



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 7, 2015 - 4:00 PM

Regular Meeting

Seat 1	Mark Rumold	Seat 7	Lee Hepner
Seat 2	Eric Eldon	Seat 8	Shaun Haines
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

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

Vice Chair Hyland called the meeting to order at 4:05 p.m. Members Chopra, Hepner, and Washburn were absent. There was a quorum.

Member Eldon was welcomed and introduced to the Task Force.

There were no agenda changes.

2. **File No. 15127: Supervisor of Records Annual Report.** (00:02:43 – 00:14:45)

Deputy City Attorney Brad Russi, Office of the City Attorney, provided an overview of the Supervisor of Records Annual Report and responded to questions from the Task Force.

Member Pilpel, seconded Member Hyland, moved to file the matter.

Public Comment:

Peter Warfield welcomed the new Task Force members and commented on the function of the Supervisor of Records and the timelines of their response.

Thomas Picarello urged the Task Force to review the material prior to the meeting and provided comments regarding conflict of interest.

Ann Treboux provided general comments on the Supervisor of Records Annual Report.

The motion PASSED by the following vote:

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Haines, Fischer, Hinze, Hyland

Noes: 0 - None

Absent: 3 - Chopra, Hepner, Washburn

3. **File No. 15126:** Consideration of actions to be taken regarding complaints pending before the Sunshine Ordinance Task Force filed by Alvin Johnson against various city agencies. (00:14:30 – 00:47:00 and 04:18:20 – 04:28:30))

The SOTF will review the communications and requests submitted by Alvin Johnson regarding attendance at SOTF hearings and request for referrals without hearing. The SOTF will consider actions which may include but not be limited to:

1) Continuing to the call of the chair; 2) Schedule for hearing on a future date; or 3) Tabling/Concluding, the following complaints:

15016, 15040, 15059, 15089, and 15108 – Office of the Controller

15024, 15028, 15039, 15045, 15049, 15065, 15080, 15083, 15130, and

15131 – Department of Human Resources

15025 and 15110 – Civil Service Commission

15027 and 15109 – SF Employees Retirement System

15041 – City Administrator

15042 – Department of Technology

15066 – Ethics Commission

15111 – Office of the City Attorney

Victor Young, Sunshine Ordinance Task Force Administrator, provided additional communications from Mr. Johnson and provided an overview of the communications received from Mr. Johnson.

Alvin Johnson (Complainant) was not present at the hearing and had communicated his refusal to attend via email. Mr. Johnson submitted a continuance request via email on October 7, 2015.

Department Representatives:

Michael Brown (Civil Service Commission); Susan Gard and Paul Greene (Department of Human Resources); and Todd Rydstrom (Controller's Office); summarized their department's experience with Mr. Johnson and answered questions from the Task Force.

Public Comment:

Thomas Picarello stated that Mr. Johnson is a vexatious litigant and that the Task Force needs to develop a policy to address similar situations. Mr. Picarello further stated that the Task Force should dismiss the complaint or compel Mr. Johnson to attend.

Peter Warfield stated that the requests are broad but that it is dangerous for the Task Force to determine what is reasonable.

Ann Treboux commented on the lack of assistance provided to the public to craft the correct question.

The Task Force delayed action on the matter to the end of the meeting. (04:18:00)

Member Wolf, seconded by Member Hyland, moved to table the following complaints filed by Alvin Johnson:

*15016, 15040, 15059, 15089, and 15108 – Office of the Controller
15024, 15028, 15039, 15045, 15049, 15065, 15080, 15083, 15130, and 15131 –
Department of Human Resources
15025 and 15110 – Civil Service Commission
15027 and 15109 – SF Employees Retirement System
15041 – City Administrator
15042 – Department of Technology
15066 – Ethics Commission
15111 – Office of the City Attorney*

In addition, the Task Force will hold a hearing on a future date to discuss the rule of reason and develop guidance to City departments regarding how to proceed with vexatious public record requesters.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Haines, Fischer, Hinze, Hyland

Noes: 0 - None

Absent: 3 - Chopra, Hepner, Washburn

Recommendation from the Complaint Committee.

(The Compliant Committee held a hearing on September 15, 2015, to review File Nos. 15096 and 15099 and issued a report and/or recommendation for the Sunshine Ordinance Task Force's (SOTF) review. Upon review of the Committee's recommendations the SOTF shall: 1) accept the recommendation of the Committee; or 2) reject the recommendation and schedule a hearing before the SOTF on a future date.

4. **File No. 15096:** Complaint filed by Jason Grant Garza against the Department of Public Health, Police Department Sheriff's Department, and Department of Emergency Management for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, for failure to respond to an Immediate Disclosure Request in a timely and/or complete manner. (00:45:00 – 01:03:00)

Member Fischer provided a summary of the Complaint Committee's hearing and recommendation.

Member Pilpel, seconded Member Hyland, moved to adopt the recommendation of the Complaint Committee to find that the Task Force jurisdiction and find violations of Administrative Code (Sunshine Ordinance), Sections as follows:

- **The Department of Public Health violated Sunshine Ordinance, Sections 67.21(c) and 67.25(a), by failing to assist the requester and failure to respond in a timely manner;**
- **The Police Department violated, Sunshine Ordinance, Section 67.25(a), by failing to respond in a timely manner; and**
- **The Department of Emergency Management violated Sunshine Ordinance, Section 67.21(c), by failing to assist the requester.**

Public Comment:

Ann Treboux stated that Mr. Garza was setting up the departments for violations. Peter Warfield expressed support for technology to better process public records requests and referrals.

The motion PASSED by the following vote:

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Haines, Fischer, Hinze, Hyland

Noes: 0 - None

Absent: 3 - Chopra, Hepner, Washburn

5. **File No. 15099:** Complaint filed by Sarah Mars against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, for failure to respond to a public records request in a timely and/or complete manner. (01:03:00 – 01:11:00)

Member Fischer provided a summary of the Complaint Committee's hearing and recommendation.

Member Haines, seconded by Member Hinze, moved to adopt the recommendation of the Complaint Committee to find that the Task Force has jurisdiction and find a violation of Administrative Code (Sunshine Ordinance), Sections 67.21 (a) and (b), for failure to respond to a public records request in a timely and/or complete manner.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Haines, Fischer, Hinze, Hyland

Noes: 0 - None

Absent: 3 - 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.

Speakers:

Ann Treboux commented on the Arts Commission's restrictions to her attendance at meetings due to a restraining order.

Peter Warfield welcome the new Task Force members and presented a Westside Observer article concerning the Task Force's complaint procedures.

7. **File No. 15004:** Complaint filed by Ali Altaha against the Department of Human Resources for allegedly violating Administrative Code (Sunshine Ordinance), Section - 67.21 for failure to respond to requests for public records in a timely and/or complete manner. (01:11:00 – 01:23:00)

Victor Young, Administrator, Sunshine Ordinance Task Force, confirmed that the Complainant was notified of the hearing and further stated that Mr. Altaha has demonstrated a pattern of non-appearance and Task Force hearings.

The Task Force discussed their policy regarding the non-appearance of Complainants at hearing.

Deputy City Attorney Nicholas Colla commented on the matter.

Member Hyland, seconded by Member Haines, moved to table the mater.

Public Comment:

Peter Warfield stated that the Task Force should follow its established procedures and conduct a hearing without the Complainant present.

The motion PASSED by the following vote:

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Haines, Fischer, Hinze, Hyland

Noes: 0 - None

Absent: 3 - Chopra, Hepner, Washburn

8. **File No. 15010:** Hearing on the status of the Order of Determination - Complaint filed by Thomas Picarello against the San Francisco Fire Department for violating Administrative Code (Sunshine Ordinance), Sections 67.21(c), 67.25(a), and 67.27, for failure to identify public records that were withheld, failure to respond to a public records request in a timely manner, and failure to justify the reason for withholding certain records. (01:23:00 – 02:08:00)

Thomas Picarello (Complainant) provided a summary of the status of his public records request. Rob Baughn and John Darmanin, Fire Department (Respondent) provided a summary of the documents provided and redactions made. A question and answer period followed.

The Task Force requested that the Fire Department provide an email to Mr. Picarello stating that certain records be obtained from other departments and provide the contact information and item identification numbers.

Public Comment:

Ann Treboux spoke in support of the Complainant.

Peter Warfield stated that the requested documents should have been provided prior to the meeting.

There being no motion, it was determined that the Fire Department complied with the Task Force's Order of Determination and the matter was concluded.

9. **File No. 15078:** Complaint filed by Richard Denton against the Public Utilities Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.26, and 67.27, for failure to respond to a public records request in a timely and/or complete manner. (02:08:00 – 03:52:00)

The Complaint Committee heard this complaint on July 21, 2015. The Task Force rejected the committee's recommendation on September 2, 2015, and scheduled a *de novo* hearing.

Richard Denton (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Suzanne Gautier, Public Utilities Commission (Respondent), provided a summary of the department's position. Tonia Lediju, Controller's Office, provided information regarding the whistleblower program but could not provide any information regard any specific matter due to confidentiality. 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.

During discussion it appeared that the Public Utilities Commission altered a report and did not inform the Complainant that the version provided had been altered.

Public Comment:

Peter Warfield stated that the action of the Public Utilities Commission violated the law.

Member Rumold, seconded by Member Hinze, moved to find a violation of Administrative Code (Sunshine Ordinance), Section 67.21(a) and (b), 67.26 and 67.27, for failure to disclose a reason for withholding and failure to provide justification for withholding records.

Member Rumold volunteered to prepare an Order of Determination and insert explanatory language as to how Sunshine Ordinance, Sections 67.21(a) and (b), 67.26 and 67.27 were violated, with final action on the motion to find violation delayed until

the Task Force reviews and approves the Order of Determinations prepared by Member Rumold. The Complainant and Respondent are not required to attend the hearing to review and adopt the Order of Determination. Member Pilpel requested that Barbara Hale and Harlan Kelly, Public Utilities Commission, be notified of the next scheduled hearing on the matter.

Member Rumold, seconded by Member Hinze, moved to continue the matter to the call of the chair.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Haines, Fischer, Hinze, Hyland
Noes: 0 - None
Absent: 3 - Chopra, Hepner, Washburn

10. **Hearing: Draft letter to Recreation and Park Department regarding codification of department's polices. (03:52:00 – 03:58:00)**

The Task Force discussed the draft letter to the Recreation and Park Department.

Member Hyland, seconded by Member Wolf, moved to amend, finalize and transmit the letter to the Recreation and Park Department regarding codification of policies.

Public Comment:
Tom Warden provided a summary of his experience related to the matter.

The motion PASSED by the following vote:

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Haines, Fischer, Hinze, Hyland
Noes: 0 - None
Absent: 3 - Chopra, Hepner, Washburn

The meeting was in recess from 7:50 to 8:05 p.m.

11. **Hearing: Draft letter to the Office of the City Attorney regarding participation at SOTF hearings and the City Attorney's budget for the SOTF. (03:44:00 – 03:52:00)**

The Task Force discussed the draft letter to the Office of the City Attorney.

Member Pilpel, seconded by Member Hyland, moved to amend, finalize and transmit the letter to the Office of the City Attorney regarding participation at SOTF hearings and the City Attorney's budget for the SOTF.

Public Comment:
Ann Treboux provided unrelated comments regarding Matt Dorsey.

The motion PASSED by the following vote:

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Haines, Fischer, Hinze, Hyland

Noes: 0 - None

Absent: 3 - Chopra, Hepner, Washburn

Member Pilpel, seconded by Member Fischer, moved to continue items 12, 13 and 14 to the call of the chair.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Haines, Fischer, Hinze, Hyland

Noes: 0 - None

Absent: 3 - Chopra, Hepner, Washburn

12. **Sunshine Ordinance Task Force and committee meeting schedule – 2016.**

The matter was continued to the call of the chair, following item 11.

13. **File No. 14030: Amendments to the Sunshine Ordinance Task Force Complaint Procedures.**

The matter was continued to the call of the chair, following item 11.

14. **Hearing: Status of the Sunshine Ordinance Task Force Annual Report 2014/2015.**

The matter was continued to the call of the chair, following item 11.

15. **Approval of minutes from the Sunshine Ordinance Task Force (SOTF) September 2, 2015, meeting.**

The Task Force reviewed the draft minutes and provided amendments.

Member Pilpel, seconded by Member Hinze, moved to approve the September 2, 2015, minutes as amended.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Haines, Fischer, Hinze, Hyland

Noes: 0 - None

Absent: 3 - Chopra, Hepner, Washburn

16. Approval of minutes from the Complaint Committee September 15, 2015, meeting.

The Task Force reviewed the draft minutes and provided amendments.

Member Pilpel, seconded by Member Hinze, moved to approve the September 15, 2015, minutes as amended.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Haines, Fischer, Hinze, Hyland

Noes: 0 - None

Absent: 3 - Chopra, Hepner, Washburn

17. Hearing: Proposed City Policies on the Use of Body Worn Cameras and Drones.

The Task Force discussed the possibility of reviewing the City's proposed policies on the use of body worn cameras by police and drones. Member Wolf expressed interest in the matter and volunteered to review the proposed policies.

Public Comment:
None

The Task Force took no actions on this matter.

18. Administrator's Report and Communications.

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

The Task Force discussed the Administrator's Report.

Public Comment:
None.

The Task Force took no actions on this matter.

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

Member Eldon commented on his possible conflicts regarding whistleblowers.

Public Comment:
None.

20. **ADJOURNMENT**

There being no further business the meeting was adjourned at 8:58 p.m.

APPROVED: November 4, 2015



**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.