



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

March 5, 2014 – 4:00 PM

Regular Meeting

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

1. **Call to Order, Roll Call, and Agenda Changes.**

The meeting was called to order at 4:13 p.m. Members Washburn, Pilpel and Oka were noted absent. There was a quorum. Member Washburn was noted present at 5:05 p.m. Member Sims was noted absent at 7:35 p.m.

Public Comment:

Peter Warfield inquired as to the attendance of additional members of the Task Force.

2. **File No. 13060:** Complaint filed by Larry Littlejohn against Bill Ahern, Medical Examiner, for allegedly violating Sunshine Ordinance Section 67.25 for failure to respond to an immediate disclosure request dated August 26, 2013. (00:01:00 – 00:45:00)

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

Public Comment:

None.

The motion PASSED without objection.

Larry Littlejohn (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Christopher Wirowek, Medical Examiner's Office (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 Knee, seconded by Member David, moved to find the Amy Hart, Chief Medical Examiner, in violation of Sunshine Ordinance Section 67.21(b).

Public Comment:

Thomas Picarello stated that assisted listening devices should be provided to Mr. Littlejohn and that the respondent did not provide a response to the complaint thereby violating the immediate disclosure request.

Peter Warfield stated that the immediate disclosure request has not been fulfilled.

Paula Datesh suggested that communication with Mr. Littlejohn in writing would be more effective.

The motion PASSED by the following vote:

Ayes: 6 – Knee, Sims, David, Hyland, Fischer, Grant

Absent: 3 – Washburn, Pilpel, Oka

Chair Grant directed the Medical Examiner to work with the Complainant to provide the requested access to documents and referred the complaint to the April 15, 2014, meeting of the Compliance and Amendments Committee.

3. **Public Comment:**

Paula Datesh expressed concern regarding the Arts Commission non-compliances with public documents request and the late posting of meeting minutes.

Peter Warfield expressed concern regarding the structure of the SOTF meeting packets and serial violations and the root cause of violations of the Sunshine Ordinance.

Thomas Picarello expressed concern regarding the attendance of the SOTF Members and the low number of items scheduled for hearing.

4. **File No. 13074:** Complaint filed by Peter Warfield, Executive Director, Library Users Association, against the Library Commission for allegedly violating Sunshine Ordinance Sections 67.5, 67.7, and 67.7-1 for failure to scheduled a public meeting prior to distributing a letter from the Library Commission on October 4, 2013, regarding support for San Francisco City Librarian Luis Herrera in regard to the recent stipulation, decision and order pertaining to the filing of statements of economic interest to the Fair Political Practices Commission. (00:55:00 – 01:23:00)

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

Public Comment:

None.

The motion PASSED without objection.

Peter Warfield, Executive Director, Library Users Association (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 (Respondent), presented an overview of their defense. Michelle Jeffers, Public Library, spoke in support of the Respondent. A question and answer period followed. The Respondent provided a rebuttal. The Complainant provided a rebuttal.

Member Washburn, seconded by Member Knee, moved to find the Library Commission in violation of Sunshine Ordinance Sections 67.15(a) and 67.5 and concluded the matter.

Public Comment:

Paula Datesh stated that the violation should be referred for enforcement as an apology does not correct the mistake; Robert Levingston stated that 67.7 was not mentioned in the motion and requested clarification; Thomas Picarello supports the proposed motion of the Task Force and stated that an apology is not sufficient and that it should be referred to the Ethics Commission for enforcement.

The motion PASSED by the following vote:

Ayes: 7 – Knee, Washburn, Sims, David, Hyland, Fischer, Grant

Absent: 2 – Pilpel, Oka

5. **File No. 13082:** Complaint filed by Gonzalo Javier Ferrer, against City Attorney Dennis Herrera and Deputy City Attorney Paula Jesson, City Attorney’s Office, for allegedly violating Sunshine Ordinance Sections 67.21(d) and 67.34 for failure to respond to a request for determination of the status of certain records being public documents or not made in a timely manner on October 13, 2013, and October 20, 2013. (1:23:00 – 2:20:00)

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

Public Comment:

None.

The motion PASSED without objection.

Gonzalo Javier Ferrer (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Gabriel Zitrin, City Attorney’s Office (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 Knee, seconded by Member Hyland, moved to find the Supervisor of Records in violation of Sunshine Ordinance Section 67.21(d).

Public Comment:

Peter Warfield disagreed with the statements of the City Attorney’s Office and supports the findings of violation.

Paula Datesh expressed support for the Supervisor of Records and praised Ms. Jesson for her previous work.

Thomas Picarello stated that ‘shall’ means that the City Attorney does not have any discretion and must comply with the Sunshine Ordinance and request that the City Attorney be found in violation.

The motion PASSED by the following vote:

Ayes: 7 – Knee, Washburn, Sims, David, Hyland, Fischer, Grant

Absent: 2 – Pilpel, Oka

Member Hyland, seconded by Member Knee, moved to find the Supervisor of Records in violation of Sunshine Ordinance Section 67.34 (Willful Failure Shall Be Official Misconduct); referral to the Ethics Commission for enforcement.

Public Comment:

Thomas Picarello expressed support of the motion and stated that the Ethics Commission should make the determination of the definition of ‘shall.’

Peter Warfield supports the motion.

The motion FAILED by the following vote:

Ayes: 3 – Knee, Washburn, Hyland

Noes: 4 – Sims, David, Fischer, Grant

Absent: 2 – Pilpel, Oka

Chair Grant referred the complaint to the Education, Outreach and Training Committee.

6. Sunshine Ordinance Task Force – Annual Report.

Chair Grant provided a summary of the progress on drafting the SOTF Annual Report. A question and answer period followed. Committee Chairs were requested to provide summaries for inclusion in the Annual Report.

Member Knee, seconded by Member Washburn, moved to continue to April 2, 2014.

Public Comment:

Thomas Picarello stated that the chair cannot eliminate a committee of the SOTF because it is listed in the bylaws.

The motion passed without objection.

7. Sunshine Ordinance Task Force Bylaws – Review and Possible Amendments.

Chair Grant provided a summary on the status of the review and amendments of the SOTF Bylaws. Administrator Young provided a list of proposed issues to address. A question and answer period followed.

Member David, seconded by Member Knee, moved to continue to April 2, 2014.

Public Comment:

Thomas Picarello suggested to move the burden of proof to the respondent and have the committee hear the complaint prior to the SOTF.

The motion passed without objection.

8. Sunshine Ordinance Task Force Complaint Procedures – Review and Possible Amendments.

Chair Grant provided a summary on the status of the review and amendments of the Complaint Procedure. Administrator Young provided a list of proposed issues to address. A question and answer period followed.

Member Knee, seconded by Member Washburn, moved to continue to April 2, 2014.

Public Comment:

None.

The motion passed without objection.

Member David, seconded by Member Knee, moved continued Items 9-20 to the April 2, 2014, meeting of the Sunshine Ordinance Task Force.

Public Comment:

None

The motion PASSED by the following vote:

Ayes: 6 – Knee, Washburn, David, Hyland, Fischer, Grant

Absent: 3 – Pilpel, Sims, Oka

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

Continued to April 2, 2014.

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

Continued to April 2, 2014.

11. Approval of Minutes from the July 9, 2013, Special Meeting.

Continued to April 2, 2014.

12. Approval of Minutes from the August 7, 2013, Regular Meeting.

Continued to April 2, 2014.

13. Approval of Minutes from the September 4, 2013, Regular Meeting

Continued to April 2, 2014.

14. **Approval of Minutes from the October 2, 2013, Regular Meeting.**
Continued to April 2, 2014.
15. **Approval of Minutes from the November 6, 2013, Regular Meeting.**
Continued to April 2, 2014.
16. **Approval of Minutes from the December 4, 2013, Regular Meeting.**
Continued to April 2, 2014.
17. **Approval of Minutes from the January 30, 2014, Special Meeting.**
Continued to April 2, 2014.
18. **Approval of Minutes from the February 5, 2014, Regular Meeting.**
Continued to April 2, 2014.
19. **Report: Education, Outreach and Training Committee meetings of February 10, 2014.**
Continued to April 2, 2014.
20. **Administrator's Report.**
Continued to April 2, 2014.
21. **Announcements, Comments, Questions, and Future Agenda Items**
22. **ADJOURNMENT**

There being no further business, the Task Force adjourned at 7:45 p.m.

APPROVED: April 30, 2014



**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.

Agenda Item Information

Each item on the agenda may include: 1) Department or Agency cover letter and/or report; 2) Public correspondence; 3) Other explanatory documents. For more information concerning agendas, minutes, and meeting information, such as these documents, please contact the SOTF Clerk, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102.

Audio recordings of the meeting of the Sunshine Ordinance Task Force are available at:
<http://www.sfbos.org/index.aspx?page=9811>

For information concerning Sunshine Ordinance Task Force please contact by e-mail sof@sfgov.org or by calling (415) 554-7724.

Public Comment

Public Comment will be taken before or during the Committee's consideration of each agenda item. Speakers may address the Task Force for up to three minutes on that item. During General Public Comment, members of the public may address the Task Force on matters that are within the Task Force's jurisdiction and are not on the agenda. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the official file.

Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the hearing begins, written comments regarding the subject of the meeting or hearing;. These comments will be made a part of the official public record.

Hearing Procedures

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|----|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |
| | <i>Above total speaking times for Complainant and City to be the same.</i> | |
| 3. | Matter is with the Task Force for discussion and questions. | |
| 4. | Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. | Matter is with the Task Force for motion and deliberation. | |
| 6. | Public comment (Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 7. | Vote by Task Force (Public comment at discretion of chair on new motion and/or on new motion if vote fails.) | |

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access

The hearing rooms in City Hall are wheelchair accessible. Assistive listening devices for the hearing rooms are available upon request with the SOTF Clerk. The nearest accessible BART station is Civic Center (Market/Grove/Hyde Streets). Accessible MUNI Metro lines are the F, J, K, L, M, N, T (exit at Civic Center or Van Ness Stations). MUNI bus lines also serving the area are the 5, 6, 9, 19, 21, 47, 49, 71, and 71L. For more information about MUNI accessible services, call (415) 701-4485. There is accessible parking in the vicinity of City Hall at Civic Center Plaza and adjacent to Davies Hall and the War Memorial Complex. Accessible curbside parking is available on Dr. Carlton B. Goodlett Place and Grove Street.

The following services are available on request 48 hours prior to the meeting; except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week: For American sign language interpreters or the use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please contact the SOTF Clerk at (415) 554-7724 to make arrangements for the accommodation. Late requests will be honored, if possible.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102; phone (415) 554-7724; fax (415) 554-7854; or email sotf@sfgov.org.

Citizens may obtain a free copy of the Sunshine Ordinance by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at <http://www.sfbos.org/sunshine>.

Cell Phones, Pagers and Similar Sound-Producing Electronic Devices

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices (Chapter 67A of the San Francisco Administrative Code).

Lobbyist Registration and Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Governmental Conduct Code §2.100, et. seq] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at: 25 Van Ness Avenue, Suite 220, San Francisco, CA 94102; telephone (415) 581-3100; fax (415) 252-3112; web site www.sfgov.org/ethics