



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

July 5, 2017 - 4:00 PM

Regular Meeting

Seat 1	vacant	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 and Hyland were noted absent. There was a quorum.

There were no agenda changes.

2. Approval of minutes from the Sunshine Ordinance Task Force June 7, 2017, meeting.

The Task Force discussed the June 7, 2017, meeting minutes.

Member Maass, seconded by Member Fischer, moved to approve the June 7, 2017, meeting minutes.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 – None

Absent: 2 – Chopra, Hyland

Vice Chair Hyland was noted present at 4:08 p.m.

3. **File No. 16113:** Reconsideration of complaint filed by Larry Chan against Lieutenant Kathryn Waaland and the San Francisco Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(e), 67.26 and 67.27, by failing to send an authorized representative to the hearing to explain the basis of its decision to withhold the requested records, failing to keep withholding to a minimum and failing to provide sufficient justification for redaction public records and failing to respond to a public records request in a timely and/or complete manner. (00:02:27 – 01:08:00)

(On June 7, 2017, the Task Force approved the Police Department's request for reconsideration of the Order of Determination issued on May 2, 2017.)

Chair Wolfe provided an explanation of the reconsideration process.

Larry Chan (Petitioner) provided a summary of his complaint. Mr. Chan stated he is allowed to disclose his own personnel record at his discretions. Mr. Chan clarified that he wishes to review the body of the email sent from Lt. Reilly's personal email account, with attached screenshots of a facebook page, to Lt. Reilly's work email account. Mr. Chan stated that the email in question is not in his personnel file and should be released. Steven Beck and Lt. Waaland, Police Department (Respondent) provided a summary of the department's position. The Police Department stated that the email is part of a disciplinary action and is therefore considered a personnel document which can be viewed but not copied by the employee pursuant to Penal Code, Section 832.7. Mr. Beck stated that the Police Department is not required to disclose or redact the requested document. A question and answer period followed.

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

Vice Chair Hyland, seconded by Member Hinze, moved to rescind the April 5, 2017, Task Force decision to find a violation of Administrative Code (Sunshine Ordinance), Sections 67.21(e), 67.26 and 67.27.

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: 1 – Chopra

Vice Chair Hyland, seconded by Member J. Wolf, moved to rescind the April 5, 2017, Task Force Decision to find a violation of Administrative Code (Sunshine Ordinance), Section 67.21(e), and the order to the Police Department to re-submit records in a format that limits redacts to identifying information.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 – Eldon, J. Wolf, Tesfai, Maass, Fischer, Hinze, Hyland

Noes: 2 – Cannata, B. Wolfe

Absent: 1 – Chopra

Member J. Wolf, seconded by Vice Chair Hyland, moved to find that Lieutenant Kathryn Waaland and the Police Department violated Administrative Code (Sunshine Ordinance), Section 67.27, by failing to provide sufficient justification for redacting public records.

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: 1 – Chopra

4. **File No. 17024:** Complaint filed by Gregory Berlin, Aqua Terra Aeris Law Group, against the Office of the Treasurer and Tax Collector, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, for failure to respond to a request for public records in a timely and/or complete manner. (01:08:00 – 01:32:00) (On April 25, 2017, the Complaint Committee determined that Task Force has jurisdiction and that the requested records are public, heard the matter and referred the matter to the Task Force with recommendations.)

Member Tesfai provided a summary complaint.

Gregory Berlin, Aqua Terra Aeris Law Group, provided an overview of the complaint and requested that the Task Force find violations. Mr. Berlin stated that he submitted two public records request via U.S. Mail and one in person. There were no speakers in support of the Petitioner. Debra Lew, Treasurer and Tax Collector's Office (Respondent), provided a summary of the department's position and acknowledged that the response to the public records request was not timely. Ms. Lew stated that the department has no record of receiving the two public records request submitted via U.S. Mail and acknowledged that they were one day late in responding to the request submitted in person. There were no speakers in support of the Respondent. A question

and answer period followed. The Respondent and Petitioner were provided the opportunity for rebuttals.

Member J. Wolf, seconded by Member Hinze, moved to find that the Office of the Treasurer and Tax Collector violated Administrative Code (Sunshine Ordinance), Section 67.21(b), by failing to respond to a public records 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, Tesfai

5. **File No. 17038:** Complaint filed by Gregory Berlin, Aqua Terra Aeris Law Group, against the Office of the Treasurer and Tax Collector, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.26, by failing to respond to public records request in a complete manner and failing to keep withholding of records to a minimum. (01:32:00 – 02:46:00)

(On May 23, 2017, the Complaint Committee determined that Task Force has jurisdiction and that the requested records are public, heard the matter and referred the matter to the Task Force.)

Member Tesfai provided a summary complaint.

Gregory Berlin, Aqua Terra Aeris Law Group, provided an overview of the complaint and requested that the Task Force find violations. Mr. Berlin stated that the department has not fulfilled their burden to prove that the information requested regarding the number of employees working for specific companies would provide an unfair business advantage. There were no speakers in support of the Petitioner. Debra Lew, Treasurer and Tax Collector's Office (Respondent), provided a summary of the department's position. Ms. Lew stated that the records in question were submitted by members of the public with the expectation of privacy. Ms. Lew stated that the documents were redacted pursuant to California Government Code, Section 6254 which allows for withholding of *"Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information."* Upon receipt of information from Deputy City Attorney Colla, Ms. Lew suggested that the issue of financial and taxpayer privacy may also be a factor in redacting the information. Mr. Berlin objected any continuances, the introduction of new arguments and requested the Task Force to take immediate actions. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Petitioner were provided the opportunity for rebuttals.

Nicholas Colla, Deputy City Attorney, provided comments and responded to question from the Task Force.

The Task Force opined that evidence of an unfair competitive disadvantage has not been provided by the Office of the Treasurer and Tax Collector.

Member Tesfai, seconded by Member Hinze, moved to find that the Office of the Treasurer and Tax Collector violated Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.26, by failing to respond to a public records request in a complete manner and failing to keep withholding of records to a minimum.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 1 – Fischer

Absent: 1 – Chopra

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. *(No Action) Public comment shall be taken at 5:00 p.m. or as soon thereafter as possible.*

Speakers:

None.

7. **File No. 17016:** Complaint filed by Jerry Dratler against Ben Rosenfield and the Office of the Controller 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. *(002:46:00 - 03:18:00)*
(On May 23, 2017, the Complaint Committee found that the Sunshine Ordinance Task Force has jurisdiction and that the requested records are public, heard the matter and referred the matter to the Task Force with recommendation.)

Member Tesfai provided a summary complaint.

Jerry Dratler (Petitioner) provided an overview of the complaint and requested that the Task Force find violations. Mr. Dratler stated that he did not receive the Cummings work papers and final reports, final reports from the Controller's Office and that certain appendixes in the reports were never provided. There were no speakers in support of the Petitioner. Tonia Lediju, Office of the Controller (Respondent), provided a summary of the department's position. Ms. Lediju provided a summary of the request received from Mr. Dratler and stated that all records have been provided and are online. Ms. Lediju stated that Cummings worked in conjunction with the Office of the Controller and certain documents were never created. Ms. Lediju stated that the Controller complies with all required mandates and does not necessary create report pursuant to other organizational

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

Member Hinze, seconded by Member J. Wolf, moved to find that Ben Rosenfield and the Office of the Controller DID NOT violate Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and complete 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: 1 – Chopra

SPECIAL ORDER

The hearings on File No. 17031 will not begin earlier than 5:30 p.m.

8. **File No. 17031:** Complaint filed by Ann Treboux against the Sheriff's Department for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and complete manner.

(attachment)

(On May 23, 2017, the Complaint Committee found that the Sunshine Ordinance Task Force has jurisdiction and that the requested records are public, heard the matter and referred the matter to the Task Force with recommendation to find violation. The recommendation of the Committee was accepted by both parties.)

The Petitioner and the Respondent were not required to attend the hearing as they agreed to the recommendation of the Complaint Committee. There were no speakers on behalf of Petitioner or the Respondent.

Member Hinze, seconded by Member Cannata, moved to find that the Sheriff's Department violated Administrator 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: 1 – Chopra

9. **File No. 17059:** Review of draft letter to the Commission of Information Technology and Department Heads regarding the citywide Drone Policy.

The Task Force reviewed the draft letter to COIT and discussed possible amendments.

Chair Wolfe moved to continue the matter to the next meeting of the Task Force. There were no objections from the members of the Task Force.

Public Comment:
None.

10. **Reports from Sunshine Ordinance Task Force Committees.**

- Complaints Committee
- Compliance and Amendments Committee
- Education, Outreach and Training Committee
- Rules Committee
- Information Technology Ad Hoc Committee

The Task Force receive reports from the Task Force Committee Chairs.

Public Comment:
None.

11. **Sunshine Ordinance Task Force - Chair's Report.**

Chair Wolfe suggested that the Task Force develop policy for redacting documents for insertion into the Task Force Procedures similar to the Rule of Reason.

Public Comment:
None.

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

- Task Force and Committee hearing schedule
- Complaints submitted and hearing files created
- Communications to the Task Force
 - Bob Planthold issues regarding Public Comment procedures
- Summary of pending complaints and other issues

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

Public Comment:
None.

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

There were no announcements.

Public Comment:

None.

14. **ADJOURNMENT**

Member Tesfai, seconded by Member Fischer, moved to adjourn the meeting.

By a rise in vote the meeting was adjourned without objection at 8:31 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: August 2, 2017