



SUNSHINE ORDINANCE TASK FORCE

Education, Outreach and Training Committee

CITY AND COUNTY OF SAN FRANCISCO

MINUTES

**Hearing Room 408
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689**

February 21, 2016 - 3:30 PM

Regular Meeting

Members: Josh Wolf (Chair), Eric Eldon, Louise Fischer

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

Chair Josh Wolf called the meeting to order at 3:38 p.m. On the call of the roll Chair Wolf and Member Eldon Wolf were noted present. There was a quorum.

Member Fischer was noted present at 3:48 p.m.

There were no agenda changes.

2. Adoption of the minutes for the December 20, 2016, Education, Outreach and Training Committee meetings.

The Committee discussed the approval of the meeting minutes.

Member Eldon, seconded by Chair Wolf, moved to approve the December 20, 2016, meeting minutes.

Public Comment:

Speakers: None.

The motion PASSED by the following vote:

Ayes: 2 - Eldon, Wolf

Noes: 0 - None

Absent: 1 - Fischer

3. **Public Comment:** Members of the public may address the Education, Outreach and Training Committee on matters that are within the Committee's jurisdiction but not on today's agenda.

Speakers:

Ann Treboux stated that she expects to receive documents in response to her Immediate Disclosure Requests and to not be attacked by the department.

Ray Hartz stated that he has 30 Orders of Determination against various parties and that there has been an effort to limit public comment at various meetings. Mr. Hartz stated that education is not needed after 18 years of training and that ignorance should not be a reason to violate the Sunshine Ordinance.

Peter Warfield (Library Users Association) agreed with the previous speakers, stated that the Sunshine Ordinance Task Force (SOTF) is ignoring their own rule regarding late submission of documents, and that the SOTF should provide basic training on the Sunshine Ordinance to SOTF members, the public, and city departments. Mr. Warfield also stated that the absence of SOTF members is equivalent to a no vote.

4. **File No. 17003:** Hearing - Use of Yammer and other social media platforms in relation to compliance with the Sunshine Ordinance. (00:11:00 – 00:21:00)

SOTF Administrator Victor Young provided a summary of conversations with David German, Policy and Governance, Department of Technology, regarding the hearing and it appears that individual departments make their own policy regarding social media and there is not a general city wide policy.

Upon review, the Committee believes that the following issues should be addressed:

- Maintaining posts and other information for record keeping purposes
- Searching social media records in response to public records requests

Member Fischer, seconded by Chair Wolf, moved to authorize Member Eldon to draft a guidance memo to city departments regarding potential advice on how departments should implement and use social media while still complying with the Sunshine Ordinance for referral to the SOTF for review.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Fischer, Eldon, Wolf

Noes: 0 - None

5. **File No. 17004:** Hearing - Departmental efforts to post additional records or the maximum numbers of records online for public access without additional human intervention.
(00:21:00 – 00:33:00)

SOTF Administrator Victor Young provided a summary of conversations with David German, Policy and Governance, Department of Technology, regarding the hearing and it appears that individual departments make their own policy regarding additional online posting of public records and there is not a general city wide policy.

The Committee discussed the issue and stated that this is a long term project that should be address periodically.

Member Eldon, seconded by Member Fischer, moved to continue the matter to the call of the chair.

Public Comment:

Ray Hartz expressed his support for departmental index of records and stated that he preferred to be able to retrieve public records online and to not have to submit requests to city staff.

Peter Warfield (Library Users Association) stated that the proposal is not clear, that the more documents online is better and provided examples of how information is not easily Accessible online.

Michael Petrelis stated that required documents such as Board of Supervisor member's calendars should be available online.

The motion PASSED by the following vote:

Ayes: 3 - Fischer, Eldon, Wolf

Noes: 0 - None

The Education, Outreach and Training Committee (Committee) shall hold hearing(s) on File No(s). 16101, 16116 and 16117 to: 1) determine if the Sunshine Ordinance Task Force (Task Force) has jurisdiction; 2) review the merits of the complaints; and/or 3) issue a report and/or recommendation to the Task Force. The Complainant and Respondent may attend to provide clarification, evidence and related testimony. However, attendance by the Complainant and Respondent is **not required** at the February 21, 2017, Committee meeting.

The Task Force, upon receipt of the report and/or recommendation from the Committee, shall schedule and conduct a hearing on the merits of the complaint. The Complaint and Respondent will be required to attend the Task Force meeting to review the merits of the complaint(s).

6. **File No. 16101:** Complaint filed by Michael Petrelis against the Suzy Loftus, Police Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.15(d), by abridging or prohibiting public criticism of the policy, procedures, programs or services of the City, or of any other aspect of its proposals or activities. (00:33:00 – 01:00:00)

Michael Petrelis (Complainant) provided an overview of the complaint and requested the Task Force to find violations. Mr. Petrelis stated that his public comment was interrupted pursuant to the Police Commission, Rules of Order No. 3.2, which he believes violated the Sunshine Ordinance, which states that public comments should be directed to the Commission as a whole rather than to individuals. Police Commission, Rules of Order No. 3.2 states that comments be directed to the Commission as a whole rather than to any individuals.

Member Eldon opined that he does not believe that interrupting public comment is disallowed pursuant to the Sunshine Ordinance as long as the commenter receives their three minutes for public comment.

Member Eldon, seconded by Member Fischer, moved to refer the matter to the Sunshine Ordinance Task Force with the recommendation to find that Suzy Loftus, Police Commission, violated Administrative Code (Sunshine Ordinance), Section 67.15(d) by creating and/or enforcing Police Commission, Rules of Orders 3.2 that abridges and/or prohibits public criticism of the policy, procedures, programs or services of the City, or any other aspect of its proposals or activities.

Public Comment:

Ann Treboux stated that the SOTF can watch the video of the meeting and comment on the public speaking habits of the Complainant.

Peter Warfield (Library Users Association) expressed support for the motion and that interruptions during the middle of public comments is an abridgement pursuant to the Sunshine Ordinance. Mr. Warfield stated that the actions of the Police Commission and their Rules of Order are wrong.

Ray Hartz stated that pursuant to the California Court Systems less weight can be given to parties' testimony who do not appear.

The motion PASSED by the following vote:

Ayes: 2 - Fischer, Eldon

Noes: 1 - Wolf

Chair Wolf, seconded by Member Eldon, moved to amend the motion for Complaint Nos. 16101 and 16116 to add the recommendation to find that the Sunshine Ordinance Task Force has jurisdiction and to revise the title of Complaint No. 16101 to remove the name of Respondent, Suzy Loftus, from the complaint.

Public Comment:

Ray Hartz stated that he agreed with the recommendation to find jurisdiction but disagreed with the change to the title as the Complainant is no longer present. Peter Warfield (Library Users Association) stated that the complaint is about a specific person and should remain valid even after they are no longer with the department.

Chair Wolf, seconded by Member Eldon, revised the amendment to the motion to not change the title of Complaint No. 16101.

The motion PASSED as amended by the following vote:

Ayes: 3 - Fischer, Eldon, Wolf

Noes: 0 - None

The Committee request that the Sunshine Ordinance Task Force review the possibility of amending the title of Complaint No. 16101 to name the Police Commission as the Respondent and not former Commissioner Suzy Loftus.

7. **File No. 16116:** Complaint filed by Ray Hartz against Commissioner Quentin Kopp and the Ethics Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.15(d) and 67.17, by abridging or prohibiting public criticism of the policy, procedures, programs or services of the City (Ethics Commission December 20, 2016, meeting). (01:00:00 – 01:23:00)

Ray Hartz (Complainant) provided an overview of the complaint and requested the Task Force to find violations. Mr. Hartz stated that the Ethics Commissions misstated the facts in their response letter and that his allowed public comment time was abridged. Mr. Hartz stated that the Ethics Commission cannot prohibit the use of specific words as it is censorship and subject to interpretation.

Member Eldon opined that the Ethics Commissions does not appear to have any documented rules regarding profanity. However, from the testimony it appears that Mr. Hartz lost 10 seconds of public comment time.

Member Eldon, seconded by Member Fischer, moved to refer the matter to the Sunshine Ordinance Task Force with the recommendation to find that Commissioner Quentin Kopp and the Ethics Commission violated Administrative Code (Sunshine Ordinance), Section 67.15(d), by not allowing the complainant the full use of 3 minutes for public comment.

Public Comment:

Peter Warfield (Library Users Association) stated that any interruption is an abridgement of public comment and that the Supreme Court advised that the use of apparently obscene language is only an expression of disagreement.

Michael Petrelis commented on the Ethics Commission hearing regarding Supervisor Cohen and stated that the issue is about free speech.

Ann Treboux stated that the video is available and that the City Attorney could have provided and/or advised during the meeting.

The motion PASSED by the following vote:

Ayes: 2 - Fischer, Eldon

Noes: 1 - Wolf

(Please see the amendment to the motion regarding the matter on Pages 4 and 5 to include the recommendation that the Sunshine Ordinance Task Force has jurisdiction over the complaint.)

8. **File No. 16117:** Complaint filed by Ray Hartz against City Librarian Luis Herrera and the Public Library for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.29-6, by failing to disclose the amount and source of all outside funds or services worth more than one hundred dollars in aggregate, accepted by the Public Library for the purpose of carrying out or assisting any City function, on their website. (01:23:00 –)

Ray Hartz (Complainant) provided an overview of the complaint and requested the Task Force to find violations. Mr. Hartz clarified that the complaint is regarding the non-existence of a written agreement that the Friends of the Public Library will abide by the Sunshine Ordinance pursuant to Sunshine Ordinance, Section 67.29-6. Mr. Hartz stated that the Public Library has not provided an answer as to the existence of a written agreement from the Friends of the Public Library to abide by the Sunshine Ordinance.

Chair Wolf, seconded by Member Eldon, moved to refer the matter to the Sunshine Ordinance Task Force with a recommendation to find jurisdiction and with no recommendation regarding City Librarian Luis Herrera and the Public Library's alleged violations of Administration Code (Sunshine Ordinance), Section 67.29-6.

The Committee requests that the Respondent provide a detailed response as to whether or not there is an written agreement that the Friends of the Public Library abide by the Sunshine Ordinance and if such an agreement is required pursuant to Administrative Code (Sunshine Ordinance), Section 67.29-6.

Public Comment:

Ann Treboux provided general comment regarding the matter.

Peter Warfield (Library Users Association) stated that the Public Library has not provided a clear answer regarding the issue of the existence of the Administrative Code, Section 67.29-6 agreement from the Friends of the Public Library.

The motion PASSED by the following vote:

Ayes: 3 - Fischer, Eldon, Wolf

Noes: 0 - None

9. Announcements, Comments, Questions, Future Agenda Items and Pending Calendar by Members of the Education, Outreach and Training Committee.

The following items are pending issue to be heard before the Education, Outreach, and Training Committee on a future date:

- File No. 14047: Hearing on the Status of the Order of Determination: Complaint filed by Thomas Peele against Supervisor Katy Tang, San Francisco Board of Supervisors, for violating Administrative Code (Sunshine Ordinance), Sections 67.21(c) and 67.25(a), by failing to respond to an Immediate Disclosure Request in a timely and complete manner.
- File No. 17006: Hearing - Development of support and training for policy and advisory bodies regarding procedures for posting agendas and minutes and the disconnect between the clerks who generate agenda and the webmasters who post the agendas.

There were no announcements or comments from members of the Committee.

10. ADJOURNMENT

There being no further business the meeting was adjourned at 5:35 p.m.

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.

Approved by the Education, Outreach and Training Committee: April 18, 2017