



**SUNSHINE ORDINANCE TASK FORCE
CITY AND COUNTY OF SAN FRANCISCO
Hearing Room 408
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689**

MINUTES

April 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	Ankita Kumar	Seat 10	Vacant
Seat 5	Maxine Anderson	Seat 11	Bruce Wolfe
Seat 6	Laura Stein – Vice-Chair		

Clerk: Cheryl Leger

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 p.m. On the call of the roll, Chair Yankee, Vice-Chair Stein, and Members Schmidt, Anderson, Sugarman, Pilpel and Hyland were noted present. Member Wolfe appeared remotely. Members LaHood and Kumar were noted absent. Deputy City Attorney Valerie Lopez was present. A quorum was present.

The Task Force discussed changing the order of the cases as requested by Respondent Margot Shaub and Complainant Wynship Hillier.

Public Comment:

Peter Warfield, Executive Director, Library Users Association, libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, California, 94117-0544 stated that the number of materials posted on the agenda were larger than he expected and that he did not have adequate time to prepare his case and asked that his complaint be pushed back from the agenda.

No action taken.

2. **Approval of the minutes from the Sunshine Ordinance Task Force Meeting of March 6, 2024. (11.35)**

Action: Moved by Member Pilpel, seconded by Member Hyland, to approve the March 6, 2024 Minutes as amended.

Member Hyland withdrew his second.

Action: Moved by Member Pilpel, seconded by Vice-Chair Stein to approve the March 6, 2024 Minutes as amended.

Member Pilpel withdrew his motion.

Action: Moved by Member Hyland, seconded by Member Anderson, to amend the motion to continue the matter to the call of the chair.

Public Comment:

Peter Warfield agreed with continuing approval of the March 6, 2024 Task Force minutes until the May 1, 2024 hearing.

Mark Sullivan provided the following written public comment:

“There are 6 provisions between the Sunshine Ordinance and The Brown Act that deal with the requirements of documents in an agenda item. Sec. 67.7. Agenda Requirements; Regular Meetings. (b)... ‘It shall refer to any explanatory documents that have been provided to the policy body in connection with an agenda item, such as correspondence or reports, and such documents shall be posted adjacent to the agenda or, if such documents are of more than one page in length, made available for public inspection and copying at a location indicated on the agenda during normal office hours.’ This means that revision documents submitted should be included in approval of the minutes agenda item.”

The motion PASSED by the following vote:

Ayes: 8 - Hyland, Anderson, Pilpel, Sugarman, Wolfe, Schmidt, Yankee, Stein
Noes: 0 - None
Absent: 2 - Kumar, LaHood

Chair Yankee announced the resignation of Thao Hill from the Task Force.

3. **Approval of the Orders of Determination: (24.42)**

From the February 7, 2024 Sunshine Task Force meeting:

File No. 23016 - Complaint filed by Rosa L. against the Department of Emergency Management

File No. 23098 - Complaint filed by Mark Sullivan against the Ethics Commission
File No. 22134 - Complaint filed by Michael Petrelis against Mayor London Breed
File No. 22135 - Complaint filed by Michael Petrelis against Mayor London Breed
File No. 23013(C) - Complaint filed by Chris Ward Kline against the Mayor's Office
File No. 23013(D) - Complaint filed by Chris Ward Kline against the Department of Emergency Management

From the March 6, 2024 Sunshine Task Force meeting:

File No. 21125 - Complaint filed by Liza Murawski against the Department of Public Health
File No. 22129 - Complaint filed by HVSafe against the Police Department
File No. 24003 - Complaint filed by Anonymous (acu) v. Fine Arts Museums
File No. 23020 and 23036 - Complaint filed by Paul Kniha against the Municipal Transportation Agency
File No. 23024 - Complaint filed by Paul Kniha against the Municipal Transportation Agency
File No. 23033 - Complaint filed by Andrew J. White against the Department of Police Accountability

The Task Force discussed approval of the Orders of Determination.

Action: Moved by Member Hyland, seconded by Member Pilpel, to continue the approval of the Orders of Determination to the call of the Chair.

Public Comment:

Peter Warfield suggested that more clarity be provided on the agenda so that members of the public have an idea when explaining the circumstances.

Mark Sullivan provided the following written public comment:

“Yankee and Stein went to Young with concerns about a supposed grey area complaint. Schmidt asked if happened often; was new procedure. Young is different department has no right to insert himself into how the Sunshine Ordinance is interpreted unless he is speaking during the time frame of speaking on behalf of the respondent during a hearing. He was speaking on behalf of the city to narrow transparency not in the public's interest. Allow Clerks speak meeting protocol questions. If a clerk wishes to speak about complaint, it should be in the time frame of speaking for a party in a complaint or during the 3-minute comment, other department employees. Task Force legal counsel is ethically walled off from the city and SOTF did not go to them with a supposed gray area of concern. Mr. Young is not legal counsel, not ethically walled off. Throw out determination on complaint 23098.”

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 2 - Kumar, LaHood

4. Administrator's Report, Complaints and Communications. (38.35)

Task Force Administrator Leger presented the Report and responded to questions. The Task Force also discussed scheduling a Special Meeting of the Complaint Committee for April 23, 2024 and a Special Meeting of the Compliance and Amendments Committee hearing for April 16, 2024.

Public Comment:

None.

No action taken.

5. File No. 23097 - 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. (52.00)

Members Schmidt and Pilpel presented the proposed edits in the Complaint Procedures to the Task Force.

Action: Moved by Member Schmidt, seconded by Member Pilpel, to approve the proposed new language to the Complaint Procedures as amended.

Public Comment:

Mark Sullivan provided the following written public comment:

“CA Constitution, Article 1, Section 3 (2) "statute, court rule, or other authority", which means the task force's bylaws and complaint procedures as you are written in the Ordinance and how you function are essential to the application of the Ordinance... ' shall be broadly construed if it furthers the people's right of access, narrowly construed if it limits the right of access.' Courts consistently stated records are presumed public until exemption is invoked by custodian/ agency. Look to see if the department has claimed an exemption, if not the records are public. Complaint procedure language should require respondents to make clear exemption and if none claimed, respondent is not granted a hearing. Records are de facto public. Record pivots on an exemption claimed. CPRA clearer language regarding exemptions /public records. Most complaints violations of time. More action by the task force assisting people's right of access to records in time.”

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 2 - Kumar, LaHood

Action: Moved by Chair Yankee, seconded by Member Sugarman, to accept the proposed revisions to the By-Laws with further edits so that it reads in each instance, "... Committee shall schedule priority review for 67.21(b) petitions, and hearings on complaints to review jurisdiction and the merits of the complaint in order to provide recommendations to the Full Task Force."

Public Comment:

Peter Warfield noted that he was not able to follow closely with the changes and it is good that the Task Force is looking to satisfy the 45-day statutory requirement that has been in place for decades but not often satisfied.

The motion PASSED by the following vote:

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

Noes: 1 - Pilpel

Absent: 2 - Kumar, LaHood

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. (1.55)*

Mark Sullivan provided the following written Public Comment:

"SOTF's ability to remedy violations has been seriously compromised as a result of the City Attorney's advice. Voting "rule" is manifestly unfair cannot be justified under any appropriate standard. Contrary to purposes of constitutional and state law protections for gaining access to public meetings and records. The current SOTF voting procedure whether a requested record is disclosable should be reversed because under California law all public records are presumptively disclosable; the City's departments, officials and policy bodies have the burden of establishing that a specific exemption from disclosure applies. For that reason, a motion should not be for a determination of a "violation." Rather, the motion put to the vote should be for a determination that the specific exemption relied on by the respondent applies; and the burden of proving that exemption should rest on the respondent, not on the complainant, to establish that it does not apply."

Chris Ward Kline commented on the discussion regarding timing, that the City Attorney's Office is aware that Task Force meetings should not take this long and that everyone is doing their best.

Peter Warfield stated that he wanted to provide a presentation to the Task Force and requested to see the number of drafts presented by Ms. Leger to the Library's response.

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

7. **File No. 23013(C): Reconsideration of Complaint:** Complaint filed by Chris Ward Kline against the Mayor's Office for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, 67.24(b), and 67.25, by failing to respond to a request for public records in a timely and/or complete manner. (2.06)

Chris Ward Kline (Petitioner) provided a summary of the complaints and requested the Task Force to find violations. Mr. Kline suggested that the Mayor's Office consider emails as audio files which are used to collect data. Mr. Kline stated that the Mayor's Office and Mr. Heckel have told him that there are no files to turn over. Mr. Kline believes that the Mayor's Office has collected his health information and used it against Mr. Kline.

Hank Heckel (Mayor's Office, Respondent) provided a summary of the department's position. Mr. Heckel stated that the Mayor's Office has received many requests for surveillance technology records from Mr. Kline. Mr. Heckel stated that the Mayor's Office does not use surveillance technology.

Action: Moved by Member Pilpel, seconded by Member Hyland, to deny the request for reconsideration.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 - Pilpel, Hyland, Anderson, Sugarman, Wolfe, Yankee, Stein, Schmidt
Noes: 0 - None
Absent: 2 - Kumar, LaHood

The Task Force recessed from 6:35 p.m. until 6:49 p.m.

8. **A File No. 22027: Hearing on the status of the Order of Determination:** Complaint filed by John Templeton against the Planning Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.7; 67.21, and 67.29-7, by failing to post an agenda containing a meaningful description of each item of business to be transacted or discussed at the meeting; failing to responded to a request for public records in a timely and/or complete manner; and failing to maintain and preserve all documents is a professional manner. (2.47)

B. File No. 22028: Hearing on the status of the Order of Determination: Complaint filed by John Templeton against the Historic Preservation Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.7, 67.21, and 67.29-7, by failing to post an agenda containing a meaningful description of each item of business

to be transacted or discussed at the meeting; failing to respond to a request for public records in a timely and/or complete manner; and failing to maintain and preserve all documents in a professional manner.

The Task Force heard File Nos. 22027 and 22028 together.

Mr. Templeton (Petitioner) provided a summary of the complaints and requested that the Task Force find violations. Mr. Templeton stated he requested the signed May 1 grant agreement from the Planning Department and was not provided. Mr. Templeton requested those same records from the Mayor's Office and received them within one day. Mr. Templeton stated that after receiving the Order of Determination from the Task Force in 2007 filed a claim with the California Civil Rights Department against the Planning Department due to racial prejudice within that department and that he never received his requested records from them.

Jonas Ionin (Respondent, Planning Department and Historic Preservation Commission) provided a summary of the department's position. Mr. Ionin stated that his understanding is Mr. Templeton requested the May 1 grant agreement signed by Richard Hillis and Reverend Edgar Boyd of the Economic Development Office in 2008. Mr. Ionin stated that the Petitioner needed to be more specific regarding which records they are looking for. Mr. Ionin noted that his office completed their due diligence.

Action: Moved by Chair Yankee, seconded by Member Anderson, to close File Nos. 22027 and 22028 without prejudice.

Public Comment:

Peter Warfield stated he understood that this case was about civil rights and that people have rights which should be respected regardless of what their purposes are.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 2 - Kumar, LaHood

9. **File No. 23034** Complaint filed by Library Users Assn. against Margot Shaub, Michael Lambert, and the San Francisco Public Library for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21(a), by failing to respond to a public records request in a timely and/or complete manner, and 67.21(l), by failing to allow inspection and copying of documentary public information stored in electronic form which shall be made available to the person requesting the information in any form requested which is available to or easily generated by the department, its officers or employees, including disk, tape, printout or monitor at a charge no greater than the cost of the media on which it is duplicated. (3.30)

Peter Warfield (Petitioner) provided a summary of the complaints and requested the Task Force to find violations. Mr. Warfield stated this his case is about access to information requested in an Immediate Disclosure Request to the Public Library. Mr. Warfield stated he requested access to the Library Offices to look at public information regarding the Night of Ideas.

Margot Shaub (Public Library, Respondent) provided a summary of the department's position. Ms. Shaub stated that Mr. Warfield arrived at the Library Offices after 5:00 p.m. and that he knows that the offices close at that time. Ms. Shaub stated that she asked Mr. Warfield to return in 15 minutes for his records and he said he could not wait 15 minutes. Ms. Shaub stated that she would have provided the information to Mr. Warfield if he provided the time to comply.

Action: Moved by Vice-Chair Stein, seconded by Member Anderson, to find no violation.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 2 - Kumar, LaHood

10. **File No. 22060** Complaint filed by Wynship Hillier against Executive Director Geoffrey Grier and the Behavioral Health Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21(b) and California Government Code, Section(s) 6253(c), by failing to respond to or acknowledge receipt of a records request in a timely and/or complete manner. (4:06)

Member Hyland provided a synopsis of the case.

Action: Moved by Chair Yankee, seconded by Member Hyland, to close the file for lack of attendance of the Petitioner under Complaint Procedure 7B.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 2 - Kumar, LaHood

11. **File No. 22099** Complaint filed by Wynship Hillier against Geoffrey Grier and the Behavioral Health Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21(b) and California Government Code, Section(s) 6253(c), by failing to respond to or acknowledge receipt of a records request in a timely and/or complete manner. (4.11)

Action: Moved by Member Sugarman, seconded by Member Anderson, to close the file for lack of attendance by the Petitioner under Complaint Procedure 7B.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 2 - Kumar, LaHood

12. **File No. 23023** Complaint filed by Jorge Rivero against the Police Department 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. (4.16)

Action: Moved by Member Pilpel, seconded by Member Anderson, to close the file for lack of attendance by the Petitioner under Complaint Procedure 7B.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 2 - Kumar, LaHood

13. **File No. 23013(E)** Complaint filed by Chris Ward Kline against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, 67.24(b), and 67.25 by failing to respond to a request for public records in a timely and/or complete manner. (4.24)

Chris Ward Kline (Petitioner) provided a summary of the complaints and requested the Task Force to find violations. Mr. Kline filed a request with the Police Department on September 26, 2022, for electronic surveillance records. Mr. Kline stated that the Police Department did not provide the requested records.

Lt. Christopher Beauchamp (Police Department, Respondent) provided a summary of the department's position. Lt. Beauchamp stated that the police department's response was not timely and was incomplete. Lt. Beauchamp stated that on February 23, 2023, Lt. William Toomey provided a letter stating they have no responsive records or surveillance records on Mr. Kline.

Action: Moved by Chair Yankee, seconded by Member Anderson, to continue the matter to the call of the Chair.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 2 - Kumar, LaHood

14. **Hearing - Update on 2023 Annual Report. (4.42)**

Vice-Chair Stein presented the 2023 Annual Report to the Task Force and responded to questions from the Members.

Action: Moved by Member Hyland, seconded by Member Wolfe, to approve the 2023 Annual Report of the Sunshine Ordinance Task Force.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 2 - Kumar, LaHood

15. **Announcements, Comments, Questions, and Future Agenda Items by Members of the Sunshine Ordinance Task Force. (5.12)**

Member Wolfe noted that the city is migrating software from Drupal to Wagtail Digital Services. Second, Member Wolfe suggested that a meeting for administrative issues take place regarding parts of the Ordinance. Third, Wynship Hillier suggested that petitioners are not required to attend Task Force hearings to defend their cases per the Ordinance. Last, if a committee is unable to hear a complaint within 45 days waiting until it takes place is not a good idea.

16. **ADJOURNMENT.**

There being no further business, the meeting was adjourned at 9:29 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.