



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

September 7, 2016 - 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

Vice-Chair Hyland called the meeting to order at 4:12 p.m. Member Chopra was noted absent. Member Tesfai was noted excused. There was a quorum.

It was noted that Item No. 9 was withdrawn by the Complainant.

Member Victoria Baranetsky introduced herself to the Task Force and the public.

2. Approval of minutes from the Sunshine Ordinance Task Force August 3, 2016 meeting. (00:02:30 – 00:04:30)

The Task Force discussed the meeting minutes. Member Maass provided a correction to the spelling of his name on page 15.

There being no further corrections the minutes were approved by the following vote as amended.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Baranetsky, Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe
Noes: 0 - None
Absent: 1 - Chopra
Excused 1 - Tesfai

3. Sunshine Ordinance Task Force - Chair's Report. (00:04:30 – 00:11:00)

Chair Wolfe provided a summary of the Office of the City Attorney's opinion regarding the appointment allocated to New California Media (NCM) and the possibility of the Society of Professional Journalist (SPJ) providing nominees to NCM.

Public Comment:

Richard Knee disagreed with the opinion of the City Attorney and stated that the SPJ will work to find an appropriate person for the open NCM seat.
Peter Warfield express his desire that the Task Force have full membership and provided a summary of the process for the SPJ to provide a recommendation.
Ray Hartz stated that the SPJ can vet out potential members for the Task Force and send it to NCM who can make the nominee an honorary member.

4. File No. 16060: Report - Board of Supervisors (File No. 160478) proposed amendment to the Campaign and Governmental Conduct Code requiring Commissioners to file Behested Payment Reports regarding the solicitation of charitable contribution over \$5,000. (00:11:00 – 00:39:00)

Lee Hepner, aide to Supervisor Aaron Peskin, Board of Supervisors, provided a summary of the proposed amendment regarding Behested Payment Reports and responded to questions from the Task Force.

Vice Chair Hyland, seconded by Member Maass, moved to continue the matter to the call of the chair.**Public Comment:**

Ann Treboux expressed support for the motion and stated that commissioners need to be sworn into office.
Ray Hartz provided information of the Library's solicitation of donation and commented on their practices.

The motion PASSED by the following vote:

Ayes: 9 - Baranetsky, Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe
Noes: 0 - None
Absent: 1 - Chopra
Excused 1 - Tesfai

5. **File No. 14095:** Complaint filed by Bob Planthold against Supervisor Malia Cohen and Supervisor Scott Wiener, Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.7 and 67.15 (a) and California Government Code, Sections 54954.2 and 54954.3 for failing to provide adequate opportunity for public comments at the Land Use and Economic Development Committee meetings of September 15, 2014, and September 29, 2014, and the Government Audit and Oversight Committee meeting of September 11, 2014. (00:39:00 – 01:31:00)

(On June 1, 2016, the Task Force heard the matter and requested that the Respondent provide information as to whether or not a determination was made regarding amendments to legislation being 'substantive' or not and how the public is informed of the determination.)

Bob Planthold (Complainant) provided an overview of the complaint and requested the Task Force to find violations. Representatives for the Respondents were not in attendance but provided written comments prior the meeting.

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

Public Comment:

Ray Hartz stated that the timeframe of the violation should not be a concern to the Task Force and that the reason for the complaint should not be a consideration. Mr. Hartz also stated that silence or non-action by the Board of Supervisors' committee does not constitute consent.

Peter Warfield expressed support for Mr. Hartz's statements and stated that the Board of Supervisors' procedures does not override the Sunshine Ordinance.

Due to the lack of a motion, the Task Force found no violations and concluded the matter.

6. **File No. 16034:** Complaint filed by Bob Planthold against Supervisor Katy Tang and Supervisor Norman Yee, Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.15, and California Government Code, Section 54954.3, by failing to provide adequate opportunity for public comments at the March 23, 2016, Budget and Finance Sub-Committee meeting. (01:41:00 – 02:01:00)

(On June 1, 2016, the Task Force heard the matter and requested that the Respondent provide information as to whether or not a determination was made regarding amendments to legislation being 'substantive' or not, how is it determined that an amendment to legislation is 'substantive', and how is the public informed of the determination.)

Bob Planthold (Complainant) provided an overview of the complaint and requested the Task Force to find violations. Representatives for the Respondents were not in attendance but provided written comments prior to the meeting.

Public Comment:

Peter Warfield referenced Administrative Code 67.15 and questioned if any determination was made in regards to the amendments being non-substantive. Ray Hartz stated that making changes to legislation after public comment is taken is unfair to the public.

Due to the lack of a motion, the Task Force found no violations and concluded the matter.

7. **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 pm or as soon thereafter as possible. (01:31:00 – 01:41:00)**

Speakers:

Ray Hartz stated that boards and commission must insure due process to the public and combining his four past complaints before the Task Force into one hearing at the last minute was a violation of due process.

Peter Warfield expressed support for Mr. Hartz and stated that there were no procedures in place. Mr. Warfield stated that the Task Force should be educated on basic law.

Ann Treboux stated that the withdrawal of complaints at the last minute was a waste of time and a new procedure should be created to address the issue.

8. **File No. 15072: Hearing on the Status of the Order of Determination** - Complaint filed by Ray Hartz against Supervisor Eric Mar, Board of Supervisors, for violating Administrative Code (Sunshine Ordinance), Section 67.25 (a), for failure to respond to an Immediate Disclosure Request in a timely and/or complete manner. (02:01:00 – 02:29:00)

(On July 26, 2016, the Education, Outreach and Training Committee heard and referred the matter to the Task Force with a recommendation to find additional violations of Administrative Code (Sunshine Ordinance), Sections 67.21 (e) and 67.34, for failing to comply or not fully complying with a request for public records and for willfully failing to discharge duties imposed by the Sunshine Ordinance, the Brown Act, and the Public Records Act. The Committee requested that the Respondent provide a written response to the Immediate Disclosure Request; provide a written policy for responding to public records request, and provide a record/log of Sunshine public records requests received in the last 12 months (Date of receipt, response, and other actions).

Ray Hartz (Complaint) provided an overview of the complaint and requested the Task Force to find violations. Mr. Hartz stated that there were multiple opportunities for the Respondent to provide a response but it was never provided. Victor Lim and Angelina Yu, aides to Supervisor Eric Mar, Board of Supervisors, (Respondent), provided a summary of the departments position and stated that actions have been taken to insure the proper handling of future public records requests.

The Task Force reviewed the recommendation of the Compliance and Amendments Committee.

Member Cannata, seconded by Member Maass, moved to adopt the recommendation of the Education, Outreach and Training Committee to find that Supervisor Eric Mar, Board of Supervisors, violated Administrative Code (Sunshine Ordinance), Sections 67.21 (e) and 67.34, by failing to comply or not fully complying with a request for public records and by willfully failing to discharge duties imposed by the Sunshine Ordinance, the Brown Act, and the Public Records Act.

Public Comment:

Peter Warfield expressed his disappointment with Supervisor Mar as there were multiple opportunities for response.

The motion PASSED by the following vote:

Ayes: 9 - Baranetsky, Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe
Noes: 0 - None
Absent: 1 - Chopra
Excused 1 - Tesfai

The Task Force referred the matter to the Ethics Commissions for review.

9. **File No. 16026:** Complaint filed by Michael Petrelis against President London Breed, and Supervisors Malia Cohen, Mark Farrell, Aaron Peskin, Katy Tang, and Eric Mar, 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/or complete manner (January 2016 Text Messages).

The matter was withdrawn by the Complainant via email on September 6, 2016.

The meeting was recessed at 6:40 p.m. and reconvened at 6:55 p.m.

Recommendation from the Education, Outreach and Training Committee.

(The Education, Outreach and Training Committee held a hearing to review File Nos. 16048 and 16049 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) schedule the complaint for a hearing before the SOTF at a future date.

10. **File No. 16048:** Complaint filed by Ann Treboux against the Fine Arts Museum for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, by failing to post meeting minutes online in a timely manner. (02:29:00 – 02:37:00)

(On July 26, 2016, the Education, Outreach and Training Committee referred the matter to the Task Force with the recommendation to find jurisdiction and to find that the Fine Arts Museum violated Administrative Code (Sunshine Ordinance), Section 67.16, by failing to post various draft meeting minutes online within 10 days of the meeting.)

Ann Treboux (Complaint) provided an overview of the complaint and requested the Task Force to find violations. Megan Bourne, Fine Arts Museum (Respondent), acknowledged the violation and provided information regarding how the minutes posting process has been improved.

The Task Force reviewed the recommendation of the Education, Outreach and Training Committee.

Vice Chair Hyland, seconded by Member Hinze, moved to adopt the recommendation of the Education, Outreach and Training Committee to find jurisdiction and to find that the Fine Arts Museum violated Administrative Code (Sunshine Ordinance), Section 67.16, by failing to post various draft meeting minutes online within 10 days of the meeting.

Public Comment:

Ray Hartz expressed support for the motion to find violations.

The motion PASSED by the following vote:

Ayes: 9 - Baranetsky, Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Excused 1 - Tesfai

11. **File No. 16049:** Complaint filed by Ann Treboux against the Fine Arts Museum for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.29-6, by failing to disclose sources of outside funding over \$100 on the department's website.
(02:37:00 – 02:48:00)

(On July 26, 2016, the Education, Outreach and Training Committee referred the matter to the Task Force with the recommendation to find jurisdiction and to find that the Fine Arts Museum violated Administrative Code (Sunshine Ordinance), Section 67.29-6, by failing to disclose donations of funds over \$100 on their website.)

Ann Treboux (Complaint) provided an overview of the complaint and requested the Task Force to find violations. Megan Bourne, Fine Arts Museum (Respondent), presented the departments position and stated that an inquiry was sent to the City Attorney requesting an opinion as to the requirement to post donations for certain individuals who may be exempt from disclosure.

The Task Force reviewed the recommendation of the Education, Outreach and Training Committee.

Member Hinze, seconded by Vice Chair Hyland, moved to adopt the recommendation of the Education, Outreach and Training Committee to find jurisdiction and to find that the Fine Arts Museum violated Administrative Code (Sunshine Ordinance), Section 67.29-6, by failing to disclose donations of funds over \$100 on their website.

Public Comment:

Ray Hartz expressed support for the motion to find violations and stated that even if the City Attorney states that certain donors do not need to be listed online the Fine Arts Museum has not posted other donations on their website.

The motion PASSED by the following vote:

Ayes: 9 - Baranetsky, Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland
B. Wolfe
Noes: 0 - None
Absent: 1 - Chopra
Excused: 1 - Tesfai

Recommendation from the Compliance and Amendments Committee.

(The Compliance and Amendments Committee held a hearing to review File Nos. 15161, 15162, and 16050 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) schedule the complaint for a hearing before the SOTF at a future date.

12. **File No. 15161:** Complaint filed by the Library Users Association against Laura Lent and the San Francisco Public Library for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, for failure to respond to public records requests, submitted orally, in a timely and/or adequate manner in regards to BiblioCommons Webinar. ((02:48:00 – 02:57:00))

(On August 16, 2016, the Compliance and Amendments Committee referred the matter to the Task Force with the recommendation to find jurisdiction and to find that Laura Lent and the San Francisco Public Library violated Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to the February 20, 2015, oral request for public records in a timely manner.)

Peter Warfield (Complainant) provided an overview of the complaint and requested the Task Force to find violations.

The Task Force reviewed the recommendation of the Compliance and Amendments Committee.

Member Cannata, seconded by Member Hinze, moved to adopt the recommendation of the Compliance and Amendments Committee to find jurisdiction and to find that Laura Lent and the San Francisco Public Library violated Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to the February 20, 2015, oral request for public records in a timely manner.

Public Comment:

Ann Treboux asked questions regarding her complaint (File No. 16049).

Ray Hartz expressed support for the motion and commented on the Library's past actions.

The motion PASSED by the following vote:

Ayes: 9 - Baranetsky, Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe
Noes: 0 - None
Absent: 1 - Chopra
Excused 1 - Tesfai

13. **File No. 15162:** Complaint filed by the Library Users Association against Deputy City Librarian Michael Lambert, City Librarian Luis Herrera, and the San Francisco Public Library for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.22, for failure to respond to public records requests, submitted orally, and by discouraging staff from providing information orally, in a timely and/or adequate manner in regards to BiblioCommons. (02:57:00 – 03:29:00)
(On August 16, 2016, the Compliance and Amendments Committee referred the matter to the Task Force with the recommendation to find jurisdiction and to find that Deputy City Librarian Michael Lambert, City Librarian Luis Herrera and the San Francisco Public Library did not violate Administrative Code (Sunshine Ordinance), Chapter 67, as related to File No. 15162.)

Peter Warfield (Complainant) provided an overview of the complaint and requested the Task Force to find violations.

The Task Force reviewed the recommendation of the Compliance and Amendments Committee.

Member J. Wolf, seconded by Member Maass, moved to not accept the recommendation of the Compliance and Amendments Committee.

Public Comment:

Ray Hartz stated that the Task Force should conduct a full hearing on the matter.

Ann Treboux asked questions regard her complaint (File No. 16049).

Ray Hartz expressed support for the motion and commented on the Library's past actions.

The motion FAILED by the following vote:

Ayes: 4 - Baranetsky, Eldon, J. Wolf, Maass

Noes: 5 - , Cannata, Fischer, Hinze, Hyland, B. Wolfe

Absent: 1 - Chopra

Excused 1 – Tesfai

Due to an error in process, requests for additional motions were not accepted by the Task Force. In an effort to correct the error the matter will be rescheduled for the November 2, 2016, meeting of the Task Force for a de novo hearing.

14. **File No. 16050:** Complaint filed by Anonymous against Director John Rahaim and the Planning Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.25 and 67.32, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner. (03:29:00 – 03:32:00)

(On August 16, 2016, the Compliance and Amendments Committee referred the matter to the Task Force with the recommendation to find jurisdiction and to find that Director John Rahaim and the Planning Department violated Administrative Code (Sunshine Ordinance), Sections 67.25 (a) and (b), by failing to respond to an Immediate Disclosure Request in a timely manner and by failing to request an extension of time to respond in an appropriate manner.)

The Task Force reviewed the recommendation of the Compliance and Amendments Committee.

Member Hinze, seconded by Member Maass, moved to adopt the recommendation of the Compliance and Amendments Committee to find jurisdiction and to find that Director John Rahaim and the Planning Department violated Administrative Code (Sunshine Ordinance), Sections 67.25 (a) and (b), by failing to respond to an Immediate Disclosure Request in a timely manner and by failing to request an extension of time to respond in an appropriate manner.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Baranetsky, Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe
Noes: 0 - None
Absent: 1 - Chopra
Excused 1 - Tesfai

SPECIAL ORDER – The hearings on File No. 16058 will not begin earlier than 6:00 p.m.

15. **File No. 16058:** Complaint filed by Mirka Morales against Gregory Slocum and the Department of Elections 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. (03:32:00 –)

Member J. Wolfe disclosed his past association with Bill Simpich and stated that he is able to perform his duties as a member of the Task Force without bias.

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

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Baranetsky, Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Excused 1 - Tesfai

Mirka Morales (Complainant) provided an overview of the complaint and requested the Task Force to find violations. Ms. Morales stated that the information regarding the number of provisional ballots received on election night and copies of the “Posted Ballot Statements” have not yet been provided. Bill Simpich spoke in support of the Complainant. Director John Arntz, Department of Elections (Respondent), provided a summary of the department’s position and described the election night count procedure. Mr. Arntz stated that he was unaware that the “Posted Ballot Statements” were requested until it was stated during the meeting and that the remainder of the requested information was posted online and provided to Ms. Morales. 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.

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

The Task Force opined that the Department of Elections responded to the request for records in a timely manner. However, specific documents were not provided most likely due to misunderstanding or a difference in terminology for certain records.

Vice Chair Hyland, seconded by Member J. Wolf, moved to find that Gregory Slocum and the Department of Elections DID NOT violate Administrative Code (Sunshine Ordinance), Sections 67.21 by failing to respond to a public records request. However, the Task Force requested that the Department of Elections provide the number of provisional ballots received on election night and provide copies of the “Posted Ballot Statements” to the Complainant. The matter will be referred to the Compliance and Amendments Committee to insure that the Department of Elections complies with the request of the Task Force.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Baranetsky, Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Excused: 1 - Tesfai

16. 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 presented the Administrator’s Report.

Public Comment:

None.

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

Member Maass requested a hearing regarding potential impact of Assemble Bill 2853 (Public Agency’s referral of persons to public records maintained on an Internet site), pending approval by the Governor, on the City and County of San Francisco.

Member Maass requested a hearing regarding Senate Bill 272 (Amendment to the California Public Records Act) and development of plan for implementation.

Chair Wolfe referred the requested hearings to the Compliance and Amendment Committee.

Chair Wolfe requested that the voting order on Task Force motions be varied in the future so that the same person does not always vote first.

Public Comment:

Peter Warfield commented on the Task Force's announcement and complaints heard earlier in the meeting.

18. **ADJOURNMENT**

There being no further business the meeting was adjourned at 9:50 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: October 7, 2016