



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

November 1, 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 Bruce Wolfe called the meeting to order at 4:00 p.m. Members Chopra and Tesfai were noted absent. There was a quorum.

There were no agenda changes.

2. **Approval of minutes from the Sunshine Ordinance Task Force October 4, 2017, meeting.**

The SOTF discussed the October 4, 2017, meeting minutes.

Member Maass, seconded by Member Cannata, moved to approve the October 4, 2017, meeting minutes.

Public Comment:

Ann Treboux noted the passing of Jason Grant Garza.

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

3. **File No. 17110:** Hearing – DataSF report on the implementation of Sunshine request management system. (Joy Bonaguro, Chief Data Officer, Mayors Office)

Joy Bonaguro, Chief Data Officer (Office of the Mayor), provided an overview of the pilot public records management system and answered questions from the SOTF. The SOTF inquired as to the use of the system to track SOTF complaints as well as public records requests.

Public Comment:

Ann Treboux described her bad experiences with the Next Request system and the hundreds of duplicate emails transmitted. Ms. Treboux stated the Next Request does not have valid contact information. Ann Treboux provided the following 150 word summary of her public comment:

‘I made a simple and routine document request to Sharon Page Ritchie of the SF Arts Commission on October 25, 2017. I received 103 of the same email from something called next request. The request remained open for less than 3 hours and closed without giving me any documents.

Ww.nextrequest.com lists 433 Bryant Street SF, CA 94107 as their address. This address is a private house with weeks of mail piled up Between a gate and door. There was no name on the house. The phone listed on the web site 833-698-7778 doesn’t answer and I did not receive a call back. If this is the new platform that Kate Patterson and of the SFAC talks about she has issues. This disclaimer at the bottom of the web page says they are not responsible for sunshine violations.’

Patrick Monette-Shaw described his experience with Public Health, stated that he will not use portals and expressed concern of the use of the system.

Peter Warfield (Library Users Association) asked why the hearing has an action listed and how the matter is relevant to the Sunshine Ordinance. Mr. Warfield expressed concern regarding the learning curve on the use the new system.

Ray Hartz stated that some agencies do not need the system and can handle public records requests without additional assistance but the system would help with uniformity.

The SOTF requested that follow up hearings be scheduled before the IT Ad Hoc Committee as new information becomes available.

No actions taken.

4. **File No. 17078:** Complaint filed by Patrick Monette-Shaw against Jay Huish, Norm Nickens and the Board of Trustees, San Francisco Employees' Retirement System, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.7(a), 67.14(b), 67.15 and 67.34, by willfully failing to post an agenda listing proposed actions or a statement that the item is for discussion only, failing to provide complete audio recording of the meeting and failing to provide an opportunity for public comment (May 22, 2017, SFPER Board of Trustee's Special Meeting).
(On October 17, 2017, the Education, Outreach and Training Committee determined that the Task Force has jurisdiction and referred the matter to the Task Force.)

Member Josh Wolf provided an overview of the Committee's review of the matter.

Patrick Monette-Shaw (Petitioner), provided a summary of the complaint and requested the SOTF to find violations. Mr. Monette-Shaw provided a description of the missing portion of the audio recording and an explanation as to why the violations were willful. There were no speakers in support of the Petitioner. Norm Nickens, Commission Secretary (SF Employees' Retirement System (SFPERS)) (Respondent), provided a summary of the department's position. Mr. Nickens provided a description of the audio equipment and acknowledged that the entire meeting was not recorded. Mr. Nickens provided an overview of the agenda posting procedures for the meeting in question. Mr. Nickens stated that the initial agenda was not distributed to members of the public and did not need to be revised as it was not yet published. There were no speakers in support of the Respondent. A question and answer period followed. The Petitioner and Respondent were provided an opportunity for rebuttals.

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

Member Maass, seconded by Member Fischer, moved to find that Jay Huish, Norm Nickens and the Board of Trustees, San Francisco Employees' Retirement System violated Administrative Code (Sunshine Ordinance), Sections 67.14(b) and 67.15, by failing to audio record the entire meeting and failing to list an opportunity for public comment in the agenda.

Public Comment:

Ray Hartz expressed support for the motion and stated that the purpose of the Order of Determination is to put the department on notice that are not acting correctly.

Peter Warfield (Library Users Association) provided a definition of the proposed violation.

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. 17058:** Complaint filed by Denta Tadesse against John Haley and Tom Nolan, San Francisco Municipal Transportation Agency, 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.
(On July 25, 2017, the Complaint Committee determined that the Task Force has jurisdiction and referred the matter to the Task Force.)

Denta Tadesse (Petitioner), provided a summary of the complaint and requested the SOTF to find violations. Mr. Tadesse alleged that the SFMTA backdated the policy for service animal after an incident and that the policy did not exist until after the incident. Mr. Tadesse stated that the SFMTA's ADA coordinator has not responded to his request for records. There were no speakers in support of the Petitioner. Caroline Celaya, San Francisco Municipal Transportation Agency (SFMTA)(Respondent), provided a summary of the department's position. Ms. Celaya stated that all responsive records have been provided in a timely manner. Ms. Celaya stated that it is common practice for staff members to sign documents on behalf of directors during their absence. There were no speakers in support of the Respondent. A question and answer period followed. The Petitioner and Respondent were provided an opportunity for rebuttals.

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

The SOTF opined that if a public records request is directed to specific individuals they must respond personally and separately as they may have a version of documents that are different than those held by other parties. It appears that while a response was provided to Mr. Tadesse, the SFMTA could not confirm if their ADA Coordinator provided a separate and individual response.

Chair B. Wolfe, seconded by Vice Chair Hyland, moved to find that John Haley and Tom Nolan, San Francisco Municipal Transportation Agency, violated Administrative Code (Sunshine Ordinance), Section 67.21(e), by failing to respond to a public records request in a timely and complete manner.

The SOTF requests that the SFMTA's ADA Coordinator respond separately to the public records request. The SOTF referred the matter to the Compliance and Amendments Committee to confirm that the SFMTA's ADA Coordinator provides a separate response to the public records request.

Public Comment:

Ray Hartz expressed support for the motion and summarized the SOTF actions.
Mr. Busse provided legal precedence for the complaint.

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

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:

Ray Hartz provided a summary of the Ethics Commission's action regarding the referral of the complaint (150 word public comment in the minutes) and their vote against finding violations.

Peter Warfield (Library Users Association) commented on the lack of full membership on the SOTF and how it creates unfair complaint hearing outcomes. Ace Washington commented on community reform and departmental accountability.

SPECIAL ORDER

The hearings on File Nos. 17082, 17084, 17085 and 16117 will not begin earlier than 5:00 p.m.

7. **File No. 17082:** Complaint filed by Anonymous against Luis Herrera and the Public Library 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 September 19, 2017, the Compliance and Amendments Committee determined that the Task Force has jurisdiction and referred the matter to the Task Force.)

Anonymous (Petitioner), provided a summary of the complaint and requested the SOTF to find violations. Anonymous stated that the Public Library did not notify him that an email was written concerning an incident he was involved in and that the Public Library does not have policies regarding conduct and when an incident report should be created. Ray Hartz spoke in support of the Petitioner and stated the Public Library has no rules for implementation of their policy regarding behavior. Deputy Director Michael Lambert, Public Library (Respondent), provided a summary of the department's position. Mr. Lambert acknowledged that the Public Library's response was late and stated that an incident report was not created. Mr. Lambert stated that the Public Library's code of conduct is posted on their website. There were no speakers in support of the Respondent. A question and answer period followed. The Petitioner and Respondent were provided an opportunity for rebuttals.

Member J. Wolf, seconded by Member Hinze, moved to find Luis Herrera and the Public Library violated Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely manner.

Public Comment:

Peter Warfield (Library Users Association) stated that the Public Library has a history of adopting rules to attempt to create good behavior.

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

8. **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.)*

Ray Hartz (Petitioner), provided a summary of the complaint and requested the SOTF to find violations. Mr. Hartz stated that he wanted the Public Library and the Department of Real Estate to provide the requested documents separately for comparison purposes. Mr. Hartz stated that he has not received a copy of the lease or rent roll from the Department of Real Estate. There were no speakers on behalf of the petitioner. Director John Updike and Claudia Gorman, Department of Real Estate (Respondent), provided a summary of the department's position. Director Updike stated that the entire lease file was provided with the exception of the lease which was confirmed to have been provided by the Public Library. Director Updike describe the lease and the process for renewal by the Friends of the Public Library. Director Updike stated that the rent rolls could be created and provided but that it was not specifically requested. There were no speakers in support of the Respondent. A question and answer period followed. The Petitioner and Respondent were provided an opportunity for rebuttals.

The SOTF opined that requested documents must be provided when requested and that one cannot reference a copy of a document provided by another department as there is a possibility that the version in their possession may be different from that held by another party. The SOTF requests that the Department of Real Estate provide a copy of the lease in their possession and the rent roll.

Member Cannata, seconded by Member J. Wolf, moved to find Director John Updike and the Department of Real Estate violated Administrative Code (Sunshine Ordinance), Sections 67.21(e) and 67.25, by failing to respond to an Immediate Disclosure Request in a timely and complete manner.

Public Comment:

Peter Warfield (Library Users Association) expressed thanks to the SOTF and stated that the department did not comply with the entire public records request. Anonymous expressed his confusion in the matter.

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

The SOTF referred the matter to the Compliance and Amendments Committee to confirm that the Department of Real Estate has provided a copy of the lease and the rent roll to Mr. Hartz.

9. **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.)

Ray Hartz (Petitioner), provided a summary of the complaint and requested the SOTF to find violations. Mr. Hartz stated that he wanted the Public Library and the Department of Real Estate to provide the requested documents separately for comparison purposes. Mr. Hartz stated that the Public Library provided a rent roll but has not provide evidence of renewal of the lease with the Friends of the Public Library. Mr. Hartz requested acknowledgement of non-compliances with the lease or evidence of compliance. There were no speakers on behalf of the petitioner. Maureen Singleton, Public Library (Respondent), provided a summary of the department's position. Ms. Singleton provided a summary of the department's response and stated that all available records have been provided. There were no speakers in support of the Respondent. A question and answer period followed. The Petitioner and Respondent were provided an opportunity for rebuttals.

Member Cannata, seconded by Member Hinze, moved to find that Luis Herrera and the Public Library violated Administrative Code (Sunshine Ordinance), Section 67.29-7(a), by failing to maintain and preserve in a professional and businesslike manner all documents and correspondence in accordance with the Sunshine Ordinance.

Public Comment:

Peter Warfield (Library Users Association) stated that section 67.7 needs to be studied and that the Public Library does not maintain records properly.

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

The SOTF requested that a letter be sent to Mr. Hartz, signed by City Librarian Luis Herrera and Maureen Singleton, Public Library, verifying that all records have been provided and that the Public Library does not have any other documents related to the public records request. The SOTF referred to matter to the Compliance and Amendments Committee to verify that the requested letter is provided to Mr. Hartz.

10. **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 carrying 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.)

Member Maass provided a summary of the reason the Compliance and Amendments Committee referred the complaint back to the SOTF. Member Maass stated that it was unclear if it was the intention of the SOTF to require the Friends of the Public Library and other entities comply with the entire Sunshine Ordinance or limited compliance with Section 67.29-6 of the Sunshine Ordinance. Upon review the SOTF could not agree on an interpretation of Section 67.29-6 of the Sunshine Ordinance.

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

Public Comment:

Ray Hartz stated that there are currently no records of expenditures and provided a summary of the issues.

Deputy City Librarian Michael Lambert, Public Library, stated that the Public Library has signed a Memorandum of Understanding with the Friends of the Public Library in which there is an appropriate agreement to comply with Sunshine Ordinance, Section 67.29-6.

Mr. Lambert stated that all Public Libraries work with organizations similar to the Friends of the Public Library cannot perform certain functions as a public agency. Marie Sepella, Friends of the Public Library, provided a description of the work performed by the Friends which includes advocacy, book programs and fund raising. Ms. Sepella stated that the Friends are not an agent of the Public Library. Peter Warfield, Library Users Association, stated that it is not up to the SOTF to decide if certain sections of the Sunshine Ordinance makes sense and that all contributions need to be tracked and posted.

Member J. Wolf, seconded by Member Maass, moved to continue the matter to the call of the chair and to convene a committee of the whole with subject matter experts and authors of the Sunshine Ordinance (Dave Snyder, City Attorney Brad Russi and other interested parties) to determine if it is the intent to require entities who collect funds on behalf of the city to comply with the entire Sunshine Ordinance or only Section 67.29-6 of the Sunshine Ordinance.

Public Comment:

Ray Hartz expressed support for the proposed motion.
Deputy City Librarian Michael Lambert indicated the importance of an organization such as the Friends of the Public Library.

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

11. **File No. 17103:** Review and possible amendments to the Sunshine Ordinance Task Force By-Laws and Complaint Procedures.

The SOTF discussed the By-Laws and Complaint Procedures and determined that additional time is needed to review the topics.

Public Comment:

Ray Hartz provided thanks to the SOTF and announced his departure.

No actions taken.

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

Chair Wolfe provided an overview of the status of the Annual Report and requested that members review the Draft Annual Report and provide comments.

Public Comment:

None.

No actions taken.

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 SOTF discussed the recent actions of the committee and future topics of discussion.

Public Comment:

None.

No actions taken.

14. **File No. 17105:** Hearings to review legislation and policy at the Federal, State, and local (San Francisco) level as well as other jurisdictions related to the Sunshine Ordinance and California Public Records Act.
- Assembly Bill 1455 (Sunshine Ordinance Section 67.10(a))

Member Maass provided an overview of Assembly Bill 1455 and other pending legislative matters at the state level.

Public Comment:
None.

No actions taken.

15. **Sunshine Ordinance Task Force - Chair's Report.**
- Change in Ethic Commission's deadlines for Ethics & Sunshine Training Certification
 - Policy regarding Sunshine Ordinance Task Force complaints/violations referred to the Ethics Commission for enforcement

Chair Wolfe provided an overview of the Ethics Commission's change to the Ethics and Sunshine Training deadline and the Ethics Commission policy discussion regarding enforcement of the Sunshine Ordinance.

Public Comment:
None.

No actions taken.

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

SOTF Administrator Victor Young presented the Administrator's Report.

Public Comment:
None.

No actions taken.

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

There were no announcements or actions.

Public Comment:

None.

18. **ADJOURNMENT**

Member Maass, seconded by Member Hinze, moved to find that the motion to adjourn the meeting in memory of Jason Grant Garza is purely commendatory, that the SOTF was not aware of the fact until after the agenda was posted, and that there was a need to take immediate action.

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

By a rise in vote the meeting was adjourned in memory of the passing of Jason Grant Garza without objection at 10:05 p.m.

N.B. The Minutes of this meeting set forth all actions taken by the Sunshine Ordinance SOTF on the matters stated, but not necessarily in the chronological sequence in which the matters were taken up.

APPROVED by the Sunshine Ordinance SOTF: December 6, 2017