



# 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

October 1, 2014 - 4:00 PM

## Regular Meeting

1. **CALL TO ORDER, ROLL CALL, AND AGENDA CHANGES** (00:00:00 - 00:07:30)

Seat 1	Mark Rumold	Seat 7	Lee Hepner
Seat 2	Ali Winston	Seat 8	Todd David
Seat 3	Josh Wolf	Seat 9	Chris Hyland – <b>Vice Chair</b>
Seat 4	(Vacant)	Seat 10	Louise Fischer
Seat 5	Allyson Washburn - <b>Chair</b>	Seat 11	Bruce Oka (Hold Over)
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 Rumold and Hepner were noted absent. There was a quorum. Member Hepner was noted present at 4:25 p.m.

The Complainant for Item No. 3 (File No. 12058) requested a continuance. The item was called out of order for discussion.

Communications Received - John St. Croix, Director, Ethics Commission, submitted a draft letter to the Sunshine Ordinance Task Force (SOTF) regarding policy on SOTF referrals. The matter shall be scheduled before the Compliance and Amendments Committee and the Sunshine Ordinance Task Force.

2. **Approval of Sunshine Ordinance Task Force minutes from January 3, 2012, January 24, 2012, February 28, 2012, March 7, 2012, April 4, 2012, August 26, 2014, and September 3, 2014, meetings.** (00:10:00 - 00:53:00)

The SOTF discussed rules for approving minutes, format, and timeline to approve minutes. Deputy City Attorney Colla commented on the matter.

**Member David, seconded by Member Fischer, moved to approve the January 3, 2012, January 24, 2012, February 28, 2012, March 7, 2012, April 4, 2012, SOTF meeting minutes.**

## Public Comment:

Peter Warfield stated that the minutes do not provided substantive information and provided samples.

Patrick Monette-Shaw expressed support for the motion and stated that the SOTF should not extend the process.

Thomas Picarello expressed support motion but question who reviewed the minutes.

**The motion passed by the following vote:**

Ayes: 7 - Winston, Hepner, David, Fischer, Oka, Hyland, Washburn

Noes: 2 - Wolf, Pilpel

Absent: 1 - Rumold

**Member Hyland, seconded by Member Oka, moved to approve the August 26, 2014, and September 3, 2014, SOTF meeting minutes as amended.**

## Public Comment:

Patrick Monette-Shaw expressed concern regarding the lack of comments by SOTF members in the minutes.

Peter Warfield opposed all actions regarding the approval of the minutes.

**The motion passed by the following vote:**

Ayes: 7 - Winston, Wolf, Hepner, David, Fischer, Hyland, Washburn

Noes: 2 - Pilpel, Oka

Absent: 1 - Rumold

**\*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.**

Patrick Monette-Shaw submitted the following additional information for Public Comment as follows:

*SOTF's September 3 minutes omit statements Member Fischer made. First, she said "You took out a lot of the points that Kitt — Chair Grant — and I had made and ... you know ... you're playing to your audience. Knock yourselves out (4:30:03)." Ironically, Fischer failed mentioning that her and Grant's draft annual report was clearly written to play to an audience that dislikes the Task Force.*

*Second, Fischer admitted she and Grant presented the annual report to Supervisors without prior approval of SOTF members and without presenting it beforehand to members. "I have a problem with Vice Chair Hyland speaking authoritatively on something that I sense he knows nothing about. I was with Chair Grant at several meetings with the Supervisors when we went through this annual report and they asked her to come to the Rules Committee, which she did not want to do, but she did (4:33:47)."*

3. **File No. 12058:** 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. (00:07:30 - 00:10:00)  
(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. The SOTF does not intend to reconsider the merits of the complaint. )

The Complainant for Item No. 3 (File No. 12058) requested a continuance. The item was called out of order for discussion.

**Member Hyland, seconded by Member Winston, moved to continue the complaint to the November 5, 2014, meeting of the SOTF.**

**Public Comment:**

Peter Warfield objected to the discussion of matters not on the agenda and further stated that it is the discretion of the SOTF to determine if late document should be considered.

Patrick Monette-Shaw objected to the continuance and the late inclusion of the memo submitted by Member Pilpel.

Richard Knee, former SOTF Member, question the nation of the discussion.

Thomas Picarello did not have an opinion on the matter of continuance and comment that the name respondents for a different complaint were not present.

**The motion passed by the following vote:**

Ayes: 8 – Winston, Pilpel, Hepner, David, Fischer, Oka, Hyland, Washburn

Noes: 1 – Wolf

Absent: 1 - Rumold

4. **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.** (00:59:00- 01:25:00)

William Clark stated that the City Attorney provide false information and his complaint should not have been concluded.

Robert Clark stated that city departments are not allowed to destroy emails.

Paula Datesh provided an updated on the Arts Commission's failure to post minutes and audio in a timely manner.

Peter Warfield objected to the lack of public comment on agenda changes and further stated that requirements for minutes should not have been discussed.

Richard Knee, former SOTF Member, stated that the Board of Supervisors' Rules Committee will be appoint members to the SOTF on October 2, 2014, and further stated that city officials must sent a knowledge representative to SOTF meetings.

Jesse Mainardi, Deputy Executive Director, Ethics Commission, provide information regarding upcoming discussion before the Ethics Commission regarding the policy on SOTF referral.

Patrick Monette-Shaw provided an updated on a request for information regarding City Attorney support to the SOTF.

Thomas Picarello objected to discussion on matters not on the agenda.

5. **File No. 14063:** Complaint filed by Thomas Picarello against Supervisors Farrell, Mar, Avalos, Weiner and Breed, Board of Supervisors' Budget and Finance Committee, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.15, 67.34, and 67.37 and Government Code Section 54954.3(a) for failure to provide adequate opportunity for public comment prior to taking final actions at Budget and Finance Committee meeting on June 16, 2014. (00:53:00 - 00:59:00 and 01:25:00 - 02:54:00)

**Member Hyland, seconded by Member David, moved to find jurisdiction over File No. 14063.**

Thomas Picarello (Complainant) stated that the named Respondents are not present to provide testimony.

Public Comment:

None.

**The motion passed without objection.**

Thomas Picarello (Complainant) provided an overview of the complaint and requested the Task Force to find violations. William Clark, Robert Clark, and Paula Datesh spoke in support of the Complainant. Catherine Stefani, aide to Supervisor Farrell, and Wilson Ng, Clerk of the Board's Office (Respondents), presented an overview of the department's defense. There were no speakers in support of the Respondent. A question and answer period followed. Wilson Ng (Respondent) provided a rebuttal. The Complainant provided a rebuttal.

Deputy City Attorney Colla commented on the matter.

**Member Pilpel, seconded by member Hyland, moved to find Supervisor Farrell, Chair of the Budget and Finance Committee of the Board of Supervisors, in violation of Administrative Code (Sunshine Ordinance), Section 67.15(b) and California Government Code, Section 54954.3(a) for failure to provide opportunity for public comment on items 5 through 10 of the Budget and Finance Committee's June 16, 2014, meeting.**

Public Comment:

Peter Warfield requested that the video from William Clark be displayed and stated that the entire Board of Supervisors should be responsible for complying with public comment policies.

Charles Pitts stated that the current public comment process is not adequate.

Member Pilpel, with the approval of the second, amended the motion to name all the members of the Budget and Finance Committee as respondents:

**Member Pilpel, seconded by member Hyland, moved to find Supervisors Farrell, Avalos, Mar, Wiener, and Breed, the Budget and Finance Committee of the Board of Supervisors, in violation Administrative Code (Sunshine Ordinance), Section 67.15(b) and California Government Code, Section 54954.3(a) for failure to provide opportunity for public comment on items 5 through 10 of the Budget and Finance Committee's June 16, 2014, meeting.**

**The motion failed by the following vote:**

Ayes: 5 – Wolf, Hepner, Oka, Hyland, Washburn

Noes: 3 – Pilpel, David, Fischer

Absent: 2 - Rumold, Winston

**Member Pilpel, seconded by member Hyland, moved to find Supervisor Farrell, Chair of the Budget and Finance Committee of the Board of Supervisors, in violation Administrative Code (Sunshine Ordinance), Section 67.15(b) and California Government Code, Section 54954.3(a) for failure to provide opportunity for public comment on items 5 through 10 of the Budget and Finance Committee's June 16, 2014, meeting.**

**The motion passed by the following vote:**

Ayes: 6 - Wolf, Pilpel, Hepner, Oka, Hyland, Washburn

Noes: 2 - David, Fischer

Absent: 2 - Rumold, Winston

**Chair Washburn referred the matter to the Education, Outreach and Training Committee (EOTC) to be heard in conjunction with pending Complaint No. 13035. The EOTC shall, in conjunction with Supervisor Farrell's Office, develop new proposals for public comment during the budget process. The EOTC shall provide their recommendations to the Sunshine Ordinance Task Force no later than March 1, 2015.**

Member Winston was noted absent at 5:28 p.m.

**The meeting was recessed from 6:58 p.m. to 7:20 p.m.**

Member David was noted absent at 7:20 p.m.

6. **File No. 14064:** Complaint filed by Thomas Picarello against Mayor Edwin Lee and the Office of the Mayor, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25 for failure to respond to an Immediate Disclosure Request in a timely and complete manner. (02:54:00 - 03:24:00)

**Member Hyland, seconded by Member Pilpel, moved to find jurisdiction of File No. 14064.**

Public Comment:

None.

**The motion passed without objection.**

Thomas Picarello(Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Kirsten Macaulay, Deputy Communications Director, Mayor's Office (Respondent), presented an overview of the department's defense. Ms. Macaulay acknowledged that an error did occur and steps have been taken to rectify the situation. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent did not provide a rebuttal. The Complainant provided a rebuttal.

Deputy City Attorney Colla commented on the matter.

**Member Pilpel, seconded by Member Oka, moved to find Kirsten Macaulay and the Office of the Mayor in violation of Administrative Code (Sunshine Ordinance), Section 67.25(a) for failure to respond to an Immediate Disclosure Request in a timely manner.**

Public Comment:

Charles Pitts stated that there are documents that were not provided.

Member Pilpel, with approval of the second, amended the motion to add Mayor Edwin Lee as a respondent and to remove Kirsten Macaulay as a respondent.

**Member Pilpel, seconded by Member Oka, moved to find Mayor Edwin Lee and the Office of the Mayor in violation of Administrative Code (Sunshine Ordinance), Section 67.25(a) for failure to respond to an Immediate Disclosure Request in a timely manner.**

**The motion passed by the following vote:**

Ayes: 7 - Wolf, Pilpel, Hepner, Fischer, Oka, Hyland, Washburn

Noes: 0 - None

Absent: 3 - David, Rumold, Winston

Kirsten Macaulay, Deputy Communications Director, Mayor's Office (Respondent), acknowledged that an error did occur resulting in the forwarding of the emailed request from the Complaint to be delayed. Ms. Macaulay stated that updates to their procedure and website have been implemented that will prevent the error from occurring again. The Mayor's Office has added additional information to the Mayor's website so that the instruction on where to send public records request now appears on two different webpages within the site - the "contract the Mayor" page and the Press Office page.

7. **File No. 14075:** Complaint filed by William Clark against Monique Zmuda, Controller's Office, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b), 67.22(b), and 67.24(f) for failure to respond to a request for public records in a timely and complete manner.

**Member Wolf, seconded by Member Hyland, moved to find jurisdiction of File No. 14075.**

Public Comment:

Paula Datesh stated that the SOTF has no jurisdiction in the matter.

Thomas Picarello stated that the SOTF has jurisdiction in the matter.

**The motion passed by the following vote:**

Ayes: 6 - Wolf, Hepner, Fischer, Oka, Hyland, Washburn

Noes: 1 - Pilpel

Absent: 3 - Rumold, Winston, David

William Clark(Complainant) provided an overview of the complaint and requested the Task Force to find violations. Robert Clark spoke in support of the Complainant. Monique Zmuda, Deputy Controller, Controller’s Office (Respondent), presented an overview of the department’s defense. Paula Datesh spoke in support of the Respondent. A question and answer period followed. The Respondent did not provide 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.**

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

The members of the SOTF discussed possible amendments to the Annual Report.

**Member Pilpel, seconded by Member Hyland, moved to approve the Sunshine Ordinance Task Force Annual Report as amended.**

Public Comment:

None.

**The motion passed by the following vote:**

Ayes: 6 - Wolf, Hepner, Fischer, Oka, Hyland, Washburn

Noes: 1 - Pilpel

Absent: 3 - Rumold, Winston, David

**9. Administrator’s Report.**

Victor Young, Administrator, SOTF, presented the Administrator’s Report to the Sunshine Ordinance Task Force. A question and answer period followed.

No actions taken.

10. **Announcements, Comments, Questions, and Future Agenda Items.**

Member Pilpel requested that the Ethics Commissions letter dated September 29, 2014, be schedule for hearing at the next Compliance and Amendments Committee meeting and the November 5, 2014, SOTF meeting.

Member Pilpel has drafted memos regarding SOTF recommendations pursuant to Administrative Code 12L. The maters shall be scheduled for the October 28, 2014, meeting of the SOTF.

Member Hepner proposed a survey of city department's websites to determine compliances with the Sunshine Ordinance.

The follow up on the Civil Grand Jury Report shall be scheduled at the Education, Outreach and Training Committee.

11. **ADJOURNMENT**

**There being no further business the meeting was adjourned at 8:55 p.m.**

**APPROVED: 11/05/14**



**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.