



SUNSHINE ORDINANCE TASK FORCE CITY AND COUNTY OF SAN FRANCISCO MINUTES DRAFT

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

March 1, 2017 - 4:00 PM

Regular Meeting

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

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 4:00 p.m. Members Chopra, J. Wolf, Hyland and Baranetsky were noted absent. There was a quorum.

Members Hyland and J. Wolf were noted present at 4:10 p.m.

Chair Wolfe noted his intention to continue the discussion of the Sunshine Ordinance, Section 67.3 under the Chair's Report (Item No. 12).

Public Comment:

Ray Hartz commented on the absent of Task Force members and stated that an absence is equivalent to a no vote.

2. Approval of minutes from the Sunshine Ordinance Task Force February 1, 2017, meeting.

The Task Force discussed the meeting minutes.

Member Tesfai, seconded by Member Cannata, moved to approve the February 1, 2017, meeting minutes.

Public Comment:

None.

3. **File No. 16115: Hearing – Annual Supervisor of Records Report.**

Brad Russi (Office of the City Attorney) presented the Annual Supervisor of Records Report and answered questions from the Task Force.

Public Comment:

Ray Hartz asked why two annual reports were submitted together and described his experience with the Supervisor of Records.

HEARD AND FILED

4. **File No. 16027:** Complaint filed by Charles Pitts against Kenneth Reggio and the Episcopal Community Services (non-profit agency) for allegedly violating Administrative Code (Sunshine Ordinance), Sections 12L.5 and 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

(On January 24, 2017, the Complaint Committee reviewed the complaint and referred it to the Task Force with the recommendation to find that the Task Force does not have jurisdiction.)

Task Force Administrator Victor Young informed the Task Force that Mr. Pitts requested a postponement until further notice. Chair Wolfe indicated that a postponement until further notice is considered to be a withdrawal pursuant to Roberts Rules of Order. Mr. Pitts was informed prior to the hearing that his request for postponement was subject to review by the Task Force.

The Complainant was not present at the meeting. The Respondent was present but did not speak on the matter.

Upon review of the Complaint Committee's recommendation the Task Force found that they do not have jurisdiction and that Administrative Code, Section 12L.5, requires that complaints against non-profit agencies should be initially filed with the city agency responsible for administering the non-profit's contract.

Vice-Chair Hyland, seconded by Member Hinze, moved to find that the Sunshine Ordinance Task Force does not have jurisdiction over the Episcopal Community Services pursuant to Administrative Code, Section 12L.5.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 – Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland,

B. Wolfe

Noes: 0 – None

Absent: 2 – Chopra, Baranetsky

5. **File No. 16028:** Complaint filed by Charles Pitts against Sam Dodge and the Human Services Agency 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.

(On January 24, 2017, the Complaint Committee reviewed the complaint and referred it to the Task Force with the recommendation to find jurisdiction and find that a violation of Administrative Code (Sunshine Ordinance), Section 67.25, did not occur.)

Member Hinze, seconded by Member Maass, moved to find jurisdiction.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 – Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe
Noes: 0 – None
Absent: 2 – Chopra, Baranetsky

Task Force Administrator Victor Young informed the Task Force that Mr. Pitts requested a postponement until further notice. Chair Wolfe indicated that a postponement until further notice is considered to be a withdrawal pursuant to Roberts Rules of Order. Mr. Pitts was informed prior to the hearing that his request for postponement was subject to review by the Task Force.

The Complainant was not present at the meeting. There were no speakers on behalf of the Complainant. Matthew Braun, Human Services Agency (Respondent), provided a summary of the department's position and described the action taken by the department to respond to Mr. Pitts' request. Mr. Braun stated that the parties who processed the request for records are no longer with the department. Mr. Braun stated that the department responded in a timely manner and informed Mr. Pitts that the department did not have records responsive to the request. Mr. Pitts was referred to the Episcopal Community Services) and confirmed that the records were provided. Ken Reggio, Episcopal Community Services, spoke in support of the Respondent and stated that Mr. Pitts was not stonewalled and the records were provided. The Respondent was provided the opportunity for rebuttals.

Vice-Chair Hyland, seconded by Member Hinze, moved to find that the Human Services Agency did not violate Administrative Code (Sunshine Ordinance), Section 67.25.

Public Comment:

Ray Hartz questioned whether or not the requested records were provided and that departments should retrieve records from other departments on behalf of the public.

The motion PASSED by the following vote:

Ayes: 9 – Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland,
B. Wolfe
Noes: 0 – None
Absent: 2 – Chopra, Baranetsky

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. *Public comment shall be taken at 5:00 p.m. or as soon thereafter as possible.*

Speaker:

Ray Hartz stated that parties need to attend Committee meetings to respond to questions and suggested that parties to a Sunshine complaint be informed that hearing will proceed with available information and that absent parties forfeit their rights to contest issues.

Ellen Tsang expressed thanks to the members of the Task Force.

7. **File No. 16119:** Complaint filed by Ellen Tsang against Director John Rahaim and the Planning Department, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.24, 67.25, and 67.26, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

(On January 24, 2017, the Complaint Committee reviewed the complaint and referred it to the Task Force with the recommendation to find jurisdiction and find violation of Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, occurred by failing to respond to an Immediate Disclosure Request in a timely manner.)

Ellen Tsang (Petitioner/Complainant) provided an overview of the complaint and requested that the Task Force find violations. There were no speakers in support of the Petitioner/Complainant. Christian Silva, Planning Department (Respondent), provided a summary of the department's position. Ms. Silva acknowledged that the response was one day late. Ms. Silva stated that the requested records were provided or does not exist. At the request of the Task Force, Ms. Silva provided a summary of the Discretionary Review Process for projects before the Planning Department. 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.

The Task Force suggested that the Planning Department work with Ms. Tsang to provide information regarding how the fee submitted by Ms. Tsang for the Discretionary Review was expended and how it was determined that a refund would not be issued.

Vice-Chair Hyland, seconded by Member Hinze, moved to find that Director John Rahaim and the Planning Department violated Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to assist a requester in identifying the existence, form, and nature of any record or information maintained and failing to respond to an Immediate Disclosure Request in a timely manner.

Public Comment:

Ray Hartz questioned whether or not the requested records were provided and that departments should retrieve records from other departments on behalf of the public.

The motion PASSED by the following vote:

Ayes: 9 – Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe
Noes: 0 – None
Absent: 2 – Chopra, Baranetsky

The meeting was recessed from 4:55 p.m. to 5:00 p.m.

8. **File No. 16084:** Complaint filed by Ann Treboux against Mayor Edwin Lee and the Office of the Mayor, 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.

(On January 24, 2017, the Complaint Committee reviewed the complaint and referred it to the Task Force with the recommendation to find jurisdiction and find violation of Administrative Code (Sunshine Ordinance), Section 67.25, occurred by failing to respond to an Immediate Disclosure Request in a timely manner.)

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

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 – Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe
Noes: 0 – None
Absent: 2 – Chopra, Baranetsky

The Petitioner/Complainant was not present at the meeting. There were no speakers in support of the Petitioner/Complainant. Victor Lim, Mayor's Office (Respondent), provided a summary of the department's position. Mr. Lim acknowledge that the response to the public records request was late but all records in possession of the Mayor's Offices has been provided. There were no speakers in support of the Respondent. The Respondent and Petitioner/Complainant were provided the opportunity for rebuttal.

Member Cannata, seconded by Member Hinze, moved to find that Mayor Edwin Lee and the Office of the Mayor violated Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely manner.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 – Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland,

B. Wolfe

Noes: 0 – None

Absent: 2 – Chopra, Baranetsky

SPECIAL ORDER –

The hearings on File Nos. 16116 and 16117 will not begin earlier than 5:30 p.m.

9. **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).

(On February 21, 2017, the Education, Outreach and Training Committee reviewed the complaint and referred it to the Task Force with the recommendation to find jurisdiction and find violation of Administrative Code (Sunshine Ordinance), Section 67.15(d), occurred.)

Member Hinze, seconded by Member Fischer, moved to find jurisdiction.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 – Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland,

B. Wolfe

Noes: 0 – None

Absent: 2 – Chopra, Baranetsky

Ray Hartz provided an overview of the complaint and requested that the Task Force find violations. Mr. Hartz stated that he is entitled to 3 minutes of uninterrupted public comment and stated that the interruptions are violations of free speech. There were no speakers in support of the Petitioner/Complainant. Jessica Blome, Ethics Commission (Respondent), provided a summary of the department's position. Ms. Blome acknowledged that there was an interruption of Mr. Hartz's public comment which lasted approximately 8 seconds. Ms. Bloom stated that staff has been inform that the public comment timer should be paused during any interruptions by members of the Ethics Commission. There were no speakers in support of the Respondent. The Respondent and Petitioner/Complainant were provided the opportunity for rebuttal.

Member Cannata, seconded by Member Tesfai, moved to find that Quentin Kopp and the Ethics Commission violated Administrative Code (Sunshine Ordinance), Section 67.15, by not provided the full allotment of time for public comment.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 – Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, B. Wolfe

Noes: 1 – Hyland

Absent: 2 – Chopra, Baranetsky

10. **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. *(On February 21, 2017, the Education, Outreach and Training Committee reviewed the complaint and referred it to the Task Force with the recommendation to find jurisdiction and without recommendation regarding the alleged violation of Administrative Code (Sunshine Ordinance), Section 67.29-6.)*

Member Fischer, seconded by Member Hinze, moved to find jurisdiction.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 – Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 2 – Chopra, Baranetsky

Ray Hartz provided an overview of the complaint and requested that the Task Force find violations. Mr. Hartz provided a history of his previous complaints against the Public Library and his requests for records. There were no speakers in support of the Petitioner/Complainant. Maureen Singleton, Public Library (Respondent), provided a summary of the department's position. Ms. Singleton stated that the Public Library is in the process of creating a Memorandum of Understanding with the Friends of the Public Library which will include an agreement required by Administrative Code, Section 67.29-6. Chair Dave Stringer-Calvert, Friends of the Public Library, spoke in support of the Respondent and provided a summary of the Friends of the Public Library and their operations. The Respondent and Petitioner/Complainant were provided the opportunity for rebuttal.

Vice Chair Hyland, seconded by Member Cannata, moved to find that City Librarian Luis Herrera and the Public Library violated Administrative Code (Sunshine Ordinance), Section 67.29-6, by failing to maintain a written agreement to abide by the Sunshine Ordinance with entities collecting/maintaining funds for the purpose of carrying out or assisting any City function unless the amount and source of all such funds is disclosed as a public record and made available on the website for the department.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 – Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland,

B. Wolfe

Noes: 0 – None

Absent: 2 – Chopra, Baranetsky

The matter was referred to the Compliance and Amendments Committee to review the draft Memorandum of Understanding between the Public Library and the Friends of the Public Library to ensure that Administrative Code (Sunshine Ordinance), Section 67.29-6 is addressed.

11. File No. 16093: Review and possible amendments to the Sunshine Ordinance Task Force By-Laws and Complaint Procedures.

- Complaint hearing procedures
- Precedence and Log of Task Force decisions
- Maximum number of hearings per person/meeting
- Rules of Reason
- Duplicate filings and/or re-adjudication
- Tabling for being unresponsive or non-appearance
- Vexatious Complainants/Respondents
- Other issues related to the Task Force By Laws and Complaint Procedures

The Task Force reviewed the complaint hearing process and issues related to the requirement of the Respondents and Complainants attendance at Committee and Task Force hearings.

Member Tesfai, seconded by Vice Chair Hyland, moved to amend the Complaint Procedures to require the Respondents and Petitioners/Complainants to attend Committee hearings to review complaints.

Public Comment:

Ray Hartz expressed concern with the lack of attendance of the Respondent at hearings and suggested that language be added to notices that hearings will proceed with the documents in possession of the Task Force.

The motion PASSED by the following vote:

Ayes: 9 – Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe
Noes: 0 – None
Absent: 2 – Chopra, Baranetsky

Vice Chair Hyland, seconded by Member Hinze, moved to amend the Complaint Procedures to require that Respondents to attend Full Task Force hearings to review the complaints and the committee recommendations.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 6 – Eldon, J. Wolf, Tesfai, Cannata, Hinze, Hyland
Noes: 3 – Tesfai, Fischer, B. Wolfe
Absent: 2 – Chopra, Baranetsky

The Task Force suggested that the complaint hearing process be reviewed periodically to evaluate the effectiveness of the change to the Complaint Procedures.

The Task Force discussed creation of a precedence Log of Task Force decision and indicated that it would be a long term project.

The Task Force discussed the creation of a policy regarding the tabling of complaint due to unresponsiveness or non-appearance. The Task Force acknowledged that it is the practice that postponement for an indefinite amount of time is considered to be a withdrawn of the matter pursuant to Roberts Rules of Order and should not be accepted as a postponement. Task Force Administrator Victor Young indicated that it has been past practice for issue regarding unresponsiveness be scheduled before the Task Force for actions.

The Task Force requested staff to draft language regarding continuances for review on a future date.

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

- Update: History of the adoption of Administrative Code, Section 67.3.(b)(4)(C-1)* which reads as follows: "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."
- Public concern regarding the collection of public information to use for immigration issues or ethnicity targeting.

The update on the history of Administrative Code Section 67.3 was continued to a future meeting of the Task Force.

Chair Wolfe provide a summary of possible issues facing the city in regards to the collection of public information used for immigration issues.

Public Comment:
None.

13. **Report from the Compliance and Amendments Committee:**

- Out of Office email responses, its effect on public records requests, and possible solutions (File No. 16103)
- City agencies compliance with Senate Bill 272. (File No. 16081)

Member Maass provided a report regarding the Compliance and Amendments Committee hearings regarding out of office emails and Senate Bill 272.

Public Comment:
None.

14. **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

Task Force Administrator Victor Young provided a summary of the Administrator’s Report.

Public Comment:
None.

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

Member Maass stated that the Supreme Court is scheduled to issue a decision regarding whether or not provide devices are subject to public records requirements.

Chair Wolfe provided an updated on the status of the New America Media appointment to the Task Force.

Public Comment:
None.

16. **ADJOURNMENT**

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

By a rise in vote the meeting was adjourned without objection at 8:25 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: DRAFT