



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

October 2, 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 4:17 p.m.

On the call of the roll Chair B. Wolfe, and Members Hyland, Cate, LaHood, Martin, and Yankee were noted present. Members Tesfai and Hinze were noted excused from the meeting. Vice Chair J. Wolf and Member Cannata were noted absent.

A quorum was present.

There were no agenda changes.

2. Approval of minutes from the Sunshine Ordinance Task Force September 4, 2019, meeting.

Member Martin requested that that minutes be corrected to reflect that the motion upheld the previous findings for File No. 18081 and no violations were found.

Action: Moved by Member Martin, seconded by Member Hyland, to approve the September 4, 2019, meeting minutes as amended.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 3 - Cannata, J. Wolf, Chopra

Excused: 2 - Tesfai, Hinze

3. **File No. 17097:** Complaint filed by Marc Bruno against the Planning Department, Board of appeals and the Department of Building Inspection for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to a public records request in a timely and/or complete manner. (*attachments*)

The SOTF noted that the Complainant/Petitioner was not present and did not provide prior notice of the absence.

The Respondent was present but did not provide testimony.

Action: Moved by Member Martin, seconded by Member Yankee, to close the complaint due to inactivity and failure to appear without providing prior notice.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 3 - Cannata, J. Wolf, Chopra

Excused: 2 - Tesfai, Hinze

4. **File No. 17114:** Complaint filed by Marc Bruno against the Department of Building Inspection for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to a public records request in a timely and/or complete manner.

The SOTF noted that the Complainant/Petitioner was not present and did not provide prior notice of the absence.

The Respondent was present but did not provide testimony.

Action: Moved by Member Martin, seconded by Member Cate, to close the complaint due to inactivity and failure to appear without providing prior notice.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 6 - Yankee, Martin, LaHood, Cate, Hyland, B. Wolfe
Noes: 0 - None
Absent: 3 - Cannata, J. Wolf, Chopra
Excused: 2 - Tesfai, Hinze

5. **File No. 17115:** Complaint filed by Marc Bruno against the Board of Appeals for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to a public records request in a timely and/or complete manner.

The SOTF noted that the Complainant/Petitioner was not present and did not provide prior notice of the absence.

The Respondent was present but did not provide testimony.

Action: Moved by Member Martin, seconded by Member Yankee, to close the complaint due to inactivity and failure to appear without providing prior notice.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 6 - Yankee, Martin, LaHood, Cate, Hyland, B. Wolfe
Noes: 0 - None
Absent: 3 - Cannata, J. Wolf, Chopra
Excused: 2 - Tesfai, Hinze

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*).

Speakers:

Robert Smith thanked the SOTF for their service and provided comments regarding the Order of Determinations against the museums, requested that the complaints be sent to the District Attorney, Ethics Commission and the Board of Supervisors, and provide other related information.

Vice Chair J. Wolf was noted present at 4:52 p.m.

7. **File No. 19047:** Complaint filed by Anonymous against Mayor London Breed, Hank Heckel and the Office of the Mayor for allegedly violating Administrative Code, (Sunshine Ordinance) Sections 67.21 and 67.26 and 67.27 and Government Code (CPRA) 6253.9, 6253, and 6255, by failing to respond to a request for public records in a timely and/or complete manner.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous provided an overview of the submitted presentation. Anonymous stated that the Office of the Mayor refused to provide documents in the requested format and metadata, objected to the redactions to the calendar and stated that the ICS version of the calendar was not provided. Anonymous stated that the Office of the Mayor did not provide the Mayor's non-Prop G or 2nd calendar account until months later, and those non-Prop G calendars are public records.

Hank Heckel (Mayor's Office) and Michael Makstman (Chief Information Security Officer) (Respondent), provided a summary of the department's position. Mr. Heckel referenced California Government Code, Sections 6252.9(f) and 6254.19, and Sunshine Ordinance, Section 67.21(l). Mr. Heckel stated that the format requested is not easily generated and would also create a security risk. Mr. Makstman provided information regard metadata and possible security risks.

Deputy City Attorney Peder Thoren provided information and responded to questions from the SOTF.

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

Action: Moved by Member Yankee, seconded by Member Cate, to find that Mayor London Breed, Hank Heckel and the Office of the Mayor violated Administrative Code (Sunshine Ordinance), Sections 67.21, 67.26 and 67.27, by failing to provide records in a timely and/or complete manner, keep withholdings to a minimum, and justify the withholding of records.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 7 - Yankee, Martin, LaHood, Cate, Hyland,, J. Wolf, B. Wolfe
Noes: 0 - None
Absent: 2 - Cannata, Chopra
Excused: 2 - Tesfai, Hinze

8. **File No. 19044:** Complaint filed by Anonymous against Dennis Herrera and the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 61.26, 61.27, Government Code Sections 6253, 6253.9 and 6255, by failing to respond to a public records request in a timely and/or complete manner.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that headers cannot be redacted and that the requested information in the metadata is not a security issue. Anonymous noted the failure of the Supervisor of Records to respond in a timely manner.

John Cote (Office of the City Attorney) and Michael Makstman (Chief Information Security Officer) (Respondent), provided a summary of the department's position. Mr. Cote referenced the Office of the City Attorney's written response. Mr. Cote noted that California Government Code, Sections 6259(f) and 6254.19, allows for the withhold/redaction of metadata to for security purposes and to prevent the release of privileged information. Mr. Cote stated that metadata is created by a machine and not a city employee. Mr. Makstman stated that the exposure of metadata may expose the Information Technology system/security.

Deputy City Attorney Peder Thoreen provided information and responded to questions from the SOTF.

Chair B. Wolfe referenced information regarding metadata and stated that the issue of metadata should be reviewed by the Technology Committee in order to develop standards for releasing metadata and develop criteria for future complaints. Chair B. Wolfe ordered that all complaints regarding metadata be delayed and referred to the Technology Committee.

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, to refer the matter to the Technology Committee. The SOTF requested that the Technology Committee review the issue of metadata and develop standards regarding the matter as it related to public records.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 7 - Yankee, Martin, LaHood, Cate, Hyland,, J. Wolf, B. Wolfe
Noes: 0 - None
Absent: 2 - Cannata, Chopra
Excused: 2 - Tesfai, Hinze

9. **File No. 19099:** Hearing to consider action to close Sunshine Ordinance Task Force complaints due inactivity and other violations of the SOTF Complaint Procedures for the following files:

17102 Liz Arbus vs Arts Commission
18071 Liz Arbus vs Arts Commission
18085 Liz Arbus vs Arts Commission
18090 Carlos Petri vs Office of the City Attorney
18091 Mark Zuckerberg vs Arts Commission
19009 Lucinda Page vs Arts Commission
19060 Ashley Rhodes vs Arts Commission

The SOTF reviewed the matter.

Action: Moved by Member LaHood, seconded by Member Martin, to close File Nos. 17102, 18071, 18085, 18090, 18091, 19009, and 19060 due to inactivity and failure to response to communications from the SOTF.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 7 - Yankee, Martin, LaHood, Cate, Hyland,, J. Wolf, B. Wolfe
Noes: 0 - None
Absent: 2 - Cannata, Chopra
Excused: 2 - Tesfai, Hinze

10. **Review to consider amendments regarding Complaint Procedures.**

The SOTF reviewed proposed changes to the SOTF Complaint Procedures.

Public Comment:
Anonymous stated that the SOTF should have Sheriff's security present at the meetings and suggested that name calling may be required as well as accusations of lying or incompetence.

**Action: Moved by Member Martin, seconded by Member Hyland, amended the SOTF Complaint Procedures, Section C-4 to add:
"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."**

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 7 - Yankee, Martin, LaHood, Cate, Hyland,, J. Wolf, B. Wolfe

Noes: 0 - None

Absent: 2 - Cannata, Chopra

Excused: 2 - Tesfai, Hinze

11. Reports from Sunshine Ordinance Task Force Committees.

- Complaints Committee
- Compliance and Amendments Committee
- Education, Outreach and Training Committee
- Rules Committee
- Information Technology Ad Hoc Committee

The SOTF reviewed the recent actions of the SOTF committees.

Member LaHood suggested that a file be opened regarding Administrative Code, Section 12L, regarding nonprofits and public records disclosure.

Action: Moved by Member Yankee, seconded by Member Martin, to draft a memo to urge all deliberative bodies to prepare and maintain meeting minutes pursuant to Sunshine Ordinance, Sections 67.16, as best practice.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - Yankee, Martin, LaHood, Cate, Hyland,, J. Wolf, B. Wolfe

Noes: 0 - None

Absent: 2 - Cannata, Chopra

Excused: 2 - Tesfai, Hinze

12. Sunshine Ordinance Task Force – Chair’s Report.

Chair B. Wolfe presented the Chair’s Report.

Member Cate indicated that he would be leaving the SOTF by the end of the year.

Public Comment:

None.

No actions taken.

13. **Review of Parliamentary procedure regarding motions for Orders of Determination.**

The SOTF discussed and clarified the SOTF voting procedure to find no violation.

If a motion to find violations fails or if no motion is made, no violation is found and the matter is closed and essentially dismissed. The maker of the motion may vote against their own motion but cannot speak against it.

Public Comment:
None.

No actions taken.

14. **Report regarding Prop B intent on privacy and proposed changes to SOTF seats description and appointing authority.**

Chair B. Wolfe provided information regarding possible changes to SOTF seat requirements.

Public Comment:
None.

No actions taken.

Vice Chair J. Wolf was noted absent at 9:20 p.m. Due to the loss of a quorum the meeting was adjourned.

15. **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

No actions taken due to the lack of a quorum.

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

No actions taken due to the lack of a quorum.

17. **ADJOURNMENT**

At the hour of 9:20 a.m. the meeting adjourned due to the lack of quorum.

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.