



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

February 5, 2020 - 4:00 PM

Regular Meeting

Seat 1	Vacant	Seat 7	Rodman Martin
Seat 2	Lila LaHood	Seat 8	Vacant
Seat 3	Josh Wolf - Vice Chair	Seat 9	Chris Hyland
Seat 4	Vacant	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

Meeting Decorum: Any member of the Sunshine Ordinance Task Force may call for decorum due to disorderly conduct of meeting participants. Persons who engage in threatening and/or menacing behavior may be asked to leave.

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

Chair B. Wolfe called the meeting to order at 4:08 PM. On the call of the roll Chair B. Wolfe and Members LaHood, Martin, Hyland, Yankee and Hinze were noted present. Vice Chair J. Wolf and Member Tesfai were noted not present. A quorum was present.

There were no agenda changes.

Public Comment:
None.

2. Approval of minutes from the Special Meeting of the Sunshine Ordinance Task Force of January 21, 2020, meeting. (00:03:30 – 00:08:00)

Member Yankee requested a typographical correction on Page 7 to replace ‘6721 (b)’ with ‘67.21(b)’.

The SOTF request that the draft minutes for January 14, 2020 be scheduled for approval at the next meeting.

Action: Moved by Yankee, seconded by Member Hyland, to approve the January 21, 2020, meeting meetings as amended.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 6 - Hyland, Hinze, LaHood, Martin, Yankee, B. Wolfe

Noes: 0 - None

Absent: 2 - J. Wolf, Tesfai

Vice Chair J. Wolf was noted present at 4:16 PM.

3. **File No. 19091:** Complaint filed by Anonymous against Mayor London Breed, the Office of the Mayor, Hank Heckel, Sean Elsbernd, Andres Power, Andrea Bruss, Marjon Philhour, Jeff Cretan, Sophia Kittler for allegedly violating Administrative Code, (Sunshine Ordinance) Sections 67.21, 67.26, 67.27 and 67.29-7, by failing to respond to a request for public records in a timely and/or complete manner. (00:08:00 – 01:23:00)

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that some attachments to certain documents were not provided until after 5-6 months after the request submitted. Anonymous stated that the Respondent did not provide reason for redactions in a timely manner and disputes the legal authority for withholdings and redactions.

Hank Heckle, Mayor's Office (Respondent), provided a summary of the department's position. Mr. Heckle noted that the request was voluminous but over 1000 records were provided in a timely manner. Mr. Heckle stated that they have been in contact with Anonymous for over 6 months to provide records and workout issues with the requests. Mr. Heckle stated that the majority of the requested records were provided in a timely manner and they continue to work to provide the missing attachments.

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

SOTF Administrator Young requested a clarification as to whom should be named in the complaint as the Respondent.

Action: Moved by Member Martin, seconded by Vice Chair J. Wolf, to find that the Office of the Mayor violated Administrative Code (Sunshine Ordinance), Section 67.21(b), by failing to respond to a request for public records in a timely manner.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 6 - Hyland, Hinze, LaHood, J. Wolf, Martin, B. Wolfe
Noes: 1 - Yankee
Absent: 1 - Tesfai

4. **File No. 19108:** Complaint filed by Anonymous against City Attorney Dennis Herrera, Elizabeth Coolbrith and the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.25, 67.27, 67.29-5, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner, failing to respond to a public records request in a timely manner and/or complete manner. Failing to justify withholding of records and failing to maintain a Proposition G Calendar. (01:29:00 – 02:05:00)

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that on October 8, 2019 a request was submitted for City Attorney Herrera's calendar and what was received appears to be incomplete. Anonymous stated that the locations of the meetings were not listed in the calendar or the generic location of City Hall was listed.

John Cote, Office of the City Attorney (Respondent), provided a summary of the department's position. Mr. Cote noted the many requests were submitted by Anonymous in the same timeframe and described the various requests types. Mr. Cote stated that the request was received on October 8, 2020, a request for extension was requested on October 9, 2020 due to the need to consult with other city departments, and the response was provided on October 15, 2020. Mr. Cote stated that clarification regarding meeting location was provided via email and that the City Attorney does not have other calendars.

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

SOTF Administrator Young requested a clarification as to whom should be named in the complaint as the Respondent.

Action: Moved by Member Yankee, seconded by Member Martin, to find that City Attorney Dennis Herrera violated Administrative Code (Sunshine Ordinance), Section 67.29-5, by failing to note the location of meetings on the calendar and failing to note the issues to be discussed on the calendar.

Public Comment:
None.

The motion PASSED by the following vote:

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

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. (01:23:30 – 01:29:00)

Speakers:

Mark Sullivan commented on his previously filed complaint regarding the Mission Dolores Community Benefit District and stated that the named parties, did not attend the meeting. Mr. Sullivan noted that the information provided was misleading as the most knowledge parties were not present.

Anonymous read quotes from the Supreme Court regarding the Public Records Act into the record.

Chair B. Wolfe request that File Nos. 17079, 17080 and 17081 be call and heard together. (02:05:00 – 02:13:00)

6. **File No. 17079:** Complaint filed by Mary Miles against Mike Sallaberry, San Francisco Municipal Transportation Agency, 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.

Chair B. Wolfe provided a summary of the complaints and of the past action regarding File Nos. 17079, 17080 and 17081. Chair B. Wolfe noted that the representative from the Municipal Transportation Agency was present. Chair B. Wolfe noted that Mary Miles (Petitioner) was not present, had requested continuances on the matters on multiple occasions in the past, and has request an additional continuance.

Action: Moved by Member Martin, seconded by Member LaHood, to close File No. 17079, 17080 and 17081.

Public Comment:

Anonymous noted their agreements with the motion to close the file and further noted the importance of the issue.

The motion PASSED by the following vote:

Ayes: 6 - Hyland, Hinze, LaHood, J. Wolf, Martin, Yankee, B. Wolfe

Noes: 0 - None

Absent: 1 - Tesfai

7. **File No. 17080:** Complaint filed by Mary Miles against Will Tabajonda, San Francisco Municipal Transportation Agency, 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.

See File No. 17079 for actions.

8. **File No. 17081:** Complaint filed by Mary Miles against Luis Montoya, San Francisco Municipal Transportation Agency, 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.

See File No. 17079 for actions.

The SOTF recessed from 6:20 p.m. to 6:30 p.m.

9. **File No. 19076:** Complaint filed by Maria Schulman against Animal Care and Control, for allegedly 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. (02:13:00 – 02:58:00)

Maria Schulman (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Schulman stated that she submitted a request for public records on June 23, 2020 and did not received a response until she followed up with the department on July 9, 2020. Ms. Schulman stated that the Respondent provided the response to the wrong email address which was never provided verbally or via email. Ms. Schulman stated that she has received documents but cannot be sure if anything was missing.

Christine Alberto, Animal Care and Control (Respondent), provided a summary of the department's position. Ms. Alberto stated the employees who responded to the request has retired but did convey that the email address in which the response was transmitted was provided via telephone. Ms. Alberto stated that upon receiving the following request all documents were provided on the same day.

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

The SOTF discussed the matter, noted the disagreements of the parties and opined that the Respondent believes that there was a telephone call in which it was requested that the records be send to a specific email address that is now known to be incorrect. The SOTF noted that the Petitioner stated that phone call was never received and the email address in question was never actively in used or provided.

Action: Moved by Member Hyland, seconded by Member Hinze, to find that Animal Care and Control violated Administrative Code (Sunshine Ordinance), Section 67.21(b), by failing to comply with the request of the Petitioner to transmit the requested records to a specific email address.

Public Comment:

Anonymous suggested that the violation should be of 67.21(b) and not 67.21(e).

The motion FAILED by the following vote:

Ayes: 4 - Hyland, Hinze, LaHood, B. Wolfe
Noes: 3 - J. Wolf, Martin, Yankee
Absent: 1 - Tesfai

There being no additional motion the matter was closed and no violations were found.

Member Hinze was noted absent at 7:15 p.m.

10. **File No. 19114:** Complaint filed by Shane Anderies against Tyler Vu and the Public Defender's Office for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.24, 67.25, 67.26, 67.27 and 67.29 by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner. (02:58:00 – 04:48:00)

Shane Anderies (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Anderies stated that the response was not timely, noted that specific justification was not provided for redactions or withholdings, and noted that calendar entries were not included. Mr. Anderies comments on the Respondents arguments and stated that allegations against public officials are public records.

Tyler Vu, Public Defenders Office (Respondent), provided a summary of the department's position. Mr. Vu cited *Coronado Police Officers Assn. v. Steven J. Carrol, as Public Defender, et al*, and provided an explanation as to why certain information gathered for the purpose of defending individual clients is considered private. Mr. Vu stated that the Public Defender's Office is unique in that it is a public entity but its function is private. Mr. Vu noted that records of misconduct of attorney's is not tracked by the department.

Deputy City Attorney Peder Thoren responded to question from the SOTF and provided a summary of his analysis of the citation and testimony.

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

Action: Moved by Vice Chair J. Wolf, seconded by Member Martin, moved to find that Tyler Vu and the Public Defender's Office violated Administrative Code (Sunshine Ordinance), Section 67.21(b), by failing to respond to a request for public records in a timely manner. In addition, it was moved that the matter be referred to the Compliance and Amendments Committee to determine if the existing records that were withheld are public or private and requested the Respondent to provide additional information and citations to justify their position that records assembled and retained for the purpose of assisting in the defense of existing and future clients is "a private function not relating to the conduct of the public's business" and are therefore not public records subject to disclosure.

Public Comment:

Anonymous stated that additional discussion is needed regard private vs. public records.

Mr. Osly alleged that the statement that disciplinary records are not maintain is false and provided a summary of the Coronado citation.

The motion PASSED by the following vote:

Ayes: 6 - Hyland, LaHood, J. Wolf, Martin, Yankee, B. Wolfe

Noes: 0 - None

Absent: 2 - Hinze, Tesfai

11. **File No. 19123:** Complaint filed by Paul Kniha against the San Francisco Municipal Executive Association for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, by failing to respond to a public records request in a timely and/or complete manner. (04:48:00 – 04:58:37)

Member LaHood provided a summary of the Compliance and Amendments Committee's recommendation that there is no jurisdiction in this matter.

The SOTF noted that the Petitioner was present during the meeting but appears to have departed.

Criss Romero, Municipal Executives Association (MEA) (Respondent) provided a summary of the department's position. Mr. Romero stated that the MEA is not a city agency they are a labor union. Mr. Romero stated that the written response of the MEA, the letter submitted by the Department of Human Resources and the memo written by the SOTF Deputy City Attorney provide the supporting analysis that the MEA is not a city agency and therefore does not fall under the Sunshine Ordinance.

Action: Moved by Vice-Chair J. Wolf, seconded by Member Martin, moved to Continue the Matter to the Call of the Chair and to excuse the Respondent from having to appear before the SOTF a second time.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 6 - Hyland, LaHood, J. Wolf, Martin, Yankee, B. Wolfe

Noes: 0 - None

Absent: 2 - Hinze, Tesfai

12. **Reports from Sunshine Ordinance Task Force Committees.** (04:58:39 – 05:00:13)
January 28, 2020, Compliance and Amendments Committee Minutes.
Chair B. Wolfe asked that corrections to the Compliance and Amendments Committee minutes be made.

Anonymous provided the following written comment.

Please consider at Rules Committee my proposal to amend the rules to allow for Stipulated orders by negotiation. It should reduce burden on City, Task Force, and the public but ensure that violations get tracked and don't disappear.

13. **Sunshine Ordinance Task Force – Chair’s Report.** (05:00:16 – 05:10:16)

Chair B. Wolfe stated that he will be attending a Government Q&A on February 11, 2020, which is an organization that goes around the country holding sessions regarding public disclosure and public meetings.

Chair B. Wolfe asked the SOTF Deputy City Attorney Thoreen to provide comment on the two cases sent out to SOTF members.

Vice-Chair J. Wolf was noted not present at 9:35 PM. No further action was taken and the meeting was adjourned due to lack of quorum.

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

15. **ADJOURNMENT**

There being no further business the meeting was adjourned at 9:35 p.m.

APPROVED: DRAFT
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.