



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 24, 2014 – 4:00 PM

Special 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

The meeting was called to order at 4:03 p.m. Member Washburn was noted absent. There was a quorum. Member Washburn was noted present at 4:08 p.m.

Agenda Changes: None.

2. Sunshine Ordinance Task Force Overview - Presentation. (00:01:46 – 00:15:00)

Nicholas Colla, Deputy City Attorney, and Victor Young, Sunshine Ordinance Task Force Administrator, provided a summary of relevant laws and procedures.

Public Comment:

Patrick Monette-Shaw expressed concern that Proposition 59 was not mentioned during the presentation and that the Good Government Guide has no force of law behind it. Mr. Monette-Shaw also stated that Member Pilpel should not be representing the Task Force at other meetings.

Peter Warfield stated that all items presented can be controversial and that the City Attorney's advice should not be considered law. Mr. Warfield stated that the Task Force should make their own decisions.

Thomas Picarello expressed his thanks to the Task Force but is concerned that the Task Force has no enforcement powers.

File No. 14026, 14027 and 14028 were heard concurrently. The Complainant and Respondent agreed to the grouping of the items.

3. **File No. 14026** - Complaint filed by Craig Gold against Chief Greg Suhr, San Francisco Police Department, for allegedly violating Sunshine Ordinance Section 67.21 and California Government Code Section 6253 for failure to adequately respond to a request for public records dated December 3, 2013. (00:15:00– 03:06:00)

Member Pilpel, seconded by Member David, moved to find jurisdiction of File No. 14026 and 14027.

Public Comment:

Patrick Monette-Shaw objected to the grouping of complaints for hearing.

Peter Warfield objected to the grouping of complaints and stated that each complaint should have a separate hearing.

Richard Knee stated that this portion of public comment is only for determining jurisdiction.

The motion PASSED by the following vote:

Ayes: 10 – Rumold, Winston, Wolf, Washburn, Pilpel, Hepner, David, Hyland, Oka, Fischer.

Noes: 0 – None

Craig Gold (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Lieutenant Chris Woon, Police Department, Monique Zmuda, Controller's Office, and Gabriel Zitrin, City Attorney's Office (Respondents), presented an overview of their defense. Paula Datesh spoke in support of the Police Department and the Controller's Office. Patrick Monette-Shaw spoke in support of the Controller's Office. A question and answer period followed. Lieutenant Woon, Respondent, provided a rebuttal for the Police Department. The Complainant provided a rebuttal.

Deputy City Attorney Colla commented on the matter.

Member Pilpel, seconded by Member Washburn, moved to find Chief Greg Suhr, San Francisco Police Department, in violation of Sunshine Ordinance Sections 67.21(a) and 67.21(c) for failure to comply with a request for information in a timely manner and failure to provide assistance in identifying the existence, form and nature of any record or information.

Public Comment.

Thomas Picarello requested that an explanation of the code sections be provided and expressed support for the motion.

Peter Warfield stated that the grouping of items has created chaos. Mr. Warfield stated that Section 67.21(a), 67.21(b) and 67.22 are applicable to this matter.

Patrick Monette-Shaw expressed support for the motion.

Member Washburn, seconded by Member Pilpel, amended the motion to add violation of Sunshine Ordinance Section 67.21(b) for failure to respond to a request for information in a timely manner.

Member David requested that the question be divided by section.

The motion to find the Police Department in violation of Sunshine Ordinance Section 67.21(a) FAILED by the following vote:

Ayes: 2 – Washburn, Hepner

Noes: 8 – Rumold, Winston, Wolf, Pilpel, David, Hyland, Oka, Fischer

The motion to find the Police Department in violation of Sunshine Ordinance Section 67.21(b) PASSED by the following vote:

Ayes: 10 – Rumold, Winston, Wolf, Washburn, Pilpel, Hepner, David, Hyland, Oka, Fischer

Noes: 0 – None

The motion to find the Police Department in violation of Sunshine Ordinance Section 67.21(c) PASSED by the following vote:

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

Noes: 1 – David

Member Washburn, seconded by Member Hyland, moved to find Chief Greg Suhr, San Francisco Police Department, in violation of Sunshine Ordinance Section 67.22 for failure to answer questions within reason.

Member Washburn withdrew the motion to find violation of Sunshine Ordinance Section 67.22.

Vice Chair Fischer referred the matter to the Compliance and Amendments Committee. The Task Force requests that the Police Department work with the Complainant to provide any additional information or documents relevant to the matter. In addition, the Task Force requests that the Police Department review and amend their policies to account for the possibility that public records requests may, in certain circumstances, be submitted in the form of questions.

4. **File No. 14027** - Complaint filed by Craig Gold against Ben Rosenfield, Controller, and Monique Zmuda, Controller's Office, for allegedly violating Sunshine Ordinance Section 67.21 and California Government Code Section 6253 for failure to adequately respond to a request for public records dated December 3, 2013. (00:15:00– 03:06:00)

Member Pilpel, seconded by Member David, moved to find jurisdiction of File No. 14026 and 14027.

Public Comment:

Patrick Monette-Shaw objected to the grouping of complaints for hearing.

Peter Warfield objected to the grouping of complaints and stated that each complaint should have a separate hearing.

Richard Knee stated that this portion of public comment is only for determining jurisdiction.

The motion passed by the following vote:

Ayes: 10 – Rumold, Winston, Wolf, Washburn, Pilpel, Hepner, David, Hyland, Oka, Fischer.

Noes: 0 – None.

Craig Gold (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Lieutenant Chris Woon, Police Department, Monique Zmuda, Controller's Office, and Gabriel Zitrin, City Attorney's Office (Respondents), presented an overview of their defense. Paula Datesh spoke in support of the Police Department and the Controller's Office. Patrick Monette-Shaw spoke in support of the Controller's Office. 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 Oka, moved to find the Controller's Office in violation of Sunshine Ordinance Section 67.21(b) for failing to respond to the request for documents in a timely manner.

Public Comment:

Peter Warfield expressed support for the motion and stated that correspondence should be maintained.

The motion PASSED by the following vote:

Ayes: 10 – Rumold, Winston, Wolf, Washburn, Pilpel, Hepner, David, Hyland, Oka, Fischer.

Noes: 0 – None.

5. **File No. 14028** - Complaint filed by Craig Gold against Dennis Herrera, City Attorney, and Paula Jesson and Buck Delventhal, City Attorney's Office, for allegedly violating Sunshine Ordinance Section 67.21 for failure to adequately respond to a request for public records dated December 3, 2013, and January 14, 2014. (00:15:00– 03:06:00)

Member Pilpel, seconded by Member David, moved to find jurisdiction of File No. 14028.

Public Comment:

Patrick Monette-Shaw objected to the grouping of complaints for hearing.

Peter Warfield objected to the grouping of complaints and stated that each complaint should have a separate hearing.

Richard Knee stated that this portion of public comment is only for determining jurisdiction.

The motion passed by the following vote:

Ayes: 10 – Rumold, Winston, Wolf, Washburn, Pilpel, Hepner, David, Hyland, Oka, Fischer.

Noes: 0 – None.

Craig Gold (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Lieutenant Chris Woon, Police Department, Monique Zmuda, Controller's Office, and Gabriel Zitrin, City Attorney's Office (Respondents), presented an overview of their defense. Paula Datesh spoke in support of the Police Department and the Controller's Office. Patrick Monette-Shaw spoke in support of the Controller's Office. A question and answer period followed. The Respondents provided a rebuttal. The Complainant provided a rebuttal.

Deputy City Attorney Colla commented on the matter.

Public Comment:

Paula Datesh stated that complaints should be screened to speed up the process.

Peter Warfield stated that the timeline of the request and response is unclear.

Patrick Monette-Shaw stated that the general public comment hour has already passed and that grouping of complaints has extended the time for the hearing.

Thomas Picarello stated that the grouping of complaints has extended the time spent on the hearing.

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

6. **Public Comment: (03:06:00– 03:21:00)**

Paula Datesh stated that the Arts Commission is not properly maintaining their records. The Executive Committee did not start recording their minutes until 2012.

Patrick Monette-Shaw stated that he has a website www.stoplhhdwnsize.com that reports on various aspects of the Task Force. Mr. Monette-Shaw stated that Member Pilpel should be removed as Chair of the Education Outreach and Training Committee.

Richard Knee expressed appreciation for the Task Force's civility, ability to listen, and ability work with each other. He added that the Sunshine Ordinance requires departments to maintain records in a businesslike manner.

Peter Warfield stated that he submitted a letter on various issues including the requirement that the Task Force take action on complaints within 45 days.

Thomas Picarello stated that it is mandatory that the Task Force act within 45 days on complaints. Vacant seats need to be filled immediately. The Board of Supervisors Budget and Finance Committee has not complied with the Order of Determination regarding public comment.

The meeting was recessed from 7:24 p.m. to 7:35 p.m.

7. **Report: Court of Appeals Case regarding the City of San Jose v. Ted Smith regarding public records on personal devices.**

Nicholas Colla, Deputy City Attorney, presented the report. A question and answer period followed.

Public Comment:

Patrick Monette-Shaw expressed concern regarding emails from Supervisor David Chiu (Board of Supervisors) personal e-mail account.

Peter Warfield stated that the case has not yet been adjudicated and described his experience with the Public Library.

Richard Knee expressed his disagreement with Member Pilpel regarding public records on personal devices. The attention of the Task Force should be focused on matters before them.

Thomas Picarello expressed concern over the backlog of complaints.

8. **Sunshine Ordinance Task Force – Annual Report.**

Member Washburn, seconded by Member Hyland, moved to CONTINUE the matter to the call of the chair.

Public Comment:

Patrick Monette-Shaw expressed his disappointment with the current version of the Annual Report and stated that the statistics are incorrect.

Peter Warfield stated that the Annual Report is a smear on the public and omits relevant information.

Richard Knee suggested various amendments to the Annual Report.

Thomas Picarello stated that the process used to circulate the Annual Report was not sunshine friendly.

Dr. Derek Kerr disagreed with the Annual Report and stated that the purge of the Task Force in 2012 had caused a paralysis.

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

Dr. Derek Kerr submitted the following statement as follows:

150-Word Public Comment for SOTF Minutes

Two years ago, using the pretext of "inefficiency" and "Charter violation", Supervisors Wiener, Chiu and Farrell purged this Task Force and stacked it with acolytes. Their violation of the Administrative Code caused 6 months of SOTF paralysis - the worst inefficiency ever.

Once again, the Report "recommend(s) the Board of Supervisors to take steps to improve the enforcement of the Ordinance". Why didn't Louise Fischer and Todd David persuade their patron, Supervisor Scott Wiener, to address this logjam that provokes repeat complaints - and lawsuits.

Instead, you target "a small core group...that files the exact same complaints". The frontline of Civil Rights struggles is always a "small core group". When ignored, they come back. Sometimes, they're right. Yet, they're always targeted by power-hoarders and their toadies.

You should report whether this "small core group" is filing valid complaints. Blindly tabulating their complaint numbers paints targets on their backs.

The motion PASSED by the following vote:

Ayes: 10 – Rumold, Winston, Wolf, Washburn, Pilpel, Hepner, David, Hyland, Oka, Fischer

Noes: 0 – None

9. Approval of Minutes from the June 4, 2014, Meeting.

Member Pilpel, seconded by Member David, moved to approve the June 4, 2014, meeting minutes as amended.

Public Comment:

Patrick Monette-Shaw stated that members of the Task Force must vote and take a position.

Peter Warfield expressed concern that the minutes do not provide enough information.

Thomas Picarello stated that minutes are important since the meetings are not televised.

The motion PASSED by the following vote:

Ayes: 6 – Washburn, Pilpel, David, Hyland, Oka, Fischer

Noes: 4 – Rumold, Winston, Wolf, Hepner

10. Report: Compliance and Amendments Committee meeting of June 17, 2014.

Member Washburn, Chair, Compliance and Amendments Committee, reported on the activities of the committee.

Public Comment:

None.

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

Election of Officers and discussion scheduling special meeting will occur on July 2, 2014.

Member Pilpel requested a hearing to discuss the Task Force member initiatives and work plan.

Public Comment:

Peter Warfield expressed concern regarding meeting on the same day as the Board of Supervisors.

The next meeting of the Task Force will occur on July 2, 2014.

12. ADJOURNMENT

There being no further business the meeting was adjourned at 9:05 p.m.

APPROVED: 07/22/214



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.