



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

July 2, 2014 – 4:00 PM

Regular Meeting

Members: Mark Rumold, Ali Winston, Josh Wolf,
Allyson Washburn, David Pilpel, Lee Hepner, Todd David,
Chris Hyland, Louise Fischer (Vice Chair), Bruce Oka

1. **CALL TO ORDER, ROLL CALL, AND AGENDA CHANGES** (00:00:00 – 00:12:00)

The meeting was called to order at 4:06 p.m. Members Winston and Wolf were noted absent. There was a quorum. Member Wolf was noted present at 4:15 p.m.

Agenda Changes:

Member Washburn, seconded by Member David, moved to continue Item No. 3 (File No. 14031) to the call of the chair as requested by the Complainant.

Wilson Ng, Clerk of the Board of Supervisor's Office, commented on the Complainant's request for ADA accommodations and reasons for the continuation request. Nancy Sarieh, Department of Public Health (Respondent), had no objection to the continuance request.

Public Comment:

Peter Warfield stated that a detailed explanation as to the reason for the continuance should be accessible prior to the start of the meeting.

The motion PASSED by the following vote:

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

Noes: 1 – Pilpel

Absent: 1 - Winston

2. **Election of Officers:** Election of Sunshine Ordinance Task Force Chair and Vice Chair for the period of July 2, 2014, through June 30, 2015. (00:12:00 – 00:54:00)

Member Fischer, seconded by Member David, nominated Member Allyson Washburn as Chair of the Sunshine Ordinance Task Force.

Member Wolf, seconded by Member David, nominated Member Lou Fischer as Chair of the Sunshine Ordinance Task Force. Member Fischer declined the nomination.

Member Hyland, seconded by Member Hepner, nominated Member Chris Hyland (himself) as Chair of the Sunshine Ordinance Task Force. Member Hyland withdrew the nomination of himself.

Public Comment:

Patrick Monette-Shaw expressed support for Member Washburn as Chair of the Task Force and further stated that Member Hyland should be the Vice Chair.

Allen Grossman stated that institutional knowledge is very important in determining the Chair of the Task Force.

Peter Warfield supported the nominations due to the nominee's respect for the public.

Dr. Derrick Kerr expressed support for Member Washburn as Chair of the Task Force and Member Hyland as Vice Chair.

Thomas Picarello expressed support for Member Hyland.

The following members voted to elect Allyson Washburn to the position of Chair of the Sunshine Ordinance Task Force: Rumold, Wolf, Washburn, Pilpel, Hyland Hepner, David, Oka, Fischer.

Allyson Washburn was appointed to the position of Chair of the Sunshine Ordinance Task force.

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Member Oka, seconded by Member Wolf, nominated Chris Hyland as Vice Chair of the Sunshine Ordinance Task Force.

Member Hepner, seconded by Member David, nominated Lee Hepner (himself) as Vice Chair of the Sunshine Ordinance Task Force. Member Hepner withdrew his nomination of himself.

Member David, seconded by Member Pilpel, nominated Lou Fischer as Vice Chair of the Sunshine Ordinance Task Force.

Public Comment:

Patrick Monette-Shaw expressed support for Member Hyland and stated that Member Hepner should be appointed to the Education, Outreach and Training Committee.

Richard Knee stated that a member of the Task Force cannot refuse to withdraw a second if the mover withdraws the motion.

Peter Warfield stated that there are no rules to prevent a vice chair from serving on other committees and expressed support for Member Hyland as Vice Chair.

Thomas Picarello expressed support for Member Hyland and concern that compliance is not being enforced.

Dr. Derrick Kerr expressed concern that some of the nominations for officers do not have prior experience and support for Member Hyland.

The following members voted to elect Chris Hyland as Vice Chair of the Sunshine Ordinance Task Force: Rumold, Wolf, Washburn, Hyland, Hepner, Oka.

The following members voted to elect Lou Fischer as Vice Chair of the Sunshine Ordinance Task Force: Pilpel, David, Fischer.

Chris Hyland was elected as Vice Chair of the Sunshine Ordinance Task Force.

The meeting was recessed from 5:00 p.m. to 5:06 p.m.

3. **File No. 14031:** Complaint filed by Sophia De Anda against the Department of Public Health for allegedly violating Sunshine Ordinance Section 67.21 by failing to adequately respond to a public records request dated March 5, 2014. (00:00:00 – 00:12:00)

The matter was continued to the call of the chair under Item No. 1 – Agenda Changes.

4. **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. (00:54:00 – 01:09:00)

Allen Grossman commented on the need to have 6 affirmative votes to find violations pursuant to conventional majority rules instead of a majority of members present.

Paula Datesh expressed concern regarding the Arts Commission's overspending and other budget issues. Ms. Datesh also stated that the Arts Commission is the subject of a lawsuit regarding open granting processes.

Peter Warfield commented on various quorum issues.

Patrick Monette-Shaw commented on the qualifications of Task Force members and their previous actions. Mr. Monette-Shaw commented on the actions of Member Pilpel in regard to the Statement of Incompatible Activities.

Thomas Picarello commented on the backlog of complaints and non-compliance with the 45 day rule.

5. **File No. 14015:** Complaint filed by Carlos Gracias against the San Francisco Municipal Transportations Agency for allegedly violating Civil Service rules and unspecified public records laws by failing to adequately respond to a public records request dated September 10, 2012. (01:09:00 – 02:09:00)

Member Hyland, seconded by Member Pilpel moved to find jurisdiction regarding unspecified public records laws.

Public Comment:

Patrick Monette-Shaw expressed concern regarding the elimination of discussion regarding Civil Services rules.

Peter Warfield objected to only taking jurisdiction of a portion of the agenda item. Jennifer Johnston, Civil Service Commission, stated that the Civil Service Commission has sole jurisdiction over Civil Service rules/complaints.

Thomas Picarello stated that Ms. Johnston should not be commenting on the complaint as a member of the public.

Nicholas Colla, Deputy City Attorney commented on the matter.

The motion PASSED by the following vote:

Ayes: 9 – Rumold, Wolf, Washburn, Pilpel, Hepner, David, Hyland, Oka, Fischer

Noes: 0 – None

Absent: 1 - Winston

Carlos Gracias (Complainant) provided an overview of the complaint and requested the Task Force find violations. There were no speakers in support of the Complainant. Donald Ellison, Municipal Transportation Agency (Respondent), presented an overview of their 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.

Member Pilpel, seconded by Member Hyland, moved to find the Municipal Transportation Agency in violation of Sunshine Ordinance Section 67.21(a) for failure to provide procedures regarding the release of probationary employees in the form of Standard Operating Procedures or other similar documents.

Public Comment:

Peter Warfield supported the finding of violation and further suggested that Section 67.29-7 was also violated.

Thomas Picarello expressed support of the motion.

The motion PASSED by the following vote:

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

Noes: 1 – David

Absent: 1 – Winston

Chair Washburn referred the matter to the Compliance and Amendments Committee. The Task Force requests that the Municipal Transportation Agency provide the Standard Operation Procedures and/or other documents regarding the release of probationary employees. The matter will be scheduled at the next available Compliance and Amendments Committee meeting.

The meeting was recessed from 6:22 p.m. to 6:45 p.m.

6. **File No. 14044:** Complaint filed by Carlos Gracias against Jennifer Johnston, Civil Service Commission, for allegedly violating Civil Service rules and unspecified public records law by failing to adequately respond to a public records request dated April 9, 2014. (02:09:00 – 02:46:00)

Member Oka, seconded by Member Fischer, moved to find jurisdiction regarding unspecified public records law.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9– Rumold, Wolf, Washburn, Pilpel, Hepner, David, Hyland, Oka, Fischer

Noes: 0 – None

Absent: 1 - Winston

Carlos Gracias (Complainant) provided an overview of the complaint and requested the Task Force find violations. There were no speakers in support of the Complainant. Jennifer Johnston, Civil Service Commission (Respondent), presented an overview of their 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, commented on the matter.

Public Comment:

Paula Datesh expressed her support of the methods used by Ms. Johnston to track the progress of the request for information.

There being no motion the Task Force FOUND NO VIOLATIONS AND CONCLUDED THE MATTER.

7. **File No. 13091:** Complaint filed by Frank Lee against Jennifer Johnston, Civil Service Commission, for allegedly violating Sunshine Ordinance Sections 67.5 and 67.9, by holding Complainant's appeal hearing regarding claims of retaliation/discrimination against fellow law enforcement officers during a closed session of the April 1, 2013, Civil Service Commission meeting. (02:46:00 – 04:48:00)

Nicholas Colla, Deputy City Attorney, stated in the memo to the Task Force that 'at no point during the hearing shall any party identify by name any of the officers involved' pursuant to California Penal Code Section 832.7. Frank Lee (Complainant) agreed to not state the names of involved officers.

Members of the Task Force disagreed with the advice of Mr. Colla that the Complainant should be prohibited from identifying the officers involved.

Member David, seconded by Member Hyland, moved to find jurisdiction of File No. 13091 without restrictions a testimony.

Public Comment:

Paula Datesh provided general comments on the matter.

Thomas Picarello stated that the Task Force should not permit the exclusion of the names of parties involved.

The motion passed by the following vote:

Ayes: 9– Rumold, Wolf, Washburn, Pilpel, Hepner, David, Hyland, Oka, Fischer

Noes: 0 – None

Absent: 1 - Winston

Frank Lee (Complainant) provided an overview of the complaint and requested the Task Force find violations. There were no speakers in support of the Complainant. Jennifer Johnston, Civil Service Commission (Respondent), presented an overview of their 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 Colla commented on the matter.

Member Pilpel, seconded by Member Wolf, moved to continue the matter to the call of the chair to allow the Task Force to conduct additional research.

Public Comment:

Bruce Wolfe expressed concern that the Task Force is not tracking the decisions in order to create precedents for future reference.

Paula Datesh provided general comments on the matter.

Thomas Picarello opposed the motion to continue the matter to the call of the chair. The Task Force is delaying a decision due to the lack of preparation.

Carlos Gracias provided general comments on the matter.

The motion passed by the following vote:

Ayes: 7– Rumold, Wolf, Washburn, Pipel, Hepner, Hyland, Oka

Noes: 2 – David, Fischer

Absent: 1 - Winston

8. **File No. 14065: Civil Grand Jury Report - Ethics in the City: Promise, Practice or Pretense.** (04:48:00 – 05:15:00)

The Task Force discussed the process to be used to review and respond to the Civil Grand Jury Report.

The Compliance and Amendments Committee and the Education, Outreach and Training Committee will schedule hearings to discuss the Civil Grand Jury Report and provide findings to the Task Force on July 22, 2014.

Robert van Ravenswaay, Larry Bush, and Elena Schmid (Foreperson), Civil Grand Jury, provided a summary of the Civil Grand Jury Report.

Public Comment:

Thomas Picarello expressed his appreciation and looks forward to the response of the Task Force.

Bruce Wolfe expressed his thanks to the Civil Grand Jury.

No action taken. The matter was continued to the call of the chair without objection.

9. **Administrator's Report.** (05:15:00 –

Victor Young, Sunshine Ordinance Task Force Administrator, presented the report.

Public Comment:

Bruce Wolfe expressed his appreciation for the administration of the Task Force and stated that it is the right of the public to file complaints and consolidation should not be allowed.

Thomas Picarello expressed his appreciation for the good work of the Administrator.

10. **Sunshine Ordinance Task Force Member Initiatives, Work Plan and Meeting Schedule.**

Chair Washburn scheduled a special meeting of the Task Force on July 22, 2014.

Member Pilpel submitted a list of possible future initiatives.

Public Comment:

None

No action taken.

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

Member Wolf requested hearings to address the Task Force complaint backlog, changing the Task Force meeting date, and providing education to the public.

Public Comment:

Thomas Picarello commented on the future policies of the Task Force regarding the processing of complaints and the role of the Administrator.

12. **ADJOURNMENT**

There being no further business the meeting was adjourned at 10:25 p.m.

APPROVED: 07/22/14



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.