



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

May 3, 2023 - 4:00 PM

Seat 1	Dean Schmidt	Seat 7	Matthew Yankee - Chair
Seat 2	Lila LaHood	Seat 8	Chris Hyland
Seat 3	Vacant	Seat 9	Vacant
Seat 4	Vacant	Seat 10	Thuan Thao Hill
Seat 5	Jennifer Wong - Vice-Chair	Seat 11	Bruce Wolfe
Seat 6	Laura Stein		

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 4:07 PM. On the call of the roll Chair Yankee, Vice-Chair Wong and Members, Schmidt, Hill, LaHood, Stein, and Hyland were present. Member Wolfe was noted absent. A quorum was present.

There were no agenda changes.

No action taken.

2. **Approval of the minutes from the Sunshine Ordinance Task Force Regular Meeting of April 5, 2023.**

The Task Force discussed the minutes.

Action: Moved by Vice-Chair Wong, seconded by Member LaHood, to approve the minutes.

Public Comment:

David Pilpel provided suggested edits to the minutes.

Peter Warfield, Executive Director of Library Users Association, libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, California, 94117-0544. Mr. Warfield noted the importance for the SOTF to attempt and help the public understand and have access to meetings.

Vice-Chair Wong rescinded their motion.

Action: Moved by Vice-Chair Wong, seconded by Member LaHood, to further amend the minutes and include suggestion from David Pilpel.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - Wong, LaHood, Stein, Schmidt, Hyland, Hill, Yankee

Noes: 0 - None

Absent: 1 - Wolfe

3. Approval of the Order of Determinations: May 3, 2023.

File No. 20079 - S. Anderies v. District Attorney

File No. 21128 - M. Schulman v. Mayara Ruski Augusto Sa and the PUC

File No. 21132 - M. Schulman v. Sherrie Valdez and the Dept. of Public Health

File No. 21165 - Peter Warfield and Library Users Assn. v.

City Librarian and the Public Library

File No. 22001 - Sisneros v. Caroline Celaya and the SFMTA

File No. 22130 - M. Petrelis v. Supervisor Catherine Stefani

Action: Moved by Member Stein, seconded by Vice-Chair Wong, to approve the Orders of Determination as amended.

Public Comment:

Peter Warfield provided suggested edits on page 15.

The motion PASSED by the following vote:

Ayes: 7 - Stein, Wong, LaHood, Schmidt, Hyland, Hill, Yankee

Noes: 0 - None

Absent: 1 - Wolfe

4. Election of Sunshine Ordinance Task Force Officers pursuant to Article III, Section 5 of the By-Laws.

a) Nominations and election of Chair.

The SOTF discussed the nomination of the Chair of the SOTF.

Member Stein nominated Member Yankee as Chair of the SOTF. Member Yankee accepted the nomination.

Action: Moved by Member Hyland, seconded by Member LaHood, to elect Matthew Yankee as Chair of the SOTF.

Public Comment:

Peter Warfield stated that he hoped there would be a lively debate; however, he does not have strong objections and might support the nominee.

The motion PASSED by the following vote:

Ayes: 7 - Hyland, Schmidt, Stein, LaHood, Wong, Hill, Yankee
Noes: 0 - None
Absent: 1 - Wolfe

b) Nominations and election of Vice-Chair.

The SOTF discussed the nomination of a Vice-Chair of the SOTF.

Vice-Chair Wong nominated Member Stein for Vice-Chair. Member Stein did not accept the nomination.

Member LaHood nominated Member Wong as Vice-Chair of the SOTF. Member Wong accepted the nomination.

Action: Moved by Member Stein, seconded by Member Schmidt, to elect Member Wong as Vice-Chair of the SOTF.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - Stein, Schmidt, LaHood, Wong, Hyland, Hill, Yankee
Noes: 0 - None
Absent: 1 - Wolfe

5. **Administrator's Report, Complaints and Communications.**

The SOTF Administrator presented the Administrator's Report to the Task Force.

Public Comment:

Peter Warfield spoke about including a “null report” for 2018 files. He also expressed concerns regarding hearing discussions due to the audio system in the meeting room.

Anonymous speaker also expressed concerns hearing discussions due to the audio system in the meeting room.

No action taken.

6. **Hearing – Sunshine Ordinance references to sections of the California Public Records Act which have changed due to code renumbering.**

Deputy City Attorney Marc Price-Wolf stated that the CPRA is becoming more user friendly and that there is no action to update the record, just specific renumbering due to annual update because of changes.

Public Comment:

Peter Warfield stated that it is important to see or approach each other and anyone watching remotely and considers it important to provide contact information.

David Pilpel thinks that the Deputy City Attorney should prepare a memo and advise on the new code section and include a column for each subject if that can be prepared for each subject and include non-substantive and substantive changes.

Member Hill was noted not present at 5:16 pm.

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.***

Johny Schenole spoke about the complaint in File No. 23046. Mr. Schenole sent a series of questions to Administrator Leger to be forwarded to Dennis Herrera, and Mr. Herrera failed to provide a response regarding the 5% drought payment.

Peter Warfield stated that the Task Force’s efforts are important to a lot of people and may be the only way members of the public have access to specific information.

David Pilpel spoke about the amendments and the full SOTF recalls in the amendments from 1999 because technology was not as advanced, and departments and the technology have advanced and allows a master list of city meetings.

8. **File No. 21002:** Complaint filed by Anonymous (PAS) against Gwyneth Borden and the Municipal Transportation Agency, for allegedly violating Administrative Code (Sunshine

Ordinance), Sections 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

The Petitioner was not present for the hearing and did not advise the Administrator of absence in advance of the meeting.

The Respondent was present for the hearing.

Action: Moved by Member Hyland, seconded by Member LaHood, to table the matter pursuant to SOTF Complaint Procedure, Section 7B. The Petitioner may request their complaint to be reopened within sixty days.

Public Comment:

Peter Warfield stated that there is a lot of technical jargon but appreciates what seems to be a generous and reasonable justification. Mr. Warfield asked what does tabling a complaint mean?

The motion PASSED by the following vote:

Ayes: 6 - Hyland, LaHood Stein, Wong, Schmidt, Yankee

Noes: 0 - None

Absent: 2 - Wolfe, Hill

The meeting recessed at 5:45 pm and reconvened at 5:54 p.m.

Reconvening roll call: Members Stein, Wong, LaHood, Schmidt, Hyland, Yankee were noted present.

9. **File No. 22007:** Complaint filed by Anonymous (PAN) against Thomas Campbell and the Fine Arts Museums for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Anonymous (PAN) (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that he filed a complaint against the Fine Arts Museum (FAMSF) on January 13, 2022, requesting certain public records. Anonymous requested daily data to provide justification and instead the museum withheld records and the records sought are public records. The California Court of Appeal found that public records are still public records when in the possession of FAMSF and department head Thomas Campbell. Anonymous requested the SOTF uphold the Compliance and Amendments Committee recommendation.

Paria Dea (Fine Arts Museum) (Respondent), provided a summary of the department's position. Ms. Dea stated that the Immediate Disclosure Request was received on January 13, 2022, and they responded within 24 hours, provided responsive records and it was timely. Ms. Dea stated that Co-FAM is a nonprofit. Ms. Dea stated that there are

employees that work with city employees. Ms. Dea also stated that Human Resources employees are separate.

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

Action: Moved by Vice-Chair Wong, seconded by Member LaHood, to find that Thomas Campbell and the Fine Arts Museums violated Administrative Code, Sunshine Ordinance, Section(s) 67.21(b) by failing to provide justification for withholding; 67.21(c) failing to direct the petitioner to the proper office, 67.21(d) failing to communicate with petitioner on why the records are not being provided and order Thomas Campbell of the Fine Arts Museum to provide the records requested even if those records were created by Co-FAM or FAMSF.

Vice-Chair Wong rescinded their motion.

Action: Moved by Vice-Chair Wong, seconded by Member LaHood, to find that Thomas Campbell and the Fine Arts Museums violated Administrative Code, Sunshine Ordinance, Section(s) 67.21(b), by failing to justifying withholding; 67.26, failing to keep withholding to a minimum; 67.21(c), failing to assist the petitioner by providing a statement as to the existence, form or quantity and nature of the records and order Tom Campbell and FAMSF to provide the records even if those records were created by Co-FAM or FAMF.

The motion PASSED by the following vote:

Ayes: 6 - Wong, LaHood, Hyland, Yankee, Stein, Schmidt
Noes: 0 - None
Absent: 2 - Wolfe, Hill

Action: Moved by Member Schmidt, seconded by Member Hyland, that the SOTF issue an order that the Fine Arts Museum must request that representatives of Co-FAM review the document request and issue in light of the obligations of the *Epstein v. Hollywood Entertainment, District 2* and *Community Youth Athletic Center v. City of National City* to determine whether it possesses any documents that need to be produced as the law requires.

Public Comment:

None

The motion PASSED by the following vote:

Ayes: 6 - Schmidt, Hyland, Wong, LaHood, Stein, Yankee
Noes: 0 - None
Absent: 2 - Wolfe, Hill

10. **File No. 21165:** Complaint filed by Library Users Association, Peter Warfield, Executive Director against San Francisco City Librarian Michael Lambert, and the San Francisco Public Library for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Peter Warfield, Library Users Association (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Warfield stated that he is fine with the recommendations provided by the Compliance and Amendments Committee. Mr. Warfield stated that his case is about the library refusing to provide the Library Commissioners' email addresses. Mr. Warfield stated that the law requires that the Task Force notify the District Attorney for enforcement.

Margot Shaub (Public Library) (Respondent), provided a summary of the department's position. Ms. Shaub stated that the library will continue to keep the personal email addresses of the Commissioner's private, because they are prevented from disclosing them.

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

***Moved by Chair Yankee, seconded by Vice-Chair Wong, to direct the SOTF Administrator to notify the District Attorney's Office that the Order in File No. 21165 was not complied with and to include a link to the agenda packet and the minutes.**

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 6 - Yankee, Wong, Schmidt, Hyland, LaHood, Stein

Noes: 0 - None

Absent: 2 - Wolfe, Hill

Action: Moved by Chair Yankee, seconded by Vice-Chair Wong, to request the District Attorney attend a future meeting of the SOTF to discuss Administrative Code, Sunshine Ordinance, Section(s) 67.21(e), as prompted by the hearing of File No. 21165.

Public Comment:

David Pilpel supports the idea and supports the motion but is not sure if it is in scope regarding the finding in the instant File No. 21165 because it is tangentially related to that and related to this task force and the SOTF may want to check with their DCA. Mr. Pilpel supports the discussion.

Chair Yankee rescinded their motion.

Action: Moved by Chair Yankee, seconded by Member LaHood, to request that the Compliance and Amendments Committee generate specific proposed language to send to the Board of Supervisors that would require the creation of and use of city email addresses by all city officials except in extraordinary circumstances.

Public Comment:

David Pilpel asked if this is a motion to send a letter regarding email use or policy? Mr. Pilpel agreed with Chair Yankee's comments about the fundamental government use and that everyone should get a government email address for work. This is an administrative request with minor impact to the budget.

Chair Yankee rescinded their motion.

Action: Moved by Chair Yankee, seconded by Member LaHood that the SOTF agendaize for the June 2023 SOTF meeting an item to discuss and take possible action on recommendations for an amendment to the Ordinance as we are empowered to do in 67.30(c) regarding electronic communications by City Officials.

Public Comment:

David Pilpel recited his support for this motion which can be handled under Item 15 and put under Chapter 8 of the Administrative Code. Each member of a city board or commission shall be assigned a city email address (TAPE at 8:34 PM).

The motion PASSED by the following vote:

Ayes: 6 - Yankee, LaHood, Wong, Schmidt, Hyland, Stein

Noes: 0 - None

Absent: 2 - Wolfe, Hill

11. **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 and requested the Committee to find a violation. Mr. Ron Cicero requested in 2020 via email, permission to gain access to information and evidence used to prosecute a historical case in San Francisco and the country. Mr. Cicero stated that his issue is the timeliness of the response from the Police Department due to unavailability of the materials or information. Mr. Cicero stated that he was told that in another jurisdiction someone else was using those same materials. Mr. Cicero stated that most of the materials were returned and in the last few years have been catalogued and moved. Mr. Cicero received a final response that the evidence was recently transferred.

Lt. Adam Lobsinger (Police Department), provided a summary of the department's position. Lt. Lobsinger stated that he did everything he could to assist Mr. Cicero in

producing this documentary. Lt. Lobsinger set up interviews for Mr. Cicero with people who have intimate knowledge of the facts of the case. Lt. Lobsinger also stated that the keeping of evidence has been upgraded to digital recording beginning with the most current cases for the past fifteen years. Lt. Lobsinger said old, antiquated information, like access to Hunters Point Naval Shipyard need to work their way through updating. Lt. Lobsinger also stated that they won't let officers or members of the public access to those records while they are in the process of been digitized and sorted. Lt. Lobsinger is happy to work with Mr. Cicero and would provide the records if allowed.

Action: Moved by Chair Yankee, seconded by Member Schmidt, to find that the Police Department violated Administrative Code, Sunshine Ordinance, Section(s) 67.21(b), by failing to provide records in a timely manner; send a letter to the Chief of Police to order the persons most knowledgeable of property control and archived public records at 1995 Evans Avenue and Building 606 at Hunters Point Shipyards to search for and turn over the requested records as soon as possible and to refer the file to the Compliance and Amendments Committee for follow up.

Public Comment:

David Pilpel expressed no opinion about the Police Department and believes the Task Force is on the right track. Mr. Pilpel stated that this hopefully will shed some light on city practices in general and that this case warrants greater discussion.

The motion PASSED by the following vote:

Ayes: 6 - Yankee, Schmidt, Wong, Hyland, LaHood, Stein
Noes: 0 - None
Absent: 2 - Wolfe, Hill

12. **CONSENT AGENDA** - The Sunshine Ordinance Task Force shall review **File No. 22107** to affirm that the Sunshine Ordinance Task Force has jurisdiction; that the noted violations of the Sunshine Ordinance, Brown Act, or California Public Records Act occurred; 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 May 3, 2023, 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. 22107 Complaint filed by Peter Warfield and the Library Users Association against City Librarian Michael Lambert and the Public Library for allegedly violating Administrative Code (Sunshine Ordinance), 67.29-5, by failing to respond to a request to provide the Proposition G Calendar in a timely and/or complete manner.

Action: Moved by Member Stein, seconded by Member Schmidt, to adopt the Consent Agenda and accept the recommendations of the Complaint Committee.

Public Comment:

Peter Warfield stated that this was a willful violation which he realized when he received the calendar entries, and the reason is that the explanation for not turning over the materials, too old, was unbelievable.

The motion PASSED by the following vote:

Ayes: 6 - Stein, Schmidt, Wong, Hyland, LaHood, Yankee

Noes: 0 - None

Absent: 2 - Wolfe, Hill

13. **Hearing – Supervisor of Records' obligation under Administrative Code 67.21(d) to "immediately order the custodian of the public record to comply" with a records request.**

Chair Yankee stated that the SOTF received a memo from the City Attorney about a specific file. Chair Yankee noted that his understanding is that the Supervisor of Records is told they should order the Department to turn over records, but this memo says that the city attorney cannot issue such an order. Chair Yankee noted further that the more general defense is that even if the SOTF can issue orders to city departments, the Charter would not allow that.

Public Comment:

David Pilpel stated that he agrees with the City Attorney that the SOTF lacks jurisdiction on 67.21 and that the ordinance creates routes to the Supervisor of Records. Mr. Pilpel also stated that he doesn't believe there is a charter conflict.

No action taken.

14. **Hearing – Budget Appropriation:** Discussion and potential action regarding a request to increase appropriations dedicated to the Sunshine Ordinance Task Force for next fiscal year's budget.

Chair Yankee stated that the SOTF is absorbing additional work due to the Supervisor of Records/City Attorney determining that they cannot issue orders to disclose public records, and that this information can be used to justify the need for additional staff. The SOTF hearings are not efficient, and things need to be packaged better. Chair Yankee also noted that the Ethics Commission provides a thorough staff investigation of files before they are heard by the Commission in a meeting.

Action: Moved by Member Stein, seconded by Member LaHood to continue this item to the next meeting before General Public Comment.

Public Comment:

David Pilpel supports the continuance until next month and encourages someone to draft a letter but is pessimistic about money.

The motion PASSED by the following vote:

Ayes: 6 - Stein, LaHood, Yankee, Schmidt, Wong, Hyland

Noes: 0 - None

Absent: 2 - Wolfe, Hill

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

Member Stein received an email from David Steinberg regarding a best practices meeting on how to respond to records requests and suggested meeting with one or two people to discuss guidelines and how the SOTF works.

Vice-Chair Wong suggested that everyone should attend one of those meetings.

Public Comment:

None.

No action taken.

16. **ADJOURNMENT**

There being no further business the meeting was adjourned at 10:43 pm.

**APPROVED: June 7, 2023
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.