



# **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**

**June 20, 2017 - 3:30 PM**

#### **Regular Meeting**

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

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

Member Louise Fischer called the meeting to order at 3:33 p.m. On the call of the roll Chair Josh Wolf was noted absent. There was a quorum.

There were no agenda changes.

Chair Josh Wolf was noted present at 3:37 p.m.

#### **2. Adoption of the minutes for the April 18, 2017, Education, Outreach, and Training Committee meetings.**

The Committee discussed the approval of the meeting minutes.

**Member Eldon, seconded by Member Fischer, moved to approve the April 18, 2017, meeting minutes.**

Public Comment:

Speakers: None.

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

Ayes: 3 - Eldon, Fischer, Wolf

Noes: 0 - None

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. (00:02:45 – 00:12:00)

Speakers:

Ray Hartz summarized his past Order of Determinations from the Task Force regarding the placement of the 150 word public comment summary and stated that certain words should not be restricted during public comment.

Jason Grant Garza expressed support for the function of the Sunshine Ordinance and provided other general comments.

Ann Treboux provided information regarding her interaction with Chair Bruce Wolfe, Sunshine Ordinance Task Force.

4. **File No. 17059:** Hearing to review COIT's city-wide employee Drone Policy in regards to compliance to the Sunshine Ordinance. (00:12:00 – 00:40:00)

Matthias Jaime (Department of Technology); provided a summary of the city-wide Drone Policy and answered questions from the Committee. Mr. Jaime stated that the Drone Policy is a template or guide for departments and that Sunshine Ordinance compliance is in the hands of the City Attorney and individual departments.

**Chair Wolf, seconded by Member Fischer, moved to authorize Member Maass to draft a letter regarding potential issues with the city-wide Drone Policy and to refer the matter to the full Task Force for review and approval.**

Public Comment:

Ray Hartz referenced Sunshine Ordinance Section 67.21 and suggested that drone policy should require the same justification for redaction as any public record.

Jason Grant Garza stated that the City Attorney is obscuring the truth and that the Task Force is providing false hope.

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

Ayes: 3 - Eldon, Fischer, Wolf

Noes: 0 - None

5. **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 agendas and the webmasters who post the agendas. (00:40:00 – 00:48:00)

The Committee invited Bob Planthold to speak on his recommendation to create training requirements for city departments and to answer questions.

**Member Eldon, seconded by Member Fischer, moved to authorize Chair Wolf to draft a recommendation letter to departments regarding best practices related to posting agendas and minutes and refer it to the full Task Force for review and approval.**

Public Comment:

None.

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

Ayes: 3 - Eldon, Fischer, Wolf

Noes: 0 - None

The Education, Outreach and Training Committee (Committee) shall hold hearing(s) on File Nos. 17044, 17048, 17049, 17060 and 17063 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 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.

6. **File No. 17044:** Complaint filed by Laura Clark against the Ethics Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.7(d), by acting or conducting discussions on an item not appearing on the posted agenda (Ethics Commission April 24, 2017, meeting). (00:48:00 – 02:16:00)

**Member Eldon, seconded by Member Fischer, moved to find jurisdiction in the matter.**

Public Comment:

Laura Clark questioned the process of determining jurisdiction.

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

Ayes: 3 - Eldon, Fischer, Wolf

Noes: 0 - None

Laura Clark (Complainant) provided an overview of the complaint and requested the Committee to find violations. Ms. Clark stated that the Ethics Commission was informed of possible issue related to a potential conflict of interest for a member of the Planning Commission prior to the preparation of the Ethics Commission agenda and that the issue should have been noticed and agenized. Ms. Clark stated that the issue in question was not an emergency and the process for addressing emergency issues should not have been used. Ms. Clark stated that she believed that action was taken at the last moment in order to create negative publicity. There were no speakers on behalf of the Complainant. Chair Peter Keane, Ethics Commission (Respondent), provided a summary of the department's position. Mr. Keane stated that a member of the public speaking

during General Public Comment brought it to the attention of the Ethics Commission that a member of the Planning Commission recently accepted a job with Spur and that there was a possibility of a conflict of interest. Mr. Keane stated that the Ethics Commission believed the issue to be urgent and voted to send a cautionary letter regarding the potential conflict of interest. Mr. Keane stated that the Ethics Commission could not wait until their next monthly meeting to agenzize the matter as the Planning Commissioner was due to vote on the issue in three days. In addition, Mr. Keane stated that the members of the Ethics Commission were not aware of the issue prior to finalizing of their agenda. Mr. Keane stated that with a two-thirds vote of the body the Ethics Commission may take action on items not listed on the agenda if the need to take immediate action on the item is so imperative as to threaten serious injury to the public interest if act were deferred (Sunshine Ordinance, Section 67.7(e)(2)). The following parties spoke on behalf of the Respondent:

Commissioner Quentin Kopp, Ethics Commission, stated that he was the person who made the motion to send the cautionary letter, described why it was an urgent issue and read relevant portions of the meeting transcripts.

Ray Hartz expressed support of the Ethics Commission's actions and stated that the codes allow for a vote to take immediate emergency action.

Larry Bush stated that he was the public commenter that brought the issue to the attention of the Ethics Commission during the meeting and summarized the issue.

Bob Planthold commented on the duties of SPUR members which may conflict with the duties of the Planning Commissioners.

Charles Marsteller provided a historic perspective on the intent of the Ethics Commission and stated that it must be assumed that there is an emergency. Mr. Marsteller stated the code provide a mechanism for bodies to take immediate emergency action.

A question and answer period followed. The Complainant and Respondent were provided an opportunity for rebuttals. Ms. Clark stated that a conflict of interest did not exist, there was no emergency and that the Ethics Commission did not vote to declare an emergency. Mr. Keane stated that the Ethics Commission did not take a roll call vote regarding the emergency but agreed to the action silently or by acclimation (Mr. Keane read portions of the Ethics Commission meeting transcription related to the issue).

Chair Wolf and Member Fischer disclosed their past association with certain stakeholders and stated that there are no conflict of interests.

The Committee opined that there is room for interpretation by the Ethics Commission to determine if an emergency exist. The Ethics Commission did not take a roll call but there was an unannounced agreement on the matter. The Committee requested that the City Attorney respond to question to be submitted by Member Eldon.

Member Eldon moved to refer the matter to the full Task Force with the recommendation to find no violation of the Sunshine Ordinance. Due to a lack of a second the motion failed.

**Chair Wolf, seconded by Member Fischer, moved to refer the matter to the full Task Force without recommendation.**

Public Comment: *(The Committee allowed speakers on behalf of a party to also provided public comment for this matter. Clarification regarding the issue is requested).*

Bob Planthold stated that public comment should be allowed on each motion and stated that the Committee itself approved a matter without a roll call vote.

Ray Hartz commented on the split vote by the Committee and referral to the Task Force without recommendation.

Diane commented on not allowing public comment for those who spoke on behalf of one of the parties.

Larry Bush commented on the testimony provided by the parties.

Jason Grant Garza provided general comments on the matter.

Ann Treboux provided general comments on the matter.

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

Ayes: 3 - Eldon, Fischer, Wolf

Noes: 0 - None

7. **File No. 17048:** Complaint filed by Ray Hartz against Angela Calvillo, Clerk of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.16 and 67.34, by willfully failing to place a written summary of the public comment, if no more than 150 words, into the body of the minutes (March 14, 2017 and March 21, 2017). (02:16:00 – 02:31:00)

**Member Fischer, seconded by Chair Wolf, moved to find jurisdiction in the matter.**

Public Comment:

None.

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

Ayes: 3 - Eldon, Fischer, Wolf

Noes: 0 - None

Ray Hartz (Complainant) provided an overview of the complaint and requested the Committee to find violations. Mr. Hartz stated that the Task Force has previously found various departments including the Board of Supervisors in violation of the Sunshine Ordinance in regards to the placement of the 150 word public comment summary. There were no speakers in support of the Complainant. A representative from the Office of the Clerk of the Board (Respondent) was not present to present their position. There

were no speakers in support of the Respondent. A question and answer period followed. The Complainant was provided the opportunity for rebuttals.

**Chair Wolf, seconded by Member Eldon, moved to refer the matter to the full Task Force with the recommendation to find that Angela Calvillo, Clerk of the Board of Supervisors, violated Administrative Code (Sunshine Ordinance), Section 67.16 and 67.21(e) by failing to place a written summary of public comment, if no more than 150 words, into the body of the minutes and failing to send an representative to the hearing and explain the basis for it decision.**

Public Comment:

None.

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

Ayes: 3 - Eldon, Fischer, Wolf

Noes: 0 – None

8. **File No. 17049:** Complaint filed by Jason Grant Garza against Director Barbara Garcia, Philip Katzenberger and Basic Price, Department of Public Health, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.25 and 67.34, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.  
(02:31:00 – 03:07:00)

Member Fischer, seconded by Member Eldon, moved to find jurisdiction in the matter.

Public Comment:

None.

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

Ayes: 3 - Eldon, Fischer, Wolf

Noes: 0 - None

Jason Grant Garza (Complainant) provided an overview of the complaint and requested the Committee to find violations. Mr. Garza stated that he was not allowed to video record in the hospital and that all requested records have not yet been provided. There were no speakers in support of the Complainant. Linda Acosta, Department of Public Health (Respondent) provided a summary of the department's position. Ms. Acosta stated that with the exception of the video recording all records in possession of Public Health have been provided. Ms. Acosta stated that the video recording cannot be released in order to protect the privacy of other patients pursuant to HIPAA. Ms. Acosta stated that the department is unable to redact private information in the video recording. Ms. Acosta stated that the Office of the City Attorney advised the department to not release the video recording. There were no speakers in support of the Respondent. A question and answer period followed. The Complainant and the Respondent were

provided the opportunity for rebuttals. Mr. Garza stated that certain logs were not provided. Ms. Acosta stated that all documents containing Mr. Garza's name was provided and that since Mr. Garza was not admitted there is no documentation.

The Committee opined that it is difficult to redacting video recordings. In addition, the Committee believes that all records excluding the video recording has been provided in a timely manner or does not exist.

**Chair Wolf, seconded by Member Eldon, moved to find that the requested records are public and that Barbara Garcia, Philip Katzenberger, and Basil Price, Department of Public Health, violated Administrative Code (Sunshine Ordinance), Section 67.24, for failing to provide redacted public records (video recording).**

Public Comment:

Diane stated that a violation of the Sunshine Ordinance occurred, records should have been redacted and provided and that failure to provide videos is a means to hide criminal activities. Diane stated that HIPAA rules are being used to protect Public Health.

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

Ayes: 3 - Eldon, Fischer, Wolf

Noes: 0 - None

9. **File No. 17060:** Complaint filed by Michael Gray against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a request for public records in a timely and/or complete manner. (03:07:00 – 03:33:00)

**Member Fischer, seconded by Member Eldon, moved to find jurisdiction in the matter.**

Public Comment:

None.

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

Ayes: 3 - Eldon, Fischer, Wolf

Noes: 0 - None

Michael Gray (Complainant) provided an overview of the complaint and requested the Committee to find violations. Mr. Gray stated that his request for records related to his background check was sent via U.S. Mail. There were no speakers in support of the Complainant. Officer James Furley, Police Department (Respondent) provided a summary of the department's position and stated that all records were provided in a timely manner. Officer Furley stated that if the departments did have the record in

question it would not be provided pursuant California Government Code, Section 6254(c) and stated the Mr. Gray also signed an agreement which prevents the release of the background check information. Officer Furley stated that the initial response was inadvertently sent to the wrong email address but the issue was corrected prior to the expiration of the deadline to respond. There were no speakers in support of the Respondent. A question and answer period followed. The Complainant was provided the opportunity for rebuttals.

The Committee requested that the Police Department provide information as to whether or not the Police Department has responsive records that could not be disclosed.

**Member Eldon, seconded by Chair Wolf, moved to find that the requested records are public and referred the matter to the full Task Force without recommendation.**

Public Comment:  
None.

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

Ayes: 3 - Eldon, Fischer, Wolf  
Noes: 0 - None

10. **File No. 17063:** Complaint filed by Michael Gray against Micki Callahan and the Department of Human Resources for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a request for public records in a timely and/or complete manner. (03:33:000 - )

**Member Fischer, seconded by Chair Wolf, moved to find jurisdiction in the matter.**

Public Comment:  
None.

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

Ayes: 3 - Eldon, Fischer, Wolf  
Noes: 0 - None

Michael Gray (Complainant) provided an overview of the complaint and requested the Committee to find violations. Mr. Gray stated that his request for records related to a background check was sent via U.S. Mail and disagrees with the department's statement that they do not have responsive records. Mr. Gray stated that the department did not respond to his request via telephone as requested. There were no speakers in support of the Complainant. Administrator Victor Young informed the Committee that the department representative was present but could not stay due to a family emergency. The letter provided by the Department of Human Resources states that they do not have responsive records. There were no speakers in support of the Respondent. A question



and answer period followed. The Complainant was provided the opportunity for rebuttals.

The Committee requested that Mr. Gray provide evidence showing that the Department of Human Resources has records responsive to the public records request. The Committee noted that Mr. Gray was referred to the Department of Police Accountability as the custodian of the requested record. The Committee stated that a recommendation could not be provided without the ability to question the department.

**Chair Wolf, seconded by Member Eldon, moved to find that the requested records are public and refer the matter to the full Task Force without recommendation.**

Public Comment:

None.

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

Ayes: 3 - Eldon, Fischer, Wolf

Noes: 0 - None

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

Member Eldon requested that the Committee schedule a hearing regarding the creations of guidelines/recommendations for standards and best practices for joint meetings. The Committee request that a parliamentarian be invited to the Committee meeting to address the matter.

**12. ADJOURMENT**

**There being no further business the meeting was adjourned at 7:23 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: August 15, 2017**