



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

September 3, 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	(Vacant)	Seat 10	Louise Fischer
Seat 5	Allyson Washburn - Chair	Seat 11	Bruce Oka (Hold Over)
Seat 6	David Pilpel		

The meeting was called to order at 4:07 p.m. Members Winston, Hepner and Hyland were noted absent. There was a quorum. Members Hepner and Hyland were noted present at 4:10 p.m.

2. **File No. 14031:** Complaint filed by Sophia De Anda against the Department of Public Health for allegedly violating Sunshine Ordinance Section 67.21 for failure to adequately respond to a request for records dated March 5, 2014. (00:08:42 – 00:10:44) (01:42:00 – 01:52:00)

The Complainant was not present at the meeting. The Respondent was present at the meeting. Victor Young, Administrator, verified that the Complainant was notified of the meeting via email and confirmed via telephone.

Member Hyland, seconded by Member Rumold, moved to dismiss/table the matter due to non-appearance. The Administrator shall inform the Complainant of the decision to dismiss/table the complaint and to further inform that the Complainant may resubmit a new complaint if so desired.

Public Comment:

Patrick Monette-Shaw disagreed with the motion to dismiss the matter.
Thomas Picarello disagreed with the motion to dismiss the matter.

The motion passed by the following vote:

Ayes: 6 – Rumold, Pilpel, Hepner, David, Fischer, Hyland

Noes: 3 – Wolf, Oka, Washburn

Absent: 1 - Winston

3. **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. (01:33:00 – 01:42:00)

Jason Grant Garza stated that the Task Force has no precedents to track previous decisions of the Task Force and that medical records are public records.

Patrick Monette-Shaw stated that Mr. Garza's complaints should be referred to the Complaints Committee. It is a waste of time to hear the same issue constantly.

Mr. Monette-Shaw provided an update on the appeals to the Ethics Commission regarding the dismissal of the complaint against member Pilpel.

Paula Datesh requested that the scheduled meeting of the Compliance and Amendments Committee to hear the Arts Commission's complaints be moved up to October and further stated that the Arts Commission is not complying with requests for information.

4. **File No. 14056:** Complaint filed by Jason Grant Garza against Ross Mirkarimi, Paul Miyamoto, Kathy Gorwood and Raymond Winters, Office of the Sheriff, and Eileen Shields, Barbara Garcia and Faye DeGuzman, Department of Public Health, for allegedly violating Sunshine Ordinance Sections 67.21, 67.25, 67.26 and 67.27 for failure to respond to an Immediate Disclosure Request dated January 15, 2014, in a timely and complete manner. (00:10:44 – 01:33:00)

Member Pilpel, seconded by Member Fischer, moved to find jurisdiction of File No. 14056 and to remove Eileen Shields as a Respondent due to retirement.

Public Comment:

Patrick Monette-Shaw stated that the matter should be referred to the Complaint Committee to make determinations regarding the possible difference between Public Records, Police Records and Medical Records.

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. Mark Nikko, Office of the Sheriff, and Nancy Sariah, Department of Public Health, (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.

Member Hepner, seconded by Member Oka, moved to find Ross Mirkarimi, Paul Miyamoto, Kathy Gorwood and Raymond Winters, Office of the Sheriff, and Barbara Garcia and Faye DeGuzman, Department of Public Health, in violation of

Sunshine Ordinance Sections 67.21(a) and 67.29 for failure to provide a public record and failure to maintain an index of records. Vice-Chair Hyland suggested that a violation of Section 67.21(e) be added. The mover and the second accepted the amendment.

Vice Chair Hyland requested that the question be divided to allow a separate Order of Determination to be issued to each department.

Member Hepner, seconded by Member Oka, moved to modify the motion to find violation of:

(Department of Public Health) Sunshine Ordinance Sections 67.21(a) for failure to provided the requested video and 67.29 for failure to check and maintain the index of records.

(Office of the Sheriff) Sunshine Ordinance Sections 67.21(a) for failure to provide their video retention policy, 67.29 for failure to maintain the index of records.

Member Hyland, seconded by Member David, moved to find the Department of Public Health in violation of Sunshine Ordinance Section 67.21(e) for failure to send a knowledgeable representative to the Task Force meeting.

Public Comment:

Patrick Monette-Shaw objects to Mr. Garza's medical records being considered public records. The matter should not be heard.

Richard Knee suggested adding a violation of 67.29-7 for failure to maintain public records in a professional and businesslike manner.

Member Hepner, seconded by Member Oka, moved to amend the motion to add a violation against the Department of Public Health of Sunshine Ordinance Section 67.29-7 for failure to maintain a record (video tape record in a business-like manner.)

The motion passed to find the Department of Public Health in violation of Sunshine Ordinance Sections 67.21(a), 67.29 and 67.29-7 and the Office of the Sheriff in violation of Sunshine Ordinance section 67.21(a) and 67.29 by the following vote:

Ayes: 8 – Rumold, Wolf, Hepner, David, Fischer, Oka, Hyland, Washburn

Noes: 1 – Pilpel

Absent: 1 – Winston

The motion passed the Department of Public Health in violation of Sunshine Ordinance Section 67.21(e) by the following vote:

Ayes: 7 – Rumold, Wolf, Pilpel, Hepner, Oka, Hyland, Washburn

Noes: 2 – David, Fischer

Absent: 1 – Winston

The complaint was divided to provide separate Orders of Determinations for each department. File No. 14084 assigned to the Department of Public Health.

File No. 14056: Complaint filed by Jason Grant Garza against Ross Mirkarimi, Paul Miyamoto, Kathy Gorwood and Raymond Winters, Office of the Sheriff, for allegedly violating Sunshine Ordinance Sections 67.21, 67.25, 67.26 and 67.27 for failure to respond to an Immediate Disclosure Request dated January 15, 2014, in a timely and complete manner.

File No. 14084: Complaint filed by Jason Grant Garza against, Barbara Garcia and Faye DeGuzman, Department of Public Health, for allegedly violating Sunshine Ordinance Sections 67.21, 67.25, 67.26 and 67.27 for failure to respond to an Immediate Disclosure Request dated January 15, 2014, in a timely and complete manner. (Divided from File No. 14056)

Chair Washburn referred the matters to the Education, Outreach and Training Committee for discussions regarding departmental procedure for maintaining the index of records that are informative. Confirmation and final determination regarding who is responsible for maintaining video records at San Francisco General Hospital is requested. The Department of Public Health is shall provide their policy regarding the maintenance of video records and the departmental sunshine request policy. The Department of Public Health is requested to comply with Sunshine Ordinance Section 67.21 (e) by providing a knowledgeable party regarding the video retention policy and San Francisco General Hospital.

The meeting was recessed from 6:00 p.m. to 6:20 p.m.

5. **File No. 14054:** Complaint filed by Philip Carleton against Richard Lee and the Department of Public Health for allegedly violating Sunshine Ordinance Sections 67.3, 67.4, 67.7, 67.16, 67.21 and 67.25 for failure to adequately respond to a request for public records in a timely manner and for failure to properly post public meeting agendas and minutes. (01:52:00 – 02:59:00)

Member David, seconded by Member Hyland, moved to find jurisdiction of File No. 14054.

Public Comment:
None.

The motion passed without objection.

Philip Carleton(Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Richard Lee, Department of Public Health (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.

Member Pilpel, seconded by Member Hyland, moved to find Richard Lee and the Department of Public Health in violation of Sunshine Ordinance Section 67.21(b) and 67.25(a) for failure to respond to a request for public records in a timely manner.

Public Comment:

None.

The motion passed by the following vote:

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

Noes: 0 – None

Absent: 1 – Winston

Member Hyland moved to find violations of Sunshine Ordinance Section 67.29-2 regarding Internet access for reports. The motion failed due to the lack of a second.

Chair Washburn referred the matter to the Education, Outreach and Training Committee for review of the Department of Public Health's procedure in processing public records requests.

6. **File No. 14046:** Complaint filed by Hope Johnson against Supervisors Katy Tang and Norman Yee, San Francisco Board of Supervisors, for allegedly violating Sunshine Ordinance Sections 67.30 and 67.7 for failure to appoint a member to the Sunshine Ordinance Task Force with a physical disability and failure to provide an adequate description of agenda items for a Rules Committee meeting. (02:59:00 – 04:06:00)

Member Hyland, seconded by Member Hepner, moved to find jurisdiction of File No. 14046.

Public Comment:

None.

The motion passed without objection.

Hope Johnson (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Jen Low, Aide to Supervisor Yee, and Dyanna Quizon, Aide to Supervisor Tang, presented an overview of the department's defense. Rick Caldeira, Board of Supervisors, spoke in support of the Respondent. A question and answer period followed. The Respondent provided a rebuttal. The Complainant provided a rebuttal.

Public Comment:

Patrick Monette-Shaw stated that Member Oka did not reapply to the SOTF until after May 15, 2014.

Richard Knee stated that unless members of the SOTF resign they are serving members. Member Oka did not resign.

Thomas Picarello stated that it is not the role of the SOTF to provide directions to the Rules Committee regarding appointments as it is a political issue.

Due to a lack of a motion, the Task Force CONCLUDED THE MATTER.

The meeting was recessed from 8:14 p.m. to 8:24 p.m.

7. **Consideration of the Ethics Commission's Referral to the Sunshine Ordinance Task Force – (SOTF File No. 12058 Maionchi v. Recreation and Park Department).**
(04:06:00 – 04:30:00)

Chair Washburn provided a summary of the Ethics Commission's referral to the Task Force. Discussion occurred.

Proposed Action – Prepare a summary of the action taken on the complaint and resend the matter to the Ethics Commission.

Member Pilpel, seconded by Member David, moved to continue the matter to the call of the chair.

Public Comment:

Patrick Monette-Shaw provided an overview of the Ethics Commission hearing on the matter.

The motion passed without objection.

8. **Sunshine Ordinance Task Force – Annual Report.** (04:30:00 – 04:45:00)

The Task Force discussed the Task Force Annual Report.

Member Pilpel, seconded by Member Wolf, moved to continue the matter to the call of the chair as amended. Vice-Chair Hyland is authorized to implement the amendments and revise the report.

Public Comment:

None.

The motion passed without objection.

9. **File No. 14080: Hearing – 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. (03:44:00 - 04:06:00)

Jennifer Johnson, Civil Service Commission, commented on the matter.

Member David, seconded by Member Hepner, moved to continue the matter to the call of the chair. File No. 13091 will be scheduled to be heard on concurrently with File No. 14080.

Public Comment:

None.

The motion passed without objection.

10. **Report: Education, Outreach and Training Committee meetings.**

Victor Young, Administrator, provided a summary of the actions of the Education Outreach and Training Committee.

Public Comment:

None.

11. **Report: Compliance and Amendment Committee meetings.**

Member Hepner provided a summary of the actions of the Compliance and Amendments Committee.

Public Comment:

None.

12. **Administrator's Report.**

Victor Young, Administrator, SOTF, presented the Administrator's report.

- Various requests for reconsideration of complaints were presented to the Task Force. No action taken on the requests.
- Revised Meeting Minutes approval process presented to the Task Force.

Public Comment:

None.

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

The next meeting of the SOTF is scheduled for September 23, 2014, at 4:00 p.m.

The Government Audit and Oversight Committee is meeting on September 11, 2014, to discuss the Civil Grand Jury Report.

14. **ADJOURNMENT**

There being no further business the meeting was adjourned at 9:38 p.m.

APPROVED: 10/1/2014



**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.