



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

October 5, 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**

Chair Wolfe called the meeting to order at 4:16 p.m. Member Chopra was noted absent. Vice Chair Hyland and Member Eldon were noted excused. There was a quorum.

2. **Approval of minutes from the Sunshine Ordinance Task Force September 7, 2016, meeting. (00:02:00 -00:04:00)**

The Task Force discussed the meeting minutes.

Member Hinze, seconded by Member Fischer, moved to approve the September 7, 2016, meeting minutes.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 - Baranetsky, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, B. Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Excused 2 - Eldon, Hyland

The Task Force moved to take hear Item No. 3 to the end of the agenda.

Public Comment:

None.

The motion passed without objection.

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

Chair Wolfe stated that there were no new issues that has not been discussed during the course of the meeting.

Public Comment:

None.

Recommendation from the Compliance and Amendments Committee.

(The Compliance and Amendments Committee held a hearing to review File No. 16062 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.)

- 4. File No. 16062:** Complaint filed by Magick Altman against the Police Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.9, by failing to make supporting documents available 72 hours prior to the Police Commission's June 22, 2016, meeting (Use of Force Policy). (00:04:00 -)

(On September 12, 2016, the Compliance and Amendments Committee heard and referred the matter to the Task Force with the recommendation to find jurisdiction and find that a violation of Administrative Code (Sunshine Ordinance), Section 67.9 (a) occurred for failing to post supporting documents as soon as they became available.)

Member Cannata provided a summary of the Compliance and Amendments Committee hearing and recommendation on File No. 16062.

Magick Altman (Complainant) provided an overview of the Complaint and stated that there were more violations of the Sunshine Ordinance than recommended by the Committee. Sgt. Rachael Kilshaw provided a summary of the Police Commission's objections to the Committees recommendations and stated that they were not ready to proceed with the hearing.

Member Maass seconded by Member Cannata, moved to continue the matter to the November 2, 2016, of the Task Force for a hearing on the matter.

Public Comment:

Dennis Calavari stated that a full hearing should be provided.

Ray Hartz provided a summary of precedents for the matter.

Silvia Johnson provided general comments.

The motion PASSED by the following vote:

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

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

Speakers:

Silvia Johnson provided general comments.
Ray Hartz provided a summary of his past Orders of Determinations from the Task Force and commented on Sue Blackman's (Public Library) comments against Mr. Hartz.
Alex Aldrich requested action by the Task Force against the Recreation and Parks Department in regards to adoption of rules for signage.
Michael Petrelis thanked the Task Force members present for their attendance and requested that Task Force meetings be televised.

Member Hinze, seconded by Member Maass, moved to table Item Nos. 7 and 8 to a later time in the meeting and to hear Item No. 10 (File No. 16080) out of order.

Public Comment:
None.

The motion PASSED by the following vote:

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

Member Hinze, seconded by Member Baranetsky, moved to recall Items Nos. 7 and 8 from the table and hear the matters.

The motion passed without objection.

6. **File No. 16063:** Complaint filed by Michael Petrelis against Supervisor Scott Wiener, 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 and inappropriately invoking an extension of time to respond. (01:05:00 -02:12:00)

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

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 - Baranetsky, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, B. Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Excused 2 - Eldon, Hyland

Michael Petrelis (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Adam Taylor, Office of Supervisor Scott Wiener, Board of Supervisors (Respondent), provided a summary of the department's position. Mr. Taylor stated that a portion of the records have been provided and the remainder of the documents will be provided on a rolling basis. Mr. Taylor stated that due to the voluminous nature of the request and the need to correct and/or redact the records a request for extension of time to respond the rules of reason were invoked. 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.

Member Maass, seconded by Member Tesfai, moved to find Supervisor Scott Wiener, Board of Supervisors, violated Administrative Code (Sunshine Ordinance) Section 67.25 (a), by failing to respond to an Immediate Disclosure Request in a timely and complete manner.

Public Comment:

Ray Hartz stated that an additional violation should be for poor record keeping and inferred that the delay in responding is due to the pending elections.

Silvia Johnson provided general comments.

The motion PASSED by the following vote:

Ayes: 7 - Baranetsky, J. Wolf, Tesfai, Maass, Cannata, Hinze, B. Wolfe

Noes: 1 - Fischer

Absent: 1 - Chopra

Excused 2 - Eldon, Hyland

The complaint was referred to the Compliance and Amendments Committee to insure that the Office of Supervisor Wiener provide the remainder of the pending documents requested.

7. **File No. 16067:** Complaint filed by Michael Petrelis against Supervisor Aaron Peskin, 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. (02:12:00 -03:02:00)

Members Fischer and Hinze disclosed their knowledge and association with both the Complainant and Respondent and further stated that they are able to remain impartial in their review of the matter.

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

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 - Baranetsky, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, B. Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Excused 2 - Eldon, Hyland

Michael Petrelis (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Lee Hepner, Office of Supervisor Aaron Peskin, Board of Supervisors (Respondent), provided a summary of the department's position. Mr. Hepner stated that the request for records was overly broad, therefore he did not provide any records and invoked the rule of reason. 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.

Member J. Wolf, seconded by Member Baranetsky, moved to find Supervisor Aaron Peskin, Board of Supervisors, violated Administrative Code (Sunshine Ordinance) Section 67.21 (c), by failing to assist a requester in identifying records that could be provided. (Request that the IDR be revise into a form that could be complied within a reasonable timeframe).

Public Comment:

Ray Hartz stated that the Good Government Guide is not a valid guide and that the City Attorney should issue legal opinions regarding the Sunshine Ordinance. Silvia Johnson provided general comments.

The motion PASSED by the following vote:

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

Kanishka Karunaratne, Office of Supervisor Farrell, requested a continuance of Item No. 8 as the person with the appropriate knowledge was called away to an offsite community meeting.

The Task Force discussed the request for continuance.

Ray Hartz (Complainant) objected to the request for continuance.

The being no motion the request for continuance was not granted.

8. **File No. 16076:** Complaint filed by Ray Hartz against Supervisor Mark Farrell, Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.34, by willfully failing to discharge duties imposed by the Sunshine Ordinance, the Brown Act, and the Public Records Act, as evidenced in the failure to respond to a Sunshine Ordinance Task Force (SOTF) complaint, failure to attend SOTF hearings and failure to comply with SOTF's Order of Determination in regards to SOTF File No. 15071. (03:02:00 -03:25:00)

Member J. Wolfe, seconded by Member Hinze, moved to find jurisdiction.

Public Comment:
None.

The motion PASSED by the following vote:

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

Ray Hartz (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Kanishka Karunaratne, Office of Supervisor Mark Farrell, Board of Supervisors (Respondent), provided a summary of the department's position. Ms. Karunaratne stated that SOTF File No. 15071 was previously adjudicated and closed by the Task Force and requested clarification as to how the Office of Supervisor Farrell should respond to the complaint. 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.

Public Comment:
None.

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

SPECIAL ORDER – The hearings on File No. 16071 will not begin earlier than 6:00 p.m.

9. **File No. 16071:** Complaint filed by Tom Borden against John Rahaim and the Planning Department, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.27, by failing to respond to a public records request in a timely and/or complete manner and failing to justify the withholding of information. (03:25:00 -)

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

Public Comment:
Ray Hartz provided comments not related to jurisdiction.

The motion PASSED by the following vote:

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

Tom Borden (Complainant) provided an overview of the complaint and requested the Task Force to find violations. Mr. Borden stated that the provided records was redacted and that an explanation for the redactions were not provided. There were no speakers in support of the Complainant. Jonas Ionin, Planning Department (Respondent), provided a summary of the department's position. Mr. Ionin acknowledged that a response was not provided in a timely manner and that the Planning Department is currently working on providing justification for redactions pursuant to Administrative Code, Section 67.24 (a), which allows for the redaction of recommendations in draft documents. 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.

Member Cannata, seconded by Member Hinze, moved to find that the Planning Department violated Administrative Code (Sunshine Ordinance), Section 67.24 (a).

Member J. Wolf, seconded by Member Maass, move to amend the motion to delete Section 67.24 (a) and to instead find the Planning Department violated Administrative Code (Sunshine Ordinance), Sections 67.21 (c) and 67.27, by failing to provide assistance in identifying the existence, form, and nature of any record of any record and failing to provide justification for withhold/redacting records.

Public Comment:

Ray Hartz commented on the various Respondents who continuously refuse to participate in Task Force meetings.

The motion PASSED by the following vote:

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

The Task Force referred the matter to the Compliance and Amendments Committee to ensure that the Planning Department provided the justification for redactions.

10. **File No. 16080: Hearing** - Review of potential impact of Assembly Bill 2853 (Public Agency's referral of persons to public records maintained on an Internet site) on the City and County of San Francisco and draft advice letter to city departments.

Member Maass provided a summary of Assembly Bill 2853 and the Task Force discussed the issue.

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

Member Maass, seconded by Member Hinze, moved to continue the matter and requested City Attorney to review the proposed letter to departments.

Public Comment:

Ray Hartz commented on the matter and the index of records in particular.

The motion PASSED by the following vote:

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

11. **Review of Sunshine Ordinance Task Force meeting scheduled – 2017.**

The Task Force reviewed the 2017 meeting schedule.

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**
- **Summary of Pending Complaints and Other Issues**

Task Force Administrator Victor Young presented the Administrator’s Report.

Public Comment:

None.

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

Member Maass requested a hearing to discuss the use of automatic email response in regards to request for public records and related technology issue. Chair Wolfe assigned the matter to the Compliance and Amendments Committee.

Member Maass provided an updated on Senate Bill 441 which states that agencies do not need to disclose ID numbers or Tax information of private companies.

Member Tesfai brought up the issue of unwanted communications from the public to private and work locations (email, phone and postal mail). It was suggested that members create an email account for the sole purpose of Task Force business.

Member J. Wolf provided a summary of his experience in submitting a public records request and suggested that a hearing be conducted to review the departments past responses to public records request. Chair Wolfe assigned the matter to the Education, Outreach and Training Committee.

Public Comment:

Ray Hartz commented on Respondent who continually refuse to participate in Task Force hearings.

14. **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: November 2, 2016