



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

SPECIAL MEETING

January 31, 2024 - 5:00 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	Ankita Kumar	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 5:03 p.m. On the call of the roll, Chair Yankee and Members Stein, Schmidt, Anderson, Sugarman, Pilpel and Kumar were noted present. Member Wolfe appeared remotely. Members Hyland, LaHood and Hill were noted absent. Also present were SOTF Administrators Petersen, Young and Leger. Deputy City Attorney Kelly Collins was also present. A quorum was present.

The Task Force discussed the agenda. There were no changes.

Public Comment:

None.

2. **Welcome to the new Task Force Member and Introductory Remarks.**

New Task Force Member Ankita Kumar introduced herself and made general comments.

Public Comment:

Peter Warfield, Executive Director Library Users, Association, libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, California, 94117-0544, welcomed new Task Force Member Kumar.

Mark Sullivan stated and provided the following written public comment:
“I want to thank you all for serving on the Task Force. I respect what all of you do and the time you put into the Task Force.”

3. **Approval of the minutes from the Sunshine Ordinance Task Force Regular Meeting of January 3, 2024.**

Member Pilpel proposed several amendments.

Action: Moved by Member Pilpel, seconded by Member Anderson, to adopt the January 3, 2024, minutes as amended.

Public Comment:

Peter Warfield expressed thanks that his contact information is available in the January 3, 2024 minutes. Mr. Warfield also stated that Member Pilpel’s comments are compact but incomplete.

Ann Treboux requested that the Task Force Administrator include exactly what she said into the minutes due to the enormous amount of phone calls and airfare used to attend this hearing.

Member Hill was noted present at 5:28 p.m.

The motion PASSED by the following vote:

Ayes: 9 - Pilpel, Anderson, Kumar, Sugarman, Wolfe, Stein, Schmidt, Yankee, Hill
Noes: 0 - None
Absent: 2 - LaHood, Hyland

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

The Task Force discussed the Orders and approved them with suggested amendments.

Action: Moved by Member Pilpel, seconded by Member Anderson, to approve the Orders of Determination as amended for files 22115, 22116, 22034 and 22047.

Public Comment:

Ann Treboux suggested changing the heading of the agenda item.

The motion PASSED by the following vote:

Ayes: 9 - Pilpel, Anderson, Sugarman, Wolfe, Stein, Schmidt, Yankee, Kumar, Hill

Noes: 0 - None

Absent: 2 - LaHood, Hyland

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. ***Public comment shall be taken at 5:00 p.m. or as soon thereafter as possible.***

Peter Warfield stated that the Task Force is the only way that people who are denied their rights can appear at no cost. Mr. Warfield also noted his difficulties in getting contact information for members of the Library Commissioners.

Ann Treboux stated that when appearing remotely and a document is not included in the packet it is difficult for members of the public to understand the case.

Mark Sullivan stated and provided the following written public comment:

“CPRA word “agency” definition like records or writings, with state officials included, local officials questionable. Definition of elected and appointed officials use. Agency includes city and county government, a matter of what purpose in drawing the line as to that is not our department or this city official is not in this department when they are part of the city and county agency. CPRA Article 4. Duty to Assist in Formulating Request 7922.60 (a)”, in order to assist the member of the public make a focused and effective request that reasonably describes an identifiable record or records, shall do all of the following”. Reasonably identifiable is under the requirement for an official to assist a public record request to be successful. The Sunshine Ordinance doesn't have as good of language as “assist” “to make a focused and effective request.” Public access laws are legal government customer service requirements.”

The meeting was in recess from 5:50 p.m. and reconvened at 6:00 p.m. Member Wolfe participated remotely. A quorum was present.

Members Present: Anderson, Wolfe, Yankee, Pilpel, Sugarman, Schmidt, Hill, Kumar, and Stein were noted present.

6. **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.

The Task Force discussed the matter. Member Pilpel asked that this item be included since the Task Force's Information Technology Committee touched briefly on this issue.

Public Comment:

Peter Warfield appreciated that the Task Force is addressing this issue. Mr. Warfield stated that it is not responsible to use a technology that is constantly changing.

No action taken.

7. **Hearing - Ethics Commission Referrals:** Review and discuss the process for the Sunshine Ordinance Task Force to make referrals to the Ethics Commission.

The Task Force discussed the process for Ethics Commission referrals. Member Pilpel suggested that Chair Yankee meet with the new Ethics Commission Director, Pat Ford, to current procedures and guidelines.

Public Comment:

Mark Sullivan stated and provided the following written public comment:
“Ask Ethic Commission how they define “willful failure” and what evidence is required to find an elected official or department head willful. Being on the same page would save the task force and the Ethic Commission a lot of time. Moving a complaint forward to the Ethics Commission is really how they interpret the Sunshine Ordinance. Enforcement Regulations Section 10 A Willful - 67.35 should be 67.34. B. “If a City officer or employee fail” seems to broaden who they consider in a complaint beyond their current practice of only elected officials and department heads in referring to 67.35 (d).
67.35 (d) Any person may institute proceedings for enforcement and penalties under this act” not just agencies and does that mean “any person” can institute proceedings against any officer or employee? Ethics procedures don’t match their current practice or the Sunshine Ordinance. Spaghetti and Confusion.”

Peter Warfield appreciated the discussion. Mr. Warfield noted concern about closed private meetings and opined that those discussions should be held in a public meeting.

No action taken.

8. **Hearing - Edits to the SOTF Complaint Procedure:** Discuss proposed edits to the SOTF Complaint Procedure under consideration by the Complaint Committee to expedite complaint processing.

Chair Yankee addressed the subject of the complaint backlog and asked Task Force members to discuss the subject as well. Member Schmidt stated that he had some good ideas to tackle efficiency, including the backlog and coming into compliance with the 45-day rule. Member Schmidt stated that he will provide a draft presentation of these ideas at the March 2024 Complaint Committee meeting. Vice-Chair Stein provided a statistical

analysis of why it takes so long for complaints to be opened, heard by the Task Force, and concluded. Member Anderson suggested a time limit at committee and Task Force hearings for how long parties and members can speak about a case. Member Pilpel noted that the Task Force takes a lot of time to finally dispose of cases.

Public Comment:

Mark Sullivan stated that complaints should be decided based on whether there was a valid extension and legal requirement.

Peter Warfield stated that there was no mention of the 45-day limit and believes that part of the problem is that the Task Force is way too soft on crime.

No action taken.

9. **Hearing - Update on 2023 Annual Report.**

The Task Force discussed the 2023 draft Annual Report status. The Task Force stated that members of the public may view all documents and send comments to Lstein.sotf@gmail.com.

Current documents related to the 2023 Annual Report are publicly available at: https://docs.google.com/document/d/1BjkPyPMxeBeuvVbFbcNg_1hvObB-71KX/edit?usp=sharing&oid=105519330310899598939&rtpof=true&sd=true

Complaint resolution data for 2023 is publicly available at: <https://docs.google.com/spreadsheets/d/1mZIXGEXaTh8PRKToQN0eoOYEwwQtECGi/edit?usp=sharing&oid=105519330310899598939&rtpof=true&sd=true>

Vice-Chair Stein stated that what is available and posted is an early version of the complaint data, that there is more tallying to do, and that she hopes to wrap up the report at the end of February 2024.

Public Comment:

Peter Warfield stated that he was concerned that he had not heard about the creation of an annual report and was troubled to hear how far it had gotten and that there was no effort to invite people to provide information for this report.

No action taken.

10. **Hearing - "Government Transparency Act" (Initiative 23-0015):** Review and discuss a potential statewide ballot initiative related to public access to state and local government records.

The Task Force discussed the Government Transparency Act. Member Pilpel stated that there is a possibility that the measure may appear on the November 2024 state-wide ballot.

Public Comment:

Mark Sullivan stated and provided the following written public comment:

“California Access to Public Records Initiative (2024) tried multiple times to ask them about their petitioning gathering, no response. I wouldn’t hold my breath that this makes it to the ballot. April is about right for signatures to be verified in time. 546,651 signatures are required. No issues with the ballot measure and whether local sunshine ordinances can exist.”

No action taken.

11. **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 action by the full Task Force.

Member Pilpel stated that the Compliance and Amendments Committee met in October 2023 where it was discussed that the Sunshine Ordinance needs work and input from Complainants, Respondents, and other parties and that the committee should work through the process to propose amendments.

Public Comment:

Peter Warfield stated that one problem with Sunshine is the lack of enforcement or any kind of real consequence for violations. Mr. Warfield stated that there needs to be something more painful for a violation.

No action taken.

12. **Hearing - Controller's Citywide Nonprofit Monitoring and Capacity Building Program Fiscal Year 2022-23 Annual Report:** Review and discuss the FY 2022-23 Annual Report and potentially approve a letter to the Controller with related recommendations.

Member Pilpel noted that in the past year Chapter 12L (nonprofit) issues have been involved in the course of hearings as well as complaints related to the Minimum Compensation Ordinance (MCO) and Cost of Doing Business (CODB). In line with the proposed letter included in the packet, Member Pilpel thought that the Task Force should propose compliance and sending the letter would be useful.

Action: Moved by Member Schmidt, seconded by Member Pilpel to send the letter.

Public Comment:

Peter Warfield stated that one issue is the section of the Ordinance that says that any organization that gives money to the City department has to agree to open access to documents, and that to his knowledge, that provision has not been tested.

The motion PASSED by the following vote:

Ayes: 9 - Schmidt, Pilpel, Stein, Sugarman, Anderson, Kumar, Yankee,
Wolfe, Hill

Noes: 0 - None

Absent: 2 - Hyland, LaHood

13. **Hearing - Review recent Court of Appeals Opinions in *Bond Graham v. Alameda County Superior Court (City of Oakland)*, A165187; and *First Amendment Coalition v. San Francisco Superior Court (Bonta)*, A165888.**

The Task Force briefly discussed the cases and published opinions.

Public Comment:

None.

No action taken.

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

Chair Yankee stated the Office of the City Attorney's advice allowing the release of the attorney/client memo regarding the Fine Arts Museums was rescinded. This matter will be scheduled on the February 2024 Task Force agenda. Chair Yankee also noted that Task Force committee assignments need to be addressed.

Member Pilpel mentioned the feelings relative to the Board of Supervisors cease fire resolution and the strong views that came from public comment.

Public Comment:

Peter Warfield thanked the Task Force for mentioning future agenda items.

15. **ADJOURNMENT**

There being no further business, the meeting was adjourned at 9:18 p.m.

**APPROVED: March 6, 2024
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.