

Patrick Monette-Shaw

975 Sutter Street, Apt. 6

San Francisco, CA 94109

Phone: (415) 292-6969 • e-mail: pmonette-shaw@eartlink.net

May 8, 2016

San Francisco Board of Supervisors

The Honorable Eric Mar, Supervisor, San Francisco Board of Supervisors, District 1
The Honorable Mark Farrell, Supervisor, San Francisco Board of Supervisors, District 2
The Honorable Aaron Peskin, Supervisor, San Francisco Board of Supervisors, District 3
The Honorable Katy Tang, Supervisor, San Francisco Board of Supervisors, District 4
The Honorable London Breed, Supervisor, San Francisco Board of Supervisors, District 5
The Honorable Jane Kim, Supervisor, San Francisco Board of Supervisors, District 6
The Honorable Norman Yee, Supervisor, San Francisco Board of Supervisors, District 7
The Honorable Scott Wiener, Supervisor, San Francisco Board of Supervisors, District 8
The Honorable David Campos, Supervisor, San Francisco Board of Supervisors, District 9
The Honorable Malia Cohen, Supervisor, San Francisco Board of Supervisors, District 10
The Honorable John Avalos, Supervisor, San Francisco Board of Supervisors, District 11

1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Divide the File: Opposition to Re-Appointment of David Pilpel to Sunshine Ordinance Task Force

Dear Board of Supervisors,

Please “divide” (bifurcate) the recommendation from your Rules Committee that approved recommending applicant David Pilpel to another term on the SOTF. Rather than Mr. Pilpel, former SOTF Member Bruce Wolfe is the far better candidate, for the following reasons.

Why Bruce Wolfe Is the Better Candidate

Mr. Wolfe is the better candidate for re-appointment to the SOTF, for a number of reasons.

1. Many community members want to see Mr. Wolfe reappointed to the SOTF for not only his institutional knowledge of the Task Force and the Sunshine Ordinance, but also because he has extensive experience with technology, which Pilpel does not. Pilpel hasn’t come out of the stone age and doesn’t even use e-mail. Other technology issues appear to be totally lost on Mr. Pilpel, whereas Mr. Wolfe’s experience with technology issues has been, and would continue to be, a real asset to the Task Force as technology advances occur.
2. Mr. Wolfe is bi-sexual, and therefore, provides greater “diversity” on the Task Force than does Pilpel. For a two-fer, Wolfe is also disabled, which Pilpel is not, providing greater diversity for San Francisco’s disabled community.
3. To my knowledge, nobody has ever accused Wolfe of having been “disruptive” while serving on a variety of boards and committees, whereas Pilpel is widely viewed as having been disruptive, including while Pilpel served on the Redistricting Task Force, the SFPUC CAC and the SFMTA CAC.
4. Wolfe — unlike Pilpel — has not engaged in *ex parte* communications on Sunshine matters before him requiring total impartiality. Pilpel, on the other hand, throws his impartiality under the bus at every opportunity. And importantly, Wolfe has never appeared before meetings of the Ethics Commission, Police Commission, and other policy bodies testifying — holding himself out as a member of the Task Force and more recently under the pretext of speaking as a private citizen — that the Sunshine Ordinance Task Force had reached incorrect conclusions in its Orders of Determination, as Pilpel has all too frequently done, claiming that his “minority dissenting opinions” are somehow more reliable than decisions reached by the body known as the full SOTF.
5. When Wolfe served on the Sunshine Task Force in the past, he reserved his questioning of complainants and respondents to the most germane issues at hand, whereas Pilpel goes off on endless nitpicking diatribes that seriously and adversely affects the “efficiency” of conducting SOTF hearings.

6. To the extent every policy body in San Francisco needs to balance “new blood” against the need to have knowledgeable members with institutional knowledge, Mr. Pilpel has served far too long on the Task Force — for over a dozen years — compared to the shorter period of time Mr. Wolfe has served on the Task Force. For too much “old blood” on various Boards and Commissions, you need to look no further than the 25+ years Edward Chow and 20+ years David Sanchez have served on San Francisco’s Department of Public Health’s Health Commission. If ever there were a commission crying for new blood, the Board of Supes has done *nothing* to replace either Chow or Sanchez.
7. Mr. Wolfe is highly regarded in many quarters of our diverse communities for being thoughtful, fair, and knowledgeable. Compare and contrast that to Mr. Pilpel’s reputation in our broader communities as being, foremost, an obstructionist, disruptive to processes, and also as being extremely difficult to work with. Their reputational histories could not be more black and white.
8. A prominent retired City official recently described to me that Mr. Pilpel is the worst “schmuck” in San Francisco’s history during the past 25 years. Mr. Wolfe, on the other hand, has never (to my knowledge) been described by any San Francisco politician as having ever been considered to be a “schmuck.” Why would you continue to appoint a schmuck to this key open government body?
9. For those of us who remember Joan Baez’s ballad *The Altar Boy and the Thief*, the contrast between Wolfe and Pilpel cannot be more stark. While I have no personal knowledge that Mr. Wolfe has ever risen to the status of Altar Boy, and while I have no knowledge that Mr. Pilpel is a literal thief and am not accusing him of being one, recent testimony submitted to the Rules Committee opposing Pilpel’s reappointment to SOTF documented Pilpel’s ugly history of riffling through desk drawers and documents at the old MTA headquarters. Figuratively, Pilpel has hijacked open government processes while serving on the SOTF, and he needs to be removed from the SOTF, if for no other reason.
10. As I note below, Pilpel recently recused himself from hearing a Sunshine complaint before him because — get this — he had blabbed during an Ethics Commission meeting that Ethics was improperly hearing a matter before it, and Pilpel was concerned that he either had bias, or the appearance of bias. To my knowledge, Mr. Wolfe has never recused himself from hearing any SOTF matter before him due to actual or perceived bias. Why would the full Board of Supervisors appoint someone to the Task Force who may be conflicted with various biases, when impartiality is called for, unless your preference is for a schmuck with biased tendencies over someone who strives for impartiality?

Why David Pilpel Is the Wrong Candidate

Pilpel’s Prior Disruptive Behavior Prevented His Re-Appointment to Two CAC’s

Mr. Pilpel’s behavior as a member of other policy bodies has been totally disruptive.

Despite Pilpel’s claim on his application that he has served on the SFMTA CAC, SFPUUC CAC, and on the Redistricting Task Force, he was not re-appointed to the MTA CAC in 2009 or earlier, reportedly due to his disruptive behavior and badgering of MTA CAC members and MTA staff. Similarly, within approximately the past year Pilpel was not re-appointed to the PUC CAC for the largely the same reason, as Supervisor Tang must be aware, since she appears to unappointed Pilpel from the PUC CAC before his four-year term had expired. And by report, Pilpel was extremely disruptive when he served on the Redistricting Task Force.

Pilpel’s Poor Attendance Record

Between October 2, 2013 and August 24, 2014 the SOTF held 15 meetings. Pilpel was absent four times — 26.7% — of those 14 meetings.

Pilpel’s Refusal to Recuse Himself vs. Recusal From Hearing Complaints

- On May 5, 2015 a Sunshine complaint filed by Brian Browne against the SF PUC was calendared for a hearing before the Sunshine Task Force. Browne — aware that Pilpel was then serving on the PUC’s CAC — requested that Pilpel

recuse himself from hearing Browne's complaint due to a potential conflict of interest. Pilpel refused, and announced that although he was a member of the PUC's CAC, he should NOT have to recuse himself. Browne's complaint was continued to a future meeting of the Task Force.

- On April 6, 2016, an hour-and-a-half into the Sunshine Task Force's meeting, Pilpel suddenly requested being recused from hearing a complaint filed by Ray Hartz, Jr. involving the Ethics Commission. Pilpel admitted he had attended the Ethics Commission's January 25 meeting and had testified several times that the Commission was making a mistake because he felt an item on the Ethics Commission's agenda "was not framed properly for public discussion." Pilpel felt the Ethics Commission was not conducting themselves appropriately. Subsequently Hartz filed a Sunshine complaint concerning the Ethics Commission's January 25 meeting.

Pilpel claimed he had been speaking as a "private citizen" but it was obvious he was providing advice to the Ethics Commission in his role as a member of the Sunshine Task Force.

Hartz's complaint that was supposed to be heard on April 6 involved the new Executive Director of Ethics, LeeAnn Pelham. The draft minutes of the Task Force's April 6 minutes only reported that Pilpel wanted to avoid the appearance of bias.

Pilpel requested to be recused from hearing the matter. The MP3 audio file of the April 6 Task Force meeting shows that Pilpel stated during the meeting that "my view is that I have either bias, or the appearance thereof" [for having spoken during the Ethics Commission's meeting on January 25]. But there should have been no need for him to recuse himself if he had, in fact, been speaking as a private citizen. And there should have been no question about whether Pilpel was engaging in "bias" if he had been speaking as a member of the public.

The MP3 audio also shows that Task Force Member Mark Rumold — a lawyer who holds a Task Force seat reserved for nominations from the Society of Professional Journalists — noted that potentially the Task Force may want to eventually have a discussion about whether Pilpel has abused his duties as a member of the Task Force often, and that, if so, the Task Force we could take some action later.

There doesn't seem to be much rhyme or reason as to when Pilpel decides whether or not to request being recused from hearing items on the agenda.

Pilpel's Ex Parte Communications

This is the most egregious problem with Mr. Pilpel. He doesn't know where his "rights" as a member of the public interferes with his duties as a member of the SOTF, and far too often, he engages in *ex parte* communications that he should know to steer clear of.

On May 5, 2015 following the hearing on Brian Browne's Sunshine complainant, Pilpel raced up to the SFPUC representative who had attended the hearing and who was enroute to the elevator, and began speaking with the PUC rep. Browne reportedly said "Mr. Pilpel, I hope you are not talking to her about my case." It's one of many examples — not an isolated occurrence — of Pilpel having sidebar — *ex parte* — conversations with respondents regarding Sunshine complaints prior to hearing the merits of a complainant's formal complaint.

Pilpel's Undermining of Sunshine Complainants

Also in 2015, Pilpel submitted a letter to the Ethics Commission prior to an Ethics Commission hearing involving a Sunshine complaint Paula Datesch had filed against the Art Commission that the Task Force had referred to the Ethics for enforcement. Pilpel intentionally interfered with the Ethics Commission's deliberations by offering his so-called "personal opinion" on a matter that the Task Force had already ruled on and had concluded. Pilpel has no compulsion about trying to overturn Sunshine Task Force decisions that he doesn't agree with, and is brazen enough to show up at Ethics hearings to intentionally undercut official Orders of Determination the Task Force has issued.

It is thought Pilpel has interfered with other concluded Orders of Determination issued by the Task Force after-the-fact, and this is not an isolated incident.

May 8, 2016

Opposition to Re-Appointment of David Pilpel to Sunshine Ordinance Task Force

Page 4

Two Ethics Complaints Against Pilpel Involving Violations of the Statement of Incompatible Activities Applicable to the Board of Supervisors and SOTF Members

In 2014 I filed two Ethics complaints against Mr. Pilpel alleging that he had violated the SIA applicable to SOTF members. In the first Ethics complaint, I noted Pilpel had identified himself during public comment at a meeting of the Ethics Commission as “David Pilpel, Member of SOTF,” rather than as a member of the public, as if he were authorized to speak on behalf of the full Task Force.

After I filed my complaints, Pilpel became somewhat more careful to claim he addresses policy bodies as a member of the public, although he has been reported by other observers as having continued to identify himself as a member of SOTF when addressing other policy bodies.

Mr. Pilpel had ***not*** sought an Advance Written Determination that testifying to the Ethics Commission about a Sunshine Complaint adjudicated and finalized by the full Task Force is ***not*** incompatible with his official duties.

In my second Ethics complaint, the underlying issue was not whether Mr. Pilpel is permitted to speak before other policy bodies on issues ***outside*** the scope of his duties as a member of the Sunshine Task Force (for example speaking during a meeting of a Commission considering a land use matter that might affect Mr. Pilpel’s neighborhood). Instead, the underlying issue was whether Pilpel is permitted to speak to another policy body on issues that are ***inside*** the scope of his duties as a Sunshine Task Force member (i.e., speaking about a matter inside the scope of his duties, ***after*** the full Task Force had concluded the matter and referred it to the Ethics Commission for enforcement).

When Mr. Pilpel voluntarily became a member of the Task Force, he was automatically bound under the governing SIA to restrict his testimony on matters falling ***inside*** the scope of his duties before other bodies. As a member of the Task Force, he has a duty to support and abide by decisions reached by a majority of Task Force members.

Pilpel’s *ex parte* communications with other Policy Bodies and his testimony during other Policy Body meetings are a ruse when he claims to be speaking as a private citizen. His claims are a sham, when not a pretense or pretext, since it is clear he is trying to provide testimony in his role as a member of the Task Force, not so much as a member of the public.

His ruse needs to stop, and the Rules Committee should have done so by refusing to advance him for consideration for re-appointment to the Task Force. Please refuse to support Pilpel’s reappointment; it’s long overdue that the Board of Supervisors dump him off of SOTF.

Pilpel Withheld Key Information from Rules Committee in May 2014

To the extent that Pilpel sought to sway the Rules Committee into re-appointing him to the Sunshine Task Force on May 15, 2014 by blabbing his wild assertion that members of the SOTF didn’t understand where “due process attaches,” he may have gamed re-appointment to the Task Force by withholding informing Supervisors Yee and Tang on May 15 that just 17 days earlier when Pilpel had raised the “due process” issue during the Sunshine complaint hearing involving Phil Ginsburg before the Ethics Commission, Deputy City Attorney Josh White who advises the Ethics Commission, had to interject and inform Ethics Commissioners that “due process” didn’t apply.

It is completely egregious that Pilpel — who must have fully understood DCA White’s clear City Attorney advice — withheld DCA White’s advice from Tang and Yee in 2014, and repeated the “due process” misinformation that White had shot down, during his testimony seeking re-appointment to the Task Force. Indeed, it could be argued that by ignoring DCA White’s “City Attorney opinion,” and repeating due process misinformation, Pilpel had failed Katy Tang’s “litmus test” of undying fealty to City Attorney “advice” as a condition of appointment to the Task Force.

Conclusion

The Rules Committee has now made the same mistake twice by referring Mr. Pilpel for re-appointment to the Task Force again, after he duped you in May 2014. The full Board of Supervisors should divide the recommendation from Rules, and

May 8, 2016

Opposition to Re-Appointment of David Pilpel to Sunshine Ordinance Task Force

Page 5

substitute Bruce Wolfe for David Pilpel. It's time to get rid of Pilpel as being too disruptive on any advisory body to City government.

After all, leopards rarely change their spots, and tigers rarely change their stripes. Both animals rarely change their behavior. So, too, with David Pilpel.

Respectfully submitted,

Patrick Monette-Shaw

Columnist/Reporter

Westside Observer Newspaper

Evans, Derek

From: Board of Supervisors, (BOS)
Sent: Tuesday, May 10, 2016 4:26 PM
To: Evans, Derek
Subject: FW: Board Meeting May 10 Agenda Item 32, 160407

From: Gerry Crowley [mailto:gerrycrowley34@gmail.com]
Sent: Monday, May 09, 2016 8:45 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Board Meeting May 10 Agenda Item 32, 160407

At tomorrow's board meeting, you will be voting to approve the appointment of candidates for the Sunshine Ordinance Task Force. David Piipel is one of those recommended by 2 Rules Committee members despite the fact that there was significant public testimony opposing his appointment, primarily because he does not work collaboratively with others.

Mr. Piipel admitted that he has difficulty getting along with people and that he's "working on it." He has received many City committee appointments over the years and it appears that his decorum has not changed. Knowing that in our fair city there are other potential candidate who would be honored to serve on SOTF, please consider denying Mr. Piipel's appointment. Thank you.

Gerry Crowley
415-781-4201
415- 609-0699