



SUNSHINE ORDINANCE TASK FORCE
Compliance and Amendments Committee
CITY AND COUNTY OF SAN FRANCISCO
MINUTES

REMOTE REGULAR MEETING

December 27, 2022
4:30 PM

Members: Lila LaHood (Chair), Jennifer Wong and Bruce Wolfe

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

Chair LaHood called the meeting to order at 4:34 p.m. On the call of the roll Chair LaHood and Members Wolfe and Wong were noted present. A quorum was present.

There were no agenda changes.

2. Approval of the October 25, 2022, Compliance and Amendments Committee meeting minutes.

Action: Moved by Member Wong, seconded by Member Wolfe, approve the October 25, 2022, minutes.

Public Comment:

David Pilpel noted several issues on the October Minutes that required correction and provided comments.

The motion PASSED by the following vote:

Ayes: 3 - Wong, Wolfe, LaHood
Noes: 0 - None

3. **Public Comment:** Members of the public may address the Committee on matters that are within the Committee's jurisdiction but not on today's agenda.

Speakers:

David Pilpel stated that Director Colfax's name in item 4 is Grant Colfax.

Wynship Hillier provided the following written public comment:

"Mr. Hillier stated that he opposed the proposed amendments to the Ordinance put forward by Ms. Washburn because they would weaken the second sentence of § 67.7(a) by relaxing the requirement that boards and commissions commit to proposing action on or discussing only an item at the time of publishing the agenda. He also stated that, although Task Force procedures are adjudicative, courts also require plaintiffs to supply proposed actions in the form of prayers in their complaints. Furthermore, approving a document was a proposed action that complied with this sentence and that the Task Force needed to put proposed enforcement actions on the agenda w.r.t. BHC because there was a perception at BHC that the Task Force could safely be ignored because it had no teeth. Finally, he said that he had filed many complaints of violations of this sentence."

4. **File No. 22012:** Complaint filed by Anonymous (SFT) against Director Grant Colfax and the Department of Public Health for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Anonymous (Petitioner) was not present for the hearing but did notify the SOTF Administrator of their absence.

Natalie Pojman (Department of Public Health (DPH)) (Respondent), provided a summary of the department's position. Ms. Pojman stated that DPH submitted a letter detailing the DPH records retention policy regarding chats and that the City of San Francisco has a citywide policy of a 30-day deletion schedule in Microsoft Teams and there are no exceptions to this policy.

Chair LaHood stated that the Compliance and Amendments Committee requested a letter from DPH detailing their record retention policy and asked if there needs to be a motion to return the case back to the SOTF.

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

Action: Moved by Member Wong, seconded by Member Wolfe, to refer the records retention letter from the Department of Public Health to the SOTF about Citywide Microsoft Teams retention policy with the recommendation that the SOTF issue a letter to the Board of Supervisors that this policy be updated to be in compliance with the Sunshine Ordinance.

Public Comment:

David Pilpel commented on the record retention policy regarding MS Teams and that may be worth raising to the Board of Supervisors and the Department of Technology

The motion PASSED by the following vote:

Ayes: 3 - Wong, Wolfe, LaHood

Noes: 0 - None

5. **File No. 22092:** Hearing to review the Behavioral Health Commission’s compliance with the Sunshine Ordinance (Sections listed below) for meetings that occurred after April 13, 2021.

On April 6, 2022, the SOTF referred the matter to the Compliance and Amendments Committee to monitor future Behavioral Health Commission’s meetings for compliance with the following sections of the Sunshine Ordinance:

- 67.7(a) providing an adequate description of the agenda items;
- 67.7(a) posting Agenda 72 hours in advance of the meeting;
- 67.7(b) providing a clear description of the agenda matters;
- 67.7(b) posting supporting documents on-line or making them available as soon as they are available;
- 67.7(g) including notices of rights under the Sunshine Ordinance on the agenda;
- 67.9(a) posting supplementary documents for the meeting on the internet;
- 67.15(a) allowing public comment for each item on the agenda.

In addition, the SOTF requests that the Behavioral Health Commission provide their manual or description of their procedure/practices implemented to address the code sections listed. In an effort to document compliances with posting requirements of the Sunshine Ordinance, the SOTF requests that the Behavioral Health Commission maintain a log of when agendas and supporting documents are posted along with any other relevant data.

Wynship Hillier (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Hillier stated that the Behavioral Health Commission continues to have problems with noncompliance of Administrative Code, Sunshine Ordinance Section 67.7(a). Mr. Hillier recommends that the SOTF dismiss Grant Colfax from office because he willfully violated the Sunshine Ordinance.

Marlo Simmons stated that DPH recently hired Amber Gray and is overseeing Ms. Gray's duties to support the Commission in regard to understanding the rules and put procedures in place.

Amber Gray stated that they are under the guidance of the BHC and they are taking an active role to make certain they are in compliance. Ms. Gray admitted that there has been a failure of posting of agendas less than 72-hours in advance. Ms. Gray noted that there have been technical problems during public comment which have been corrected. Ms. Gray stated that the BHC is making sure that they allow three minutes for public comment. Ms. Gray also stated that the BHC requested their Deputy City Attorney provide training.

Action: Moved by Member Wolfe, seconded by Chair LaHood, to continue the matter to the Call of the Chair.

Public Comment:

David Pilpel noted that it is up to the Chair to set time for public comment, and it needs to be applied on each item for each person.

Geoffrey Grier stated that members of the SOTF should take a look at some of the BHC agendas and they will see there is plenty of room for public comment.

Liza Murawski expressed concern because at previous hearings where public comment has been brought to your attention, a member of the SOTF could sit in as a member of the public.

The motion PASSED by the following vote:

Ayes: 3 - Wolfe, LaHood, Wong

Noes: 0 - None

6. **File No. 22120:** The members of the Compliance and Amendments Committee continue to invite members of the public who wish to propose amendments to the Sunshine Ordinance to present their proposals at this meeting. Each person who makes a presentation will be given equal speaking time of five minutes. The Committee will take public comment once all the presentations are complete.

Chair LaHood stated that after this hearing they will be drafting a memo addressed to the SOTF which will be included in the Annual Report.

Wynship Hillier stated that he heard Allyson Washburn's proposal on behalf of San Franciscans for Sunshine and does remember looking at it at the most recent meeting this month and submitted that the proposal should be eliminated because it will weaken the Ordinance.

David Pilpel stated he was looking forward to the work of the Chair and wanted to suggest that in terms of structuring comments that the idea of a charter amendment could reallocate power but that he is not sure if he agrees with San Franciscans for Sunshine.

Member Wolfe stated that the Sunshine Task Force is quasi-judicial and that actions are based upon what is heard during the hearings and the complaint is the question that is before a body but not in a legislative process where there is a tangible action and a yes or no vote is taken.

Public Comment:

David Pilpel wanted to emphasize if someone is bringing a case to the SOTF it will take time to go through each section and discuss the provisions and those meetings are long. Mr. Pilpel suggests either having a special meeting for specific topics and also suggests having a section about public meetings including public speaking and record retention and would involve powers and duties. This item can and be heard at more than one session.

Wynship Hillier agreed with Member Wolfe that this is an adjudicated body.

7. Announcements, Comments, Questions, and Future Agenda Items by Members of the Compliance and Amendments Committee.

Chair LaHood stated that they will focus on the Annual Report.

Public Comment:

Liza Murawski stated that she has observed public comment is an avenue for throwing someone under the bus and that no one should do that under public comment.

David Pilpel thanked Administrators Young and Leger for their hard work not noted there is more work to do.

8. ADJOURNMENT

There being no further business the meeting was adjourned at 6:38 PM.

**APPROVED: 2/21/23
Compliance and Amendments Committee
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.