



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

REGULAR MEETING

January 3, 2024 - 4:00 PM

Seat 1	Dean Schmidt	Seat 7	Matthew Yankee - Chair
Seat 2	Lila LaHood	Seat 8	Chris Hyland
Seat 3	Saul Sugarman	Seat 9	David Pilpel
Seat 4	Vacant	Seat 10	Thuan Thao Hill
Seat 5	Maxine Anderson	Seat 11	Bruce Wolfe
Seat 6	Laura Stein - Vice-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 Yankee called the meeting to order at 4:04 PM. On the call of the roll Chair Yankee and Members LaHood, Schmidt, Anderson, Sugarman, Pilpel and Hyland were noted present. Vice-Chair Stein and Member Hill were noted absent. Member Wolfe appeared remotely. Task Force Administrators Leger, Young and Petersen were present. Deputy City Attorney Michel Deeb was also present. A quorum was present.

There were no agenda changes.

Public Comment:

None.

2. **Approval of the minutes from the Sunshine Ordinance Task Force Regular Meeting of November 1, 2023.**

The Task Force discussed the minutes and Member Pilpel's proposed edits.

Vice-Chair Stein was noted present at 4:15 PM.

Action: Moved by Member Pilpel, seconded by Member Anderson, to adopt the minutes as amended.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Pilpel, Anderson, Hyland, Sugarman, Wolfe, Schmidt, Yankee,
LaHood, Stein

Noes: 0 - None

Absent: 1 - Hill

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

Member Pilpel provided comments and edits on each of the Orders of Determination.

Action: Moved by Member Pilpel, seconded by Member LaHood, to approve the Orders of Determination as amended.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Pilpel, LaHood, Anderson, Hyland, Sugarman, Wolfe, Stein, Schmidt,
Yankee

Noes: 0 - None

Absent: 1 - Hill

4. **Adopt Sunshine Ordinance Task Force 2024 Regular Meeting Schedule.**

Member Pilpel presented the schedule of Task Force meetings for the 2024 calendar year.

Action: Moved by Member Pilpel, seconded by Vice-Chair Stein, to adopt the meeting schedule for 2024.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Pilpel, Stein, LaHood, Anderson, Hyland, Sugarman, Wolfe, Schmidt,
Yankee
Noes: 0 - None
Absent: 1 - Hill

Member Wolfe was noted absent at 4:46 PM.

5. Administrator’s Report, Complaints and Communications.

Task Force Administrator Leger presented the Administrator’s Report and responded to questions.

Public Comment:

Mark Sullivan expressed appreciated that the Task Force used the words “Special Meeting” instead of “Retreat” because it can cause confusion.

Peter Warfield, Executive Director Library Users Association,
libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, California,
94117-0544, provided suggested changes to the Administrator’s Report.

No action taken.

6. Hearing – Attorney/Client Privileged Memorandum: Hearing to consider waiving attorney/client privilege on all or part of the January 2021 legal advice memorandum referenced in File No. 22052.

Lee Heidhues stated that he prevailed on previous records request directed to the Fine Arts Museum but never received the records, and that he is requesting the Task Force make the memorandum public by waiving attorney/client privilege.

Deputy City Attorney Michel Deebes answered questions from the Task Force Members and stated that until the confidentiality issue is voted on by the SOTF, the memorandum will continue to be privileged.

Action: Moved by Member Hyland, seconded by Member LaHood, to waive the confidentiality of the January 2021 advice memo regarding File No. 22052 and release the advice memo to the public.

Public Comment:

None.

Member Wolfe was noted present at 5:08 PM.

Deputy City Attorney Deeks suggested putting off the decision until he can provide written advice about waiving attorney/client privilege on the memorandum.

Member Hyland rescinded their first motion.

Action: Moved by Member Hyland, seconded by LaHood, to waive the attorney client privilege and release the legal advice memo related to File No. 22052 pending communication between the City Attorney's Office and Chair Yankee regarding format and timing of the release.

Public Comment:

Lee Heidhues expressed frustration that the memo has not been made public and that he may have to continue attending Task Force hearings to see if it will be released.

Peter Warfield, provided his contact information and quoted from Administrative Code, Sunshine Ordinance Section(s) 67.21(i).

The motion PASSED by the following vote:

Ayes: 7 - Hyland, LaHood, Stein, Anderson, Sugarman, Wolfe, Yankee

Noes: 2 - Schmidt, Pilpel

Absent: 1 - Hill

7. **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***

Ann Treboux provided the following written public comment:

"Administrative Code, Sunshine Ordinance, Section(s) 67.14(c) of the San Francisco Sunshine Ordinance says that every public meeting held in City Hall shall be audio or video recorded as if they are public records. They are public records (CPRA 6250). The City shall post them on www.sfgov.org. The San Francisco Arts Commission has posted all of its full Commission meetings on the Internet Archive and not on www.sfgov.org. The San Francisco Arts Commission was created in 1932. That is over 92 years of monthly full commission meetings taking place in City Hall that are not on www.sfgov.org website. That amounts to 1,102 violations of the Sunshine Ordinance."

Peter Warfield, provided contact information, and stated that the Task Force agenda is not clear. Mr. Warfield also noted that there is a complaint pending and the Task Force does not know when it will be scheduled.

Mark Sullivan stated and provided the following written public comment:

"Order of Determination is not retribution, no punishment. It is an attempt to correct and make sure it does not happen again. An informal process that is not defined. It should be informal enough that once the task force is made aware of an issue and wants to take corrective action or make sure it does not happen again

that it does so on its own. When the task force offers an informal process, what does it want someone to do, formally request it? It is like propagating the problem. ODs have more weight that the issue will not be repeated. Any process with an action that is corrective or to stop it being repeated should be done in full view of the public, even if informal. An informal process not in full view lacks accountability. Sunshine is the best for a fair process and to stop repeat violations.”

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

8. **File No. 20008:** Complaint filed by Ann Treboux against Dwight Moore and the Office of the City Attorney, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.25 and 67.27, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Ann Treboux (Petitioner) mayor’s calendar request on Friday and received on Monday there is a 3-day requirement the request for the calendar for the chief of staff and believes that this body has determined three days after the meeting occurred. It took Hank to three months to produce the calendar. A directive of the Mayor is hinder, delay and do not request the calendar and when produced to meet the requirements of prop g; who was there and when produced are terrific. Ann Treboux stated she sent an Immediate Disclosure Request on December 27, 2019 to Dwight Moore of the City Attorney’s Office and never received a response. Ms. Treboux estimates that there are approximately 118 separate responsive records in the possession of the City Attorney’s Office, but she has not received any of them. Ms. Treboux is requesting a violation of 67.29-A.

Jen Kwart (City Attorneys Office) (Respondent) provided a summary of the department’s position. Ms. Kwart stated that this complaint is about an Immediate Disclosure Request sent to the City Attorney’s Office in December 2019. Ms. Kwart stated that her office conducted a thorough search and could not locate the request and concluded that it was never sent to them. Ms. Kwart stated that Ms. Treboux was enrolled in True Filing at the Court of Appeal which would allow Ms. Treboux to search for, request and obtain court documents filed at the Court. Mr. Kwart also stated that Dwight Moore has retired from the City Attorney’s Office.

Action: Moved by Member Pilpel, seconded by Member Hyland, to find no violation.

Public Comment:

Mark Sullivan believes that the Task Force has violated Administrative Code, Sunshine Ordinance Section(s) 67.9(a) – (c).

Ann Treboux requested that the matter be continued and stated that she can appear remotely in February, 2024.

Member Pilpel revised their motion.

Action: Moved by Member Pilpel, seconded by Member Hyland, to continue the matter to the February 7, 2024, Task Force hearing.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Pilpel, Hyland, LaHood, Stein, Anderson, Sugarman, Wolfe, Yankee, Schmidt

Noes: 0 - None

Absent: 1 - Hill

9. **File No. 22010:** Complaint filed by Ron Cicero against the Police Department 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.

Ron Cicero (Petitioner) provided a summary of the complaint. Mr. Cicero stated that he is frustrated because of the Police Department's continued delay in providing the requested records.

Lt. Christopher Beauchamp (Police Department, Respondent), provided a summary of the department's position. Lt. Beauchamp stated that he will do his best to make sure the department does its due diligence in searching for the requested records.

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

Action: Moved by Member Hyland, seconded by Member Anderson, to find that the Police Department violated Administrative Code (Sunshine Ordinance) Section 67.34, for willful misconduct.

Vice-Chair Stein requested that the questions originally directed to Sgt. Kathryn Winters be redirected to Lt. Beauchamp and Chief William Scott.

Member Hyland revised the motion.

Action: Moved by Member Hyland, seconded by Member Anderson, to find that Chief William Scott (Police Department) failed to discharge the duties imposed by the Sunshine Ordinance and referred the matter to the Ethics Commission pursuant to Administrative Code (Sunshine Ordinance), Section 67.34 [willful misconduct].

Public Comment:

Mark Sullivan stated that the Respondent is tasked with providing the requested records and it is a high bar requesting the Chief to appear before the Ethics Commission.

The motion PASSED by the following vote:

Ayes: 8 - Hyland, Anderson, LaHood, Stein, Sugarman, Wolfe, Yankee, Schmidt

Noes: 1 - Pilpel

Absent: 1 - Hill

10. **File No. 22115:** Complaint filed by Mark Sullivan against Bruce Wolfe (Sunshine Ordinance Task Force) for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21(e) by failing to provide access to the requested records; 67.25 by failing to respond to an Immediate Disclosure Request in a complete and timely manner; California Public Records Act 6253(d) for willful delay and obstruction to access of a public record.

Member Wolfe recused himself as a member of the SOTF and provided responses as the Respondent.

Mark Sullivan (Petitioner) provided a summary of the complaint and requested the Task Force find a violation. Mr. Sullivan stated that on February 7, 2022, he sent an Immediate Disclosure Request to then Chair Wolfe for the list of media who would receive notification of and packets for special meetings of the Task Force. Mr. Sullivan stated that Chair Wolfe instructed the Task Force Administrator to delay responding to Mr. Sullivan by invoking an extension.

Bruce Wolfe (Sunshine Ordinance Task Force) (Respondent), provided a summary of his position. Chair Wolfe stated that he instructed the Task Force Administrator to respond to Mr. Sullivan and reiterated that the request was directed at them. Chair Wolfe stated that the focus of the complaint was misdirected.

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

Action: Moved by Member Hyland, seconded by Chair Yankee, to find no violation against former Chair Wolfe.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 - Hyland, Yankee, Anderson, LaHood, Stein, Sugarman, Schmidt, Pilpel

Noes: 0 - None

Absent: 1 - Hill

Recused: 1 - Wolfe

11. **File No. 22116:** Complaint filed by Mark Sullivan against Bruce Wolfe (Sunshine Ordinance Task Force) for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.1(g) by allowing when a person or entity is before a policy body or passive meeting body, that person, and the public, has the right to an open and public process; 67.21(b) by failing to comply with a request for public information.

Member Wolfe recused himself as a member of the SOTF and provided responses as the Respondent.

Mark Sullivan (Petitioner) provided a summary of the complaint and requested the Task Force find a violation. Mr. Sullivan stated that on January 26, 2022 he filed a complaint with the Task Force because he asked then Chair Wolf for the list of local media for purposes of participating in Special meetings of the Task Force.

Bruce Wolfe (Sunshine Ordinance Task Force) (Respondent), provided a summary of his position. Former Chair Wolfe stated the request is based upon Mr. Sullivan's assertion that Chair Wolfe made a slight comment about Mr. Sullivan being member of the media.

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

Action: Moved by Member Hyland, seconded by Member Schmidt, to find no violation.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 - Hyland, Schmidt, Yankee, Anderson, LaHood, Stein, Sugarman, Pilpel

Noes: 0 - None

Absent: 1 - Hill

Recused: 1 - Wolfe

12. **File No. 22034:** Complaint filed by Gizelle Rabi and Karl Kramer against Crispin Hollings and the Sheriff's Department for allegedly violating Administrator Code (Sunshine Ordinance), Section(s) 67.21 by failing to respond to a request for public records in a timely and/or complete manner.

The Petitioner was not initially present for the hearing and did not notify the SOTF Administrator of their absence. The Petitioner arrived later in the meeting – see below

The Sheriff’s Office was not present for the hearing and did not notify the SOTF Administrator of their absence.

Action: Moved by Chair Yankee, seconded by Member Schmidt, to close File No. 22034 for lack of attendance under Complaint Procedure 7B.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Yankee, Schmidt, Hyland, Anderson, LaHood, Stein, Sugarman, Pilpel, Wolfe
Noes: 0 - None
Absent: 1 - Hill

Action: Moved by Chair Yankee, seconded by Member Anderson, to rescind the prior action and vote.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Yankee, Anderson, Schmidt, Hyland, LaHood, Stein, Sugarman, Pilpel, Wolfe
Noes: 0 - None
Absent: 1 - Hill

Karl Kramer (Petitioner) provided a summary of the complaint and requested the Task Force find a violation. Mr. Kramer stated that the CODB figures were provided but not the MCO increases. Mr. Kramer suspected that a letter received from the Sheriff’s Office shows that they may not have understood the initial request and how those figures were implemented.

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

Action: Moved by Member Pilpel to find a violation of 67.21 for failure to respond to a public records request and 67.21(e) for failure to send a person most knowledgeable to the hearing.

The motion died for lack of a second.

Action: Moved by Vice-Chair Stein, seconded by Member Schmidt, to find no violations.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 - Stein, Schmidt, Yankee, Anderson, Hyland, LaHood, Sugarman, Wolfe

Noes: 1 - Pilpel

Absent: 1 - Hill

13. **File No. 22047:** Complaint filed by Gizelle Rabi and Karl Kramer against Ralph Remington and the Arts Commission for allegedly violating Administrator Code Section(s) 67.21, by failing to respond to a request for public records in a timely and/or complete manner.

Kark Kramer (Petitioner) provided a summary of the complaint and requested the Task Force find a violation. Mr. Kramer stated that his office did not receive the requested records but did receive a response stating the Arts Commission does not have to answer the questions.

Coma Te (Arts Commission) (Respondent), provided a summary of the department's position. Mr. Te stated that his office received the original request on December 23, 2019 through NextRequest and staff responded on December 27, 2019. Mr. Te also stated that his office received an additional request on January 22, 2022 which was also responded to timely and closed. Mr. Te requested that the Task Force find no violation.

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

Action: Moved by Member Pilpel, seconded by Member Anderson, to find no violation.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Pilpel, Anderson, Stein, Schmidt, Yankee, Hyland, LaHood, Sugarman, Wolfe

Noes: 0 - None

Absent: 1 - Hill

14. **Hearing – Annual Report:** Discuss planning and potential content for the 2023 Annual Report of the Sunshine Ordinance Task Force and consider empowering Vice-Chair Stein to lead the process of compiling the report.

The Task Force discussed the future annual report.

Action: Moved by Chair Yankee, seconded by Member LaHood, to assign Vice-Chair Stein the process of compiling the Annual Report for 2023.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Yankee, LaHood, Pilpel, Anderson, Stein, Schmidt, Hyland, Sugarman, Wolfe

Noes: 0 - None

Absent: 1 - Hill

15. **Hearing - San Francisco Generative AI Guidelines:** Review and discuss any sunshine implications related to the San Francisco Generative AI Guidelines developed by the City Administrator’s Office.

Action: Moved by Chair Yankee, seconded by Member Anderson, to continue Items 15 and 16 to the call of the Chair.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Yankee, Anderson, LaHood, Pilpel, Stein, Schmidt, Hyland, Sugarman, Wolfe

Noes: 0 - None

Absent: 1 - Hill

16. **Hearing – Sunshine Ordinance Amendment Process:** Receive an update from the Compliance and Amendments Committee regarding their work considering various amendments to the Sunshine Ordinance and discuss a potential timeline for consideration and action by the full Task Force.

See Item 15 for actions.

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

Member Pilpel brought up three future items of discussion for an agenda. First, there is an initiative statute proposing to amend the Public Records Act. Second, the Controller's Office recently issued a Nonprofit Capacity Building and Monitoring Report Program. Third, there was a recent Court of Appeals opinion, Bond Graham vs. Alameda County Superior Court regarding police investigations and redactions.

18. **ADJOURNMENT**

There being no further business the meeting was adjourned at 11:36 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.