



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

December 4, 2019 - 4:00 PM

Regular Meeting

Seat 1	Vacant	Seat 7	Rodman Martin
Seat 2	Lila LaHood	Seat 8	Vacant
Seat 3	Josh Wolf - Vice Chair	Seat 9	Chris Hyland
Seat 4	Vacant	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 Wolfe called the meeting to order at 4:02 PM. On the call of the roll Chair B. Wolfe and Members Yankee, Martin, Tesfai, LaHood and Hinze were noted present. Vice Chair J. Wolf and Member Hyland were noted not present. A quorum was present.

Member Hyland was noted present at 4:05 PM.

2. Approval of minutes from the Sunshine Ordinance Task Force November 6, 2019, meeting. (00:01:57 - 00:03:15)

The SOTF discussed the draft meeting minutes.

Action: Moved by Member Martin, seconded by Member LaHood to approve the November 6, 2019, meeting minutes.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 7 - Martin, LaHood, Yankee, Tesfai, Hinze, Hyland, B. Wolfe
Noes: 0 - None
Absent: 1 - J. Wolf

3. **File No. 18012:** Complaint filed by Denta Tadesse against Lori Mazzola, City Hall Building Management, for violating Administrative Code (Sunshine Ordinance), Section 67.5, by restricting access to all meeting of any policy body in City Hall.
(00:03:18 - 00:52:56)

Denta Tadesse (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Tadesse stated even though the Respondent was not present he wanted to move forward with the hearing. Mr. Tadesse referred the SOTF to 28 Code of Federal Regulations regarding handler and service animal safety. Mr. Tadesse stated that his dog is a registered service animal. Mr. Tadesse provided a video of him and his service animal trying to access City Hall without success.

Vicki Hennessy (Sheriff's Department), Andrico Q. Penick (Director of Real Estate, City Hall Building Management), (Respondents), were not present for the hearing, but submitted a joint written summary of the departments' position.

A question and answer period occurred.

Member Martin recognized that a person most knowledgeable was not present at the hearing and stated that the SOTF should move forward and not accept the joint written response submitted by the Sheriff's Office and City Hall Building Management.

Chair B. Wolfe stated that the SOTF should recommend a violation of willful misconduct on the part of City Hall and acknowledge that they did not send a person most knowledgeable to participate in the hearing.

Member LaHood stated that at the last Compliance and Amendments Committee hearing, Mr. Tadesse stated that he continues to be disallowed entry into City Hall.

Action: Moved by Member Yankee, seconded by Member Martin, to reaffirm the violation of Administrative Code (Sunshine Ordinance), Section 67.13(a), for continued disallowance of access to City Hall, to refer the matter with the submitted video to the District Attorney for review pursuant to Administrative Code, Section 67.30(c), and to refer the matter to the Compliance and Amendments Committee for monitoring.

Public Comment:

Anonymous provided the following written comment: This is not legal advice to the petitioner. Please consider referring this matter not only to the District Attorney, but also the Ethics Commission for a public, open, hearing on the matter.

The motion PASSED by the following vote:

Ayes: 7 - Yankee, Martin, LaHood, Tesfai, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 1 - J. Wolf

4. **File No. 18028:** Complaint filed by Denta Tadesse against the Sheriff's Department for violating Administrative Code (Sunshine Ordinance), Section 67.5, by restricting access to all meeting of any policy body in City Hall. (00:53:00 - 01:14:02)

Denta Tadesse (Petitioner) provided a summary of the complaint and requested the Committee to find a violation.

Vicki Hennessy (Sheriff's Department), Andrico Q. Penick (Director of Real Estate, City Hall Building Management), (Respondents), were not present for the hearing, but submitted a joint written summary of the departments' position.

A question and answer period occurred.

Action: Moved by Member LaHood, seconded by Member Hinze to append the video presented in file no. 18012 into the record.

Public Comment:

Anonymous provided the following written comment: This is not legal advice to the petitioner. Please consider referring this matter not only to the District Attorney, but also the Ethics Commission for a public, open, hearing on the matter.

The motion PASSED by the following vote:

Ayes: 7 - LaHood, Hinze, Yankee, Martin, Tesfai, Hyland, B. Wolfe

Noes: 0 - None

Absent: 1 - J. Wolf

Chair Wolfe referred to the Order of Determination of March 6, 2019, finding a violation of Administrative Code, Section 67.13(a), against the Sheriff's Department. Chair B. Wolfe also stated that a policy drafted by the Sheriff's Department was submitted to the SOTF but weeks later was rescinded.

Action: Moved by Member Yankee, seconded by Member Martin, to reaffirm the violation Administrative Code (Sunshine Ordinance), Section 67.13(a), and to refer the matter with the submitted video to the District Attorney for review pursuant to Administrative Code, Section 67.30(c).

Public Comment:

Thomas Picarello stated that it is not a good idea to send the matter to the Ethics Commission. Mr. Picarello wanted to know what authority SOTF has under 67.34.

Anonymous stated that he disagreed with Mr. Picarello because the Petitioner has not been admitted to City Hall with his service animal untethered.

The motion PASSED by the following vote:

Ayes: 7 - Yankee, Martin, Tesfai, LaHood, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 1 - J. Wolf

Action: Moved by Member LaHood, seconded by Member Tesfai, to refer the matter to the Compliance and Amendments Committee to review the Sheriffs' Department's revised policy dated December 3, 2019, and determine if it is compliant with the Sunshine Ordinance and then refer the matter back to the SOTF with a recommendation.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - LaHood, Tesfai, Yankee, Martin, Hinze, Hyland, B. Wolfe

Noes: 0 - None.

Absent: 1 - J. Wolf

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. *(No Action) Public comment shall be taken at 5:00 p.m. or as soon thereafter as possible.*

Denta Tadesse presented a video taken July 5, 2019, of himself and his service animal on a MUNI bus where the police were called due to driver being afraid of the dog.

Anonymous provided the following written comment

- Please review the Police Commission's SB 1421 police misconduct disclosure policies for compliance with the Sunshine Ordinance and make recommendations. The SFPD & Police Commission have already begun redoing some of my requests because they failed to cite justifications for

every redaction. Without your recommendation, even more City time will be wasted.

- Please consider an admonishment re: California Rule of Professional Conduct 3.3 on your agenda - Lawyers must honestly cite laws and court cases.
- It is shameful that Hank Heckel, a representative of Mayor London Breed, twice invoked in Case 19103 the assassinations of Supervisor Milk and Mayor Moscone by a former Supervisor, not a random member of the public, as to why the Mayor's entire future calendar is being hidden from the public. This is a use of fearmongering to subvert democracy when the strict words of the law are not on their side.

Mr. Picarello stated that Administrative Code 12L provides public access to public meetings of nonprofits. Thomas Picarello stated that City nonprofits should be subject to Sunshine.

Luke Manni provided commentary on police accountability and that anyone who chooses to become a cop should be held to a higher accountability.

6. **File No. 19017:** Complaint filed by Elica Vafaie, Asian American Advancing Justice, Asian law Caucus, Jeffrey Wang, Council on American-Islamic Relations, San Francisco Bay Area, Alan Schlosser No. CA American Civil Liberties Union of Northern California against Lt. Kathryn Waaland and the Police Department 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. (01:28:22 - 01:44:08)

Javaria Jamil (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Jamil stated that the requested white paper had not been released at the time the Complaint Committee reviewed the matter. Ms. Jamil stated that the requested white paper was released through Supervisor Mar's efforts to obtain the document from the FBI. Ms. Jamil stated that their document request has been satisfied.

Lt. Andrew Cox (Police Department) (Respondent), provided a summary of the department's position. Lt. Cox stated that the court order to not provide the white pages document is still standing.

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

Chair Wolfe inquired of SOTF Deputy City Attorney as to whether this case sets precedence.

Action: Moved by Member LaHood, seconded by Member Martin, to close the file and requested that the Chair consider including a description of this case and actions in the SOTF Annual Report.

Public Comment:

Anonymous provided the following written comment: *This is not legal advice to the petitioner.* Please investigate why a politician gets a record when they demand it but members of the public and civil liberties organizations did not initially get that record in accordance with this Task Force's order.

The motion PASSED by the following vote:

Ayes: 7 - LaHood, Martin, Yankee, Tesfai, Hinze, Hyland, B. Wolfe

Noes: 0 - None

Absent: 1 - J. Wolf

Vice Chair J. Wolf was noted present at 6:30 PM.

Member Tesfai was noted absent at 6:35 PM.

7. **File No. 19077:** Complaint filed by Ahimsa Porter Sumchai against Mayor London Breed 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 and 67.7 for not posting the Agenda in a timely manner. (01:44:11 - 03:46:00)

Dr. Ahimsa Porter Sumchai (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Dr. Sumchai stated that she has been elected to the Advisory Board of Hunters Point Yard Committee (CAC) and has been on the email list serve and has participated on that Committee for several years. Dr. Sumchai stated that she made a presentation in January 2019 to that Committee and she received several email communications regarding such. Dr. Sumchai stated that an announcement went out of a special meeting held on July 17, 2019, and she was not included on the list serve. Dr. Sumchai stated that there is evidence of a purposeful omission of the noticing of this meeting and that other scientists were also selectively omitted. Dr. Sumchai stated that she wanted a correction to the Minutes of the Complaint Committee in that she did speak at the meeting but that she had been deliberately omitted from the list serve. Dr. Sumchai stated that this is a violation of Sunshine Ordinance 67.13.

Hank Heckel (Mayor's Office) (Respondent), provided a summary of the department's position. Mr. Heckel stated that until the Mayor's Office received notice of the Complaint regarding Dr. Sumchai, they had no knowledge of the issue. Mr. Heckel stated that the facts do not show that there was a deliberate effort to exclude Dr. Sumchai from CAC meeting email lists. Mr. Heckel stated that there is evidence that the meetings were noticed on the CAC website and were also forwarded to the public library. Mr. Heckel stated that the record shows that Dr. Sumchai's contact information was not legible. Mr. Heckel stated that Dr. Sumchai's email information will be included on the CAC email list hence forth. Mr. Heckel stated that he believes that there is no violation because there was no deliberate action taken against Dr. Sumchai.

Micah Fobbs, Director, Hunters Point Yard Citizens Advisory Committee, spoke on behalf of the Respondent. Mr. Fobbs stated that he had no idea that Dr. Sumchai was not on the email list until she said so. Mr. Fobbs stated that when he became aware of Dr. Sumchai not being on the email list, he immediately worked to rectify the situation.

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

Chair Wolfe stated that there are two issues to deliberate: one is the email exclusion and the other is quorum. Chair Wolfe stated that the Petitioner stated she had been on the email list and the Respondent said no. Chair Wolfe stated that with regard to the quorum issue, the SOTF needs to figure out if the CAC is a passive or policy body. Chair Wolfe stated that the second part of complaint, regarding code of conduct, does not fall under Sunshine.

Action: Moved by Member Martin seconded by Member Hyland, to find that the Mayor's Office DID NOT violate Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.7, in regards to responding to the public records request in a timely and/or complete manner and posting the agenda in a timely manner. In addition, the SOTF determined that it does not have jurisdiction over violations of the code of conduct.

Public Comment:

Anonymous provided the following written comment: *This is not legal advice to the petitioner.* Please do not dismiss this case - it is your duty to do further investigation of potential violations of SFAC 67.6(e) and/or Brown Act Gov Code 54952-54953. Requests for the metadata/headings of the Petitioner's evidence can show you where the emails really came from. You could also ask Respondent to produce logs of additions and removals of email addresses to their mailing list.

The motion PASSED by the following vote:

Ayes: 6 - Martin, Hyland, Yankee, J. Wolf, LaHood, Hinze

Noes: 1 - B. Wolfe

Absent: 1 - Tesfai

Chair B. Wolfe requested that the SOTF Deputy City Attorney provide advice on the status of the Advisory Board of Hunters Point Yard Committee for future reference in determining conclusions for other similar types of bodies.

8. **File No. 19079:** Complaint filed by Thomas Picarello against the Department of Homelessness and Supportive Housing for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely manner. (03:46:06 - 04:23:31)

Thomas Picarello (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Picarello stated that he sent an Immediate Disclosure Request to the Human Services Agency (HSA) who then forwarded it to the Department

of Homelessness and Supportive Housing. Mr. Picarello stated that he requested contracts and records of resident complaints sent to Community Housing Project (CHP). Mr. Picarello stated that he received the contracts in the possession of the Department of Homelessness and Supportive Housing (HSH) in a timely manner, but not the contracts with HUD. Mr. Picarello also stated that he did not receive copies of the resident complaints.

Abigail Stewart-Kahn (Department of Homelessness and Supportive Housing) (Respondent), provided a summary of the department's position. Ms. Stewart-Kahn stated that on July 16, 2019, HSH received the request for records. Ms. Stewart-Kahn stated that the department requested an extension of time to respond and request that the Petitioner clarify the scope and details of the request. Ms. Stewart-Kahn stated that HSH provided contracts, amendments, and email correspondence and informed the Petitioner that they did not have contracts with HUD. Ms. Stewart-Kahn stated that HSH responded with requested materials but did not have records of resident complaints. Ms. Stewart-Kahn stated that HSH has fulfilled Petitioners' Sunshine request but is willing to work with him to provide additional records.

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

Action: Moved by Chair B. Wolfe, seconded by Member LaHood, to find that the Department of Homelessness and Supportive Housing DID NOT violate Administrative Code (Sunshine Ordinance), Section 67.25, and to refer the matter to the Compliance and Amendments Committee for monitoring to insure that the Petitioner receives information related resident complaints.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 7 - B. Wolfe, LaHood, Yankee, Martin, J. Wolf, Hinze, Hyland
Noes: 0 - None
Absent: 1 - Tesfai

9. **File No. 19089:** Complaint filed by Anonymous against Dennis Herrera and the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(d), by failing to provide a determination to a Supervisor of Records petition in a timely and/or complete manner. (04:23:36 - 05:42:27)

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that this matter refers to Administrative Code (Sunshine Ordinance) 67.21(d). On May 15, 2019, Anonymous filed a request for determination from the Supervisor of Records. Anonymous stated that on May 25, 2019, he followed up on his request and received a response 10 days later

denying his request. Anonymous stated that the Supervisor of Records should follow the law and that the rule of reason does not apply. Anonymous stated the City Attorney needs to follow Administrative Code (Sunshine Ordinance) 67.21(d).

Manu Pradhan (City Attorney's Office) (Respondent), provided a summary of the department's position. Mr. Pradhan stated there is no objection to Anonymous' claim of 67.21(d). Mr. Pradhan stated that the underlying request is important because it contains issues of metadata. Mr. Pradhan stated that Anonymous did not ask if this was a public record, but about the substance of the record; the metadata. Mr. Pradhan stated that the Information Technology Committee of the SOTF needs to develop a policy that allows for ease of response. Mr. Pradhan stated that the Supervisor of Records does not have to comply with the 10-day response rule.

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

Chair B. Wolfe stated that the SOTF does not have jurisdiction on how the Supervisor of Records operates.

Action: Moved by Member Yankee, seconded by Member Martin, to find that the Supervisor of Records DID NOT violate Administrative Code (Sunshine Ordinance) Section 67.21(d).

Public Comment:
None.

The motion PASSED by the following vote:

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

10. **Reports from Sunshine Ordinance Task Force Committees.** (05:42:36 - 05:47:12)

- Complaints Committee – November 19, 2019 hearing
Chair Martin provided comments on the November 19, 2019, Complaint Committee hearing and stated that the next Committee hearing is December 17, 2019.
- Compliance and Amendments Committee
Chair LaHood provided comments on the November 26, 2019, Compliance and Amendments Committee hearing. The next Committee meeting will be January 28, 2020.
- Education, Outreach and Training Committee
The Committee did not meet in November 2019.
- Rules Committee
The Rules Committee did not meet in November 2019.
- Information Technology Ad Hoc Committee
Chair Yankee stated that the next Information Technology Committee will meet December 17, 2019.

Public Comment:
None.

No actions taken.

11. **Sunshine Ordinance Task Force - Chair's Report.** (05:47:14 - 05:47:48)
The Chair had nothing to report.

Public Comment:
None.

No actions taken.

12. **Administrator's Report, Complaints and Communications.** (05:47:56 - 05:51:19)
- Task Force and Committee hearing schedule
 - IT Ad Hoc Committee will meet on December 17, following the Complaints Committee hearing.
 - SOTF will meet January 21, 2020, as a Committee of the whole; not January 1, 2020.
 - Complaints submitted and hearing files created
 - Communications to the Task Force
 - Summary of pending complaints and other issues

SOTF Administrator presented the report.

Public Comment:
None.

No actions taken.

13. **Announcements, Comments, Questions, and Future Agenda Items by Members of the Sunshine Ordinance Task Force.** (05:51:21 - 05:53:29)

The SOTF Administrator confirmed participation on the various SOTF Committees.

Public Comment:
None.

No actions taken.

14. **ADJOURNMENT**

There being no further business the meeting was adjourned at 9:53 p.m.

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.