



SUNSHINE ORDINANCE TASK FORCE CITY AND COUNTY OF SAN FRANCISCO MINUTES

Hearing Room 406
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

July 9, 2013 – 4:30 PM

Special Meeting

Members: Kitt Grant (Chair), Louise Fischer (Vice-Chair),
Richard Knee, Allyson Washburn, David Pipel,
David Sims, Todd David, Chris Hyland, Bruce Oka

1. CALL TO ORDER, ROLL CALL AND AGENDA CHANGES

The meeting was called to order at 4:38 p.m. All members were noted present. There was a quorum.

Chair Grant announced a request from the Complainant for File No. 13012 to be continued.

Member Washburn, seconded by Member Knee moved to accept the Complainant's request for continuance; CONTINUE File No. 13012 to August 7, 2013.

Public Comment:

None.

The motion PASSED without objection.

2. **File No. 12007:** The Education, Outreach and Training Committee has referred File No. 12007, Library Users Association against Supervisor Campos, for responding late to an immediate disclosure request and redacting information from Bernal Heights Branch Library Mural related documents inappropriately.

Member Knee, seconded by Member David moved to CONTINUE the matter to August 7, 2013, meeting.

Public Comment:

Ray Hartz stated that Task Force members should be informed of all supporting documents in order to make proper determinations; Allen Grossman expressed support for the motion.

The motion PASSED by the following vote:

Ayes: 9 - Knee, Washburn, Pilpel, Sims, Hyland, Oka, David, Fischer, Grant
Noes: 0

3. **File No. 13005:** Complaint filed by Paula Datesh against the Arts Commission for allegedly failing to respond to an Immediate Disclosure Request for records pertaining to the operations of the Arts Commission.

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

Public Comment:

None.

The motion PASSED without objection.

Paula Datesh (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of Complainant. Howard Lazar, Arts Commission (Respondent), provided an overview of the Arts Commission's defense and requested the Task Force to dismiss the complaint. There were no speakers in support of Respondent. A question and answer period followed. The Respondent provided a rebuttal and denied violating the Sunshine Ordinance. The Complainant provided a rebuttal and again requested the Task Force find violations.

Member Pilpel, seconded by Member Knee, moved to find the Arts Commission in violation of Sunshine Ordinance Sections 67.25(a) for failure to respond in a timely matter and 67.21(b) for failure to comply with the records request; referral to Education, Outreach and Training Committee.

Public Comment:

Diane expressed support of the complainant.

The motion PASSED by the following vote:

Ayes: 9 - Knee, Washburn, Pilpel, Sims, David, Hyland, Oka, Fischer, Grant

MEETING RECESS - 6:25 p.m. to 6:37 p.m.

4. **Public Comment:**

Ray Hartz expressed concern with the bias the Chair of the Education, Outreach and Training Committee displays in favor of City agencies;
Allen Grossman expressed concern with the six vote requirement in the Task Force by laws for approval of all substantive matters;
Paula Datesh announced her street artist certification was revoked;
Peter Warfield expressed concern with the vacancies on the Task Force;

Diane expressed concern with the Office of Citizen Complaints not responding to records requests.

***The following Summary was provided by a speaker, pursuant to Administrative Code Section 67.16. The content was neither generated by, nor subject to approval or verification of accuracy by, the Sunshine Ordinance Task Force.**

Allen Grossman submitted the following additional information for Public Comment as follows:

Agenda Item (4) Public Comment (150 words):

Allen Grossman's 150 Word Summary for inclusion in body of SOTF – JULY 9, 2013 Meeting Minutes

Yesterday, the California Supreme Court decided a CPRA case relevant to this body's adoption last year of the six vote "minimum" rule. The Court placed considerable weight on Prop 59's statutory requirement that laws related to public access must be broadly construed.

This decision is significant not because the two Deputy City Attorneys who advised this body on the six vote rule did not know that Prop 59 requirement, but because they never mentioned it in their legal Memoranda construing the City Charter provision involved. This body voted to adopt the six-vote minimum rule on the advice of those two lawyers.

As a result of their lack of professionalism and divided loyalty, those two Deputy City Attorneys deprived this body and the complainants who seek its help of the public's constitutionally protected right of access, which has been and will continue to be compromised to their detriment.

5. **File No. 13011:** Complaint filed by Paula Datesh against the Arts Commission for allegedly not providing documents relating to Evelyn Russell, former Arts Commission Secretary.

Member Knee, seconded by Member Oka, moved to find jurisdiction.

Public Comment:

None.

The motion PASSED without objection.

Paula Datesh (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of Complainant. Howard Lazar, Arts Commission (Respondent), provided an overview of the Arts Commission's defense and requested the Task Force to dismiss the complaint. There were no speakers in support of Respondent. A question and answer period followed; the Task Force requested, the Complainant provide her initial request made in March for the Task Force to make a determination. The Respondent provided a rebuttal denied

violating the Sunshine Ordinance. The Complainant provided a rebuttal and again requested the Task Force find violations.

Member Knee, seconded by Member Oka, moved to CONTINUE the matter to August 7, 2013, meeting.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Knee, Washburn, Pilpel, Sims, David Hyland, Oka, Fischer, Grant

Noes: 0

6. **File No. 13012:** Complaint filed by Glad Tidings Church against the Office of the Assessor-Recorder for allegedly failing to provide complete records associated with Glad Tidings Church and San Francisco Teen Challenge.

The Task Force continued this item to August 7, 2013, under Item No. 1 (Agenda Changes).

7. **File No. 13013:** Complaint filed by Ray Hartz Jr., against Luis Herrera, City Librarian, for allegedly abridging public comment by allowing selective accessibility of library audio visual equipment.

Member Washburn, seconded by Member Fischer, moved to find jurisdiction.

Public Comment:

None.

The motion PASSED without objection.

Ray Hartz, Jr. (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Sue Blackman, Library Commission Secretary, and Roberto Lombardi, Library Logistics (Respondents), provided an overview of the City Librarian's defense and requested the Task Force to dismiss the complaint. There were no speakers in support of Respondent. A question and answer period followed. The Respondents waived rebuttal opportunity. The Complainant provided a rebuttal and again requested the Task Force find violations.

Member Sims, seconded by Member Oka, moved to find the Library in violation of Sunshine Ordinance Section 67.15(a)(d) for abridging public comment by not providing equal access to audio visual equipment to invited parties and the public; referral to the Compliance and Amendments Committee.

Public Comment:

Male Speaker expressed opposition to the Library denying equal access to equipment; Paula Datesh expressed support of the motion;

Diane expressed appreciation of the Complainant for bringing this issue to the Task Force;

Peter Warfield stated the Library has the budget to accommodate the public's use of audio visual equipment.

The motion PASSED by the following vote:

Ayes: 8 - Knee, Washburn, Sims, David, Hyland, Oka, Fischer, Grant

Noes: 1 - Pilpel

8. **File No. 13014:** Complaint filed by Ray Hartz Jr. against Ben Rosenfield, Controller, for allegedly failing to provide filings by Luis Herrera, City Librarian, of gifts from the Friends of the San Francisco Public Library.

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

Public Comment:

None.

The motion PASSED without objection.

Ray Hartz, Jr. (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of Complainant. Monique Zmuda, Deputy Controller (Respondent), provided an overview of the City Controller's defense and requested the Task Force to dismiss the complaint. There were no speakers in support of Respondent. A question and answer period followed. The Complainant and Respondent responded to questions raised throughout the discussion. The Respondent waived rebuttal opportunity. The Complainant provided a rebuttal and again requested the Task Force find violations.

Member Pilpel, seconded by Member Oka, moved to find the City Controller in violation of Sunshine Ordinance Section 67.21(b) for failure to comply with a public records request within ten days following receipt; 67.25(a) for failure to respond in a timely matter; referral to the Education, Outreach and Training Committee for analysis of the City Controller's processes.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Knee, Washburn, Pilpel, Sims, David, Hyland, Oka, Fischer, Grant

Notes: 0

MEETING RECESS - 9:03 p.m. - 9:13 p.m.

Member Hyland was noted absent at 9:13 p.m.

9. **File No. 13015:** Complaint filed by William Ledford against the Office of the City Attorney for allegedly failing to process and complete an immediate disclosure request.

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

Public Comment:

None.

The motion PASSED without objection.

William Ledford (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of Complainant. Jack Song, Deputy Communications Director, City Attorney's Office (Respondent), provided an overview of the City Attorney's defense and requested the Task Force to dismiss the complaint. There were no speakers in support of Respondent. A question and answer period followed. The Respondent provided a rebuttal. The Complainant provided a rebuttal and again requested the Task Force find violations.

Member Washburn, seconded by Member Knee, moved to find the City Attorney in violation of Sunshine Ordinance Section 67.21(b) for failure to comply with a public records request within ten days following receipt of the request.

Public Comment:

Ray Hartz stated that the Complainant's only option was to go through the City Attorney for the records requested due to litigation;
Peter Warfield expressed concern over the City Attorney's claim to not having possession of the records requested by the Complainant.

The motion FAILED by the following vote:

Ayes: 1 - Washburn

Noes: 7 - Knee, Pilpel, Sims, David, Oka, Fischer, Grant

Absent: 1 - Hyland

There being no further notions, the matter concluded.

10. **Approval of Minutes from the January 16, 2013, Special Meeting.**

Member Pilpel, seconded by Member Knee, moved to CONTINUE items 10 through 15 to August 7, 2013.

Public Comment:

Peter Warfield suggested agendaizing the minutes first on the agenda.

The motion PASSED without objection.

11. **Approval of Minutes from the February 6, 2013, Regular Meeting.**

Member Pilpel, seconded by Member Knee, moved to CONTINUE items 10 through 15 to August 7, 2013.

Public Comment:

Peter Warfield suggested agendizing the minutes first on the agenda.

The motion PASSED without objection.

12. **Approval of Minutes from the March 6, 2013, Regular Meeting.**

Member Pilpel, seconded by Member Knee, moved to CONTINUE items 10 through 15 to August 7, 2013.

Public Comment:

Peter Warfield suggested agendizing the minutes first on the agenda.

The motion PASSED without objection.

13. **Approval of Minutes from the April 3, 2013, Regular Meeting.**

Member Pilpel, seconded by Member Knee, moved to CONTINUE items 10 through 15 to August 7, 2013.

Public Comment:

Peter Warfield suggested agendizing the minutes first on the agenda.

The motion PASSED without objection.

14. **Approval of Minutes from the May 1, 2013, Regular Meeting.**

Member Pilpel, seconded by Member Knee, moved to CONTINUE items 10 through 15 to August 7, 2013.

Public Comment:

Peter Warfield suggested agendizing the minutes first on the agenda.

The motion PASSED without objection.

15. **Approval of Minutes from the June 5, 2013, Regular Meeting.**

Member Pilpel, seconded by Member Knee, moved to CONTINUE items 10 through 15 to August 7, 2013.

Public Comment:

Peter Warfield suggested agendizing the minutes first on the agenda.

The motion PASSED without objection.

16. Report: Compliance and Amendments Committee meeting of June 18, 2013.

Member Washburn, Chair of the Compliance and Amendments Committee, reported on the Committee's July 18, 2013, meeting. In partnership, the Chairs of the Committee and the Task Force will send a letter to the Ethics Commission in regards to File No. 12058, Dominic Maionchi against the Recreation and Park Department.

Public Comment:

Ray Hartz expressed support of the letter to Ethics Commission;
Peter Warfield expressed support of the letter to Ethics Commission.

17. Report: Education, Outreach and Training Committee meeting of June 25, 2013.

Member Pilpel, Chair of the Education, Outreach and Training Committee, reported on the committee's June 25, 2013, meeting.

Member Knee expressed disagreement with Chair Pilpel presiding over Complaint No. 12050, Ray Hartz against the Clerk of the Board of Supervisors, with the intention to conclude the matter and not abide by the Order of Determination of the Task Force.

Member David stated that he would recuse himself from all future complaints involving Ray Hartz while Member Pilpel is Chair of the Education, Outreach and Training Committee.

Public Comment:

Ray Hartz urged the Task Force to listen to the audio of the June 25, 2013, Education, Outreach and Training Committee meeting to hear Chair Pilpel readjudicate complaints and show bias against complainants;
Peter Warfield stated that as Chair of the Education, Outreach and Training Committee and as a member of the Task Force, Member Pilpel is incapable of being impartial.

(Member David was noted absent at 10:53 p.m.)

18. Administrator's Report.

Andrea Ausberry, Sunshine Ordinance Task Force Administrator, presented the report.

Public Comment:

None.

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

Member Fischer wished Member Oka Happy Birthday.

Public Comment:

Ray Hartz stated that the consistency of how the title complaints are worded can affect the Task Force's determinations;

Peter Warfield expressed concern about which Task Force member will represent the Task Force at the Ethics Commission hearings.

20. **ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:57 p.m.

APPROVED: April 30, 2014



**Victor Young
Administrator
Sunshine Ordinance Task Force**