as it relates to amendments to legislation at the Board of Supervisors and the requirements of the Brown Act and the Sunshine Ordinance. Also to be addressed are the factors used to determine what is substantive as it relates to legislative amendments.

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

Public Comment:

Patrick Monette-Shaw stated that the Good Government Guide carries no legal weight;

Thomas Picarello opposed the continuance as the Complainant has not proven his case;

Richard Knee stated that the Brown Act should be used to substantiate the complaint and further stated that former Supervisor David Chiu should still be held liable for his previous actions;

Peter Warfield stated that the Good Government Guide is only an opinion and is not a legal document.

The motion PASSED by the following vote:

Ayes: 7 - Rumold, Winston, Wolf, Chopra, Hinze, Hyland, Washburn

Noes: 3 - Pilpel, David, Fischer

Absent: 1 - Hepner

4. **File No. 14034: Hearing on the status of the Order of Determination** - Complaint filed by Paula Datesh against Sharon Page-Richie for violating Administrative Code (Sunshine Ordinance), Sections 67.14 and 67.16, for failure to audio record various meeting and failure to post meeting minutes for various meetings in a timely manner. (03:03:00 - 03:29:00)

Paula Datesh (Complainant) provided an overview of the complaint and requested the Task Force to find additional violations. Rebekah Krell, San Francisco Arts Commission (SFAC) (Respondent), provided a summary of the department's position. Ms. Krell further stated that the SFAC has complied with the Order of Determination and that all meeting minutes in question have been posted online. A question and answer period followed.

Member David, seconded by Member Hinze, moved to find that the San Francisco Arts Commission complied with the Task Force's Order of Determination and concluded the matter.

Public Comment:

Ray Hartz stated that the SFAC finally did their job after being forced to by Ms. Datesh.

The motion PASSED by the following vote:

Ayes: 9 - Rumold, Winston, Chopra, Pilpel, David, Fischer, Hinze, Hyland, Washburn

Noes: 1 - Wolf

Absent: 1 - Hepner

5. **Public Comment:** Members of the public may address the SOTF on matters that are within SOTF's jurisdiction, but not on today's agenda. (01:22:00 - 01:37:00)

Speakers:

Paula Datesh described her experiences with the San Francisco Arts Commission and submission of documents;

Patrick Monette-Shaw expressed concern with the use of the misleading Good Government Guide and suggested that a hearing be held to review the document;

Ray Hartz expressed concern with the use of the misleading Good Government Guide and stated that the Library Commission does not allow the general public to use the audio visual equipment;

Peter Warfield expressed concern with the use of the misleading Good Government Guide and stated that the Library Commission has a history of falsifying documents;

Richard Knee stated that on March 12, 2015, the Society of Professional Journalist will be awarding the James Madison Award for work in freedom of information and the First Amendment;

Thomas Picarello stated that the Clerk of the Board and SOTF budget was reviewed by the Budget and Finance Committee and suggested that funds be awarded for televising meetings.

6. **File No. 14096:** Complaint filed by Ray Hartz against Ben Rosenfield and the Office of the Controller for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, for failure to respond to an Immediate Disclosure Request in a timely and/or complete manner. (01:37:00 - 2:21:00)

Member Pilpel, seconded by Member Hyland, moved to find jurisdiction.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 10 - Rumold, Winston, Wolf, Chopra, Pilpel, David, Fischer, Hinze, Hyland, Washburn

Noes: 0 - None

Absent: 1 - Hepner

Ray Hartz (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Todd Rydstrom, Controller's Office (Respondent), provided a summary of the department's position. 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.

Public Comment:

Patrick Monette-Shaw expressed support of the motion to find violations and described previous actions of the Controller's Office.

Peter Warfield testified that he was present at the Budget and Finance Committee meeting where the Controller promised to provide certain documents.

Member Wolf, seconded by Member Rumold, moved to find Ben Rosenfield and the Office of the Controller in violation of Administrative Code (Sunshine Ordinance), Section 67.21(c), for failure to assist the requester in identifying the existence, form, and nature of any records requested.

The motion PASSED by the following vote:

Ayes: 6 - Rumold, Winston, Wolf, Chopra, Hyland, Washburn

Noes: 4 - Pilpel, David, Fischer, Hinze

Absent: 1 - Hepner

Member Wolf, seconded by Member Rumold moved to find Ben Rosenfield and the Office of the Controller in violation of Administrative Code (Sunshine Ordinance), Section 67.21(e), for failure to send a knowledgeable representative to the SOTF meeting.

The motion FAILED by the following vote:

Ayes: 0 - None

Noes: 10 - Rumold, Winston, Wolf, Chopra, Pilpel, David, Fischer, Hinze, Hyland, Washburn

Absent: 1 - Hepner

Member Wolf, seconded by Member Rumold moved to find Ben Rosenfield and the Office of the Controller in violation of Administrative Code (Sunshine Ordinance), Section 67.25(a), for failure responded to an Immediate Disclosure Request in a timely and complete manner.

The motion PASSED by the following vote:

Ayes: 9 - Rumold, Winston, Wolf, Chopra, David, Fischer, Hinze, Hyland, Washburn

Noes: 1 - Pilpel

Absent: 1 - Hepner

Chair Washburn referred the matter to the Education, Outreach, and Training Committee to review Controller's Office policies and procedures regarding public records request, including a log to track public records requests.

7. **File No. 14105:** Complaint filed by the Ray Hartz against Supervisor Mark Farrell, Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, for failure to respond to Immediate Disclosure Requests in a timely and/or complete manner. (02:21:00 - 03:03:00)

Member David, seconded by Member Hinze, moved to find jurisdiction.

Public Comment:

None.

The motion PASSED without objection.

Ray Hartz (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Catherine Stefani, Aide to Supervisor Mark Farrell (Respondent), provided a summary of the Supervisor's position. Ms. Stefani offered to work with Mr. Hartz to be sure that all requested records in Supervisor Farrell's Office are provided. 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 David, seconded by Member Pilpel moved to find Supervisor Mark Farrell, Board of Supervisors, in violation of Administrative Code (Sunshine Ordinance), Section 67.25(a), for failure responded to an Immediate Disclosure Request in a timely and complete manner.

Public Comment:

Patrick Monette-Shaw suggested that the Chair maintain control of the meeting; Peter Warfield expressed support of the motion and suggested finding additional violation for not maintaining records in a professional manner.

The motion PASSED by the following vote:

Ayes: 10 - Rumold, Winston, Wolf, Chopra, Pilpel, David, Fischer, Hinze, Hyland, Washburn

Noes: 0 - None

Absent: 1 - Hepner

Chair Washburn referred the matter to the Education, Outreach, and Training Committee to review Supervisor Mark Farrell's policies and procedures regarding public records request.

The Meeting Recessed from 7:10 PM to 7:20 PM

Member Wolf was noted absent at 7:20 PM.

8. **File No. 14099:** Complaint filed by the Patrick Monette-Shaw against Dennis Herrera, Matt Dorsey, and Gabriel Zitrin, City Attorney’s Office, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.25, and 67.34, for failing to respond to an Immediate Disclosure Request in a timely and/or complete manner. (04:32:00 - 04:56:00)

Member David, seconded by Member Hinze, moved to find jurisdiction.

Public Comment:

None.

The motion PASSED without objection.

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. The representative from the City Attorney’s Office was not present at the meeting. Mr. Monette-Shaw requested that the Task Force proceed with the meeting without a representative from the City Attorney’s Office. There were no speakers in support of the Respondent. A question and answer period followed. Nicholas Colla, Deputy City Attorney for the Task Force, commented on the matter. The Complainant provided a rebuttal.

Member Pilpel, seconded by Member Hinze, moved to find Dennis Herrera, Matt Dorsey, and Gabriel Zitrin, City Attorney’s Office, in violation of Administrative Code (Sunshine Ordinance), Section 67.25(a), for failure to respond to an Immediate Disclosure Request in a timely and complete manner.

Public Comment:

Ray Hartz suggested that a willful violation be found because the requested records have still not been provided.

The motion PASSED by the following vote:

Ayes: 10 - Rumold, Winston, Wolf, Chopra, Pilpel, David, Fischer, Hinze, Hyland, Washburn

Noes: 0 - None

Absent: 1 - Hepner

Chair Washburn referred the matter to the Compliance and Amendments Committee and requested that the City Attorney’s Office provide the records requested by the Complainant (budget allocation to the SOTF in a dollar amount) within five days of the issue of the Order of Determination. The question of whether a willful violation has occurred is still pending, and a decision shall be made based upon the response from the Respondent.

9. **File No. 14116:** Complaint filed by the Patrick Monette-Shaw against Jay Huish, Norm Nickens, and Victor Makras, San Francisco Employees Retirement System (SFERS), for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.7 and 67.9, and California Government Code Section 54950 for failure to provide adequate information in the SFERS December 3, 2014, agenda and failure to provide documents related to agenda items to the public. (03:29:00 - 04:32:00)

Member Pilpel, seconded by Member David, moved to find jurisdiction.

Public Comment:

None.

The motion PASSED without objection.

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. Norm Nickens, Commission Secretary (SFERS) (Respondent), provided a summary of the department's position. There were no speakers in support of the Respondent. A question and answer period followed. Nicholas Colla, Deputy City Attorney for the Task Force, commented on the matter. The Respondent provided a rebuttal. The Complainant provided a rebuttal.

Member Chopra, seconded by Member Washburn, moved to find Jay Huish, Norm Nickens, and Victor Makras, San Francisco Employees Retirement System (SFERS) in violation of Administrative Code (Sunshine Ordinance), Section 67.6(f), for failure to provide a meaningful description of agenda items.

Public Comment:

Ray Hartz stated that a person of average intelligence would not understand the titles used on the SFERS agendas.

The motion FAILED by the following vote:

Ayes: 0 - None

Noes: 9 - Rumold, Winston, Chopra, Pilpel, David, Fischer, Hinze, Hyland, Washburn

Absent: 2 - Hepner, Wolf

There being no additional motion the no violations were found and the matter was **CONCLUDED.**

Member Winston was noted absent at 8:30 PM.

Recommendation from the Complaint Committee January 20, 2015, meeting.

(The Complaint Committee held a hearing to review File Nos. 14089, 14090, and 14119 and issued reports and/or recommendations for the SOTF's 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.

10. **File No. 14089:** Complaint filed by Paula Datesh against Rebekah Krell, Howard Lazar, Sharon Page-Ritchie and Kate Patterson-Murphy, San Francisco Arts Commission, 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.

(The Complaint Committee determined that the SOTF has jurisdiction and recommended that the Respondent be found in violation of Administrative Code (Sunshine Ordinance), Section 67.25(a), for failure to respond to Immediate Disclosure Requests in a timely manner. It is further recommended that the complaint be concluded.)

Member Fischer, seconded by Member Hyland, moved to adopt the recommendations of the Complaint Committee and find a violation of Administrative Code (Sunshine Ordinance), Section 67.25(a).

Public Comment:

Ray Hartz expressed support of the motion.

The motion PASSED by the following vote:

Ayes: 8 - Rumold, Chopra, Pilpel, David, Fischer, Hinze, Hyland, Washburn

Noes: 0 - None

Absent: 3 - Hepner, Winston, Wolf

11. **File No. 14090:** Complaint filed by Paula Datesh against Sharon Page-Ritchie, Rebekah Krell, and Tom DeCaigny, San Francisco Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, for failing to post various meeting minutes in a timely manner.

(The Complaint Committee determined that the SOTF has jurisdiction and recommended that the SOTF conclude the matter as no violation of the Sunshine Ordinance has occurred.)

Member Hyland, seconded by Member David, moved to adopt the recommendations of the Complaint Committee and concluded the matter as no violations of the Administrative Code (Sunshine Ordinance) has occurred.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 - Rumold, Chopra, Pilpel, David, Fischer, Hinze, Hyland, Washburn

Noes: 0 - None

Absent: 3 - Hepner, Winston, Wolf

12. **File No. 14119:** Complaint by Paula Datesh against the San Francisco Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, for failing to include written summaries of public comment in meeting minutes.
(The Complaint Committee determined that the SOTF has jurisdiction and recommended that the SOTF conclude the matter as no violation of the Sunshine Ordinance has occurred.)

Member David, seconded by Member Hinze, moved to amend the title of the complaint to reflect Administrative (Sunshine Ordinance), Section 67.16, and continue the matter to the call of the chair.

Public Comment:

None.

The motion PASSED without objection.

13. **File No. 14030: Proposed Amendments to the SOTF By-Laws and/or Complaint Procedures.**

Victor Young, Administrator, Sunshine Ordinance Task Force, provided a summary of the proposed amendments to the Bylaws and Complaint Procedures. Discussions occurred.

Member Pilpel, seconded by Member David, moved to continue the matter to the March 4, 2015, meeting of the SOTF.

Public Comment:

Ray Hartz stated that the amendments are punitive to the Complainant and not the Respondent.

The motion PASSED without objection.

14. **File No. 14065: Update and Proposed Response: Civil Grand Jury Report - Ethics in the City: Promise, Practice or Pretense.**

Member Washburn, seconded by Member Hyland, moved to continued Items 14, 15, and 17 to the call of the chair.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 7 - Rumold, Chopra, David, Fischer, Hinze, Hyland, Washburn
Noes: 1 - Pilpel
Absent: 3 - Hepner, Winston, Wolf

15. **File No. 14073: Proposed amendments to Sunshine Ordinance Section 67.29-5 Calendars of Certain Officials.**

Member Washburn, seconded by Member Hyland, moved to continued Items 14, 15, and 17 to the call of the chair.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 7 - Rumold, Chopra, David, Fischer, Hinze, Hyland, Washburn
Noes: 1 - Pilpel
Absent: 3 - Hepner, Winston, Wolf

16. **Education Outreach and Training Committee Update (File Nos. 13035 and 14063: Draft proposal regarding the public participation process during the City's budget process.**

Member Pilpel summarized the draft proposal for public participation during the city's budget process.

Member Hyland, seconded by Member Pilpel, moved to authorize the chair of the Task Force to finalize and issue the memo to Supervisor Mark Farrell regarding public participation during the city's budget process.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 7 - Rumold, Chopra, David, Fischer, Hinze, Hyland, Washburn

Noes: 1 - Pilpel

Absent: 3 - Hepner, Winston, Wolf

17. **Proposed Memorandum to Departments Heads: Department Head Calendars and Source of Outside Funding Disclosure Requirements.**

Member Washburn, seconded by Member Hyland, moved to continued Items 14, 15, and 17 to the call of the chair.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - Rumold, Chopra, David, Fischer, Hinze, Hyland, Washburn

Noes: 1 - Pilpel

Absent: 3 - Hepner, Winston, Wolf

18. **Administrator's Report.**

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

Public Comment.

None.

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

Vice-Chair Hyland suggested that a time limit be implemented for discussion of complaints.

Member Pilpel stated that he will be providing Sunshine training to the Urban Forest Council.

Member Pilpel suggest that the SOTF Annual Report should be placed into the meeting binder and submitted to the Public Library.

Member Pilpel requested that information regarding the SOTF budget be presented at the next meeting. What is the current and proposed budget for the SOTF? What level of resources are available for use by the SOTF? How can the SOTF influence their proposed budget?

20. **ADJOURNMENT**

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

APPROVED: March 4, 2015

A handwritten signature in black ink that reads "Victor Young". The signature is written in a cursive, flowing style.

**Victor Young
Administrator
Sunshine Ordinance Task Force**