



# 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

January 4, 2017 - 4:00 PM

## Regular Meeting

Seat 1	Victoria Bareanetsky	Seat 7	Dave Maass
Seat 2	Eric Eldon	Seat 8	Frank Cannata
Seat 3	Josh Wolf	Seat 9	Chris Hyland - <b>Vice Chair</b>
Seat 4	Rishi Chopra	Seat 10	Louise Fischer
Seat 5	Leuwam Tesfai	Seat 11	Fiona Hinze
Seat 6	Bruce Wolfe - <b>Chair</b>		

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**

Chair Wolfe called the meeting to order at 4:05 p.m. Members Chopra and Baranetsky were noted absent. Member Tesfai was noted excused. There was a quorum.

Chair Wolfe requested that communications from the Ethics Commission be discussed under the Chair's Report.

### 2. **Approval of minutes from the Sunshine Ordinance Task Force December 7, 2016, meeting. (00:02:30 – 00:05:00)**

The Task Force discussed the meeting minutes.

**Member Maass, seconded by Member Hinze, moved to approve the December 7, 2016, meeting minutes.**

Public Comment:

Ray Hartz stated that the Task Force has improved their timeliness of posting minutes online.

Peter Warfield (Library Users Association) requested that the minutes provide more specific and detailed information.

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

Ayes: 8 - Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe  
Noes: 0 - None  
Absent: 2 - Chopra, Baranetsky  
Excused: 1 - Tesfai

3. **File No. 16077:** Complaint filed by the Library Users Association against City Librarian Luis Herrera and the Public Library for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.25, 67.26 and 67.27, by failing to respond to an Immediate Disclosure Request in a complete manner, keeping withholding of records to a minimum, and failing to provide justification for withholdings. (00:05:00 – 00:58:00)  
*(On November 22, 2016, the Complaint Committee acting in its capacity to hear complaints heard the matter and referred it to the Task Force for hearing.)*

**Vice Chair Hyland, seconded by Member Hinze, moved to find jurisdiction.**

Public Comment:  
None.

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

Ayes: 8 - Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe  
Noes: 0 - None  
Absent: 2 - Chopra, Baranetsky  
Excused: 1 - Tesfai

Peter Warfield (Library Users Association) (Complainant) provided an overview of the complaint and requested that the Task Force find violations. Mr. Warfield stated that the records provided were incomplete and that the referenced website provided was not easily navigated. Mr. Warfield stated that the Public Library should not have directed him to website to hunt for records. There were no speakers in support of the Complainant. Sue Blackman and Luis Herrera (Public Library) (Respondent), provided a summary of the department's position that available records were provided and that Mr. Warfield was referred to the conference organizer's website for additional information. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

**Member J. Wolf, seconded by Member Maass, moved to find that City Librarian Luis Herrera and the Public Library violated Administrative Code (Sunshine Ordinance), Sections 67.25 and 67.26, by failing to respond to an Immediate Disclosure Request in a timely and complete manner and failing to keep withholding of public records to a minimum.**

Public Comment:  
Ray Hartz provided a summary of the arguments and expressed support for the motion.

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

Ayes: 8 - Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 2 - Chopra, Baranetsky

Excused: 1 - Tesfai

4. **File No. 16086:** Complaint filed by the Library Users Association against Commission Secretary Sue Blackman, City Librarian Luis Herrera, Commission President Mary Wardell-Ghirarduzzi and the Library Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.7 and 67.15, by failing to post an agenda containing a meaningful description of each item of business to be transacted or discussed at the meeting and failing to provide an opportunity for members of the public to directly address a policy body on items of interest to the public that are within the body's jurisdiction. (01:08:00 – 01:45:00)

*(On November 22, 2016, the Complaint Committee acting in its capacity to hear complaints heard the matter and referred it to the Task Force for hearing.)*

**Vice Chair Hyland, seconded by Member Hinze, moved to find jurisdiction.**

Public Comment:

None.

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

Ayes: 8 - Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 2 - Chopra, Baranetsky

Excused: 1 - Tesfai

Peter Warfield (Library Users Association) (Complainant) provided an overview of the complaint and requested that the Task Force find violations. Mr. Warfield stated that the Respondents were aware of the potential action to adjourn the meeting in honor of retiring Library employee Toni Bernardi which should have been listed as an action item on the agenda. Mr. Warfield stated that the employees involved in the violation should be required to attend the hearings personally. There were no speakers in support of the Complainant. Sue Blackman (Public Library) (Respondent), provided a summary of the department's position. Ms. Blackman stated that the decision by Commission President Wardell-Ghirarduzzi to adjourn the meeting in honor of a Toni Bernardi was not planned and was a last minute request. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

Chair Wolfe stated that upon review of the Board of Supervisors and SFPUC agendas "in memoriam" and commendations being placed onto the agenda appear to be a regular practice in city government which allows for public comment.

**Member Maass, seconded by Chair Wolfe, moved to find that Commission Secretary Sue Blackman, City Librarian Luis Herrera, Commission President Mary Wardell-Ghirarduzzi and the Library Commission violated Administrative Code (Sunshine Ordinance), Section 67.7(e), by taking actions on items of business not appearing on the posted agenda.**

Public Comment:

Ray Hartz expressed support for the motion.

Library Commissioner Teresa Ono stated that she was not present at the meeting but that it is the practice of the Commission to adjourned meetings in honor of certain persons without prior notice.

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

Ayes: 5 - Eldon, J. Wolf, Maass, Cannata, B. Wolfe

Noes: 3 - Fischer, Hinze, Hyland

Absent: 2 - Chopra, Baranetsky

Excused: 1 - Tesfai

There being no additional motions no violations were found and the matter was concluded.

5. **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 p.m. or as soon thereafter as possible. (00:58:00 – 01:08:00)*

Speakers:

Ann Treboux described her experiences with the Arts Commission and their accusations.

Ray Hartz commented on statements made by Library Commission Secretary Blackman that she represents the Library and the Library Commission and provided examples of actions taken without official approval.

Peter Warfield (Library Users Association) stated that the Task Force should have the respondent attend meetings instead of representative and commented on the 45 day requirement for the Task Force to determine if a record is public.

6. **File No. 16087:** Complaint filed by Ray Hartz against Luis Herrera, Sue Blackman and the Library Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond in a timely and/or complete manner. *(01:45:00 – 02:34:00)*

*(On November 22, 2016, the Complaint Committee heard the matter and referred it to the Task Force for hearing.)*

**Vice Chair Hyland, seconded by Member Cannata, moved to find jurisdiction.**

Public Comment:

None.

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

Ayes: 8 - Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 2 - Chopra, Baranetsky

Excused: 1 - Tesfai

Ray Hartz (Complainant) provided an overview of the complaint and requested that the Task Force find violations. Mr. Hartz stated that the Library Commission was not consulted prior to the transmittal of the response to the Immediate Disclosure Request (IDR). Ann Treboux spoke in support of the Complainant. Sue Blackman (Public Library) (Respondent), provided a summary of the department's position. Ms. Blackman stated that as the Commission Secretary and the Custodian of Records she responded to the IDR and did not consult the Library Commission as they are not in possession of public records. City Librarian Luis Herrera spoke in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

Deputy City Attorney Colla provided comments and responded to questions from the Task Force.

**Member J. Wolf, seconded by Member Hinze, moved to find that City Librarian Luis Herrera and Sue Blackman (Public Library) and the Library Commission violated Administrative Code (Sunshine Ordinance), Sections 67.25(a), 67.26, and 67.27, by failing to respond to an Immediate Disclosure Request in a timely and complete manner, failing to keep withholding of public records to a minimum and failing to provide justification for withhold public records.**

Public Comment:

Peter Warfield (Library Users Association) expressed support for the motion and stated that the complaints were concealed from the Library Commission. Mr.

Warfield stated state all employees are custodians of records and requests should not have to be directed through Ms. Blackman.

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

Ayes: 7 - Eldon, J. Wolf, Maass, Cannata, Hinze, Hyland, B. Wolfe

Noes: 1 - Fischer

Absent: 2 - Chopra, Baranetsky

Excused: 1 - Tesfai

**File No. 16057:** Complaint filed by Ann Treboux against Howard Lazar and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner. (02:34:00 – 02:50:00)

*(On November 22, 2016, the Complaint Committee acting in its capacity to hear complaints heard the matter and referred it to the Task Force for hearing.)*

**Member Hinze, seconded by Member Cannata, moved to find jurisdiction.**

Public Comment:

None.

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

Ayes: 8 - Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 2 - Chopra, Baranetsky

Excused: 1 - Tesfai

Ann Treboux (Complainant) provided an overview of the complaint and requested that the Task Force find violations. Ms. Treboux stated that she did not receive the requested public records. Kate Patterson (Arts Commission) (Respondent), provided a summary of the department's position. Ms. Patterson stated that a request for clarification was sent to Ms. Treboux and due to the lack of a response it was unclear what records were requested. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

**Member J. Wolf, seconded by Member Hinze, moved to find no violation of Administrative Code (Sunshine Ordinance), Section 67.25.**

Public Comment:

None.

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

Ayes: 8 - Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 2 - Chopra, Baranetsky

Excused: 1 - Tesfai

7. **File No. 16068:** Complaint filed by Ann Treboux against Kate Patterson and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Section

67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner. (02:50:00 – 03:56:00)

*(On November 22, 2016, the Complaint Committee acting in its capacity to hear complaints heard the matter and referred it to the Task Force for hearing.)*

**Member Hinze, seconded by Vice Chair Hyland, moved to find jurisdiction.**

Public Comment:

None.

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

Ayes: 8 - Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 2 - Chopra, Baranetsky

Excused: 1 - Tesfai

Ann Treboux (Complainant) provided an overview of the complaint and requested that the Task Force find violations. Ms. Treboux stated that she did not receive notice that the person in receipt of the request for public records was out of the office. Kate Patterson (Arts Commission) (Respondent), provided a summary of the department's position. Ms. Patterson stated the out of office notification for the absent staff member was active and that the public records was provided upon the return of the staff member. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

**Vice Chair Hyland, seconded by Member Hinze, moved to find that the Arts Commission violated Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to the Immediate Disclosure Request in a timely manner.**

Public Comment:

None.

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

Ayes: 8 - Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 2 - Chopra, Baranetsky

Excused: 1 - Tesfai

**Member Hinze, seconded by Vice Chair Hyland, moved to hear Item No. 10 out of order prior to Item No. 9.**

Public Comment:

None.

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

Ayes: 8 - Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 2 - Chopra, Baranetsky

Excused: 1 - Tesfai

8. **File No. 16078:** Complaint filed by Ann Treboux against Kate Patterson and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner. (04:01:00 – 04:24:00)

*(On November 22, 2016, the Compliance and Amendments Committee heard the matter and referred it to the Task Force for hearing.)*

**Member Cannata, seconded by Member Maass, moved to find jurisdiction.**

Public Comment:

None.

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

Ayes: 8 - Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 2 - Chopra, Baranetsky

Excused: 1 - Tesfai

Ann Treboux (Complainant) provided an overview of the complaint and requested that the Task Force find violations. Ms. Treboux stated that she did not receive the requested records. Kate Patterson (Arts Commission) (Respondent), provided a summary of the department's position. Ms. Patterson provided a summary of the actions taken by the Arts Commission to provide the requested records to the Complainant and provided visual evidence (visual display of computer screen) showing the emails with attachments provided. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.



**Vice Chair Hyland, seconded by Member Hinze, moved to find that the Arts Commission violated Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to the Immediate Disclosure Request in a timely manner.**

Public Comment:

None.

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

Ayes: 8 - Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 2 - Chopra, Baranetsky

Excused: 1 - Tesfai

9. **File No. 16094:** Complaint filed by Sophia De Anda against the Mayor's Office of Housing and Community Development 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. (03:56:00 – 04:01:00)

*(On December 20, 2016, the Education, Outreach and Training Committee acting in its capacity to hear complaints heard the matter and referred it to the Task Force for hearing with a recommendation that a violation Administrative Code, Section 67.21 did not occur.)*

**Vice Chair Hyland, seconded by Member Hinze, moved to find jurisdiction.**

Public Comment:

None.

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

Ayes: 8 - Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 2 - Chopra, Baranetsky

Excused: 1 - Tesfai

The Complainant was not present and requested that the matter be 'cancelled'. The Task Force heard the matter without the presence of the Complainant as the request of the Complainant was unclear. There were no speakers in support of the Complainant. Eugene Flannery, Mayor's Office of Housing and Community Development (Respondent), provided a summary of the department's position. Mr. Flannery stated that the department does not maintain the request records. However, the Complainant was referred to the custodian of the requested records who complied with the request. Mr. Flannery stated that the Complainant has a history of filing multiply false complaints and failing to appear for hearings which wastes the time and effort of various city agencies. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

**Member Hinze, seconded by Vice Chair Hyland, moved to find no violations of Administrative Code (Sunshine Ordinance), Section 67.21.**

Public Comment:

None.

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

Ayes: 8 - Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 2 - Chopra, Baranetsky

Excused: 1 - Tesfai

**SPECIAL ORDER – The hearings on File No. 16090 will not begin earlier than 6:00 p.m.**

10. **File No. 16090:** Complaint filed by Shawn Mooney against the Assessor/Recorder's Office for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21(b), for failure respond to a public records request in a timely and complete manner. (04:24:00 – 04:37:00)

*(On December 20, 2016, the Education, Outreach and Training Committee acting in its capacity to hear complaints heard the matter and referred it to the Task Force for hearing with a recommendation that a violation Administrative Code, Section 67.21 (b) occurred.)*

**Member Hinze, seconded by Vice Chair Hyland, moved to find jurisdiction.**

Public Comment:

None.

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

Ayes: 8 - Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 2 - Chopra, Baranetsky

Excused: 1 - Tesfai

The Complainant was not present and requested that the Task Force proceed with the hearing via email. Mr. Mooney (Complainant) stated in writing that he received all of the requested records but wanted to proceed with the hearing for a finding regarding timeliness. There were no speakers in support of the Complainant. Edward McCaffrey (Assessor/Recorder's Office) (Respondent), provided a summary of the department's position. Mr. McCaffrey acknowledged that the response was not timely due to the volume and complexity of the request. Mr. McCaffrey stated that the department has made improvements and will make additional improvements via technology and procedures to improve their ability to respond in a timely manner. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

**Member Hinze, seconded by Vice Chair Hyland, moved to find no violations of Administrative Code (Sunshine Ordinance), Section 67.25.**

Public Comment:

None.

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

Ayes: 7 - Eldon, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 1 - J. Wolf

Absent: 2 - Chopra, Baranetsky

Excused: 1 - Tesfai

11. **File No. 16093:** Review and possible amendments to the Sunshine Ordinance Task Force By-Laws and Complaint Procedures. (04:37:00 – )

- Absence policy (adding an excused provision)
- Precedence and Log of Task Force decisions
- Duplicate filings and/or re-adjudication
- Tabling for being unresponsive or non-appearance
- Maximum number of hearings per person/meeting
- Statute of limitations for complaints
- Rules of Reason
- Vexatious Complainants/Respondents
- How to treat Ethics Commission rulings that disagree with the decision of the Task Force
- Minimum requirement to process complaint
- Other issues related to the Task Force By-Laws and Complaint Procedures

The Task Force discussed the proposed changes to the Task Force By-Laws and Complaint Procedures.

Chair Wolfe stated that Administrative Code, Section 67.25 references California Government Code, Section 6256 which no longer exists. The Task Force should work with the Board of Supervisors to amend the Administrative Code to reference California Government Code, Section 6253 instead.

Deputy City Attorney Colla provided comments and responded to questions from the Task Force.

Public Comment:

None.

**Due to fire alarm testing Vice Chair Hyland, seconded by Member Maas, moved to continue Item Nos. 13, 14 and 15 to the next meeting of the Task Force.**

Public Comment:

None.

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

Ayes: 8 - Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 2 - Chopra, Baranetsky

Excused: 1 - Tesfai

**12. Sunshine Ordinance Task Force - Chair's Report:**

- Review of the validity of Administrative Code, Section 67.3.(b)(4)(C-1)\*  
“The attendance of a majority of the members of a policy body at an open and noticed meeting of a standing committee of that body, provided that the members of the policy body who are not members of the standing committee attend only as observers.”

Continued to the next meeting of the Task Force.

**13. Administrator's Report, Complaints and Communications.**

- Task Force and Committee hearing schedule
- Complaints submitted and hearing files created
- Communications to the Task Force
- Summary of pending complaints and other issues

Continued to the next meeting of the Task Force.

**14. Announcements, Comments, Questions, and Future Agenda Items by Members of the Sunshine Ordinance Task Force.**

Continued to the next meeting of the Task Force.

**15. ADJOURNMENT**

**Vice Chair Hyland, seconded by Member Maas, moved to adjourn the meeting.**

**By a rise in vote the meeting was adjourned without objection at 9:15 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 Sunshine Ordinance Task Force: February 1, 2017**