



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

August 7, 2019 - 4:00 PM

Regular Meeting

Seat 1	Matthew Cate	Seat 7	Rodman Martin
Seat 2	Lila LaHood	Seat 8	Frank Cannata
Seat 3	Josh Wolf - Vice Chair	Seat 9	Chris Hyland
Seat 4	Rishi Chopra	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

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

Chair B. Wolfe called the meeting to order at 4:01 p.m. On the call of the roll Chair B. Wolfe and Members Cate, Martin, Cannata, Yankee and Hinze were noted present. Vice Chair J. Wolf and Members Chopra, LaHood, Tesfai and Hyland were noted not present. Member Hyland was excused from the meeting. A quorum was present.

Member LaHood was noted present at 4:05 p.m.

Member Tesfai was noted present at 4:10 p.m.

Vice-Chair J. Wolf was note present at 4:13 p.m.

2. Approval of minutes from the Sunshine Ordinance Task Force July 16, 2019, meeting.

The SOTF discussed the draft meeting minutes. Member Yankee requested correction to the vote on File Nos. 19017, 18059, 19019, 19020, 19021 and 19022.

Action: Moved by Chair B. Wolfe to approve the July 16, 2019, meeting minutes as amended.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 7 - Cannata, Martin, Yankee, LaHood, Cate, Hinze, B. Wolfe
Noes: 0
Absent: 3 - J. Wolf, Tesfai, Chopra
Excused: 1 - Hyland

Administrator Leger noted that the Library Users Association requested a continuance of File Nos. 19004 and 19012.

Action: Moved by Member Martin, second by Member Cate to continue File Nos. 19004 and 19012 to the Call of the Chair.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 6 - Martin, Cate, Cannata, Yankee, LaHood, Hinze
Noes: 1 - B. Wolfe
Absent: 3 - J. Wolf, Tesfai, Chopra
Excused: 1 - Hyland

3. **File No. 19042:** Complaint filed by Ray Hartz against Norman Yee, President of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.16, by failing to place his 150-word summaries in the meeting minutes (Board of Supervisors April 30, 2019 meeting). (00:10:40 - 00:41:04)

Ray Hartz (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Hartz spoke about past decisions made by the Ethics Commission regarding placement of his commentary in the Minutes. Mr. Hartz stated that the placement of his 150-word summary in an addendum and not in the body of the minutes and the use of qualifying language prior to the 150-word statement is a violation of his first amendment rights and the Sunshine Ordinance. Mr. Hartz provide a summary of previous decisions and actions regarding this issue.

The Respondent was not present at the meeting but provided a written response to the complaint.

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

The SOTF discussed their past actions regarding the Board of Supervisors' placement of 150-word summary in the meeting meetings and opined that the placement of the summary should be in the body of the minutes and not in an addendum.

Action: Moved by Member Cannata, seconded by Member Martin, to find that Norman Yee, President of the Board of Supervisors, violated Administrative Code Sections 67.16 and 67.31, by failing to place submitted 150-word summaries of Public Comment in the minutes and referred the matter to the Ethics Commission for enforcement.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 9 - Cannata, Martin, Yankee, J. Wolf, Tesfai, LaHood, Cate, Hinze,
B. Wolfe
Noes: 0 - None
Absent: 1 - Chopra
Excused: 1 - Hyland

4. **File No. 19043:** Complaint filed by Ray Hartz against Angela Calvillo, Clerk of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.15(d), by failing to place his 150-word summaries as submitted to the Board of Supervisors "in the minutes." (00:41:04 – 01:08:22)

Ray Hartz (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Hartz stated that that the formatting of his submitted 150-word public comment inclusion in the minutes was changed which removed emphasis and meaning from his statement. Mr. Hartz stated that this procedure adopted by the Clerk of the Board is an abridgement of his freedom of speech.

The Respondent was not present at the meeting but provided a written response to the complaint.

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

Action: Moved by Member Cate, seconded by Member Yankee, to find that Angela Calvillo, Clerk of the Board of Supervisors did not violate Administrative Code Section 67.15(d) by reformatting Mr. Hartz's submitted 150-word summaries of Public Comment in the minutes and referred the matter to the Ethics Commission for enforcement.

Public Comment:
None.

The motion FAILED by the following vote:

Ayes: 5 - Cate, Yankee, Martin Tesfai, LaHood

Noes: 4 - J. Wolf, Cannata, Hinze, B. Wolfe

Absent: 1 - Chopra

Excused: 1 - Hyland

There being no further motions the SOTF took no actions on File No. 19043 and closed the file.

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.

Speaker:

Ray Hartz spoke about his surprise at a hearing of the Ethics Commission regarding his 150-word statements and that they have a direct conflict of interest.

SOTF took a 12-minute recess at 5:13 PM.

SOTF hearing reconvened at 5:25 PM.

6. **File No. 19007: Hearing: Meeting Procedures and Code of Conduct. (01:13:02 – 2:47:41)**

Chair Wolfe summarized the letter written on December 17, 2018, in which the signers asked that the SOTF review, discuss and take action. Chair Wolfe stated that the SOTF Rules Committee discussed the letter. Member Hinze, Chair of the Rules Committee, stated that after discussion, the Committee decided that the signatories should come to the SOTF hearing to comment on their issues and then the Rules Committee will take up the matter at their next hearing.

David Steinberg, Custodian of Records, Public Works, stated that he thinks decorum is necessary. Mr. Steinberg stated that he had an experience with Ann Treboux wherein she made a personal attack.

Sue Blackman, Custodian of Records, Public Library. Ms. Blackman recognized the new members of the SOTF. Ms. Blackman stated that she spent a lot of time drafting the letter with the other speakers and she wanted to be concise. Ms. Blackman stated that the Ethics Commission includes a statement on its Agendas regarding decorum.

Hank Heckel, Mayor's Office, stated that it is necessary to set up a standard of conduct for members of the public to adhere to during meetings. Mr. Heckel stated that the Custodians take a lot of time to prepare for hearings to address complaints and that it is necessary to set up rules of the road. Mr. Heckel stated that a similar policy is used by the Ethics Commission.

Caroline Celaya, Public Records Manager, San Francisco Municipal Transportation Agency. Ms. Celaya has twelve years of experience in public records and has been

before the SOTF on several occasions. Ms. Celaya stated that she takes her job obtaining records requests seriously and that there should be more cohesion within San Francisco.

Marianne Mazzucco-Thompson, Custodian of Records, Office of Economic and Workforce Development. Ms. Thompson stated that there needs to be some sort of decorum during meetings and that everyone participating should feel safe when coming to City Hall.

Member Tesfai stated that the SOTF needs to be very careful with this issue. Member Tesfai noted that there is language at the bottom of the Agenda which could be applied to hearings. Member Tesfai stated that the Rules Committee should draft something that is specific to our SOTF.

Chair Wolfe stated that it is important to recognize that how members of the public address respondents and to take note of free speech. Chair Wolfe stated that the purpose of the SOTF is to do the business of the people.

Member Cannata stated that he does not see a need for a disclaimer due to free speech.

Public Comment:

Ray Hartz stated that he understands how the signers feel. Mr. Hartz stated that most people do not get into trouble for what they say, but how they say it.

Lillian Stielstra stated that she is from Southeast Asia; a place where free speech is restricted but the streets are clean.

Action: Moved by Member Cannata, seconded by Member LaHood, to refer the matter to the Rules Committee for additional discussion and/or actions and then return it to SOTF with their results.

Public Comment:

Marianne Mazzucco-Thompson stated that she would like for the Union to participate and speak to this issue regarding providing commentary on the quality of and a safe and stable work environment.

Ray Hartz stated that there is a fine line between respecting free speech and preventing abuse.

Hank Heckel stated that what he is hearing is that anything goes and that the failure to implement a basic announced standard for decorum is bad faith.

Lillian Steelstra asked that this issue be referred to the Rules Committee.

The motion PASSED by the following vote:

Ayes: 8 - Cannata, LaHood, Yankee, Martin, Tesfai, Cate, Hinze, B. Wolfe

Noes: 1 - J. Wolf

Absent: 1 - Chopra

Excused: 1 - Hyland

7. **File No. 16117:** Complaint filed by Ray Hartz against City Librarian Luis Herrera and the Public Library for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.29-6, by failing to disclose the amount and source of all outside funds or services worth more than one hundred dollars in aggregate, accepted by the Public Library for the purpose of carrying out or assisting any City function, on their website. (02:04:01 – 02:48:09)

Chair B. Wolfe provided a history of the complaint and issues.

Ray Hartz (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Hartz stated that the Friends of the Library should be required to provide an accounting of donations made to the library. Mr. Hartz stated that the Public Library has not completely complied with the Order of Determination.

Michael Lambert, Public Librarian (Public Library) (Respondent), provided a summary of the department's position. Mr. Lambert stated that the Public Library currently lists donation of \$100 or more on their website and have complied with the Sunshine Ordinance, Section 67.29-6.

Chair Wolfe stated that there was a clear violation of 67.29-6 and that the Library must comply with the Order of Determination and that this matter should be referred back to the Compliance and Amendments Committee.

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

Upon discussion the SOTF opined that the Friends of the Library are only required to comply with Section 67.29-6 of the Sunshine Ordinance and not the entire Sunshine Ordinance.

Ray Hartz stated that now that the facts and figures have been provided, he can finally show what a scam the Friends of the Library is. Mr. Hartz stated that the Friends and the Library Commission could at any time have said that he is wrong and provided the figures. Mr. Hartz stated that he thinks the Library is trying to hide something.

Michael Lambert stated that the Library is committed to excellence and is the 2018 National Library of the Year. Mr. Lambert acknowledged the partnership that the Library has with the Friends of the Library and that the Friends were instrumental in getting funds to keep libraries open seven days a week.

The SOTF opined that entities affected by Administrative Code (Sunshine Ordinance), Section 67.29-6, are only required to comply with the specific section and not the entirety of the Sunshine Ordinance.

The matter was referred back to the Compliance and Amendments Committee to determine compliance with the Order of Determination.

Public Comment:

Mark Sullivan suggest that Mr. Hartz speak with the IRS.

Marie Sapella, Executive Director of the Friends of the Public Library, stated that all financial statements are viewable on their public website.

Chair Wolfe considered the item closed.

8. **File No. 19004:** Complaint filed by Library Users Association against the Acting City Librarian, Michael Lambert and Sue Blackman, Library Commission Secretary, 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. (attachment)

Peter Warfield, Library Users Association (Petitioner) was not present for the hearing and provided notice on August 6, 2019 at 11:51 am that he could not appear.

Sue Blackman (Library) (Respondent), was present for the hearing.

Member Yankee expressed the need for consideration of the Respondent who made herself available for the hearing.

Action: Moved by Member Martin seconded by Member Cate, to continue the matter to the call of the Chair.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 6 - Martin, Cate, Yankee, Cannata, LaHood, Hinze,

Noes: 1 - B. Wolfe

Absent: 3 - Chopra, J. Wolf, Tesfai

Excused: 1 - Hyland

9. **File No. 19012:** Complaint filed by the Library Users Association against President Dr. Mary Wardell-Ghirarduzzi and the Public Library Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.15, by failing to allow public speakers to speak on an item before the body at a regular or special meeting for up to three minutes.

Peter Warfield, Library Users Association (Petitioner) was not present for the hearing and provided notice on August 6, 2019 at 11:51 am that he could not appear.

Sue Blackman (Library) (Respondent), was present for the hearing.

Member Yankee expressed the need for consideration of the Respondent who made herself available for the hearing.

Action: Moved by Member Martin seconded by Member Cate, to continue the matter to the call of the Chair.

Public Comment:
None.

The motion PASSED by the following vote:

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

10. **File No. 19031:** Complaint filed by Mark Sullivan against Chris Corgas and the Office of Economic and Workforce Development for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.1(a)(c)(d)(g), by failing to allow access to records; 67.5 by failing to require that meetings be open and public and 67.32 by failing the provision of services to other agencies. (*attachment*) (02:48:09 – 03:33:34)

Mark Sullivan (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Sullivan stated that he believes that Ms. Thompson has provided all the documents she has in her possession, however he has not yet received all of the request records. Mr. Sullivan stated that there is evidence that additional documents exist, including an Agenda and maps of the (Green Benefits District) GBD district, from a March 26, 2018, Mission Dolores Green Benefit District Meeting that was attended by Supervisor Sheehy and Chris Corgas, not citizens in the neighborhood.

Marianne Mazzucco-Thompson, (Office of Economic and Workforce Development) (Respondent), provided a summary of the department's position. Ms. Mazzucco-Thompson stated that all records have been provided including draft agenda in question. Ms. Mazzucco-Thompson stated that there were no maps in the possession of OEWD. Ms. Mazzucco-Thompson stated that these meetings were early in the process of forming a GBD and that Supervisor Sheehy met with members of the public regarding the formation of this committee.

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

Action: Moved by Member Yankee, seconded by Member Cannata, to find that the Office of Economic and Workforce Development did not violate Administrative Code (Sunshine Ordinance), Sections 67.1, 67.5 and 67.32.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 9 - Yankee, Cannata, Martin, J. Wolf, Tesfai, LaHood, Cate, Hinze,
B. Wolfe
Noes: 0 - None
Absent: 1 - Chopra
Excused: 1 - Hyland

11. **File No. 19032:** Complaint filed by Mark Sullivan against Jonathan Goldberg, David Steinberg and Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21(a)(c)(d)(g), by failing to respond to a public records request in a timely and/or complete manner; 67.5 requiring that meetings be open and public and 67.32 provision of services to other agencies. (03:33:45 – 04:19:58)

Mark Sullivan (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Sullivan stated he receive documentation that indicates the existence of contracts that Public Works is withholding. Mr. Sullivan stated that Public Works (PW) has given out two contracts for a GBD formation which he has not received.

David Steinberg (Public Works) (Respondent), provided a summary of the department's position. Mr. Steinberg stated that Mr. Sullivan asked for records that detail the GBD Formation Committee. Mr. Steinberg stated that he closed the requests on March 21, 2019 and told Mr. Sullivan that all records have been provided and no contracts have been withheld. Mr. Stenberg stated that the Place Lab, SFParks Alliance contract is not administered by Public Works but by OEWD.

Marianne Mazzucco-Thompson (Respondent), provided an additional summary of the OEWD's position. Ms. Mazzucco-Thompson stated that she has provided the contract with SFParks Alliance to Mr. Sullivan and that there were deliverables. Ms. Mazzucco-Thompson stated that she went back to SFParks Alliance and they provided a spreadsheet which she forwarded to Mr. Sullivan. Ms. Mazzucco-Thompson stated that all documents have been provided to Mr. Sullivan.

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

Action: Moved by Member Cannata, seconded by Member Cate, to find that the Department of Public Works did not violate Administrative Code (Sunshine Ordinance), Sections 67.1, 67.5 and 67.32.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 9 – Cannata, Cate, Yankee, Martin, J. Wolf, Tesfai, LaHood, Hinze

B. Wolfe

Noes: 0

Absent: 1 - Chopra

Excused: 1- Hyland

12. **File No. 19048:** Complaint filed by Justin Barker against the San Francisco Zoo for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner. (*attachment*) (04:19:20 – 04:50:10)

Member Yankee provide a summary of the matter.

Justin Barker (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Barker stated that the Zoo refused to provide animal care records. Mr. Barker stated that the Zoo receives over \$3 million dollars a year from the City for maintenance and animal care. Mr. Barker stated that the Zoo should be following local, state and federal public records laws and that they are violating those laws by not providing the requested records. Mr. Barker stated according to the 1993 Lease Agreement with the City, the status of animals should be made available to the general public.

Jason Waters (San Francisco Zoo) (Respondent), provided a summary of the department's position. Mr. Waters stated that the Zoo has complied with Mr. Barker's request. Mr. Waters stated that the Zoo is a nonprofit and not subject to the Sunshine Ordinance. The 1993 Lease Agreement was written before Sunshine was in place. Mr. Waters stated that the provision in the Lease states that compliance with public records act solely relates to status of animals but the Zoo will not disclose any information regarding to vet services to animals. Mr. Waters stated that Business and Professions Code 4857 states that they shall not disclose any information regarding vet services to the animals. Mr. Waters stated that Zoological meeting minutes are published on their website.

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

Action: Moved by Member Martin, seconded by Member Cannata to find that the San Francisco Zoo violated Administrative Code, (Sunshine Ordinance) Sections 67.21, 67.27, Government Code 6253, and Business and Professions Code 4857 by providing requested records in a timely and/or complete manner. The SOTF referred the matter to the Compliance and Amendments Committee and requested that the Zoo provide the animal care records and/or provide legal citation as to why the records have been withheld.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 9 - Martin, Cannata, Yankee, J. Wolf, Tesfai, LaHood, Cate, Hinze,
B. Wolfe
Noes: 0
Absent: 1 - Chopra
Excused: 1 - Hyland

13. **Review to consider amendments regarding By-Laws and Complaint Procedures.**
(04:50:15 – 04:52:03)

The SOTF reviewed the proposed amended By-Laws regarding excused absences.

Action: Moved by Member Yankee, seconded by Member Martin, to approve the amendments to Article 2, Section 2 Attendance to the By-Laws.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 8 - Yankee, Martin, Cannata, Tesfai, LaHood, Cate, Hinze, B. Wolfe
Noes: 0
Absent: 2 - Chopra and J. Wolf
Excused: 1 - Hyland

14. **Reports from Sunshine Ordinance Task Force Committees.** (04:52:06 – 04:55:21)

- Complaints Committee
 - Member Martin stated that he had nothing to report
- Compliance and Amendments Committee
 - Member Cannata stated that the Committee had not met since June
- Education, Outreach and Training Committee
 - Chair B. Wolfe noted that this Committee has not met since May
- Rules Committee
 - Member Hinze stated that this Committee may meet in September after the Compliance and Amendments Committee meeting. Chair B. Wolfe stated that he would fill in if needed to make a quorum.
- Information Technology Ad Hoc Committee
 - Chair B. Wolfe stated that there was nothing to report.

Public Comment:
None.

No action taken.

15. **Sunshine Ordinance Task Force – Chair’s Report.** (04:55:25 – 05:28:21)

- Chair B. Wolfe spoke about the letter received from the DA’s office to in response to the Sunshine Ordinance Task Force’s referral of File No. 19013.
- Chair B. Wolfe discussed the prospective amendment to Sunshine Ordinance to reassign nomination organization for minority seat. Chair Wolfe stated that this is action is not pertinent to Prop B and asked the SOTF to make a decision on whether they agree with the League of Women Voters and the Society of Professional Journalists. Member Tesfai stated that the SOTF should support this procedure so that they can fill the empty seat. Member Yankee stated that the SOTF should focus on attendance and that there be no adjustments or changes. Chair Wolfe stated that the SOTF agrees to have the Board of Supervisors amend the Sunshine Ordinance to allow a member from the Society of Professional Journalists in their minority group become the nominating party for the minority seat.

Action: Moved by Member Yankee, seconded by Member Martin, to approve the amendments to Proposition B proposed by the Board of Supervisors this time only.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - Yankee, Martin, Cannata, LaHood, Cate, Hinze, B. Wolfe

Noes: 0 - None

Absent: 3 - Chopra, Tesfai and J. Wolf

Excused: 1 - Hyland

Action: Moved by Member Yankee, seconded by Member Martin, to rescind the previous motion and move to continue the matter until the September meeting of the SOTF.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - Yankee, Martin, Cannata, LaHood, Cate, Hinze, B. Wolfe

Noes: 0 - None

Absent: 3 - Chopra, Tesfai and J. Wolf

Excused: 1 – Hyland

16. **Staff Report, Complaints and Communications.**

Task Force and Committee hearing schedule

- Complaints submitted and hearing files created
- Communications to the Task Force
- Summary of pending complaints and other issues

The SOTF Administrator presented the Staff Report and responded to questions from the SOTF.

Public Comment:

None.

No actions taken.

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

SOTF Members discussed vacation schedules and Committee hearing dates for the month of September.

Public Comment.

None.

No action taken.

18. **ADJOURNMENT**

There being no further business the meeting was adjourned at 9:56 p.m.

APPROVED: 9/4/19
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.