



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

June 1, 2016 - 4:00 PM

Regular Meeting

Seat 1	Vacant	Seat 7	Dave Maass
Seat 2	Eric Eldon	Seat 8	Frank Cannata
Seat 3	Josh Wolf	Seat 9	Chris Hyland - Vice Chair
Seat 4	Rishi Chopra	Seat 10	Louise Fischer
Seat 5	Leuwam Tesfai	Seat 11	Fiona Hinze
Seat 6	Bruce Wolfe		

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

Vice Chair Hyland called the meeting to order at 4:07 p.m. Members Chopra and Fischer were noted absent. There was a quorum.

Newly appointed members Leuwam Tesfai, Bruce Wolfe, Dave Maass and Frank Cannata introduced themselves and provided a short statement.

There were no agenda changes.

2. **File No. 14095:** Complaint filed by Bob Planthold 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, and the Government Audit and Oversight Committee meeting of September 11, 2014. (00:04:00 – 00:49:00)

(The Task Force heard the matter on January 7, 2015, pending an analysis by Former Member Rumold regarding the definition of a “substantive amendment” to legislative.)

Bob Planthold (Complainant) provided an overview of the complaint and requested the Task Force to find violations. Mr. Planthold stated that there are no procedures for the

Board of Supervisors to determine which amendments to legislation are considered to be significant changes. There were no speakers in support of the Complainant. Brent Jalipa, Office of the Clerk of the Board provided a summary of the Respondents' response to the complaint. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

Deputy City Attorney Colla provided comments and responded to questions from the Task Force.

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

Public Comment:

Francisco DaCosta commented on the administration of the Oath of Office to the members of the Task Force and stated that the Board of Supervisors tried to destroy the Task Force.

Richard Knee expressed thanks for the service of the Task Force and stated that a similar complaint was heard by the Task Force in September of 2011.

Peter Warfield stated that the minutes should be reviewed at the beginning of the meeting and provided samples of the Board of Supervisors legislation amendment process.

The motion PASSED by the following vote:

Ayes: 8 - Eldon, J. Wolf, Tesfai, B. Wolfe, Maass, Cannata, Hinze, Hyland

Noes: 0 - None

Absent: 2 - Chopra, Fischer

The Task Force requested that the Respondents provide an official determination regarding whether the amendments in question were substantive or not.

Vice Chair Hyland requested that information regarding a similar complaint heard by the Task Force in September of 2011 (Parkmerced) be provided for comparison and precedence purposes.

The Task Force requested that a representative from the Respondent's Office who is knowledgeable of the issues attend the next hearing regarding the matter.

3. **File No. 16034:** Complaint filed by Bob Planthold against Supervisor Katy Tang and Supervisor Norman Yee, Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.15, and California Government Code, Section 54954.3, by failing to provide adequate opportunity for public comments at the March 23, 2016, Budget and Finance Sub-Committee meeting. (00:49:00 – 01:11:00)

Member Hinze, seconded by Member Tesfai, moved to find jurisdiction

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 - Eldon, J. Wolf, Tesfai, B. Wolfe, Maass, Cannata, Hinze, Hyland

Noes: 0 - None

Absent: 2 - Chopra, Fischer

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. Brent Jalipa, Office of the Clerk of the Board provided a summary of the Respondents' response to the complaint. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

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

Public Comment:

Peter Warfield stated that the content of the agenda packet was not properly presented and commented on the amendment process.

Richard Knee stated that only complaints related to public records require representative from the Respondent to attend the meeting.

The motion PASSED by the following vote:

Ayes: 8 - Eldon, J. Wolf, Tesfai, B. Wolfe, Maass, Cannata, Hinze, Hyland

Noes: 0 - None

Absent: 2 - Chopra, Fischer

The Task Force extended an invitation to the Clerk of the Board and the Respondents to attend the next meeting on the matter to discuss the Board of Supervisors' process for determining which amendments to legislation are considered to be significant change and the merits of the complaint.

4. **File No. 16036:** Complaint filed by Bob Planthold against the State Legislation Committee for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.7, by failing to post the April 13, 2016, agenda online 72 hours prior to the meeting and failing to post cancellation notices prior to meetings. (01:16:00 – 01:49:00)

Member B. Wolfe, seconded by Member Hinze, moved to find jurisdiction

Public Comment:

Warfield provided comments not related to jurisdiction.

The motion PASSED by the following vote:

Ayes: 8 - Eldon, J. Wolf, Tesfai, B. Wolfe, Maass, Cannata, Hinze, Hyland

Noes: 0 - None

Absent: 2 - Chopra, Fischer

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. Andrew Dayton, Mayor's Office (Respondent); provided a summary of the department's response to the complaint. Mr. Dayton acknowledged that due to the absence of technical staff the agenda was not posted in a timely manner and the meeting was cancelled in order to avoid violating the Sunshine Ordinance. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainants were provided the opportunity for rebuttals.

Member B. Wolfe, seconded by Member Cannata, moved to find the State Legislation Committee in violation of Administrative Code (Sunshine Ordinance), Sections, 67.7 (a) and (c), by failing to post a current agenda on its internet site at least 72 hours before a regular meeting and failing to post the agenda in a location that is freely accessible to members of the public, without prejudice.

Public Comment:

Peter Warfield expressed his agreement with the Task Force motion.

The motion PASSED by the following vote:

Ayes: 8 - Eldon, J. Wolf, Tesfai, B. Wolfe, Maass, Cannata, Hinze, Hyland

Noes: 0 - None

Absent: 2 - Chopra, Fischer

Vice-Chair Hyland and the Task Force requested that the matter be referred to the Education, Outreach and Training Committee for discussions with the Respondent, at a minimum, regarding the responsibility of the departments to post agenda in a timely manner and the disconnect between the clerks who generate agendas and the webmasters who post the agendas. It request that the committee generate a letter to all city departments heads stating that they are ultimately responsible for their departments postings and request that they review possible disconnects between the policy body's

clerks and the webmasters. The issue of proper procedures to post agendas and cancellation notices should be addressed.

Recommendation from the Compliance and Amendments Committee.

(The Compliance and Amendments Committee held a hearing to review File Nos. 16024 and 16029 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.)

5. **File No. 16024:** Complaint filed by Michael Petrelis against District Attorney George Gascon and the Office of the District Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.4(a), by failing to provide a notice of meeting or an agenda on their website or upon inquiry by a member of the public (Blue Ribbon Panel on Transparency, Accountability and Fairness in Law Enforcement – February 22, 2016, meeting). *(On April 19, 2016, the Compliance and Amendments Committee referred the matter to the Task Force with the recommendation to find jurisdiction and to find that there were no violations of Administrative Code (Sunshine Ordinance), Chapter 67. (01:49:00 – 02:02:00)*

Task Force Administrator Victor Young provided a summary of the Committee's recommendation and the Task Force discussed the recommendation of the Committee.

Public Comment:

Nikesh Patel, Office of the District Attorney (Respondent), answered questions from the Task Force and provided additional comments regarding the complaint.

Member Tesfai, seconded by Member B. Wolfe, moved to adopt the recommendation of the Compliance and Amendments Committee to find that the Task Force has jurisdiction and that there were no violations of Administrative Code (Sunshine Ordinance), Chapter 67.

The motion PASSED by the following vote:

Ayes: 8 - Eldon, J. Wolf, Tesfai, B. Wolfe, Maass, Cannata, Hinze, Hyland

Noes: 0 - None

Absent: 2 - Chopra, Fischer

6. **File No. 16029:** Complaint filed by Michael Petrelis against District Attorney George Gascon and the Office of the District Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to make documents available in any form requested which is available to or easily generated by the department and failure to respond to an Immediate Disclosure Request in a timely and/or complete manner.

(On April 19, 2016, the Compliance and Amendments Committee referred the matter to the Task Force with the recommendation to find jurisdiction and to find that there were violations of Administrative Code (Sunshine Ordinance), Sections 67.21(c) and 67.25 (a) and (b) for failing to assist the requester in identifying the existence, form and nature of any records or information maintained and failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.) (02:26:00 – 02:34:00)

Task Force Administrator Victor Young provided a summary of the Committee's recommendation and the Task Force discussed the recommendation of the Committee.

Public Comment:

Nikesh Patel, Office of the District Attorney (Respondent), answered questions from the Task Force and provided additional comments regarding the complaint.

Peter Warfield expressed his opinion regarding the City Attorney's Good Government Guide and objected to the Task Force opinion regarding determination as to the validity of Immediate Disclosure Requests.

Member Hinze, seconded by Member B. Wolfe, moved to adopt the recommendation of the Compliance and Amendments Committee to find that the Task Force has jurisdiction and that District Attorney George Gascon and the Office of the District Attorney violated Administrative Code (Sunshine Ordinance), Sections 67.21(c) and 67.25 (a) and (b), by failing to assist the requester in identifying the existence, form and nature of any records or information maintained and failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.)

The motion PASSED by the following vote:

Ayes: 8 - Eldon, J. Wolf, Tesfai, B. Wolfe, Maass, Cannata, Hinze, Hyland

Noes: 0 - None

Absent: 2 - Chopra, Fischer

Recommendation from the Complaint Committee.

(The Compliant Committee held a hearing to review File Nos. 15164 and 16033 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.

7. **File No. 15164:** Complaint filed by Ann Treboux against Howard Lazar and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, for failure to respond to a public records request in a timely and/or complete manner.

*(On April 26, 2016, the Complaint Committee referred the matter to the Task Force with the recommendation to find jurisdiction and to find that there was a violation of Administrative Code (Sunshine Ordinance), Section 67.25(a) for failing to respond to an Immediate Disclosure Request in a timely manner.)
(02:26:00 – 02:34:00)*

Task Force Administrator Victor Young provided a summary of the Committee's recommendation and the Task Force discussed the recommendation of the Committee.

Public Comment:

Ann Treboux (Complainant), provided a summary of her complaint.

Member Hinze, seconded by Vice Chair Hyland, moved to adopt the recommendation of the Complaint Committee to find that the Task Force has jurisdiction and that Howard Lazard and the Arts Commission violated Administrative Code (Sunshine Ordinance), Section 67.25 (a), by failing to respond to an Immediate Disclosure Request in a timely manner.

The motion PASSED by the following vote:

Ayes: 8 - Eldon, J. Wolf, Tesfai, B. Wolfe, Maass, Cannata, Hinze, Hyland

Noes: 0 - None

Absent: 2 - Chopra, Fischer

8. **File No. 16033:** Complaint filed by Ann Treboux against Sharon Page-Ritchie and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, by failing to make draft minutes available for inspection no later than 10 working days after the meeting (Arts Commission March 7, 2016, meeting). (*Discussion and Action*) (*attachment*)
(On April 26, 2016, the Complaint Committee referred the matter to the Task Force with the recommendation to find jurisdiction and to find that there were no violations of Administrative Code (Sunshine Ordinance), Chapter 67). (02:24:00 – 02:41:00)

Task Force Administrator Victor Young provided a summary of the Committee's recommendation and the Task Force discussed the recommendation of the Committee.

Public Comment:

Ann Treboux (Complainant), provided additional documentation and provided a summary of her complaint.

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

The motion PASSED by the following vote:

Ayes: 8 - Eldon, J. Wolf, Tesfai, B. Wolfe, Maass, Cannata, Hinze, Hyland

Noes: 0 - None

Absent: 2 - Chopra, Fischer

9. **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. (01:11:00 – 01:16:00)

Speakers:

Ann Treboux commented on the inappropriate actions of Howard Lazar on May 16, 2016.

Peter Warfield commented on his past experiences with the Task Force and stated that the Task Force is not in compliance with the 45 day deadline to hear complaints.

SPECIAL ORDER – The hearing on File No. 16030 will not begin earlier than 5:30 p.m.

10. **File No. 16030:** Complaint filed by Geoff Lewis against the San Francisco Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a request for public records in a timely and/or complete manner. (02:41:00 – 03:58:00)

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

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 8 - Eldon, J. Wolf, Tesfai, B. Wolfe, Maass, Cannata, Hinze, Hyland
Noes: 0 - None
Absent: 2 - Chopra, Fischer

Geoff Lewis (Complainant) provided an overview of the complaint and requested the Task Force to find violations. Mr. Lewis commented on his inability to retrieve report numbers and the delayed responses. There were no speakers in support of the Complainant. Lt. Kathryn Waaland, Police Department (Respondent), provided a summary of the department’s position. Lt. Waaland stated that all requested records were provided or referred to the appropriate agency for processing. However, reference to an additional report was not recorded in the appropriate location and resulting in a delayed response. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainants were provided the opportunity for rebuttals.

Deputy City Attorney Colla provided comments and responded to questions from the Task Force.

Member B. Wolfe, seconded by Member Hinze, moved to find the Police Department violated Administrative Code (Sunshine Ordinance), Section 67.25 (d), by failing to provide responsive records on an incremental or rolling basis as they became available.

Public Comment:
Peter Warfield commented on the hearing process.

The motion PASSED by the following vote:

Ayes: 8 - Eldon, J. Wolf, Tesfai, B. Wolfe, Maass, Cannata, Hinze, Hyland
Noes: 0 - None
Absent: 2 - Chopra, Fischer

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

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

Public Comment:

Peter Warfield commented on the lack of procedures for review request for re-hearings and stated that the discussion regarding the complaint procedures has been continued on multiple occasions without discussion.

The motion PASSED by the following vote:

Ayes: 8 - Eldon, J. Wolf, Tesfai, B. Wolfe, Maass, Cannata, Hinze, Hyland

Noes: 0 - None

Absent: 2 - Chopra, Fischer

12. **Approval of minutes from the Sunshine Ordinance Task Force May 4, 2016, meeting.**

The Task Force discussed the meeting minutes and procedures for approval.

Member B. Wolfe, seconded by Member Hinze, moved to approve the minutes as amended.

Public Comment:

Peter Warfield stated that the public comment does not provide an accurate summary of comments.

The motion PASSED by the following vote:

Ayes: 8 - Eldon, J. Wolf, Tesfai, B. Wolfe, Maass, Cannata, Hinze, Hyland

Noes: 0 - None

Absent: 2 - Chopra, Fischer

13. **Administrator's Report, Complaints and Communications.**

- **Task Force and Committee Hearing Schedule**
- **Complaints Submitted and Hearing Files Created**
- **Communications to the Task Force**
 - Peter Warfield – Request for hearing of File Nos. 15161 and 15162 and complaint filing against the Task Force
 - Michael Petrelis – Blog 4/10/16
 - Michael Petrelis – Proposed Amendment to Order of Determination File No. 15163
 - Shelter Monitoring Committee – Request for Training
 - Board of Supervisors – Legislation Introduced – File No. 160478
Proposed Amendment to the Campaign and Governmental Conduct Code – Requiring Commissioners to File Behested Payment Reports

- Kimo Crossman – Ex Parte Communication Disclosure
- David Johnson – Investigation of San Francisco’s “Pay to Play System”
- **Summary of Pending Complaints and Other Issues**

Task Force Administrator Victor Young presented the Administrator’s Report.

Public Comment:

Peter Warfield provided a summary of his request for a hearing on File Nos. 15161 and 15162 and stated that the Task Force is not following its own procedures.

The Task Force reviewed Mr. Warfield’s request for hearing on File Nos. 15161 and 15162 and referred the matter to the Compliance and Amendments Committee’s June 21, 2016, meeting for hearings.

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

Member Maass request a review of the redaction policy and possible litigation in regards to File No. 16030 and the inclusion of a document provided by the Complainant and redacted by the Administrator.

Member Maass inquired as to the duty of the Task Force to address abusive language used by the Complainants.

Member Maass provided a summary of the proposed legislation regarding Behested Payments Reports.

15. ADJOURNMENT

There being no further business the meeting was adjourned at 9:19 p.m.

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.

APPROVED by the Sunshine Ordinance Task Force: July 6, 2016