



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

Special Meeting

July 25, 2023 - 4:30 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	Vacant	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

Members of the public may participate by phone or may submit their comments by email to: sof@sfgov.org; all comments received will be made a part of the official record. Sunshine Ordinance Task Force agendas and their associated documents are available at <https://sfbos.org/sunshine>.

Meeting Decorum: Any member of the Sunshine Ordinance Task Force may call for decorum due to the 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 Yankee called the meeting to order at 4:36 PM.

On the call of the roll Chair Yankee, Vice-Chair Wong; and Members Schmidt, Stein, Hill and Wolfe were noted present. Vice-Chair Wong and Member Wolfe appeared remotely. Members LaHood and Hyland were noted absent. A quorum was present.

Member LaHood was noted present at 4:37 p.m.

There were no agenda changes.

Public Comment:

Peter Warfield, Executive Director Library Users Association, libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, California, 94117-0544, requested information on the posting of the July 25, 2023 agenda and how the public was informed of the special meeting.

2. **Approval of the minutes from the Sunshine Ordinance Task Force Regular Meeting of June 7, 2023.**

The Task Force discussed the minutes and suggested edits.

Action: Moved by Member Wolfe, seconded by Vice-Chair Wong, to approve the June 7, 2023, minutes as amended.

Public Comment:

Speaker requested information regarding the minutes.

Peter Warfield, Library Users Association, stated that minutes are incomprehensible and do not accurately reflect the meeting.

The motion PASSED by the following vote:

Aye: 7 - LaHood, Stein, Wolfe, Schmidt, Wong, Yankee, Hill

Noes: 0 - None

Absent: 1 - Hyland

3. **Approval of the Orders of Determination:**

File No. 22020: Sergei Severinov against the Police Department

File No. 22022: Stiliyan Bejanski against the Office of the Treasurer and Tax Collector

File No. 22023: Lance Carnes against Public Works

File No. 22125: HVSafe against Rich Hillis and the Planning Commission

The Task Force discussed the minutes and made the following amendments:

File No. 22020 – correct the spelling of Member Wolfe’s name (missing ‘e’ at the end of Wolfe)

File No. 22022 – correct action to state ‘find no violation’.

Action: Moved by Member Hill, seconded by Member LaHood, to approve the Orders of Determination for File Nos. 22020, 22022, 22023, and 22125 as amended.

Public Comment:

Peter Warfield, Library Users Association, commented on the page numbers system of the packet and proposed amendments by the SOTF on the Orders of Determination and the raising hand system in Webex.

The motion PASSED by the following vote:

Aye: 7 - LaHood, Stein, Wolfe, Schmidt, Wong, Yankee, Hill

Noes: 0 - None

Absent: 1 - Hyland

4. **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.***

Speakers:

Peter Warfield, Library Users Association, stated that the SOTF needs to be clear in their actions during public hearings so remote participants can know what is occurring.

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

5. **CONSENT AGENDA** - The Sunshine Ordinance Task Force shall review **File Nos. 22132, 22133 and 23033** to affirm the Committee's findings regarding the Sunshine Ordinance Task Force's jurisdiction; violations of the Sunshine Ordinance, Brown Act, or California Public Records Act; 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 July 25, 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.

Item 5A. File No. 22132 Complaint filed by Michael Petrelis against Supervisor Ahsha Safai, 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.

Item 5B. File No. 22133 Complaint filed by Michael Petrelis against Supervisor Dean Preston, 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.

Item 5C. File No. 23033: Complaint filed by Andrew J. White against the Department Police Accountability 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 and 67.7(a) by failing to notice the hearing 72 hours in advance of the regular meeting, a policy body shall post an agenda containing a meaningful description of each item of business and 67.7(b) by failing to provide meaningful descriptions that are sufficiently clear and specific to alert a person of average intelligence.

Public Comment:

Andrew White commented on File No. 23033 and provided additional information on his interactions with the Department of Police Accountability and the nature of the complaint.

Member Wolfe request Item No. 5c be severed from the Consent Agenda.

Action: Moved by Member Wolfe, seconded by Member Stein, to approve Consent Agenda Items 5A and 5B.

Public Comment:

Michael Petrelis requested that both his complaints move forward.

The motion PASSED by the following vote:

Aye: 7 - LaHood, Stein, Wolfe, Schmidt, Wong, Yankee, Hill
Noes: 0 - None
Absent: 1 - Hyland

Action: Moved by Member Schmidt, seconded by Member Wolfe, to continue Item 5c to a future SOTF meeting for a full hearing. In addition, it was requested that the 3 handwritten pages not be included in future agendas and that the audio link from the committee meeting be sent to all members of the SOTF.

Public Comment:

Mr. White provided comments on the motion and asked questions.

The motion PASSED by the following vote:

Aye: 5 - LaHood, Stein, Wolfe, Schmidt, Hill
Noes: 2 - Yankee, Wong
Absent: 1 - Hyland
(Chair Yankee, with the advice of Deputy City Attorney Marc Price Wolf, determined that the motion was purely procedural and only required a majority vote of the members present to approve the motion.)

The meeting recessed at 6:11 p.m. and reconvened at 6:18 p.m.

6. **File No. 22082:** Complaint filed by Michael Petrelis against the Department of Public Health for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond for public records in a timely and/or complete manner. *(On August 16, 2022, the Complaint Committee moved to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing with no recommendation.)*

Michael Petrelis (Petitioner) provided a summary of the complaint and requested the Task Force find a violation. Mr. Petrelis stated that he should not be required to use NextRequest and the department should provide documents in the format he requested.

Victor Lim (Department of Public Health) (Respondent), provided a summary of the department's position. Mr. Lim noted that there is no requirement for the use of NextRequest but it is used by staff as a portal and to track public records request. Mr. Lim provided a timeline of processing of the public records request.

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

Action: Moved by Member Schmidt, seconded by Member Wolfe, to find that the Department of Public Health did not violate Administrative Code (Sunshine Ordinance), Section 67.21.

Public Comment:

Peter Warfield, Library Users Association, provided samples of his bad experience with Next Request.

The motion PASSED by the following vote:

Aye: 7 - LaHood, Stein, Wolfe, Schmidt, Wong, Yankee, Hill
Noes: 0 - None
Absent: 1 - Hyland

7. **File No. 22080:** Complaint filed by Mukund Rathi and the Electronic Frontier Foundation against Lieutenant Lynn Reilly and the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21(b)(e), 67.25(a)(b)(d), and 67.34, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

(On July 26, 2022, the Education, Outreach and Training Committee moved to find that the SOTF has jurisdiction, that the records are public and referred the matter to the SOTF with recommended violations of Administrative Code, (Sunshine Ordinance) Section(s) 67.21(b) by failing to identify components that are within our jurisdiction; 67.25(a) and (d) for tardiness in responding to an Immediate Disclosure Request; and 67.21(e) and requests that a more knowledgeable Police Department representative with an account that can access the repository data persons within the Automatic License Plate Reader (ALPR) system, that the administrator of that system, and anyone compiling the ALPR report be present for the hearing.)

Dave Maass, Electronic Frontier Foundation (Petitioner) provided a summary of the complaint and requested the Task Force find a violation. Mr. Maass provided details on the license plate reader system and requirements. Mr. Maass referenced an annual report with required information disclosure. Mr. Maass stated that the requested information still has not be completely provided.

Lt. William Toomey (Police Department) (Respondent), provided a summary of the department's position. Lt. Toomey stated that the last missing document was still awaiting review and approval by the Committee on Information Technology (COIT) in regards to how to provide information and templates. Lt. Toomey stated that that the Petitioner was contacted to let them know that the missing annual report was pending. Lt Toomey stated that there was a delay in providing the request document and the department didn't realize there was a lack of a response until the complaint came up. Lt. Toomey stated he was not aware of the request that an expert on license plate readers was request to attend the meeting.

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

Action: Moved by Chair Yankee, seconded by Member Wolfe, to find that the Police Department violated Administrative Code (Sunshine Ordinance), Section(s) 67.25(a) by failing to respond to an Immediate Disclosure Request by the end of the next business day and failing to state that the annual report does not exist. The SOTF orders the Police Department to provide the requested data sets not yet provided within 5 business days or provide a statement that the requested records do not exist. The SOTF referred the matter to the Compliance and Amendments Committee for monitoring.

Public Comment:

None.

The motion PASSED by the following vote:

Aye: 7 - LaHood, Stein, Wolfe, Schmidt, Wong, Yankee, Hill

Noes: 0 - None

Absent: 1 - Hyland

Member LaHood requested recusal from Items 8 and 9 due to pending complaints by the Petitioner against herself.

The meeting was recessed at 7:45 p.m. and reconvened at 7:52 p.m.

Upon advice from Deputy City Attorney Marc Price Wolf, Member LaHood recused herself from Item No. 8.

8. **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 Act 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.

(On April 5, 2023 the SOTF moved to find a violation of Administrative Code (Sunshine Ordinance) Section(s) 67.26 for not keying by footnote, or other clear reference, and not keeping withholding to a minimum; order that the PUC key their redactions and/or unredact information that does not fall under their justifications for redactions; and to send this case to the Compliance and Amendments Committee for monitoring. Order of Determination issued.)

Maria Schulman (Petitioner) provided a summary of the complaint and requested the Task Force enforce its prior order. Ms. Schulman stated that the SFPUC did not respond to Task Force's order within the required 5 days. Ms. Schulman stated that the provided documents were excessively redacted using "protecting the informers identity" as justification. Ms. Schulman stated that withholding records does not protect informers but hides allegations.

Mayara Sa (SFPUC) (Respondent), provided a summary of the department's position. Ms. Sa stated that they reviewed the documents a second time to ensure that the redactions were correct made adjustments to some of the redactions. Ms. Sa stated that no additional review of the records is pending.

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

Action: Moved by Chair Yankee, seconded by Member Schmidt, to find that the San Francisco Public Utilities Commission violated Administrative Code (Sunshine Ordinance), Section(s) 67.21(e) by failing to comply with the SOTF order within 5 business days and orders that the SFPUC provide an unredacted document regarding San Francisco per capita average of water usage (page 892 of the agenda packet) to the Petitioner and the SOTF Administrator, and authorized Chair Yankee to review the requested document, verify compliance with the request of the SOTF, and close the complaint.

Member Wolfe requested an amendment to the motion to add a violation of Section 67.26 for incorrect redactions (failing to key each redaction). The Motion failed due to the lack of a second.

Public Comment:

Xavier Black agreed with the statements and allegations of the Petitioner. Mr. Black stated as soon as documents are transmitted they become public documents.

The motion PASSED by the following vote:

Aye: 6 - Stein, Wolfe, Schmidt, Wong, Yankee, Hill

Noes: 0 - None

Absent: 2 - Hyland, LaHood

Member LaHood returned to the meeting at 8:50 p.m.

9. **File No. 21150:** Complaint filed by Maria Schulman against Justine Alberto and the Animal Care and Control Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to public records request in a timely and/or complete manner.

(On November 15, 2022, the Complaint Committee moved to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing.)

Maria Schulman (Petitioner) provided a summary of the complaint and requested the Task Force find a violation. Ms. Schulman stated that the Respondent provided records but did not disclose if any records were withheld. Ms. Schulman stated that the Respondent incorrectly cited attorney client privilege and noted that Office of the City Attorney was not consulted prior to citing attorney client privilege.

Justine Alberto (Animal Care and Control) (Respondent), provided a summary of the department's position. Ms. Alberto noted that the October 28th request for records was not treated as an Immediate disclosure request due to the nature of the request. Ms. Alberto noted that the City Attorney's Office was consulted in regard to attorney client privilege and provided a timeline of the events. Ms. Alberto stated that they made a good faith effort to provide all documents in a timely manner and have already provided over 10,000 pages of documents. Ms. Alberto noted that all redactions were for personal privacy purposes and that microchip numbers are consider private information.

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

Action: Moved by Member Wolfe, seconded by Member Stein, to find that Animal Care and Control violated Administrative Code (Sunshine Ordinance), Section(s) 67.26 by failing to properly key redactions and 67.27(a) by failing to provide valid justifications for withholdings.

Public Comment:

None.

Action: Moved by Chair Yankee, seconded by Member Schmidt, to divide the question regarding violations of 67.26 and 67.27(a).

Public Comment:

None.

The motion PASSED by the following vote:

Aye: 5 - LaHood, Stein, Schmidt, Yankee, Hill

Noes: 2 - Wong, Wolfe

Absent: 1 - Hyland

(It was determined that the motion was purely procedural and only required a majority vote of the members present to approve the motion.)

Action: Moved by Member Wolfe, seconded by Member Stein, to find that the Animal Care and Control Department violated Administrative Code (Sunshine Ordinance), Section(s) 67.26 by failing to properly key redactions.

The motion PASSED by the following vote:

Aye: 6 - LaHood, Stein, Wolfe, Schmidt, Wong, Hill

Noes: 1 - Yankee

Absent: 1 - Hyland

Action: Moved by Member Wolfe, seconded by Member Stein, to find that the Animal Care and Control Department violated Administrative Code (Sunshine Ordinance), Section(s) 67.27(a) by failing to provide valid justifications for withholdings.

The motion PASSED by the following vote:

Aye: 7 - LaHood, Stein, Wolfe, Schmidt, Wong, Yankee, Hill

Noes: 0 - None

Absent: 1 - Hyland

Member Wolfe was noted absent for the remainder of the meeting at 9:40 p.m.

The meeting was recessed at 9:40 p.m. and reconvened at 9:55 p.m.

10. **File No. 22035:** Complaint filed by Gina McDonald against the Department of Emergency Management 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.

(On May 24, 2022, the Education, Outreach and Training Committee moved, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing.)

The Petitioner was not present and did not inform the SOTF of their absence.

The Respondent was present at the meeting (via Webex).

Action: Moved by Chair Yankee, seconded by Member Stein, to close the file without prejudice under SOTF Complaint Procedures, Section 7B.

Public Comment:

None.

The motion PASSED by the following vote:

Aye: 6 - LaHood, Stein, Schmidt, Wong, Yankee, Hill

Noes: 0 - None

Absent: 2 - Hyland, Wolfe

11. **File No. 22052:** Complaint filed by Lee Heidhues against Megan Bourne and the Fine Arts Museum for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

(On May 24, 2022, the Education, Outreach and Training Committee moved to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing. The Chair also requested that files 18049 and 18083, be included in the package to better inform the SOTF of precedent, and discussions of 12L.)

Lee Heidhues (Petitioner) provided a summary of the complaint and requested the Task Force find a violation and read a statement into the record.

Paria Dea (Fine Arts Museum) (Respondent), provided a summary of the department's position. Ms. Dea stated that she is not an employee of the City and County of San Francisco but was authorized to represent them in the complaint. Ms. Dea stated that the request for records was not routine and an extension of time was requested. Ms. Dea stated that all documents were provided prior to the deadline. Ms. Dea stated that the

corporation of the Fine Arts Museums of San Francisco (COFAM) is a private company, is not a contractor, does not receive funds from the City and County of San Francisco, and therefore is not subject to the Sunshine Ordinance.

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

Action: Moved by Chair Yankee, seconded by Vice-Chair Wong, that the Fine Arts Museum violated Administrative Code (Sunshine Ordinance), Section(s), 67.21(b) by failing to disclose public records in a timely and complete manner. The SOTF further issues an order that the Fine Arts Museum must request that representatives of COFAM review the document request in light of the obligations of the Epstein v. Hollywood Entertainment, District 2 and Community Youth Athletic Center v. City of National City cases to determine whether it possesses any documents that need to be produced as the law requires.

Public Comment:

None.

The motion PASSED by the following vote:

Aye: 6 - LaHood, Stein, Schmidt, Wong, Yankee, Hill

Noes: 0 - None

Absent: 2 - Hyland, Wolfe

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

Chair Yankee provide a summary of the cancelled and future special SOTF meetings.

August 2nd meeting cancelled; and

August 22nd at 6:00 p.m. special meeting

Chair Yankee noted the appointment of new members to seats 3 and 9.

The SOTF request a summary of all August meetings be distributed to all members and posted as needed.

Public Comment:

Peter Warfield, Library Users Association, noted that he attempted to raise his hand on the previous item and was not recognized. Mr. Warfield requested information regarding how he is identified on the Webex program and requested information regarding how the Task Force determines dates and times for meetings.

13. **ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:58 p.m.

APPROVED: August 22, 2023
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.