



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

REGULAR MEETING

April 5, 2023 - 4:00 PM

Seat 1	Dean Schmidt	Seat 7	Matthew Yankee - Chair
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 - Vice-Chair	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 4:07 PM. On the call of the roll Chair Yankee, Vice-Chair Wong, and Members LaHood, Hill, Padmanabhan, Stein, Hyland and Wolfe were noted present. Member Schmidt was noted absent. A quorum was present.

Action: Moved by Chair Yankee, seconded by Member Wolfe to hear item 12 after item 8.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 1 - Schmidt

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

The Task Force discussed the minutes.

Action: Moved by Vice-Chair Wong, seconded by Member Hyland, to approve the minutes as amended.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 1 - Schmidt

3. Approval of the Order of Determinations:

File No. 19143 - Anonymous (ARE) v. Sheriff

File No. 19144 - Anonymous (ARE) v. Dept. of Police Accountability

File No. 20056 - Anonymous (PAS) v. City Librarian

File No. 20059 - Anonymous (ARE) v. Dept. of Public Health

File No. 20079 - Shane K. Anderies v. San Francisco District Attorney

File No. 20100 - Wynship Hillier v. Behavioral Health Commission

File No. 20124 - Stiliyan Bejanski v. Office of Short Terms Rentals

File No. 21069 - Mark Sullivan v. Public Works

File No. 21095 - Wynship Hillier v. Behavioral Health Commission

File No. 21146 - Michael Petrelis v. Supervisor Gordon Mar

File No. 21165 - Peter Warfield and Library Users Assn. v.

City Librarian and the Public Library

Action: Moved by Chair Yankee, seconded by Member Wolfe to approve the attached Orders of Determination except for 20079 and 21165, and including clerical edits.

Public Comment:

Wynship Hillier stated that he had reviewed the orders of determination that applied to him, that he approved of them, and that he would not have reviewed them if the names had not appeared on the agenda.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 1 - Schmidt

4. Updates regarding Remote Public Comment and the Legislative Management System. The Clerk of the Board will present updates to the Task Force regarding Remote Public Comment and the Legislative Management System.

Clerk of the Board Angela Calvillo and Chief Legislative Deputy Alisa Somera provided an update from the Board of Supervisors meeting of March 15, 2023 regarding Rule 1.1.3 (in person remote comment), remote hearings and the status of the Legislative Management System.

Public Comment:

David Pilpel expressed support for replacing the existing system and noted all benefits at the Board level.

Wynship Hillier stated that he liked legistar and wished to know whether legistar would be kept as a legacy system and whether its contents would be ported into the new system.

No action taken.

Member Schmidt was noted present at 4:48 PM

5. **Administrator's Report, Complaints and Communications.**

The Task Force Administrator presented the Administrator's report to the Sunshine Task Force.

No action taken.

Public Comment:

Wynship Hillier stated that a discussion of expected absences of members and the statuses of new appointments was not on the agenda for this item.

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. ***Public comment shall be taken at 5:00 p.m. or as soon thereafter as possible.***

Wynship Hillier stated that the Task Force has not been compliant with its governing law, specifically the sixth sentence of *S.F. Admin. Code s. 67.30(c)*, in that it did not refer complaints to municipal offices with enforcement power whenever it found a violation of the Sunshine Ordinance, Brown Act, or Public Records Act.

David Pilpel thanked Member Stein for her hard work on the Annual Report.

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

7. **File No. 22001:** Complaint filed by Andrew Sisneros against Caroline Celaya and the San Francisco Municipal Transportation Agency (SFMTA) for allegedly violating Administrator Code (Sunshine Ordinance), Sections 67.1, 67.8, 67.9, 67.21, 67.25 and

67.26, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Andrew Sisneros (Petitioner) provided a summary of the complaint and requested the Task Force find a violation. Mr. Sisneros stated that requested emails were provided. Mr. Sisneros stated that his request did not compromise any labor issues and that he had been provided these records in the past. Mr. Sisneros stated that he has not been involved in labor proceedings since April 21, 2022, and does not sit in on labor proceedings.

David Garcia (San Francisco Municipal Transportation Agency (SFMTA)) (Respondent), provided a summary of the department's position. Mr. Garcia stated that the SFMTA asserts an exemption under Evidence Code 1040 because disclosing the information requested would cause the release of strategy discussions that are confidential under the Labor Relations Code. Mr. Garcia stated that disclosing this information would reveal executive and future collective bargaining discussion that would take place in June 2023. Mr. Garcia also said Mr. Sisneros is referenced in the communications and that they reflect the thoughts of the director, and under Evidence Code 1040 the collective bargaining discussions should maintain their confidentiality.

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

Action: Moved by Member Hill, seconded by Member Padmanabhan, to find that the SFMTA violated Administrative Code (Sunshine Ordinance), Section(s) 67.21(c), a custodian of a public record shall assist a requester in identifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within seven days following receipt of a request, a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request under (b). A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person; and Administrative Code 67.26, No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure under express provisions of the California Public Records Act or of some other statute. Information that is exempt from disclosure shall be masked, deleted or otherwise segregated in order that the nonexempt portion of a requested record may be released, and keyed by footnote or other clear reference to the appropriate justification for withholding required by Section 67.27 of this Article. This work shall be done personally by the attorney or other staff member conducting the exemption review. The work of responding to a public-records request and preparing documents for disclosure shall be considered part of the regular work duties of any City employee, and no fee shall be charged to the requester to cover the personnel costs of responding to a records request and close the file.

Public Comment:

Mr. Hillier noted that the copy of the Public Records Act in the binder on the table at the meeting was dated 2012 and yellowed with age, and that the law had been reorganized recently, changing all the section numbers, etc. He then quoted the previous *Cal. Gov't Code* 6254(k), which explicitly cited matters privileged under the Evidence Code as also exempt from disclosure to the public under the Act.

The motion PASSED by the following vote:

Ayes: 9 - Hill, Padmanabhan, Yankee, Wolfe, Wong, Hyland, Stein, LaHood, Schmidt
Noes: 0 - None

8. **File No. 22006:** Complaint filed by Andrew White against the Department of Police Accountability (DPA) for allegedly violating Administrator Code (Sunshine Ordinance), Sections 67.1, 67.21, 67.24(d), by failing to respond to a public records request in a timely and/or complete manner.

Andrew White (Petitioner) provided a summary of the complaint and requested the Task Force find a violation. Mr. White then asked that his case be withdrawn.

Sara Maunder, (Department of Police Accountability) (Respondent), was present but did not provide a statement due to the complaint being withdrawn.

Public Comment:

None.

No action was taken due to the complaint being withdrawn by the petitioner.

The SOTF recessed at 7:05 PM and reconvened at 7:14 PM.

9. **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.

Maria Schulman (Petitioner) provided a summary of the complaint and requested the Task Force find a violation. Ms. Schulman stated that the records were not keyed by justification for redaction and that eventually the SFPUC provided records that were entirely blacked out documents; there is no telephone number or address. Ms. Schulman stated that on September 8, 2022, she received other records that were entirely blacked out and the respondent admitted that she withheld that record. Ms. Schulman stated that she does not believe that Ms. Augusto Sa had advice from the SFPUC City Attorney.

Mayara Ruski Augusto Sa (San Francisco Public Utilities Commission (SFPUC) (Respondent), provided a summary of the department's position. Ms. Augusto Sa stated that this request was received during the Mayor's Order Suspending records requests in August 2021 and that the response was due over the Labor Day Holiday and released September 8, 2022. The records request was received through Next Request and each time a request was received the scope of utility it covers the name, address telephone number an information of the customer was redacted. Ms. Augusto Sa stated this was a wastewater complaint and redaction of anything identifying the customer was redacted.

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

Action: Moved by Vice-Chair Wong, seconded by Member Wolfe, to find that the San Francisco Public Utilities Commission violated Administrative Code (Sunshine Ordinance) Section 67.26, by failing to key by footnote, or other clear reference and not keeping withholding to a minimum; and order that the SFPUC key their redactions and/or un-redact informant that does not fall under their justifications for redactions; and forward this case to the Compliance and Amendments Committee for monitoring

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Wong, Wolfe, Hill, Padmanabhan, Yankee, Hyland, Stein, LaHood, Schmidt

Noes: 0 - None

Action: Moved by Member Wolfe, seconded by Member LaHood, to require under Administrative Code, Section 67.26, that the attorney identify themselves by signing the key for the redactions.

Member LaHood withdrew their second.

The motion FAILED due to the lack of a second.

10. **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.

Maria Schulman (Petitioner) provided a summary of the complaint and requested the Task Force find a violation. Ms. Schulman stated that the request was made in 2021, the issue was timeliness, and she believes the real reason was because the respondents would

not release the records until the investigation had closed. Ms. Schulman filed a Sunshine complaint and only after that did they give her the records.

Adaku Ude (Department of Public Health (DPH)) (Respondent), provided a summary of the department's position. Ms. Ude stated that Ms. Schulman is correct. Once the Sunshine complaint was brought to their attention, records were released on the 14th day according to NextRequest. Ms. Ude appreciated that Mr. Schulman brought this item to her attention.

Action: Moved by Member Stein, seconded by Chair Yankee that the Department of Public Health violated California Public Records Act, Section(s) 6253(b), by failing to make the records available in a timely and complete manner.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Stein, Yankee, LaHood, Hill, Wong, Wolfe, Padmanabhan, Hyland,
Schmidt

Noes: 0 - None

11. **CONSENT AGENDA** - The Sunshine Ordinance Task Force shall review File No. 22130 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 April 5, 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. 22130 Complaint filed by Michael Petrelis against Supervisor Catherine Stefani, Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.29-5, by failing to respond to a request for Proposition G Calendar in a timely and/or complete manner.

Action: Moved by Member Stein, seconded by Member Hill, to adopt the consent agenda.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Stein, Hill, LaHood, Wong, Wolfe, Padmanabhan, Yankee, Hyland,
Schmidt

Noes: 0 - None

12. **File No. 23039: Complaint naming the Sunshine Ordinance Task Force and/or its Committees as Respondent.**

Mr. Hillier summarized his complaint. He stated there needs to be a proposed action on the agenda and that it needs to be moved at the meeting.

Member Wolfe noted that to follow Hillier’s suggestion, each agenda would have one potential action to find a violation, one to dismiss or close without prejudice and one to find no violation, and that if something else is discovered, the Task Force would have to continue the item and then re-adjudicate the complaint.

Public Comment:

None.

No action taken.

13. **Approval of 2022 SOTF Annual Report.** The Task Force will consider approval of its 2022 Annual Report, and individual practical and policy recommendations to include.

Member Stein provided an overview of the Annual Report and the contributions made by everyone on the Task Force.

Action: Moved by Member Stein, seconded by Member Padmanabhan to approve the report as a whole and that it is ready to send out as of April 10 pending the submission of Member Wolfe’s contribution.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Stein, Padmanabhan, LaHood, Hill, Wong, Wolfe, Yankee, Hyland, Schmidt

Noes: 0 - None

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

The Task Force discussed adding the renumbering of the California Public Records Act and its effect on the Sunshine Ordinance to a future agenda.

Public Comment:

None.

No actions taken.

15. **ADJOURNMENT.**

There being no further business the meeting was unanimously adjourned at 9:51 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.