



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

June 5, 2019 - 4:00 PM

Regular Meeting

Seat 1	Matthew Cate	Seat 7	Rodman Martin
Seat 2	Lila LaHood	Seat 8	Frank Cannata
Seat 3	Josh Wolf	Seat 9	Chris Hyland - Vice Chair
Seat 4	Rishi Chopra	Seat 10	Matthew Yankee
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 4:02 pm. On the call of the roll Chair B. Wolfe and Members LaHood, Tesfai, Martin, Cannata, Hyland, Yankee and Hinze were noted present. Members J. Wolf, Chopra and Cate were noted not present. A quorum was present.

Member Josh Wolf was noted present at 4:18 pm.

Member Cate was noted present at 4:22 pm.

Public Comment:

None.

2. **Approval of minutes from the Sunshine Ordinance Task Force May 1, 2019, meeting.**

The SOTF discussed the draft meeting minutes. Member Yankee requested a correction in the May 1, 2019, minutes.

Action: Moved by Member Yankee, seconded by Member Cannata to approve the May 1, 2019, meeting minutes as amended.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 - B. Wolfe, LaHood, Tesfai, Martin, Cannata, Hyland, Yankee and Hinze

Noes: 0 - None

Absent: 3 - J. Wolf, Chopra and Cate

Member J. Wolf was noted present at 4:10 PM.

3. **City Administrator's Office to report on preparation of Index of Records.**

Joan Lubamersky, City Administrator's Office, provided an update on the Index of Records to the SOTF. Ms. Lubamersky stated that Index of Records was completed and available online in 2005.

Action: Moved by Vice-Chair Hyland, seconded by Member LaHood to recognize that the Index of Records for the Sunshine Ordinance Task Force has been completed.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 - Hyland, LaHood, Yankee, Hinze, Martin, Tesfai, B. Wolfe, Cannata

Noes: 0 - None

Absent: 3 - Chopra, Cate, J. Wolf

4. **File No. 18010:** Complaint filed by Denta Tadesse against the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Chapter 67, regarding violation of the rights to privacy. (00:08:02 – 00:47:24)

Action: Moved by Member Yankee, seconded by Member Hinze, to table File No. 18010 until 4:45 pm.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 - Hyland, LaHood, Yankee, Hinze, Martin, Tesfai, B. Wolfe, Cannata

Noes: 0 - None

Absent: 3 - Chopra, Cate, J. Wolf

Member Cannata provided a summary from the Compliance and Amendments Committee hearing of April 16, 2019, regarding this matter.

Denta Tadesse (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Tadesse stated that this matter arose from the City Attorney's office giving the SFMTA meeting information to Mr. Tadesse's building manager in an open envelope on February 7, 2018. Mr. Tadesse stated that this process should have been held under the closed meeting process.

Chair Wolfe stated the importance of protecting privacy. Chair Wolfe stated that under 67.24(b)(2) that city departments are to keep certain documents pertaining to litigation and not subject to disclosure until after litigation. Chair Wolfe surmised that if the documents are protected under the provisions of applicable law, then the Respondent should say that they are not releasing the information. Chair Wolfe stated that the documents were public and were in the hands of a City employee which makes them a custodian of record.

Action: Moved by Chair B. Wolfe, seconded by Member Yankee to find jurisdiction.

Public Comment:

None.

The motion FAILED by the following vote:

Ayes: 5 - B. Wolfe, Yankee, Hyland, LaHood, Cannata

Noes: 5 - Martin, J. Wolf, Tesfai, Cate, Hinze

Absent: 1 - Chopra

Action: Moved by J. Wolf, seconded by Vice-Chair Hyland to rescind the previous vote regarding jurisdiction.

Public Comment:

None.

The motion FAILED by the following vote:

Ayes: 5 - B. Wolfe, Hyland, LaHood, Yankee, J. Wolf

Noes: 5 - Martin, Cannata, Tesfai, Cate, Hinze

Absent: 1 - Chopra

5. **File No. 18059:** Complaint filed by William J. Clark against the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, by failing make meeting minutes available in a timely manner. (June 5, 2018 - Advisory Committee of Street Artists and Crafts Examiners). (00:10:25 - 00:46:26)

Action: Moved by Vice-Chair Hyland, seconded by Member Martin to accept the memo drafted by Deputy City Attorney Margaret Baumgartner on behalf of the Arts Commission into the record.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - J. Wolf, Cannata, Yankee, Martin, Tesfai, LaHood, Hinze, Hyland,
B. Wolfe

Noes: 0 - None

Absent: 2 - Cate, Chopra

Chair B. Wolfe stated that all testimony was heard on April 3, 2019, that the matter can be taken up at the question and answer period and that the parties would be provided an opportunity for rebuttals.

The Petitioner notified the Administrator via telephone on June 3, 2019, he would not be able to attend the hearing and that the SOTF could proceed without their presence.

Chair Wolfe stated that the memo submitted by the Arts Commission stating that it addresses the Brown Act and not Sunshine. Chair Wolfe also stated that the San Francisco Charter 4.104(a)(3) addresses Boards and Commissions Rules and Regulations which states that the Board or Commission needs to be enumerated in the Charter not created by Ordinance.

Kate Patterson, Arts Commission, (Respondent), provided a summary of the department's position. Ms. Patterson stated that the meetings of the Street Artists and Craft Examiners are held in the Community Room at the Veterans Building which is where the Arts Commission's main offices are located. Ms. Patterson stated that the Street Artists meetings are not recorded but that they do keep a record of what transpired during the meetings (votes and who made the votes). Ms. Patterson stated that sub committees are not required to provide minutes within the 10-day window. Ms. Patterson stated that they were late in providing the record of the meeting and with responding to the complaint within 10 days and not late in posting of the record which they did within 48 hours of its completion.

Action: Moved by Vice-Chair Hyland, seconded by Member Cannata, to table File No. 18059 until after Public Comment.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 10 - Hyland, LaHood, Yankee, Hinze, Martin, Tesfai, B. Wolfe, Cannata, Cate, J. Wolf

Noes: 0 - None

Absent: 1 - Chopra

Member Tesfai stated that the explanation given in the City Attorney memo was that the Committee was not enumerated in the Charter under the Sunshine Ordinance. Member Tesfai stated that the Arts Commission is a Charter body and that Committees that advise Charter bodies do not come within 67.16 and are not Charter bodies. Member Tesfai also stated that there is a distinction between minutes and the record. Member Tesfai stated that the names of those who make the decision, the votes of that decision and the date of the meeting in which a decision is made is the record and that is paired down from the Minutes. The Committee of Street Artists and Craft Examiners is a policy body not enumerated in the Charter.

Kate Patterson stated that the Arts Commission responded to the Immediate Disclosure Request within 24 hours and the issue of the complaint is that the minutes were not posted within 10 days.

Action: Moved by Member Yankee, seconded by Member Hinze to continue the item to the call of the Chair and to request that Mx. Trickey attend the next SOTF meeting to explain the time stamp of when the minutes of the Street Artists and Craft Examiners were posted on the Arts Commission website.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 – Yankee, Hinze, Hyland, LaHood, Martin, Tesfai, B. Wolfe, Cannata, J. Wolf

Noes: 1 - Cate

Absent: 1 – Chopra

Vice-Chair Hyland stated that the SOTF agrees that the Committee of Street Artists and Craft Examiners is a policy body not enumerated in the Charter. Member Tesfai referred to the memo drafted by the City Attorney on behalf of the Arts Commission, "The record must include each substantive decision of the Committee, the vote of each member making the decision and the date of the meeting at which the decision was made." Vice-Chair Hyland stated that the timeliness of the Minutes being posted on the website is the meeting record.

Action: Moved by Vice-Chair Hyland, seconded by Member Cate, to find that the Committee of Street Artists and Craft Examiners is a policy body not enumerated in the Charter.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 10 – Hyland, Cate, Yankee, Hinze, LaHood, Martin, Tesfai, B. Wolfe, Cannata, J. Wolf

Noes: 0

Absent: 1 - Chopra

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:

Thomas Busse spoke about 1991 Reroute Shift sales taxes going to Fuller Theological Seminary in Pasadena.

Denta Tadesse spoke about needing assistance and understanding from the SOTF regarding his submissions and his complaints.

7. **File No. 18069:** Complaint filed by Mike Black against City Administrator Naomi Kelly, and the Office of the City Administrator 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.

Mike Black (Petitioner) was not present for the hearing and on May 17, 2019, provided a letter dated April 3, 2019, addressed to the SOTF in lieu of a personal appearance.

City Administrators Office, (Respondent), was not present for the hearing and did not inform the SOTF Administrator that a representative from their office would not be present.

Action: Moved by Member Cannata, seconded by Member J. Wolf, to find the Respondent in violation of Administrative Code, Section 67.21(e), by failing to send an authorized representative of the custodian of the public records to attend the SOTF hearing and explain the basis for its decision to withhold the records requested.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 10 - Cannata, J. Wolf, Yankee, Martin, Tesfai, LaHood, Hinze, Hyland, B. Wolfe, Cate

Noes: 0 - None

Absent: 1 - Chopra

Member J. Wolf stated that because there is no representative from the City Administrator's Office and the fact that the Petitioner is not present, the SOTF should not proceed or reach a conclusion.

Chair Wolfe stated that when there is no appearance the parties have waived their chance of adjudicating the matter and the Respondent has waived their right to proceed with a defense. Chair Wolfe stated that the Petitioner has chosen not to attend the hearing and noted that there is no one to speak on behalf of either party.

Action: Moved by Member J. Wolf, seconded by Vice-Chair Hyland to table the matter and close the file with prejudice.

Public Comment:

None.

The motion FAILED by the following vote:

Ayes: 2 - J. Wolf, Hyland

Noes: 8 - Cannata, Yankee, Martin, Tesfai, LaHood, Hinze, B. Wolfe, Cate

Absent: 1 - Chopra

Chair Wolfe stated that the Petitioner is not present and there were no witnesses on behalf of the Petitioner. Chair Wolfe stated that the Respondent is not present, that there are no witnesses on behalf of the Respondent and that the item is before the SOTF.

Action: Moved by Member Cannata, seconded by Member LaHood to find a violation Administrative Code (Sunshine), Sections 67.21 and 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner and forward the matter to the District Attorney’s Office and the Attorney General for enforcement.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 10 - Cannata, LaHood, Yankee, Martin, Tesfai, Hinze, B. Wolfe, Cate,
J. Wolf, Hyland
Noes: 0 - None
Absent: 1 - Chopra

8. File No. 19046. Review and possible amendments to the Sunshine Ordinance Task Force By-Laws and Complaint Procedures.

The SOTF provided comment and suggestions regarding amendments to the By-Laws to be approved at a future date.

Action: Moved by Member Cannata, seconded by Member Cate to recommend the amendments to the By-Laws at a hearing to be held at a future date.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 10 - Cannata, Cate, LaHood, Yankee, Martin, Tesfai, Hinze, B. Wolfe,
J. Wolf, Hyland
Noes: 0
Absent: 1 - Chopra

The SOTF discussed amendments to the Complain Procedures and to continue the matters, Section 7 Attendance Requirements for the Complainant and Respondent and Section 8 Continuances, to the next SOTF hearing.

Action: Moved by Member J. Wolf, seconded by Member Cannata to continue the matter to amend the Complaint Procedures, Section 7 Attendance Requirements for the Complainant and Respondent and Section 8 Continuances as discussed in the notes taken.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 10 – J. Wolf, Cannata, Cate, LaHood, Yankee, Martin, Tesfai, Hinze,
B. Wolfe, Hyland

Noes: 0

Absent: 1 - Chopra

9. **Election of Sunshine Ordinance Task Force Officers per Article III. Officers and Duties. Section 5 of the Sunshine Ordinance Task Force By-Laws.**

The election of Chair and Vice-Chair of the SOTF proceeded as follows:

Action: Moved by Member Martin, seconded by Member Cannata, to nominate Bruce Wolfe as Chair of the Sunshine Ordinance Task Force. There were no other nominations.

Public Comment:

None.

The motion to appoint Bruce Wolfe as Chair of the SOTF PASSED by the following vote:

Ayes: 10 – Martin, Cannata, J. Wolf, Cate, LaHood, Yankee, Tesfai, Hinze,
B. Wolfe, Hyland

Noes: 0

Absent: 1 - Chopra

Action: Moved by Member J. Wolf, seconded by Member Cannata, to nominate Josh Wolf as Vice-Chair of the Sunshine Ordinance Task Force. There were no other nominations.

Public Comment:

None.

The motion to appoint Josh Wolf as Vice-Chair of the SOTF PASSED by the following vote:

Ayes: 10 – J. Wolf, Cannata, Cate, LaHood, Yankee, Martin, Tesfai, Hinze,
B. Wolfe, Hyland

Noes: 0

Absent: 1 - Chopra

10. **Reports from Sunshine Ordinance Task Force Committees.**

- Complaint Committee: Member Martin provided comment on the actions of the last Complaints Committee meeting
- Compliance and Amendments Committee: Member Cannata stated that Compliance and Amendments Committee will be meeting in two weeks.

- Education, Outreach and Training Committee: Member Hyland provided comment on the actions of the last Education, Outreach and Training Committee. Chair Wolfe stated that a new Chair for the EOTC needs to be made.
- Rules Committee: Member Hinze stated that the next Rules Committee hearing will take place on June 18 after the Compliance and Amendments Committee.
- Information Technology Ad Hoc Committee: Chair Wolfe provided comment on possible tech consultants for a searchable database for the Orders of Determination

Member Cannata was noted absent at 9:30 PM

Action: Moved by Member Yankee, seconded by Member Hinze, to request a budget allocation for a vendor system to provide a searchable service for the Orders of Determination.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 9 - Yankee, Hinze, J. Wolf, Cate, LaHood, Martin, Tesfai, B. Wolfe, Hyland
Noes: 0
Absent: 2 - Chopra, Cannata

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

Chair B. Wolfe provided comment on the status of the letters to DA Gascon, Comm. Chiu of the Ethics Commission and President Yee of the Board of Supervisor on the Magick Altman Order of Determination.

Public Comment:
None.

No actions taken.

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

The SOTF Administrator presented the Staff Report and responded to questions from the SOTF.

Public Comment:
None.

No actions taken.

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

SOTF Members discussed vacation schedules and Committee hearing dates for the month of July.

14. **ADJOURNMENT**

Action: Moved by Member Cate, seconded by Member Hyland to adjourn at 9:50 PM.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Yankee, Hinze, J. Wolf, Cate, LaHood, Martin, Tesfai, B. Wolfe,
Hyland

Noes: 0

Absent: 2 – Chopra, Cannata

APPROVED: July 16, 2019
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.