



**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**

REGULAR MEETING

March 6, 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	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 4:11 p.m. On the call of the roll Chair Yankee and Vice-Chair Stein and Members LaHood, Schmidt, Anderson, Sugarman, Pilpel, Kumar, Hill and Hyland were noted present. Member Wolfe appeared remotely. Task Force Administrators Leger, Young and Petersen were present. Deputy City Attorney Michel Deebs was also present. A quorum was present.

Karl Kramer submitted a request to withdraw his complaint, Item No. 9, File No. 23010 from the agenda on March 6, 2024.

Public Comment:

None.

No action taken.

2. Approval of the minutes from the Sunshine Ordinance Task Force Meeting of January 31, 2024 and February 7, 2024.

SOTF members reviewed the minutes of January 31, 2024 and provided comment.

Action: Moved by Member Pilpel, seconded by Member Hyland to approve the January 31, 2024 minutes as amended.

Public Comment:

Peter Warfield, Library Users Association, libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, California, 94117-0544, stated that he is glad that the Task Force wants clear and explicit minutes.

The Motion PASSED by the following vote.

Ayes: 11 - Pilpel, Hyland, Anderson, LaHood, Sugarman, Wolfe, Hill, Schmidt, Yankee, Stein, Kumar
Noes: 0 - None

SOTF members reviewed the minutes of February 7, 2024 and provided comment.

Action: Moved by Member Pilpel, seconded by Member Anderson, to approve the February 7, 2024 minutes as amended.

Public Comment:

Peter Warfield, Library Users Association, stated that he appreciates the care that Member Pilpel has made including the suggestion that the Clerk's names be included in Item 1.

The Motion PASSED by the following vote.

Ayes: 11 - Pilpel, Anderson, Hyland, LaHood, Sugarman, Wolfe, Hill, Schmidt, Yankee, Stein, Kumar
Noes: 0 - None

3. Approval of the Orders of Determination:

File No. 20008: Complaint filed by Ann Treboux against Dwight Moore and the Office of the City Attorney.

File No. 22115: Complaint filed by Mark Sullivan against Bruce Wolfe (Sunshine Ordinance Task Force);

File No. 22116: Complaint filed by Mark Sullivan against Bruce Wolfe (Sunshine Ordinance Task Force);

File No. 22034: Complaint filed by Gizelle Rabi and Karl Kramer against Crispin Hollings and the Sheriff's Department;

File No. 22047: Complaint filed by Gizelle Rabi and Karl Kramer against Ralph Remington and the Arts Commission

The Task Force discussed the Order of Determination.

Action: Moved by Member Pilpel, seconded by Vice-Chair Stein to approve the Order of Determination for File No. 20008 as amended.

Public Comment:

Peter Warfield, Library Users Association, stated that he went to the minutes and there was no indication of what Orders were approved and that should be clear.

Ann Treboux stated that she thought the edits were excellent and exactly what happened and requested that this item go back to the Committee.

The Motion PASSED by the following vote:

Ayes: 11 - Pilpel, Stein, Anderson, Hyland, LaHood, Sugarman, Wolfe, Hill, Schmidt, Yankee, Kumar

Noes: 0 - None

No action was taken on the other Orders of Determination which had already been approved at a prior meeting.

4. **Administrator’s Report, Complaints and Communications.**

- Task Force and Committee tentative hearing schedule with potential adjustments
- Complaints and Hearing Requests
- Communications

Member LaHood requested that the Compliance and Amendments Committee special meeting begin at 3:30 p.m. Member Anderson said that they are available at that time.

Administrator Petersen presented Section 3 of the Administrator’s report.

Public Comment:

Peter Warfield, Library Users Association, stated that he would appreciate it if the item for Public Comment is taken on and to tell callers what they have to do if they want to make public comment.

No action taken.

5. **File No. 23097 – Hearing on Proposed Revisions to the Complaint Procedures and By-Laws:** Potentially adopt proposed revisions to the SOTF Complaint Procedures to expedite complaint processing per the Sunshine Ordinance requirements, and present and discuss related proposed changes to the SOTF By-Laws.

The Task Force discussed the analysis of the Complaint Committee regarding the backlog of cases to be heard.

Action: Moved by Member Hyland, to empower the Complaint Committee and subcommittee to treat Section 67.21 cases and move to make determinations be approved and make more robust recommendations to the Task Force.

Member Hyland revised their motion prior to a second.

Action: Moved by Member Hyland, seconded by Vice-Chair Stein, to adopt the provisions to the Complaint Procedures as proposed by Member Schmidt in the document submitted by the Complaint Committee 2024, Page 10, Section C.

Member Hyland withdrew their motion.

The Task Force recessed at 6:40 p.m. and reconvened at 6:52 p.m.

Member Hill was noted not present at 6:53 p.m.

Action: Moved by Member Hyland that the Task Force will propose a determination of 67.21 to the full Task Force on the Consent Calendar.

Member Hyland withdrew their motion prior to a second.

Action: Moved by Member LaHood, seconded by Member Wolfe, to continue this Item after Item 13.

Public Comment:

Liza Murawski noted that this item has taken one hour and demonstrates the SOTF disorganization.

Peter Warfield, Library Users Association, stated that he had been waiting for three hours and what always concerned him are the procedures and now the Task Force wants to continue this item until after item 13 at the end of the meeting which he feels is wrong.

David Steinberg agreed with Mr. Warfield and requested that this matter be addressed at the next Task Force hearing.

Caroline Celaya agreed with Mr. Steinberg and Mr. Warfield and also noted that this item has now been pushed to the end of the agenda and demonstrates how long it takes the Task Force from getting anything done and also wants this item to be addressed at the April Task Force hearing.

Member LaHood rescinded their motion.

Action: Moved by Member Anderson, seconded by Vice-Chair Stein, to continue the matter until the April Task Force hearing.

Public Comment:

Peter Warfield agrees with the members of the public including David Steinberg and noted thanks to the Task Force for agreeing to hear this item April.

The Motion PASSED by the following vote.

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

Noes: 1 - Kumar

Absent: 1 - Hill

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

Mark Sullivan provided the following written public comment:

“Old complaint procedures had “all inferences and evidence shall be viewed in the light most favorable to the petitioner”. I see you got rid of it. would be happy with just neutral. Chair Yankee admonished Member Wolfe to not go into the complaint, but allowed Member Anderson to put forward Ethics red herring to overturn their decision. Not my complaint. I have less a problem parroting Ethic's misdirection, but that Chair Yankee allowed them. If Ordinance and Ca Constitution is followed any gray area complaints would be heard in favor of public's right to know. If the department asked you for advice on how to interpret a provision in the Ordinance you would? But if a member of the public asks you would not? You should be able to advise on every provision in the Ordinance Or maybe it is not the government's duty is to serve the public Sec. 67.1 (a).”

Peter Warfield stated he provided his contact information because it is important in case anyone wants to get in touch with him. Mr. Warfield appreciated Mr. Sullivan's comment in support of the law.

Ann Treboux listened to the San Francisco Arts Commission on SFGOVTV and with all the efforts made eight years ago to get them to write the agenda and minutes and they still do not provide draft minutes.

7. **CONSENT AGENDA** - The Sunshine Ordinance Task Force shall review **File Nos. 21125, 22129 and 24003** to affirm the Committee's findings regarding the Sunshine Ordinance Task Force's jurisdiction; violations of the Sunshine Ordinance, Brown Act, or California Public Records Act; and, if applicable, to issue an Order of Determination and refer matters to a Committee for monitoring. The Complainant and Respondent are not required to attend the March 6, 2024, Sunshine Task Force meeting but may attend to provide testimony during the public comment period for this item related to the above-listed determinations.

File No. 21125: Complaint filed by Liza Murawski against the Department of Public Health for violating the Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a records request in a timely and/or complete manner.

File No. 22129: Complaint filed by HVSafe against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.25, by failing to respond to an Immediate Disclosure Request for public records in a timely and/or complete manner.

File No. 24003: Complaint filed by Anonymous (ACU) v. Fine Arts Museum for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.5(b), by failing to make meetings of this policy body open and public and governed by the provisions of the Ralph M. Brown Act; 67.16 by failing to provide meeting minutes within 10 working days after the meeting.

Action: Moved by Member Hyland, seconded by Member Anderson, to adopt the recommendations of the SOTF Committees through the Consent Agenda.

Public Comment:

Richard Johnson stated that in reference to HVSafe and after the fall of SFSAfe there may have been violations done and he questioned if they were factual and truthful regarding the recording of the meeting.

Anonymous thanked the Task Force for taking this complaint and that it may sound benign on the agenda this is a complaint of a secret legal committee in 2016.

The Motion PASSED by the following vote.

Ayes: 10 - Hyland, Anderson, Stein, LaHood, Wolfe, Pilpel, Sugarman, Schmidt, Yankee, Kumar

Noes: 0 - None

Absent: 1 - Hill

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

8. **File No. 22126** Complaint filed by Michael Petrelis against Supervisor Shamann Walton (Board of Supervisors) for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.29-5, by failing to provide required calendars of certain officials in a timely and/or complete manner.

Michael Petrelis (Petitioner) was not present for the hearing and did not notify the Administrator of their absence.

Supervisor Shamann Walton (Respondent) was not present for the hearing and did not notify the Administrator of their absence.

Action: Moved by Chair Yankee, seconded by Member Wolfe, to close the file due to lack of attendance pursuant to Complaint Procedure 7B.

Public Comment:

None.

The Motion PASSED by the following vote.

Ayes: 10 - Yankee, Wolfe, Hyland, Anderson, Stein, LaHood, Pilpel, Sugarman, Schmidt, Kumar

Noes: 0 - None

Absent: 1 - Hill

9. **File No. 23010** Complaint filed by Karl Kramer against Dennis Herrera, Charles Perl, and the Public Utilities Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a request for public records in a timely and/or complete manner.

See Item 1 for the disposition of this item. The matter was withdrawn by the Petitioner.

10. **File No. 23018:** Complaint filed by Ralowe Ampu against Fire Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a request for public records in a timely and/or complete manner.

Ralowe Ampu (Petitioner) was not present for the hearing and did not notify the Administrator of their absence.

John Tucker (Fire Department, Respondent) was present for the hearing.

Action: Moved by Chair Yankee, seconded by Member Wolfe close the complaint due to the absence of the Petitioner as provided by Complaint Procedure 7B.

Public Comment:

None.

The Motion PASSED by the following vote.

Ayes: 10 - Yankee, Wolfe, Hyland, Anderson, Stein, LaHood, Pilpel, Sugarman, Schmidt, Kumar

Noes: 0 - None

Absent: 1 – Hill

11. **File No. 23020(A)** Complaint filed by Paul Kniha against the San Francisco Municipal Transportation Agency for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

File No. 23036(B) Complaint filed by Paul Kniha against the San Francisco Municipal Transportation Agency for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21 by failing to respond to a request for records in a timely and/or complete manner.

File Nos. 23020 and 23036 were called and heard together.

Paul Kniha (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Kniha stated that records were withheld due to California Evidence Code 1040 and an ongoing investigation. On March 4, 2023 the SFMTA confirmed that the investigation was discontinued, the SFMTA was in possession of the requested records but responded that they had no records.

Caroline Celaya, San Francisco Municipal Transportation Agency (Respondent) provided a summary of the department's position. Ms. Celaya confirmed with the SFMTA EEO officers that there was no pending investigation and sent the documents to Mr. Kniha.

Action: Moved by Member Kumar, seconded by Member Anderson, to find that the San Francisco Municipal Transportation Agency, violated Administrative Code (Sunshine Ordinance), Section 67.27 for withholding records without justification and recommend that the matter be referred to the Compliance and Amendments Committee for monitoring if Mr. Kniha informs the Task Force Administrator within five business days, he has not received his records.

Public Comment:

None.

The Motion PASSED by the following vote.

Ayes: 10 - Kumar, Anderson, Yankee, Wolfe, Hyland, Stein, LaHood, Sugarman, Schmidt, Pilpel

Noes: 0 - None

Absent: 1 - Hill

12. **File No. 23024** Complaint filed by Paul Kniha against the San Francisco Municipal Transportation Agency for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Paul Kniha (Petitioner) provided a summary of the complaint. Mr. Kniha stated that on November 20, 2023, he requested records related to Paul Kniha for the time period Between January 9, 2022 through January 20, 2023. Mr. Kniha stated that the SFMTA

would not provide the records due to Evidence Code 1040 and that those records are exempt from disclosure due to attorney/client privilege.

Leanne Nahn, San Francisco Municipal Transportation Agency (Respondent), provided a summary of the department's position. Ms. Nahn stated that records were not produced on the advice of the Deputy City Attorney.

Caroline Celaya (San Francisco Municipal Transportation Agency, Respondent) provided a summary of the department's position. Ms. Celaya noted that the reason Ms. Nahn did not provide certain records was because they were attorney/client privileged, which was confusing because of the multiple requests made by the Petitioner.

Action: Moved by Member Pilpel, seconded by Member Wolfe to find that the San Francisco Municipal Transportation Agency violated Administrative Code (Sunshine Ordinance) Section(s) 67.26 for failure to keep withholding to a minimum and order the SFMTA to conduct an additional review and provide records within five business days including a cover letter to the petitioner and provide a copy of that letter to the Task Force Administrator.

Public Comment:

Mark Sullivan provided the following written public comment:

“[i]n order for a communication to be privileged, it must be made for the purpose of the legal consultation, rather than some unrelated or ancillary purpose.” Los Angeles City. Bd. of Supervisors v. Superior Court, 2 Cal. 5Th 282, 297 (2016). Attorney-work product privilege exempts from disclosure materials created by an attorney in the course of **representing** a client, i.e., “work product,” and must be a reflection of the attorney’s “impressions, conclusions, opinions, or legal research or theories.” Civ. Proc. Code § 2018.030. However, these are narrow categories of records, and do not necessarily cover everything that a government attorney touches or discusses with other agency staff. I think that the attorney needs to assert attorney-client privilege and not just the respondent, as the attorney would know whether or not the records were made the purpose of the legal consultation.”

The Motion PASSED by the following vote.

Ayes: 9 - Pilpel, Wolfe, Kumar, Anderson, Yankee, Hyland, Stein, LaHood,
Sugarman
Noes: 1 - Schmidt
Absent: 1 - Hill

- File No. 23033:** Complaint filed by Andrew J. White against the Department Police Accountability for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a request for public records in a timely and/or complete manner and 67.7(a) by failing to notice the hearing 72 hours in advance of the

regular meeting, a policy body shall post an agenda containing a meaningful description of each item of business and 67.7(b) by failing to provide meaningful descriptions that are sufficiently clear and specific to alert a person of average intelligence.

Andrew White (Petitioner) provided a summary of the complaint. Mr. White made a request for records under Administrative Code, Sunshine Ordinance, Section 67.21 seeking general information regarding his case with the Department of Police Accountability and access to the records of a peace officer. Mr. White requested and was granted a new case review and is now questioning the validity of that review.

Sara Maunder (Department of Police Accountability, Respondent) provided a summary of the department's position. Ms. Maunder stated that her office granted Mr. White another case review. Ms. Maunder also stated that the documents Mr. White is seeking are exempt from disclosure because they are personnel records.

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

Public Comment:

None.

The Motion PASSED by the following vote.

Ayes: 10 - Schmidt, Yankee, Pilpel, Wolfe, Kumar, Anderson, Hyland, Stein, LaHood, Sugarman

Noes: 0 - None

Absent: 1 - Hill

14. Hearing - Update on 2023 Annual Report.

Vice-Chair Stein requested that everyone review the materials by the deadline at the second week of March and contribute with whatever changes that need attention by that time. Vice-Chair Stein stated that she has heard from 15 city agencies. Chair Yankee stated that most SOTF members' terms expire at the end of April and that it would be nice for the Annual Report to be completed by then.

Public Comment:

None.

No action taken.

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

Member LaHood reminded the Task Force that the Compliance and Amendments Committee is reviewing the Ordinance and would welcome any edits or comments.

Member Pilpel reminded the Task Force that Form 700s are due in April along with Sunshine and Ethics training.

Member Schmidt suggested that Member Kumar join the Complaint Committee

Member Anderson suggested that a timeline be implemented on discussions that indicate how long a discussion on a specific item should take.

Public Comment:

Peter Warfield stated that he was happy to hear about future agenda items and suggested not using Google docs because they require lengthy agreements regarding terms of use and that there should be documents that you can just read.

16. **ADJOURNMENT**

There being no further business the meeting was adjourned at 11:08 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.