



# 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 4, 2019 - 4:00 PM

## Regular Meeting

Seat 1	Vacant	Seat 7	Rodman Martin
Seat 2	Lila LaHood	Seat 8	vacant
Seat 3	Josh Wolf - <b>Vice Chair</b>	Seat 9	Chris Hyland
Seat 4	Rishi Chopra	Seat 10	Matthew Yankee
Seat 5	Leuwam Tesfai	Seat 11	Fiona Hinze
Seat 6	Bruce Wolfe - <b>Chair</b>		

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 B. Wolfe called the meeting to order at 4:11 PM. On the call of the roll Chair B. Wolfe and Members LaHood, Tesfai, Martin, Hyland, Yankee were noted present. Member Hinze was noted excused. Members J. Wolf and R. Chopra were not present. A quorum was present.

Member J. Wolf was noted present at 4:19 PM.

SOTF Administrator noted that Item 6 (File No. 19018) was withdrawn by the Complainant.

### 2. Approval of minutes from the Sunshine Ordinance Task Force October 2, 2019, meeting.

Member Yankee requested clerical correction to the action in Item Nos. 2 and 10.

**Action: Moved by Member Yankee, seconded by Member Martin, to approve the October 2, 2019, meeting minutes as amended.**

Public Comment:

None.

**The motion PASSED by the following vote:**

Ayes: 6 – Yankee, Martin, Tesfai, LaHood, Hyland, B. Wolfe

Noes: 0 - None

Absent: - J. Wolf, R. Chopra

Excused: 1 - Hinze

3. **File No. 18083:** Complaint filed by Robert M. Smith against the Fine Arts Museums of San Francisco (FAMSF) for 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. (00:04:20 - 01:21:12)

Member LaHood provided a summary Committee hearing and stated that the issue raised was regarding the insufficient explanation of the extensive redactions and the nonresponsive records provided.

Robert Smith (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Smith stated that there were many redactions on the records provided without proper legal citation; some of which he accepted. Mr. Smith stated that the Museum is withholding records and emails without detailing what they are withholding and why. Mr. Smith stated that some records of donated Saudi clothing and art exhibits were produced, however those records, including the source of the items and their value, were redacted. Mr. Smith requested that this matter be referred to the District Attorney, Attorney General or the Ethics Commission.

Megan Bourne (Fine Arts Museum) (Respondent), provided a summary of the department's position. Ms. Bourne stated that as of the August 27, 2019, Compliance and Amendments Committee hearing, all requested records and a redaction logs have been provided to the Complainant. Ms. Bourne stated that at that hearing, the Committee advised Mr. Smith to work with the Museum and specify which documents and redactions he had concerns about, which he has not done. Ms. Bourne stated the redaction log provided to Mr. Smith and the SOTF relates mostly to personal information of Co-FAM (Corporation of the Fine Arts Museum) employees. Ms. Bourne stated that a review of redacted emails is a large scope of work and that there is no candidate at the Museum to do this work.

Chair Wolfe stated that the Memorandum of Understanding is a contractual agreement. Chair Wolfe stated that the privilege log the Museum created needs review by the Museum's City Attorney to determine what is a private record. Chair Wolfe stated that the Compliance and Amendments Committee has already determined that the records are public and should be produced unredacted.

**Action: Moved by Member Martin, seconded by Member LaHood, to refer the matter to the Ethics Commission for the Fine Arts Museums' violation of 67.21 by failing to produce public records in unredacted format.**

Public Comment:

Richard Knee suggested that the SOTF refer the matter to the Board of Supervisors for review. Mr. Knee also stated that if the District Attorney reviews the matter, they may not take action unless there is possible criminal activity.

**The motion PASSED by the following vote:**

Ayes: 7- Martin, LaHood, Yankee, J. Wolf, Tesfai, Hyland, B. Wolfe  
Noes: 0 - None  
Absent: 1 - Chopra  
Excused: 1 - Hinze

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.

Speakers:

None.

4. **File No. 18049:** Complaint filed by Robert M. Smith against the Fine Arts Museums of San Francisco (FAMSF) for 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. (01:22:52 - 01:33:00)

Member LaHood provided a summary Committee hearing and stated that this matter deals with the same issues as Item No. 3, File No. 18083.

Robert Smith (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Smith stated that the issues in this matter are identical to File No. 18083. Mr. Smith stated that the Museum is retaliating against him by not providing the requested records.

Megan Bourne (Fine Arts Museum) (Respondent), provided a summary of the department's position. Ms. Bourne stated that the simplest course would be for the SOTF to take the same course as Item No. 3, File No. 18083 because the issues are the same. Ms. Bourne also stated that members of the public are not physically barred from coming to the Museum to ask for public records.

**Action: Moved by Member Martin, seconded by Member LaHood, to refer the matter to the Ethics Commission for the Fine Arts Museums' violation of 67.21 by failing to produce public records in unredacted format.**

Public Comment:

None.

**The motion PASSED by the following vote:**

Ayes: 7- Martin, LaHood, Yankee, J. Wolf, Tesfai, Hyland, B. Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Excused: 1 - Hinze

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. *(No Action) Public comment shall be taken at 5:00 p.m. or as soon thereafter as possible.*
6. **File No. 19018:** Complaint filed by Anonymous against 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.

The matter was withdrawn by the Complainant.

7. **File No. 19052:** Complaint filed by Alex Koskinen against the Department of Public Health 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. *(01:33:31 – 02:52:40)*

Member LaHood provided a summary of the Committee hearing and that the Committee found jurisdiction and referred the matter to the SOTF.

Alex Koskinen (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Koskinen stated that he sent an Immediate Disclosure Request (IDR) to the Department of Public Health (DPH) on May 13, 2019. Mr. Koskinen was notified late that DPH would invoke a 14-day extension of time to respond. Mr. Koskinen stated that DPH responded to the IDR ten weeks later and that the issue has been resolved. Mr. Koskinen stated that he sent a second request to DPH containing four parts of which the first two were responded to. Mr. Koskinen stated that DPH's response to the final two parts was that they do not have responsive records. Mr. Koskinen stated that he requested DPH provide verification of employment records. Mr. Koskinen stated that he requested a copy of DPH's records retention policy which was not provided.

Linda Acosta (Department of Public Health (DPH)) (Respondent), provided a summary of the department's position. Ms. Acosta stated that the documents DPH is obligated to provide, per the advice of their City Attorney, is their records retention policy and employee records; not applicant records. Ms. Acosta stated that DPH provided a calculation of hours required to review the information Mr. Koskinen requested which is cumbersome and a burden on DPH. Ms. Acosta stated that an excel spreadsheet containing a certain employee's information was provided to Mr. Koskinen. Ms. Acosta stated that they do not have records of applicants and that Human Resources may be able to provide the information requested. Ms. Acosta stated that DPH requested an extension

of time to respond and that they would provide the information on a rolling basis, but that it needs to be redacted.

Chair Wolfe stated that Mr. Koskinen needs to narrow the scope of his request due to voluminous nature of work providing information. Chair Wolfe stated that both parties should meet and negotiate a fair period of time to respond with information on successful applicants and that DPH provide their records retention policy.

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

**Action: Moved by Member Martin, seconded by Member Yankee, to find that the Department of Public Health violated Administrative Code (Sunshine Ordinance), Sections 67.25(a)(b)(d), by failing to responded to an Immediate Disclosure Request in a timely and/or complete manner, invoking an incorrect extension of time to respond to the request and failing to provide documents on a rolling basis.**

Public Comment:

None.

**The motion PASSED by the following vote:**

Ayes: 7 - Martin, Yankee, J. Wolf, Tesfai, LaHood, Hyland, B. Wolfe

Noes: 0 - None

Absent: 1 - Chopra

Excused: 1 - Hinze

8. **Reports from Sunshine Ordinance Task Force Committees. (02:52:45 – 03:05:25)**

- Complaints Committee
- Compliance and Amendments Committee
- Education, Outreach and Training Committee
- Rules Committee
- Information Technology Ad Hoc Committee

Member Martin provided a summary of the Complaint Committee's recent actions. Member Yankee provided an update of the recent Information Technology Committee meeting noting that the discussion was about metadata and should it be considered a public record; concerns from City Departments regarding cyber security and the large amount of time necessary to redact information.

Public Comment:

Richard Knee commented on the IT Committee and the issue of metadata and noted Californians Aware as a Sunshine advocacy group.

9. **Sunshine Ordinance Task Force - Chair's Report.** (03:05:27 - 03:21:13)

Chair Wolfe provided a review of the proposed report and letter drafted to Supervisor Aaron Peskin's regarding the amendment to Sunshine Task Force under Proposition B. Member Tesfai stated that she brought this matter to the League of Women's Voters and was given direction to support this action. Member LaHood stated that she consulted with the leadership of the Society of Professional Journalists (SPJ) and their Freedom of Information Committee stating that because Prop B was approved by the voters, SPJ will support the nominating process intended under Prop B.

**Action: Moved by Chair Wolfe, seconded by Member Martin, to approve the letter addressed to Supervisor Peskin regarding an amendment to Sunshine Task Force under Prop B.**

Public Comment:

Richard Knee suggested an additional edit to the letter.

**The motion PASSED by the following vote:**

Ayes: 7 - B. Wolfe, Martin, Yankee, J. Wolf, Tesfai, LaHood, Hyland

Noes: 0 - None

Absent: 1 - Chopra

Excused: 1 - Hinze

Member Yankee stated there was an update to the California Public Records Act signed by the Governor in October regarding AB 1819 allowing photographing of public records.

10. **Administrator's Report, Complaints and Communications.** (03:21:15 – 03:39:32)

- Task Force and Committee hearing schedule
  - IT Ad Hoc Committee will meet on December 17, following the Complaints Committee hearing.
  - SOTF will meet January 21, 2020, as a Committee of the whole; not January 1, 2020.
- Complaints submitted and hearing files created
- Communications to the Task Force
- Summary of pending complaints and other issues

SOTF Administrator presented the report.

Public Comment:

None.

No actions taken.

11. **Announcements, Comments, Questions, and Future Agenda Items by Members of the Sunshine Ordinance Task Force.** (03:39:34 – 03:44:02)

Chair Wolfe requested that other SOTF members get out into their communities and speak about the Sunshine Task Force. Chair Wolfe stated that there are several vacancies on the SOTF which need to be filled.

Public Comment:

None.

12. **ADJOURNMENT**

There being no further business the meeting was adjourned at 7:51 p.m.

**APPROVED: 12/4/19**  
**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.