



# SUNSHINE ORDINANCE TASK FORCE CITY AND COUNTY OF SAN FRANCISCO MINUTES - DRAFT

## REGULAR MEETING

March 1, 2023 - 4:00 PM

Seat 1	Dean Schmidt	Seat 7	Matthew Yankee - <b>Chair</b>
Seat 2	Lila LaHood	Seat 8	Chris Hyland
Seat 3	Vacant	Seat 9	Vacant
Seat 4	Jaya Padmanabhan	Seat 10	Thuan Thao Hill
Seat 5	Jennifer Wong - <b>Vice-Chair</b>	Seat 11	Bruce Wolfe
Seat 6	Laura Stein		

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 Yankee called the meeting to order at 4:31 PM. On the call of the roll Chair Yankee and Members Schmidt, Hill, Padmanabhan, Stein and Hyland were noted present. Vice-Chair Wong appeared remotely. Members Wolfe and LaHood were noted absent. A quorum was present.

Vice-Chair Wong noted that she had no approved exemption, was not aware that she needed to appear in person but would appear in-person shortly.

The SOTF discussed possible agenda changes and noted that Complainant Maria Schulman requested that Items 7 and 8 (File Nos. 21128 and 21132), be continued to the call of the of the Chair.

**Action: Moved by Member Hyland, seconded by Member Hill, to continue File Nos. 21128 and 21132 to the Call of the Chair.**

Public Comment:

None.

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

Ayes: 6 – Hyland, Hill, Stein, Schmidt, Padmanabhan, Yankee

Noes: 0 – None

Absent: 3 – Wong, LaHood, Wolfe

**Action: Moved by Chair Yankee, seconded by Member Hyland, to hear Item 3 after Item 10.**

Public Comment:

None.

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

Ayes: 6 - Yankee, Hyland, Hill, Stein, Schmidt, Padmanabhan

Noes: 0 - None

Absent: 3 - Wong, LaHood, Wolfe

2. **Approval of the minutes from the Sunshine Ordinance Task Force Regular Meeting of February 1, 2023.**

The Task Force discussed the minutes.

**Action: Moved by Member Stein, seconded by Member Padmanabhan, to approve the minutes.**

Public Comment:

None.

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

Ayes: 6 - Stein, Padmanabhan, Schmidt, Hyland, Hill, Yankee

Noes: 0 - None

Absent: 3 - Wong, LaHood, Wolfe

3. **Approval of the Order of Determinations:  
File Nos. 20009, 20033, 20036, 20044, 20045, 20046, 20047, 20048, 20051,  
20079, 20117, 21115, 21151 and 22018, 22110 and 22131 From February 1,  
2023, agenda.**

The Task Force discussed the various Orders of Determination. Order 20079 identified the wrong committee members having approved the Order.

**Action: Moved by Chair Yankee, seconded by Member Hill to approve the following Orders of Determination except for 20079.**

Public Comment:

None.

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

Ayes: 8 - Yankee, Hill, Stein, Padmanabhan, Schmidt, Hyland, Wolfe, Wong  
Noes: 0 - None  
Absent: 1 - LaHood

**4. Administrator’s Report, Complaints and Communications.**

Angela Calvillo, Clerk of the Board, presented an update on pending legislation related to remote public comment for members of the public. She stated that she will provide another update to the Task Force once the legislation has been approved by the Board of Supervisors.

The SOTF Administrator presented the Administrator’s Report to the Task Force and responded to questions.

Member Hyland noted that he will be unavailable to attend the March 28, 2023, EOTC meeting.

Public Comment.

None.

No action taken.

Member Wolfe was noted present and participated via remote teleconferencing system at 5:03 PM.

**5. Amendments to the Sunshine Ordinance Task Force's Complaint Process:**

Discussion and potential consideration of proposed amendments to the Complaint Process document regarding complaints filed which name a single member of the SOTF, a committee of the SOTF, or the full SOTF.

**Action: Moved by Member Hyland, seconded by Member Hill to continue Item 5 until after item 3 which is after item 10.**

Public Comment:

None.

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

Ayes: 7 - Hyland, Hill, Wolfe, Schmidt, Stein, Padmanabhan, Yankee  
Noes: 0 - None  
Absent: 2 - Wong, LaHood

The SOTF members discussed the proposed changes to the Complaint Process.

**Action: Moved by Vice-Chair Wong, seconded by Member Hill, to approve the changes inclusive of edits discussed earlier and change the wording as follows:**

Member Stein noted that the SOTF will neither hold a formal hearing and moved to suggest the following in the last sentence “however, the SOTF will neither hold a formal hearing nor issue a formal determination on the complaint.”

Member Wolfe suggested that Administrative Code, Sunshine Ordinance 67.35(d) noted in the Complaint Process document not include subsection (d).

Public Comment:

Wynship Hillier provided suggestions to amend the Complaint Procedures.

Vice-Chair Wong revised their motion.

**Action: Moved by Vice-Chair Wong, seconded by Member Hill to approve the changes inclusive of the edits discussed earlier and change the wording in item 5(b) to “an informal discussion which may lead to a correction.”**

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

Ayes: 8 - Wong, Hill, Hyland, Wolfe, Schmidt, Stein, Padmanabhan, Yankee

Noes: 0 - None

Absent: 1 - LaHood

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.*

Wynship Hillier provided the following written public comment:

"Mr. Hillier said that SOTF's bylaws and complaint procedure were in conflict with its governing law. The sixth sentence of \*S.F. Admin. Code\* § 67.30(c) requires that the Task Force make a referral for enforcement whenever it finds a violation. However, the bylaws and complaint procedure insert an additional decisional step before a referral to enforcement may be made, allowing that referral might not occur after a violation had been found. Mr. Hillier quoted from \*Lewis v. City of Sacramento\*, 93 Cal. App. 4th 107, \*119 (2001), \*Lux v. Haggin\*, 69 Cal. 255, \*299 (1886), and \*Cal. Code Civ. Proc.\* § 1858 in support of the proposition that the Task Force may not deviate from the plain words of the law, even for a compelling policy reason."

7. **File No. 21128:** Complaint filed by Maria Schulman against Mayara Ruski, Augusto Sa, and the San Francisco Public Utilities Commission (SFPUC) for allegedly violating

Administrative Code (Sunshine Ordinance), Section(s) 67.21, 67.26(b) and 67.27, and California Public Records Action, Section 6253(d), by failing to respond to a request for public records in a timely and/or complete manner and failing to provide written justification for withholdings.

See Item 1 for the disposition of this matter.

8. **File No. 21132:** Complaint filed by Maria Schulman against Sherrie Valdez and the Department of Public Health (DPH) for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, 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 matter.

9. **File No. 19140:** Complaint filed by Stephen Malloy against the Department of Human Resources for violating Administrative Code (Sunshine Ordinance), Sections 67.21(e) for not sending an authorized representative to the hearing; 67.25, by failing to respond to a request for public records in a timely and/or complete manner; 67.24(h) for deliberative process exemption; 67.26 for keeping withholding to a minimum and 67.27 not providing a footnote and key legal citations.

The Task Force discussed matter 19140, including the referral to and response from the Ethics Commission.

**Action: Moved by Member Wolfe, seconded by Member Schmidt to close the file.**

Public Comment:

None.

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

Ayes: 7 - Wolfe, Schmidt, Hyland, Hill, Stein, Padmanabhan, Yankee

Noes: 0 - None

Absent: 2 - Wong, LaHood

Vice-Chair Wong was noted present at 5:33 PM.

10. **File No. 21146:** Complaint filed by Sergei Severinov against Sara Maunder and the Department of Police Accountability for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.25, by failing to respond to an Immediate Disclosure Request for public records in a timely and/or complete manner.

Sergei Severinov (Petitioner) provided a summary of the complaint and requested the Task Force find a violation. Mr. Severinov stated that his complaint is based on Administrative Code 67.21(c) and that the Department of Police Accountability (DPA) refused to disclose records based on his belief that DPA is a racist department. Mr. Severinov further stated that DPA will not disclose records to certain people due to a law that allows DPA to classify which records can be disclosed and that this process is used to punish citizens DPA doesn't like.

Sara Maunder (Department of Police Accountability) (Respondent), provided a summary of the department's position. Ms. Maunder stated that the position of the DPA is that they have provided all responsive records and the remainder of the documents are contained in an investigation file.

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

**Action: Moved by Member Schmidt, seconded by Vice-Chair Wong, to find no violation.**

Public Comment:

None.

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

Ayes: 8 - Schmidt, Wong, Wolfe, Hyland, Hill, Stein, Padmanabhan, Yankee

Noes: 0 - None

Absent: 1 - LaHood

11. **CONSENT AGENDA** - The Sunshine Ordinance Task Force shall review File No. 20124 to affirm that the Sunshine Ordinance Task Force has jurisdiction; that the noted violations of the Sunshine Ordinance, Brown Act, or California Public Records Act occurred; 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 March 1, 2023, Sunshine Task Force meeting but may attend to provide testimony during the public comment period for this item related to the above listed determinations.

**File No. 20124:** Complaint filed by Stephen Bejanski against Kevin Guy and the Office of Short-Term Rentals for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.24 for failing to provide public information; 67.25 for failing to respond to an Immediate Disclosure Request in a timely manner, 67.26 for failing to keep withholding to a minimum; 67.27 for failing to justify withholding and 67.29 and failing to provide an index of records.

The Task Force discussed the Consent Agenda and moved to approve the actions suggested by the Complaint Committee.

**Action: Moved by Member Wolfe, seconded by Member Padmanabhan to approve the actions suggested by the Complaint Committee.**

Public Comment:

Stiliyan Bezhanski stated that the purpose of the SOTF is to have a better way for citizens to collect records which often defeats the purpose of hearing matters.

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

Ayes: 8 - Wolfe, Padmanabhan, Schmidt, Wong, Hyland, Hill, Stein, Yankee  
Noes: 0 - None  
Absent: 1 - LaHood

12. **Annual Report:** Updates and discussion regarding the Annual Report of the Sunshine Ordinance Task Force.

The SOTF discussed the Annual Report process. Member Stein stated that they were looking for one paragraph descriptions from individual SOTF members. Descriptions endorsed by the entire Task Force will be included in the body of the report, and those descriptions not endorsed will be included as an addendum at the end of the report. Member Stein further stated that that the plan was to include those descriptions and any additional data collected. Member Stein stated that the plan is to provide baseline data or have a strong draft of the report online in a few weeks. Member Stein also provided an update on an email survey sent to City departments regarding sunshine requests.

Public Comment:

Wynship Hillier provided the following written public comment:

"Mr. Hillier stated that the phrase in the last bullet, '. . . and to further inform the complainants that they may submit their complaints for an informal discussion and potential corrective action; however, no formal Order of Determination . . . ' suggested an incipient violation of the second sentence of *S.F. Admin. Code* § 67.7(a), 'Agendas shall specify, for each item of business the proposed action or a statement the item is for discussion only. . . .' To correct this, he suggested striking 'an informal' before 'discussion', and replacing 'and potential corrective action' with 'only'."

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

Member Wolfe announced that he would not be seeking a new term on the Sunshine Ordinance Task Force but would continue to serve as a holdover until a replacement can

be found since the Task Force must include an individual with a physical disability in order to meet.

Public Comment:

Wynship Hillier provided the following written public comment:

"Mr. Hillier stated that Mr. Wolfe's announcement of the end of his tenure during this item violated *S.F. Admin. Code* § 67.7(a) because the item on the agenda did not include any specific information about the announcement. He said that he might have prepared a comment, or others might be at the meeting, if notice had been provided. The Sunshine Ordinance does not contain exemptions from the notice requirement for brief announcements, nor brief reports on his or her own activities, as the Brown Act does. Mr. Wolfe presumably knew about his announcement in time to submit it for specific notice on the agenda. The legislature has determined that such short items should be burdened with requirements for specific notice and dedicated opportunity for public address on the agenda or else they should not be given at all, and you should respect the balance they have struck."

14. **ADJOURNMENT**

There being no further business the meeting was adjourned at 6:50 pm.

**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.