

# SUNSHINE ORDINANCE TASK FORCE CITY AND COUNTY OF SAN FRANCISCO MINTUES - DRAFT

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

September 6, 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 - <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

Acting Chair Hyland called the meeting to order at 4:03 p.m. Chair B. Wolfe and Members Chopra and J. Wolf were noted absent. There was a quorum.

Member J. Wolf was noted present at 5:15 p.m.

### 2. Approval of minutes from the Sunshine Ordinance Task Force August 2, 2017, meeting.

The Task Force discussed the August 2, 2017, meeting minutes.

**Member Tesfai, seconded by Member Hinze, moved to approve the August 2, 2017, meeting minutes.**

Public Comment:

None.

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

Ayes: 7 – Eldon, Tesfai, Maass, Fischer, Cannata, Hinze, Hyland

Noes: 0 – None

Absent: 3 – Chopra, B. Wolfe, J. Wolf

3. **File No. 17093:** Hearing - Review of Sunshine Ordinance Task Force By-Laws and Complaint Procedures: Hearing procedures, testimony and public comment. (00:02:12 – 00:37:21)

Acting Chair Hyland provided a summary of the issue related to hearing procedures. At the request of the Task Force, Dave Snyder provided a summary of the issue related to hearing procedures, testimony and public comment and answered questions from the members of the Task Force.

**Member Cannata, seconded by Member Hinze moved to allow for parties who speak as witnesses for one of the parties to also be allowed to speak during public comment.**

Public Comment:

Bob Planthold stated that witnesses should be able to provide public comment for every motion presented.

Ray Hartz disagreed with Mr. Planthold and stated that witnesses on behalf of a party should not be allowed to speak during public comment.

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

Ayes: 4 – Maass, Cannata, Hinze, Hyland

Noes: 3 – Eldon, Tesfai, Fischer

Absent: 3 – Chopra, B. Wolfe, J. Wolf

*(As the motion failed there were no changes made to the Task Force Complaint Procedures. Therefore parties to the complaint and witness are not allowed to speak during public comment pursuant to the Task Force Complaint Procedures.)*

4. **File No. 17044:** Complaint filed by Laura Clark against the Ethics Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.7(d), by acting or conduction discussions on an item not appearing on the posted agenda (Ethics Commission April 24, 2017, meeting). (00:37:21 – 02:12:00)

*(On June 20, 2017, the Education, Outreach and Training Committee determined that the Task Force has jurisdiction and referred the matter to the Task Force without recommendation.)*

Members Fischer and Cannata noted their past and present associates with the petitioner and stated that there are no conflicts of interest.

Laura Clark (Petitioner) provided a summary of the complaint and requested the Task Force to find violations. Ms. Clark state that the Ethics Commission was aware of the potential conflict well in advance of the meeting date and that the actions were politically motivated. Ms. Clark stated that the justification for the action taken by the Ethics Commission was not developed until after the action occurred. Ms. Clark stated that there was no threat to public interest and the vote in question was only advisory and

additional meetings were scheduled on the matter. There were no speakers on behalf of the Petitioner.

Chair Peter Keene, Ethics Commission (Respondent), provided a summary of the department's position. Chair Keene stated that he was not aware of the potential ethical issue and the potential need to act until after a member of the public brought the issue to the attention of the Ethics Commission during the meeting. Chair Keene described the situation and stated that, while a formal vote was not taken, the Ethics Commission members unanimously agreed to invoke the emergency provision which allow for actions on items not listed on the agenda. In addition, Chair Keene stated that the Ethics Commission unanimously agree to send out a cautionary letter regarding a possible ethics violation. Chair Keene acknowledged that a formal vote to declare an emergency should have been taken but he was not aware of the specific requirements when the rare situation occurred. The following speakers support in support of the Respondent:

Quentin Kopp, Ethics Commission Member, provided background information and a summary of the events in question.

Bob Planthold questions the process used to declare an emergency, comment on the past practice of accepting votes by acclimation and stated that the city attorney should not be working against their own clients.

Larry Bush described his actions in informing the parties of the potential conflict of interest.

Marc Salomon stated that there was an emergency and provided a description of target organization (SPUR).

Ray Hartz stated that the Ethics Commission was in compliance and were appropriately performing their job.

George Watting stated that law allows for exceptions and that in this case it is evident that was an appearance of conflict of interest.

Michael Petrelis was informed that he should speak during Public Comment.

Bruce Brugman stated that there is an exception for hearing items not on the agenda and thank Chair Keen and Member Kopp for their service.

Dr. Derek Kerr expressed support for the Ethics Commission as watchdogs and stated that their concerns were well founded.

Charles Marsteller commented on the actions of the Ethics commission and point out information listed on SPUR's website. Mr. Marsteller stated it was clear that Ethics was being proactive in advising of the possible conflict.

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

Deputy City Attorney Colla answered questions form the Task Force and provided comments on the matter.

**Member Maass, seconded by Member Tesfai, moved to find the Ethics Commission in violation of Administrative Code (Sunshine Ordinance), Sections 67.7, by acting on an item not appearing on the posted agenda.**

**Public Comment:**

Richard Knee provided information on how to deal with a willful violation and stated that the City Attorney only provided advised and does not create law. Mr. Knee stated that the actions of the Ethics Commission was justifiable.

Sam Loss, Local 16, stated that potential conflict and person involved was not unique and that there was no emergency present.

Male Speaker stated that the Ethics Commission should not have declared an emergency without hear from both sides.

Male Speaker provided general comments regarding the matter.

Nicole provided comments on the policies involved and stated that the issue is a political witch hunt as there are many others with the same type of possible conflicts.

Cory Smith described the 2 proposals at Planning and questioned why the matter was considered an emergency.

Emily Trip described her experience in the matter and stated that the Ethics Commission had the information prior to the meeting.

Michael Petrelis summarized the issued and requested that the meeting be televised.

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

Ayes: 5 – Eldon, Tesfai, Maass, Cannata, Fischer

Noes: 3 – J. Wolf, Hinze, Hyland

Absent: 2 – Chopra, B. Wolfe

*(As the motion failed no violations were found by the Task Force.)*

**The meeting was recessed from 6:11 p.m. to 6:21 p.m.**

5. **File No. 17055:** Complaint filed by Denta Tadesse against Donna Adkins and the Mayor's Office on Disability for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.5, by restricting access to public meetings. (02:12:00 – 03:31:00)

*(On July 24, 2017, the Complaint Committee determined that the Task Force has jurisdiction and referred the matter to the Task Force without recommendation.)*

Denta Tadesse (Petitioner) provided a summary of the complaint and requested the Task Force to find violations. Mr. Tadesse stated that his service animal was under verbal control and that the advice provided by the Mayor's Office on Disability (MOD) was used by Building Management to deny access to meetings held in City Hall. Mr. Tadesse stated that his situation is well known to MOD and that there is no evidence that his service animal was not in his control. There were no speakers in support of the Petitioner. Donna Atkins and Director Nicole Bohn, Mayor's Office on Disability (Respondent), provided a summary of the department's position. Ms. Atkins stated that their office answered questions from City Hall Building Management, they did not know of any specific individuals involved and did not address any specific situations. Ms. Atkins stated that MOD only provides advice/interpretations regarding ADA law in relation to service animals. Ms. Adkins stated that MOD did not and would not advise

that a person be barred from attending a public meeting. 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.

The Task Force opined that the complaint may have been filed against the wrong party as MOD did not actively deny access to a public meeting. A complaint against the City Hall Building Management might be considered as they are the parties who actively denied access to public meetings in City Hall. In addition, it was suggested that Mr. Tadesse contact the Disability Council or other ADA enforcement body to request a review of the advice being provided by MOD and determine if the advice being provided by MOD is valid as the Task Force is not the correct body to review compliance with ADA requirements.

Deputy City Attorney Colla answered questions from the Task Force and provided comments on the matter.

**Member Maass, seconded by Member Hinze, moved to find the Mayor's Office on Disability did not violate Administrative Code (Sunshine Ordinance), Section 67.5, by restricting access to a public meeting.**

Public Comment:

Ray Hartz stated that MOD should have brought witness to show that the service animal was out of control instead of stating that they were not involved in the denial of entry to city hall.

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

Ayes: 4 – J. Wolf, Tesfai, Maass, Hinze  
Noes: 2 – Cannata, Hyland  
Absent: 4 – Chopra, B. Wolfe, Eldon, Fischer

**Member Hyland, seconded by Member Cannata, moved to find the Mayor's Office on Disability violated Administrative Code (Sunshine Ordinance), Section 67.13, by creating barriers to attendance at a public hearing.**

Public Comment:

None.

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

Ayes: 2 – Cannata, Hyland  
Noes: 4 – J. Wolf, Tesfai, Maass, Hinze  
Absent: 4 – Chopra, B. Wolfe, Eldon, Fischer

*(As the motions failed no violations were found by the Task Force.)*

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. (02:08:00 – 02:12:00)*

Speakers:

Ray Hartz stated that the Task Force should end the meeting due to the lack of sufficient members and the requirement for a unanimous vote of the Task Force to find violations.

7. **File No. 17071:** Complaint filed by Michael Petrelis against Supervisor Jeff Sheehy, Board of Supervisors, 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. *(03:31:12 – )*

*(On July 25, 2017, the Complaint Committee determined that the Task Force has jurisdiction and referred the matter to the Task Force.)*

Michael Petrelis (Petitioner) provided a summary of the complaint and requested the Task Force to find violations. Mr. Petrelis stated that there are no provision for Supervisor Sheehy to request two separate extension of time. Mr. Petrelis stated that he did receive the requested documents but they were not provided in a timely manner. Ray Hartz spoke in support of the Petitioner and pointed out Section 67.24 which list information that must be disclosed. The Respondent was not present but did provide testimony during the committee hearing. 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 Cannata, seconded by Member J. Wolf, moved to find that Supervisor Jeff Sheehy violated Administrative Code (Sunshine Ordinance), Sections 67.21(e) and 67.25, by failing to send a knowledgeable representative to the hearing and failing to respond to the Immediate Disclosure Request in a timely manner.**

Public Comment:

None.

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

Ayes: 4 – J. Wolf, Tesfai, Cannata, Hinze

Noes: 2 – Maass, Hyland

Absent: 4 – Chopra, B. Wolfe, Eldon, Fischer

**Vice Chair Hyland, seconded by Member J. Wolf, moved to find that Supervisor Jeff Sheehy 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 FAILED by the following vote:**

Ayes: 5 – Tesfai, Maass, Cannata, Hinze, Hyland  
Noes: 1 – J. Wolf  
Absent: 4 – Chopra, B. Wolfe, Eldon, Fischer

**Member J. Wolf, seconded by Member Cannata, moved to continue the matter to the call of the chair.**

Public Comment:  
None.

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

Ayes: 6 – J. Wolf, Tesfai, Maass, Cannata, Hinze, Hyland  
Noes: 0 – None.  
Absent: 4 – Chopra, B. Wolfe, Eldon, Fischer

The Task Force inquired if any parties would like to request a continuance due to the low number of Task Force Members present (six). Ray Hartz and Thomas Busse requested continuance of their complaints. Michael Petrelis and Denta Tadesse request that the Task Force proceed with the hearings.

**Member Hinze, seconded by Member Cannata, moved to continued Items Nos. 8-11 (File No. 17039, 17084, 17085 and 16117) to the call of the chair.**

Public Comment:  
None.

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

Ayes: 6 – Eldon, Tesfai, Maass, Cannata, Hinze, Hyland  
Noes: 0 – None  
Absent: 4 – Chopra, B. Wolfe, Eldon, Fischer

8. **File No. 17039:** Complaint filed by Thomas Busse against the San Francisco Public Finance Authority for allegedly violating Administrative Code (Sunshine Ordinance), Chapter 67, by failing to notice and conduct public hearings and failing to respond to request for public records.  
*(On May 23, 2017, June 27, 2017, and July 25, 2017, the Complaint Committee determined that the Task Force has jurisdiction and referred the matter to the Task Force.)*

The matter was continued to the call of the chair (See motion listed above).

**SPECIAL ORDER**

**The hearings on File Nos. 17084, 17085 and 16117 will not begin earlier than 5:30 p.m.**

9. **File No. 17084:** Complaint filed by Ray Hartz against John Updike and the Department of Real Estate for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(e), 67.25 and 67.29(a)(c), by failing to respond to an Immediate Disclosure Request in a complete manner or failing to maintain required records.  
*(On August 22, 2017, the Complaint Committee determined that the Task Force has jurisdiction and referred the matter to the Task Force.)*

The matter was continued to the call of the chair (See motion listed above).

10. **File No. 17085:** Complaint filed by Ray Hartz against Luis Herrera and the Public Library for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(e), 67.25 and 67.29(a)(c), by failing to respond to an Immediate Disclosure Request in a complete manner or failing to maintain required records.  
*(On August 22, 2017, the Complaint Committee determined that the Task Force has jurisdiction and referred the matter to the Task Force.)*

The matter was continued to the call of the chair (See motion listed above).

11. **File No. 16117:** Complaint filed by Ray Hartz against City Librarian Luis Herrera and the Public Library for violating Administrative Code (Sunshine Ordinance), Section 67.29-6, by failing to maintain a written agreement with entities collecting/maintaining funds for the purpose of carry out or assisting any city function to abide by the Sunshine Ordinance.  
*(On July 10, 2017, the Compliance and Amendments Committee referred the matter back to the Task Force.)*

The matter was continued to the call of the chair (See motion listed above).



12. **Sunshine Ordinance Task Force - Annual Report.**

**Vice Chair Hyland, seconded by Member J. Wolf, moved to continue the matter to the call of the chair.**

Public Comment:

None.

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

Ayes: 6 – Eldon, Tesfai, Maass, Cannata, Hinze, Hyland

Noes: 0 – None

Absent: 4 – Chopra, B. Wolfe, Eldon, Fischer

13. **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 committee chairs provided a summary of the committee actions.

Public Comment:

Ray Hartz expressed concern of the committee hearing process and the lack of an adequate report on complaints from the committees.

No actions taken.

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

Due to the absence of Task Force Chair B. Wolfe there was no Chair's Report provided.

No. actions taken.

15. **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.

No actions taken.

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

Member Maass provided a summary regarding the result of a lawsuit regard the disclosure of license plate data readers.

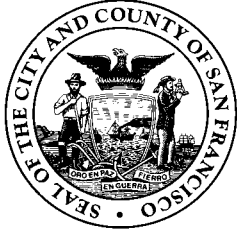
Member Maass provided an update on Senate Bill 21 regarding law enforcement surveillance data and Assemble Bill 1479 regarding penalties for agencies not complying with public records requests.

17. **ADJOURNMENT**

**By a rise in vote the meeting was adjourned without objection at 8:36 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**



# 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**

**September 6, 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 - <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

Acting Chair Hyland called the meeting to order at 4:03 p.m. Chair B. Wolfe and Members Chopra and J. Wolf were noted absent. There was a quorum.

Member J. Wolf was noted present at 5:15 p.m.

### 2. Approval of minutes from the Sunshine Ordinance Task Force August 2, 2017, meeting.

The Task Force discussed the August 2, 2017, meeting minutes.

**Member Tesfai, seconded by Member Hinze, moved to approve the August 2, 2017, meeting minutes.**

Public Comment:

None.

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

Ayes: 7 – Eldon, Tesfai, Maass, Fischer, Cannata, Hinze, Hyland

Noes: 0 – None

Absent: 3 – Chopra, B. Wolfe, J. Wolf

