



City and County of San Francisco Sunshine Ordinance Task Force

City Hall
1 Dr. Carlton B. Goodlett Place,
Room 244
San Francisco, CA 94102-4689

Regular Meeting

Meeting Minutes

Members:

Seat 1	Dean Schmidt	Seat 7	Matthew Yankee - Chair
Seat 2	Lila LaHood	Seat 8	Chris Hyland
Seat 3	Saul Sugarman	Seat 9	David Pilpel
Seat 4	Ankita Kumar	Seat 10	Vacant
Seat 5	Maxine Anderson	Seat 11	Bruce Wolfe
Seat 6	Laura Stein - Vice-Chair		
Ex-officio	<i>(non-voting)</i> Clerk of the Board of Supervisors or his or her designee		
Ex-officio	<i>(non-voting)</i> Mayor or his or her designee		

Clerk: Cheryl Leger
(415) 554-4442 ~ cheryl.leger@sfgov.org

Wednesday, August 7, 2024

4:00 pm
Regular Meeting

City Hall, Room 408

1. **CALL TO ORDER, ROLL CALL, AND AGENDA CHANGES.**

Chair Yankee called the meeting to order at 4:08 p.m. On the call of the roll Chair Yankee and Members Pilpel, Anderson, Sugarman, Kumar and Schmidt were noted present. Members LaHood, Wolfe and Hyland were noted absent as well as Vice-Chair Stein. Deputy City Attorney Michel Deeb was present. SOTF Administrators Young, Petersen and Leger were noted present. There was a quorum.

Action: Moved by Chair Yankee seconded by Member Anderson that Item 14 be removed from the agenda and that Item 15 be addressed at the September hearing.

Public Comment:

Victor Lim of the Department of Public Health thanked Petitioner Chris Ward Kline for closing Item 14.

Member LaHood was noted present at 4:11 pm.

The motion PASSED by the following vote:

Ayes: 7 - Yankee, Anderson, LaHood, Schmidt, Sugarman, Kumar, Pilpel

Noes: 0 - None

Absent: 3 - Wolfe, Hyland, Stein

2. **Approval of the minutes from the Sunshine Ordinance Task Force Meeting of May 3, 2024.**

Action: Moved by Member LaHood, seconded by Member Anderson to approve the Minutes with amendments and going forward they will include an index that will explain the old version of the California Public Records Act.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 6 - LaHood, Anderson, Yankee, Schmidt, Sugarman, Kumar

Noes: 1 - Pilpel

Absent: 3 - Wolfe, Hyland, Stein

3. **Approval of the minutes from the Sunshine Ordinance Task Force Meeting of June 5, 2024.**

Action: Moved by Member Anderson, seconded by Member LaHood to approve the Minutes with amendments.

Public Comment:

None

The motion PASSED by the following vote:

Ayes: 6 - Anderson, LaHood, Yankee, Schmidt, Sugarman, Kumar

Noes: 1 - Pilpel

Absent: 3 - Wolfe, Hyland, Stein

4. **Approval of Orders of Determination.**

From the June 5, 2024, Sunshine Task Force meeting:

- **File No. 23030:** Complaint filed by Michael Turon against the Assessor-Recorder's Office
- **File No. 23093** Complaint filed by Michael Petrelis against the Mayor's Office
- **File No. 23079** Complaint filed by Lance Carnes against Public Works

- **File No. 24001:** Complaint filed by Rosa L. against the Department of Public Health
- **File No. 24005:** Complaint filed by Anonymous (ACU) against the Fine Arts Museum Board of Trustees
- **File No. 24013:** Complaint filed by Michael Petrelis against Supervisor Ahsha Safai, Board of Supervisors,
- **File No. 24014:** Complaint filed by Rosa L. against the Police Department
- **File No. 24016:** Complaint filed by Paul Kniha against the Municipal Transportation Agency
- **File No. 24017:** Complaint filed by Paul Kniha against the Municipal Transportation Agency

Action: Moved by Member Pilpel, seconded by Member Sugarman to approve the Orders of Determination with amendments.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - Pilpel, Sugarman, Anderson, LaHood, Yankee, Schmidt, Kumar

Noes: 0 - None

Absent: 3 - Wolfe, Hyland, Stein

5. **File No. 24032: Annual Supervisor of Records Report from City Attorney:** Review and potential acceptance of the Annual Report.

Jen Kwart, Communications Director at the City Attorney's Office, presented the City Attorney's Supervisor of Records Report to the Task Force and responded to questions.

Action: Moved by Member LaHood, seconded by Member Pilpel to accept the Supervisor of Records Report.

Public Comment:

Kimo Crossman expressed disappointment that it took more than two months for the City Attorney's Office to respond to his request for records.

The motion PASSED by the following vote:

Ayes: 7 - LaHood, Pilpel, Sugarman, Anderson, Yankee, Schmidt, Kumar

Noes: 0 - None

Absent: 3 - Wolfe, Hyland, Stein

6. **Administrator's Report, Complaints, Communications, and Meeting Schedule.**

Administrator Leger presented the Administrator's Report to the Task Force and responded to questions.

Member LaHood stated that the Compliance and Amendments Committee hearing scheduled for December 24, 2024 is cancelled.

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. (No Action)*

Chris Ward Kline stated that he gave a presentation on August 5, 2024 to the Health Commission outlining how our City has partnered with Johns Hopkins University to hide records. Mr. Kline also noted that he spoke to the House of Representatives Judiciary Committee on how records are being hidden.

NOTE: Hearings on complaints and other agenda items listed below will begin no earlier than 5:00 P.M.

8. **CONSENT AGENDA** - The Sunshine Ordinance Task Force shall review **File Nos. 23068, 24020, 24025 and 24028** to affirm the Committee's findings regarding the Sunshine Ordinance Task Force's jurisdiction; violations of the Sunshine Ordinance, Brown Act, or California Public Records Act; and, if applicable, to issue an Order of Determination and refer matters to a Committee for monitoring. The Complainant and Respondent are *not required to attend the August 7, 2024*, Sunshine Task Force meeting but may attend to provide testimony during the public comment period. *(Discussion and Action)*

8A. File No. 23068: Complaint filed by Laurent Philonenko against Phil Ginsburg and the Recreation and Parks Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21 by failing to provide public records in a timely and/or complete manner; 67.28 by failing to make public records available for inspection and copying; California Public Records Act (CPRA) 6253(a) by failing to allow public records to be available for inspection.

8B. File No. 24020 Complaint filed by Beth Winegarner against David Serrano Sewell and the Office of the Medical Examiner for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21 by failing to respond to a public records request in a timely and/or complete manner.

8C. File No. 24025: Complaint filed by Anonymous (SFPD) against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a public records request in a timely and/or complete manner; 67.25(a)(d) by failing to respond to an Immediate Disclosure Request in a timely and complete manner and if needed provide requested records on a rolling basis, 67.34 for willful violation.

8D. File No. 24028: Complaint filed by HVSafe against the Municipal Transportation Agency for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.25 for failing to respond to an Immediate Disclosure Request in a timely and/or

complete manner and California Public Records Act 6253 for failure to provide a determination of disclosable public records within 10 days.

Action: Moved by Member Pilpel, seconded by Member Anderson to accept the recommendations of the Committee.

Public Comment:

Anonymous speaker questioned the citation of the identification.

The motion PASSED by the following vote:

Ayes: 7 - Pilpel, Anderson, Sugarman, LaHood, Yankee, Schmidt, Kumar

Noes: 0 - None

Absent: 3 - Wolfe, Hyland, Stein

9. **File No. 23067** Complaint filed by Kimo Crossman against the Office of the Chief Medical Examiner for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21 by failing to provide public records in a timely and/or complete manner; 67.28 by failing to make public records available for inspection and copying; California Public Records Act (CPRA) 6253(a) by failing to allow public records to be available for inspection; and CPRA 6253.1(a) by failing to allow access to an electronic public record.

Kimo Crossman (Petitioner) provided a summary of his complaint. Mr. Crossman had a neighbor who died suddenly and was left in his apartment for two weeks before anyone noticed that the neighbor had not been seen. Mr. Crossman contacted the Department of Emergency Management and asked for a report on the neighbor's death and was told that the cost was \$49.00, for a certified copy. Mr. Crossman paid the fee, and the records were provided. Mr. Crossman believes that people should not be charged for a public record such as this.

Vivien Po (Department of Emergency Management, (DEM) Respondent) provided a summary of the department's position. Ms. Po stated that the requested records were provided timely, that the Office did not refuse to allow Mr. Crossman to go to the office just that he cannot use any recording devices due to the sensitive nature of the records in the office. Ms. Po stated that going forward DEM will no longer charge a fee for an uncertified copy of a record and Mr. Crossman will be refunded his money.

Action: Moved by Member LaHood, seconded by Member Schmidt to find a violation against the Department of Emergency Management for charging a member of the public for a public record and ordered the Department of Emergency Management to make available to members of the public a digital copy free of charge and send a verification to the SOTF Administrator that these changes will take place within 10 days.

Public Comment:

Nick Pasquariello asked why in all these past years the DEM had not been challenged about this issue before.

The motion PASSED by the following vote:

Ayes: 7 - LaHood, Schmidt, Pilpel, Anderson, Sugarman, Yankee, Kumar
Noes: 0 - None
Absent: 3 - Wolfe, Hyland, Stein

Recess was taken from 6:04 PM until 6:38 PM. Roll call was taken. Per Item No. 1 Item 11 was heard before Item 10.

10. **File No. 23086:** Complaint filed by Mike Spencer against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a records request in a timely and/or complete manner.

Mike Spencer (Petitioner) provided a summary of his complaint. Mr. Spencer requested access to audio recordings of this case in 2001 and 2014 but was denied access both times. Mr. Spencer stated that 64 people were interviewed and the file has some handwritten notes which included case notes for six or seven specific witnesses.

Lt. Christopher Beauchamp (Police Department, Respondent) provided a summary of the department's position. Lt. Beauchamp testified that he was in receipt of the document and was able to verify that SFPD provided it. Lt. Beauchamp noted that there remain approximately 700 pages of records and hopes to have 450 of those reviewed by the end of the month. Lt. Beauchamp stated that there are Clefts records that are confidential and cannot be released and that there are recordings that could be easily damaged while handling.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

Action: Moved by Chair Yankee, seconded Member Pilpel, to find a violation of Administrative Code, Sunshine Ordinance Section(s) 67.21 for lack of timely disclosure of public records and the improper reliance on 67.24(d) for requesting that the Police Department propose a procedure to implement 67.24(d) in coordination with the District Attorney and provide that language to the SOTF for a follow-up hearing at Compliance and Amendments Committee.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - Yankee, Pilpel, LaHood, Schmidt, Anderson, Sugarman, Kumar

Noes: 0 - None

Absent: 3 - Wolfe, Hyland, Stein

11. **File No. 23081** Complaint filed by Zahir Nasri against San Francisco International Airport (Ground Transportation Unit) for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21 by failing to provide public records in a timely and/or complete manner.

Zahir Nasri (Petitioner) provided a summary of his complaint. Mr. Nasri stated that in July 2023 he requested surveillance records and the directions to zoom the first five minutes of footage. Mr. Nasri stated the Airport only provided footage of the back of him. Mr. Nasri stated that there was a camera that did not provide information but that clearly shows unlawful actions and requested those documents in SFO possession. Mr. Nasri also requested the radio communications that show the staff using derogatory and racist slurs over the radio.

Doug Yakel, (San Francisco International Airport (Respondent)) provided a summary of the department's position. Mr. Yakel stated that on July 10, 2023 and July 17, 2023 the Airport provided responsive records. Mr. Yakel also stated that on July 21, 2023 the Airport produced another batch of records but withheld some documents due to a pending investigation. Mr. Yakel stated that 226 pages of records were provided to Mr. Nasri. In addition, Mr. Nasri was provided with all recordings in real time and video records that can zoom in at any time.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

Action: Moved by Member Pilpel, seconded by Member Anderson to find a violation of Administrative Code, Sunshine Ordinance Section 67.21 for failure to provide public records in a timely manner regarding three radio communications provided in October 23 and orders the airport to review five video camera feeds of 18 minutes each and initial radio communications and either provide those to the requestor or confirm that they are unavailable to provide to the requestor or provide the communication to the SOTF.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - Pilpel, Anderson, Yankee, LaHood, Schmidt, Sugarman, Kumar

Noes: 0 - None

Absent: 3 - Wolfe, Hyland, Stein

12. **File No. 23095:** Complaint filed by Mark LaCroix against the San Francisco Fire Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.10(b) by failing to consider the appointment, employment, evaluation of performance, or dismissal of a City employee, if the policy body has the authority to appoint, employ, or dismiss the employee, or to hear complaints or charges brought against the employee by another person or employee unless the employee complained of requests a public hearing. respond to a public records request in a timely and/or complete manner; 67.11 prior to any closed session, a policy body shall state the general reason or reasons for the closed session, and shall cite the statutory authority, including the specific section and subdivision, or other legal authority under which the session is being held; 67.12 by failing to disclose closed session discussions and actions.

Mark LaCroix (Petitioner) provided a summary of his complaint. Mr. LaCroix stated that on November 26, 2022 the Fire Commission held a meeting and voted to go into closed session to deliberate the validity of the dismissal of Mr. Mark LaCroix from the Fire Department. Mr. LaCroix states that the Fire Department did not properly notice the closed session hearing and the Department contends that proper notice was adhered to.

Maureen Conefrey (Fire Commission (Respondent)), provided a summary of the department's position. Ms. Conefrey stated that in September 2022 the Fire Chief filed a non-disciplinary separation from the Department of Mark LaCroix that included the correct statutory cites. The parties were to submit records prior to the November 29, 2022. The hearing was rescheduled to April 26, 2023 and the agenda was posted prior to the meeting. The Fire Commission held deliberations in closed session, then held in open session and then deferred to discuss the deliberations in closed session. Ms. Conefrey stated that Administrative Code, Sunshine Ordinance Section 67.10 was permissible for the commission hearing regarding a personnel matter. Ms. Conefrey also noted that the employee has the right to ask that the body conduct deliberations. Mr. LaCroix did not cite the legal basis for going into closed session.

Action: Moved by Chair Yankee, second by Member Kumar, Administrative Code, Sunshine Ordinance Section 67.11 for not citing the statutory authority.

Public Comment:

Anonymous noted that Ms. Conefrey is confusing the hearing dates and that it was impossible to dismiss Mr. LaCroix from his job based on if the procedures were followed directly.

Anonymous #2 stated that this hearing decides the validity of the process and not the charges against Mr. LaCroix should be the subject of what the SOTF should be deliberating.

The motion PASSED by the following vote:

Ayes: 7 - Yankee, Kumar, Pilpel, Anderson, LaHood, Schmidt, Sugarman

Noes: 0 - None

Absent: 3 - Wolfe, Hyland, Stein

Action: Moved by Member Pilpel, to find a violation of Administrative Code, Sunshine Ordinance Section 67.10(b) for holding a closed session on a motion to dismiss, no second.

The motion FAILED due to a lack of a second.

13. **File No. 23099:** Complaint filed by Mark LaCroix against the San Francisco Fire Commission for allegedly violating Administrative Code (Sunshine Ordinance), 67.5 by failing to conduct meetings of any policy body open and public; 67.10 conducting a closed session hearing on a non-permitted topic, and 67.11 by failing to properly notice a closed session hearing.

Mark LaCroix (Petitioner) provided a summary of his complaint. Mr. LaCroix stated that his separation hearing should have been noticed as a separation hearing, but it wasn't. Mr. LaCroix stated that the information on the agenda did not include items that were to be addressed. Mr. LaCroix stated that there was no information on the agenda that indicated his dismissal would be reviewed.

Maureen Conefrey (Fire Commission (Respondent)), provided a summary of the department's position. Mr. Conefrey stated that the closed session was entirely proper and the process regarding a dismissal can include a discussion of other dismissals that may be cited by the Commission. Ms. Conefrey also stated that the body cannot go into closed session to discuss dismissal of specific employees.

A question-and-answer period occurred. The parties were provided an opportunity for rebuttals.

Action: Moved by Member Pilpel, seconded by Member LaHood to find a violation of Administrative Code, Sunshine Ordinance Section 67.10(b) regarding the January 12, 2022 meeting as to item 5C.

Public Comment:

Anonymous #1 stated that the Sunshine Ordinance is a great thing and he wants to thank Mr. LaCroix for his brave service and while he was helping people who had no one else to help them.

Anonymous #2 stated that it is important to have procedures at Fire Commission hearings and to note to have protection for due process procedures.

Anonymous #3 stated that this is a red flag for the SOTF to consider because there may be multiple violations.

The motion PASSED by the following vote:

Ayes: 6 - Pilpel, LaHood, Sugarman, Kumar, Anderson, Yankee
Noes: 1 - Schmidt
Absent: 3 - Wolfe, Hyland, Stein

Action: Moved by Member LaHood, seconded by Member Sugarman that in light of the decision in our previous motion, Ms. LaHood asks the Fire Commission to release from the January 12, 2022 meeting the portion of the meeting allowing closed session pertaining to item 5(c) and we request a response from the Commission.

Public Comment:

Anonymous stated that even though the Fire Commission destroyed the due process by violating every code and to disseminate the changes, the SOTF has the power to end all this.

The motion PASSED by the following vote:

Ayes: 6 - LaHood, Sugarman, Kumar, Anderson, Pilpel, Yankee
Noes: 1 - Schmidt
Absent: 3 - Wolfe, Hyland, Stein

Action: Moved by Member Schmidt, seconded by Member Kumar, to find a violation of Administrative Code, Sunshine Ordinance Section 67.8(a)(4) because the agenda failed to specify required proposed information pertaining to public employee personnel actions.

Public Comment:

None

The motion FAILED by the following vote:

Ayes: 4 - Schmidt, Kumar, LaHood, Sugarman
Noes: 3 - Yankee, Pilpel, Anderson
Absent: 3 - Wolfe, Hyland, Stein

14. **File No. 23013A** Complaint filed by Chris Ward Kline against Department of Public Health for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, 67.24(b)(o), and 67.25 by failing to respond to a request for public records in a timely and/or complete manner.

See Item 1 for the disposition of this case.

15. **Interpreting the Subsections of Administrative Code 67.25.**

The Task Force discussed postponing this item until the September 4, 2024 hearing.

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

Member Pilpel provided comment a personal issue.

17. **ADJOURNMENT**

There being no further business the meeting was adjourned at 10:44 PM.

APPROVED: _____
Sunshine Ordinance Task Force

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.

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