



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

November 5, 2014 - 4:00 PM

Regular Meeting

1. CALL TO ORDER, ROLL CALL, AND AGENDA CHANGES

Seat 1	Mark Rumold	Seat 7	Lee Hepner
Seat 2	Ali Winston	Seat 8	Todd David
Seat 3	Josh Wolf	Seat 9	Chris Hyland – Vice Chair
Seat 4	Rishi Chopra	Seat 10	Louise Fischer
Seat 5	Allyson Washburn - Chair	Seat 11	Fiona Hinze
Seat 6	David Pilpel		

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

The meeting was called to order at 4:04 p.m. Members Wolf, Chopra, Washburn, and Hepner were noted absent. There was a quorum. Member Hepner was noted present at 5:58 p.m.

Vice-Chair Hyland delayed the hearing on Item No. 3 (File No. 14093) because of the need to have Member Hepner present to provide an overview of the matter.

Public Comment:

Patrick Monette-Shaw stated that the SOTF should return to the normal order of the agenda as soon as possible.

2. Approval of minutes from May 5, 2011, May 18, 2011, May 24, 2011, June 28, 2011, July 26, 2011, August 23 2011, September 27, 2011, October 25, 2011, November 29, 2011, December 14, 2011, September 23, 2014, and October 1, 2014, meetings.

Member Pilpel proposed amended Page 17 through 19 of the minutes to removed template language.

Member Hyland, seconded by Member Winston, moved to approve the May 5, 2011, May 18, 2011, May 24, 2011, June 28, 2011, July 26, 2011, August 23 2011, September 27, 2011, October 25, 2011, November 29, 2011, December 14, 2011, September 23, 2014, and October 1, 2014, SOTF meeting minutes as amended.

Public Comment:

Patrick Monette-Shaw requested that members speak into the microphone and requested that the minutes be passed immediately.

The motion passed by the following vote:

Ayes: 6 - Rumold, Winston, David, Fischer, Hinze, Hyland

Noes: 1 - Pilpel

Absent: 4 - Wolf, Chopra, Hepner, Washburn

3. **File No. 14093:** Hearing - Ethics Commission's policy discussion regarding Sunshine Ordinance Task Force referrals.

Jesse Mainardi, Deputy Executive Director, San Francisco Ethics Commission, provided a summary of the Ethics Commission's policy discussion regarding Sunshine Ordinance Task Force referrals.

Member Hepner provided a summary of the Compliance and Amendments Committee discussions regarding the Ethics Commission's policy.

Nicholas Colla, Deputy City Attorney, commented on the matter.

Member Pilpel, seconded by Member Hyland, moved to authorize Member Hepner to draft a memo to the Ethics Commission regarding the suggestions of the Sunshine Ordinance Task Force, to be approved and signed by Chair Washburn.

Public Comment:

None.

The motion passed without objection.

4. **Hearing: Office of the Sheriff (Respondent) request for reconsideration of the SOTF Order of Determination** - File No. 14056: Jason Grant Garza against Ross Mirkarimi, Paul Miyamoto, Kathy Gorwood, and Raymond Winters, Office of the Sheriff.

Mark Nicco, Office of the Sheriff, provided a summary of the request for reconsideration of the SOTF Order of Determination for File No. 14056. Jason Grant Garza (Complainant) provided an overview of his argument against the request for reconsideration. A question and answer period followed. The respondent provided a rebuttal. The Complainant provided a rebuttal.

Deputy City Attorney Nicholas Colla commented on the matter.

Member Pilpel moved to grant reconsideration. There was no second.

Public Comment:

Patrick Monette-Shaw agreed with the Sheriff's request for reconsideration but agreed that the SOTF can add additional violations that those requested.

Thomas Picarello disagreed with the request for reconsideration as it did not meet the threshold listed in the Complaint Procedures.

The SOTF stated that amendments to the reconsideration policy may be needed but at this time the threshold for reconsideration has not been met.

There being no addition motions the matter is concluded.

5. **File No. 12058:** Complaint filed by Dominic Maionchi against Recreation and Park for allegedly failing to provide records requested pertaining to berthing contracts between the City and County of San Francisco and slip holders. *(Discussion and Action) (attachment)*
(The Sunshine Ordinance Task Force (SOTF) will consider and determine how to proceed with the Ethics Commission's referral of File No. 12058 back to the SOTF and possible re-referral to the Ethics Commission.)

Olive Gong, Recreation and Parks Department (Respondent) (Complainant) provided an overview of the department's defense. The Complainant was not present. A question and answer period followed. The Respondent provided a rebuttal.

The SOTF discussed the matter in relation to Item No. 3 (File No. 14093) and the possibility of waiting for Chair Washburn's return prior to taking additional actions on the matter.

Member David, seconded by Member Fischer, moved to refer the matter back to the Ethics Commission. The motion was withdrawn by Member David.

Member David, seconded by Member Hinze, moved to continue the matter to the December 3, 2014, meeting of the SOTF.

Public Comment:

Former SOTF Member Knee stated that the default position of the SOTF should be to disclose all information and further stated that City Attorney advice is only advice and not law.

Patrick Monette-Shaw stated that the matter should not be re-adjudicated and should be referred to the Ethics Commission immediately.

Thomas Picarello requested that the matter be referred back to the Ethics Commission.

Jason Grant Garza stated that the Ethics Commission has never found in favor of the SOTF. The SOTF does not have any power.

The motion passed by the following vote:

Ayes: 7 - Rumold, Winston, Pilpel, David, Fischer, Hinze, Hyland

Noes: 0 - None

Absent: 4 - Wolf, Chopra, Hepner, Washburn

6. **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. *(No Action) Public comment shall be taken at 5:00 pm or as soon thereafter as possible.*

Public Comment:

Patrick Monette-Shaw stated that the Grossman case is not dead and is currently being appealed and that the Ethics Commission dismissed the complaint against Member Pilpel in closed session and did not disclose the discussion.

Thomas Picarello commented on the lack of attendance of all the members of the SOTF.

Jason Grant Garza stated that the SOTF does not have any power.

Member Hepner was noted present at 5:58 p.m.

Items No. 7 and 8 (File No. 14080 and 13091) were heard concurrently.

7. **File No. 14080: Update – Peace Officer Confidentiality.** Review and analysis of policies concerning peace officer hearings and the balance between the public's right to know with peace officer confidentiality required by statute.

See Item No. 8 (File No. 13091) for summary of discussion.

There being no motion the matter is concluded.

8. **File No. 13091:** Complaint filed by Frank Lee against Jennifer Johnston, Civil Service Commission, for allegedly violating Administrative Code (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.

Sandra Ng, Civil Service Commission (Respondent) provided a summary of the department's defense and further stated that the Civil Service Commission is exempt pursuant to the California Penal Code.

Public Comment:

Jason Grant Garza provided general comments related to the matter.

Due to the lack of a motion, the Task Force Found No Violation and Concluded the Matter.

Member David, seconded by Member Pilpel moved to authorize Member Rumold to draft an advisory letter regarding Peace Officer Confidentiality to be presented to the SOTF for review and approval.

The motion passed by the following vote:

Ayes: 8 - Rumold, Winston, Pilpel, Hepner, David, Fischer, Hinze, Hyland

Noes: 0 - None

Absent: 3 - Wolf, Chopra, Washburn

9. **File No. 14048:** Complaint filed by Cecilia Hairston-Omondi against Donald Ellison and the San Francisco Municipal Transportation Agency for violation of Administrative Code (Sunshine Ordinance), Sections 67.21(b), 67.21(e), and 67.29-7 for failure to comply with a request for public records and failure to provide a knowledgeable representative to respond to questions.

The Compliance and Amendments Committee referred the complaint to the SOTF for additional consideration.

Member Pilpel disclosed that he has a working relationship with various members of the San Francisco Municipal Transportation Agency but does believe that a conflict of interest exists.

Member Rumold provided a summary of the status of the complaint. The matter was scheduled before the Complaint and Amendments Committee on October 21, 2014. The Respondent has not responded to the Order of Determination issued on September 4, 2014, which requested a summary regarding how the SFMTA responded to the Complainant's request.

Kathy Fowlis and Donald Ellison, San Francisco Municipal Transportation Agency (Respondent), were present to answer questions and present the department's defense. Cecilia Hairston-Omondi (Complainant) commented on the status of her request for public documents.

Member Pilpel, seconded by Member Hepner, moved to refer the matter back to the Compliance and Amendments' December 16, 2014, meeting. In addition to responding to the original Order of Determination dated September 4, 2014, the SOTF requested that a knowledgeable representative from the San Francisco Municipal Transportation Agency attend the meeting to discuss the SFMTA's policies and procedures for handling public records requests in general and from employees related to personnel records.

Public Comment:

Jason Grant Garza provided general comments.

The motion passed without objection.

Items No. 10, 11, and 12 (File No. 14076, 14077, and 14078) were heard concurrently.

10. **File No. 14076:** Complaint filed by Jason Grant Garza against the Department of Public Health for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.25, 67.26, and 67.34 for failure to respond to an Immediate Disclosure Requests in a timely and complete manner on April 30, 2014.

See Item No. 12 (File No. 14078) for summary of discussion and actions.

11. **File No. 14077:** Complaint filed by Jason Grant Garza against the Department of Public Health for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.25, 67.26, and 67.34 for failure to respond to three Immediate Disclosure Requests in a timely and complete manner on July 23, 2014.

See Item No. 12 (File No. 14078) for summary of discussion and actions.

12. **File No. 14078:** Complaint filed by Jason Grant Garza against the Department of Public Health for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.25, 67.26, and 67.34 for failure to respond to three Immediate Disclosure Requests in a timely and complete manner on July 29, 2014.

Member Hyland, seconded by Member David, moved to find jurisdiction of File No. 14076, 14077, and 14078.

Public Comment:
None.

The motion passed without objection.

Jason Grant Garza (Complainant) provided an overview of the complaints and requested the Task Force to find violations. There were no speakers in support of the Complainant. Nancy Sarieh, Department of Public Health, and Philip Katzenberger, General Hospital (Respondents), presented an overview of the department's 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.

Public Comment:
None.

Due to the lack of a motion, the Task Force Found No Violations and Concluded File No. 14076, 14077, and 14078.

13. **File No. 14082:** Complaint filed by Jason Grant Garza against David Pine, Nancy Sarieh, Barbara Garcia, Philip Katzenberger, Department of Public Health, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.25, and 67.26 for failure to respond to an Immediate Disclosure Request in a timely and complete manner date August 14, 2014.

Member Pilpel, seconded by Member Hyland, moved to find jurisdiction of File No. 14082.

Public Comment:
None.

The motion passed without objection.

Jason Grant Garza (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Nancy Sarieh and David Pine, Department of Public Health, and Philip Katzenberger, General Hospital (Respondents), presented an overview of the department's 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.

Public Comment:

None.

Due to the lack of a motion, the Task Force Found No Violation and Concluded the matter.

Member Pilpel suggested that the SOTF create a standard for processing requests for medical records.

14. Proposed Amendments to the SOTF By-Laws and/or Complaint Procedures.

Victor Young, Administrator, Sunshine Ordinance Task Force, presented proposed amendments to the Complaint Form and the Complaint Procedure.

Member Hyland, seconded by Member David, moved to amend the SOTF Complaint Form and Complaint Procedures.

Public Comment:

None.

The motion passed without objection.

15. Administrator's Report.

Victor Young, Administrator, Sunshine Ordinance Task Force, presented the Administrator's Report.

Public Comment:

None.

There were no actions.

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

The next meeting of the Ethics Commission is November 24, 2014.

The next meeting of the EOTC and the Complaints Committee is November 10, 2014.

17. **ADJOURNMENT**

There being no further business the meeting was adjourned at 8:45 p.m.

APPROVED: 12/3/2014



**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.