



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

November 2, 2016 - 4:00 PM

Regular Meeting

Seat 1	Victoria Bareanetsky	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 4:05 p.m. Members Chopra, Baranetsky, J. Wolf and Fischer were noted absent. There was a quorum.

There were no agenda changes.

2. Approval of minutes from the Sunshine Ordinance Task Force October 5, 2016, meeting.

The Task Force discussed the meeting minutes.

Member Hinze, seconded by Member Fischer, moved to approve the October 5, 2016, meeting minutes.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - Eldon, Tesfai, Maass, Cannata, Hinze, Hyland, Wolfe

Noes: 0 - None

Absent: 4 - Chopra, Baranetsky, J. Wolf, Fischer

Members J. Wolf and Fischer were noted present at 4:10 p.m.

Member Baranetsky was noted present at 4:28 p.m.

3. **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 – 01:08:00)
(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 Coded (Sunshine Ordinance), Section 67.9 (a) occurred for failing to post supporting documents as soon as they became available.)

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

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 10 - Baranetsky, Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Magick Altman (Complainant) provided an overview of the complaint and requested that the Task Force find violations. Ms. Altman stated that the Police Commission did not provide sufficient notice on the agenda and that the Draft Use of Force Policy was significantly changed at the last moment. Jackie Barshack and Adrian Fong spoke in support of the Complainant. Sgt. Rachael Kilshaw, Police Commission (Respondent), provided a summary of the department's position. Sgt. Kilshaw stated that there is no timeframe set in the Sunshine Ordinance for posting supporting documents online and that the amendment made to the Draft Use of Force Policy was not considered 'significant'. Sgt. Kilshaw stated that the document in question was posted as soon as they were able to accomplish the task. 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.

Upon discussion the Task Force modified motions and created separate motions to include violations of Sunshine Ordinance, Sections 67.7 (b) and 67.9 (b).

Vice Chair Hyland, seconded by Member Tesfai, moved to find that the Police Commission violated Administrative Code (Sunshine Ordinance), Section 67.9 (a), by failing to post supporting documents online as soon as they became available.

Public Comment:

Peter Warfield stated that at the time of creation of the Sunshine Ordinance the web was in its infancy and that all departments should now be able to post documents only. Mr. Warfield suggested that and addition violation of 67.9 (b).

The motion PASSED by the following vote:

Ayes: 9 - Baranetsky, Eldon, J. Wolf, Tesfai, Maass, Cannata, Hinze, Hyland, Wolfe
Noes: 1 - Fischer
Absent: 1 - Chopra

Vice Chair Hyland, seconded by Member J. Wolf, moved to find the Police Commission in violation of Administrative Code (Sunshine Ordinance), Section 67.7 (a).

Chair Wolfe moved to include an additional violation of 67.7 (b).

Vice Chair Hyland amended his motion, seconded by Member J. Wolf, to include 67.7 (b) only.

Vice Chair Hyland, seconded by Member J. Wolf, moved to find the Police Commission in violation of Administrative Code (Sunshine Ordinance), Section 67.7 (b), by failing to reference to “explanatory documents” that have been provided to the policy body in connection with an agenda item and failing to post the explanatory documents adjacent to the agenda.

Public Comment:

Peter Warfield thanked the Task Force and stated that the ruling would prevent parties from concealing their proposals until the last moment.

The motion PASSED by the following vote:

Ayes: 10 - Baranetsky, Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, Wolfe
Noes: 0 - None
Absent: 1 - Chopra

There was no additional referral.

4. **File No. 15162:** Complaint filed by the Library Users Association against Deputy City Librarian Michael Lambert and City Librarian Luis Herrera, San Francisco Public Library for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.22, for failure to respond to a public records request in a timely and/or adequate manner and discouraging staff from providing oral responses in regards to BiblioCommons. (01:12:00 – 02:16:00))

(On September 7, 2016, the Task Force reviewed the recommendation from the Compliance and Amendments Committee. However, due to an error in procedure a decision regarding the matter was not provided. In an effort to prevent any additional delays the Task Force shall conduct a hearing regarding the matter.)

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

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 10 - Baranetsky, Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Peter Warfield (Complainant) provided an overview of the complaint and requested that the Task Force find violations. There were no speakers in support of the Complainant. Deputy City Librarian Michael Lambert, Public Library (Respondent), provided a summary of the department's position. Laura Lent, Public Library, provided a summary of the assistance she provided to Mr. Warfield in regards to the matter. There were no additional 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 Tesfai, seconded by Member Hinze, moved to find that Deputy City Librarian Michael Lambert and City Librarian Luis Herrera, San Francisco Public Library, DID NOT violate Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.22, in regards to Complaint/File No. 15162.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 10 - Baranetsky, Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, Wolfe

Noes: 0 - None

Absent: 1 - Chopra

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 p.m. or as soon thereafter as possible. (01:08:00 – 01:12:00)*

Speakers:

Magick Altman expressed thanks to the Task Force for their time and suggested education to other members of the public.

Peter Warfield expressed agreement with Ms. Altman and requested that Task Force meetings be videotaped and/or televised.

Female Speaker thanked the Task Force and provided general comments regarding the Police Commission.

The Task Force was recessed from 6:25 p.m. to 6:35 p.m.

SPECIAL ORDER – The hearings on File No. 16066 will not begin earlier than 5:30 p.m.

Ann Treboux requested the Task Force to call her items out of order. The Complaint and Respondent for Item No. 6 agreed to allow item No. 8 to be heard out of order.

Member Hinze, seconded by Member Cannata, to hearing Item No. 8 out of order prior to Item No. 6.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 2 - Maass, Hyland

Absent: 1 - Chopra

6. **File No. 16066:** Complaint filed by Ellen Tsang against Tom Hui, Daniel Lowrey, and Lily Madjus, Department of Building Inspection, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner. (02:29:00 – 03:17:00)

(On September 27, 2016, the Complaint Committee referred the matter to the Task Force for a hearing with the recommendation that a violation of Administrative Code (Sunshine Ordinance), Sections 67.21 (b) and 67.25 occurred.)

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

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 10 - Baranetsky, Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Ellen Tsang (Complainant) provided an overview of the complaint and requested the Task Force to find violations. Ms. Tsang stated that she received numerous documents that were not related to her request and could not determine if the requested documents were provided as parts of the provided documents. There were no speakers in support of the Complainant. Lily Madjus, Department of Building Inspection (Respondent), provided a summary of the department's position. Ms. Madjus presented a revised response to

Ms. Tsang request which specified documents that were responsive to Ms. Tsang's requests or stated that the department does not have the record in question. Steve Penelli, Chief Plumbing Inspector, described his interactions with Ms. Tsang and the time the department has dedicated to responding to Ms. Tsang. There were no additional speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

Vice Chair Hyland, seconded by Member Hinze, moved to find that Tom Hui, Daniel Lowrey, and Lily Madjus, Department of Building Inspection, violated Administrative Code (Sunshine Ordinance), Sections 67.21 (b) (c) and 67.25, by failing to respond to an Immediate Disclosure Request in a timely manner and failing to assist a requester in identifying the existence form, and nature of any records or information maintained.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 10 - Baranetsky, Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Chair Wolfe referred the matter to the Compliance and Amendments Committee. It was requested that Ms. Tsang review the documents provided to her on October 28, 2016, and November 2, 2016, and provide a list of specific documents that has not yet been provided that are within the scope of Ms. Tsang's 11 items discussed during the meeting to the Sunshine Ordinance Task Force. The Compliance and Amendments Committee

shall determine if the Department of Building Inspection has provided the documents requested by Ms. Tsang and/or evaluate DBI's position that they do not have document responsive to specific requests.

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 p.m. or as soon thereafter as possible.***

Speakers:

Magick Altman expressed thanks to the Task Force for their time and suggested education to other members of the public.

Peter Warfield expressed agreement with Ms. Altman and requested that Task Force meetings be videotaped and/or televised.

Female Speaker thanked the Task Force and provided general comments regarding the Police Commission.

Recommendation from the Complaint Committee.

(The Complaint Committee held a hearing to review File Nos. 16037 and 16056 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.

8. **File No. 16037:** Complaint filed by Ann Treboux against Sharon Page-Ritchie and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.7, by failing to provide correct contact information for the Sunshine Ordinance Task Force and the Ethics Commission on the April 12, 2016, agenda. (03:17:00 – 03:20:00)

(On September 27, 2016, the Complaint Committee heard the complaint and referred the matter to the SOTF with the recommendation to find jurisdiction and to that a violation of Administrative Code (Sunshine Ordinance), Section 67.7 did not occur.)

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

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 10 - Baranetsky, Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, Wolfe
Noes: 0 - None
Absent: 1 - Chopra

Member Tesfai provided a summary of the Complaint Committee's recommendation.

Member Tesfai, seconded by Vice Chair Hyland, moved to find that Sharon Page-Ritchie and the Arts Commission DID NOT violate Administrative Code (Sunshine Ordinance), Sections 67.7 (g) and (h).

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 10 - Baranetsky, Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, Wolfe
Noes: 0 - None
Absent: 1 - Chopra

9. **File No. 16056:** Complaint filed by Ann Treboux against Kate Patterson and the Arts Commission 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. (02:16:00 – 02:29:00)

(On September 27, 2016, the Complaint Committee heard the complaint and referred the matter to the SOTF with the recommendation to find jurisdiction and to that a violation of Administrative Code (Sunshine Ordinance), Section 67.25 occurred for failure to respond to an Immediate Disclosure Request in a timely manner.)

Member Tesfai provided a summary of the Complaint Committee recommendation.

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

Member Hinze, seconded by Vice Chair Hyland, moved to adopt the Complaint Committee's recommendation to find jurisdiction and to find that Kate Patterson and the Arts Commission violated Administrative Code (Sunshine Ordinance), Section 67.25, by failing to an Immediate Disclosure Request in a timely manner.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 10 - Baranetsky, Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, Wolfe

Noes: 0 - None

Absent: 1 - Chopra

There were no additional referrals to committee.

10. **File No. 16080: Hearing -** Review of potential impact of Assemble 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. (03:20:00 – 03:40:00)

Deputy City Attorney Colla presented his recommendations regarding the Task Force's draft letter to city departments and elected officials.

The Task Force discussed the letter and proposed language to clarify the intent of the letter.

Member Hinze, seconded by Member Maass, moved to accept the amendments to the advice letter and to distribute to appropriate city departments and elected officials.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 10 - Baranetsky, Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Without objection, the Task Force authorized Member Maass to make the appropriate amendments to the letter and for Chair Wolfe to review and authorize the distribution of the advice letter.

11. **File No. 16093:** Review and possible amendments to the Sunshine Ordinance Task Force By-Laws and Complaint Procedures.

- Sunshine Ordinance Task Force and Committee hearing process
- Absence policy (adding an excused provision)
- Communication policy
- Minimum requirement to process complaint
- Other issues related to the Task Force By-Laws and Complaint Procedures

The Task Force discussed the proposed changes to the Task Force By laws and Complaint Procedures.

Public Comment:

None.

Vice Chair Hyland, seconded by Member Hinze, moved to change the Absence Policy to allow for excused absences.

After discussion of the Absence Policy, Vice Chair Hyland, with the agreement of Member Hinze, withdrew the motion and request that the matter be continued.

The Absence Policy discussion was continued to a future date without objection.

Vice Chair Hyland, seconded by Member Tesfai, moved to adopt the Communication Policy.

The motion passed without objection.

The Task Force discussed the hearing procedure of the Task Force and the Committees.

Vice Chair Hyland, seconded by Member Hinze, moved to change the Complaint Hearing Procedure as summarized below:

- All complaints will be review by the Complaint Committee or other Committee as needed and provide recommendations/reports to the Task Force. The Complainant and Respondent are not require to attend the Committee hearing to review the complaints.
- The Task Force will conduct a hearing on the complaint. The Complainant and the Respondent are requested to attend the Task Force hearing on the matter.

The motion PASSED by the following vote:

Ayes: 10 - Baranetsky, Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Additional issues related to the By-laws and Complaint Procedures will be schedule for additional review on a future date.

12. Sunshine Ordinance Task Force - Chair's Report:

Chair Wolfe did not have any information to distribute.

13. 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 and the Task Force discussed the report and meeting schedule.

Public Comment:

None.

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

There were no items presented for discussion.

15. **ADJOURNMENT**

There being no further business the meeting was adjourned at 8:55 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.