



# SUNSHINE ORDINANCE TASK FORCE CITY AND COUNTY OF SAN FRANCISCO MINUTES

## REGULAR MEETING

June 7, 2023 - 4:00 PM

Seat 1	Dean Schmidt	Seat 7	Matthew Yankee - <b>Chair</b>
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 - <b>Vice-Chair</b>	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 and Members LaHood, Hill, Stein, and Hyland were noted present. Member Schmidt was absent. Vice-Chair Wong and Member Wolfe appeared remotely. A quorum was present.

The Task Force discussed the agenda. SOTF Administrator stated that Sgt. Adam Lobsinger requested that Item 9 (File No. 22015) be postponed to a later meeting date. Chair Yankee stated that the Task Force will wait until that item is called and decide whether a postponement at that time is required.

No actions taken.

Public Comment:

None.

### 2. **Approval of the minutes from Sunshine Task Force Regular Meeting of May 3, 2023.**

The Task Force discussed the minutes.

**Action: Moved by Member LaHood, seconded by Member Stein, to approve the minutes.**

Public Comment:

David Pilpel provided suggest amendments - on page 1 item 2 public comment needs a carrier return. On bottom of page 2 item 4, seems odd to use the nominee's full name when it should be Chair Yankee and in the bold action on both cases was to elect members as Vice-Chair and Chair.

Member LaHood rescinded their original motion.

**Action: Moved by Member LaHood, seconded by Member Stein, to approve the minutes as amended.**

**The motion PASSED by the following vote:**

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

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

File No. 22007, Anonymous v. Thomas Campbell and the Fine Arts Museums  
File No. 22010, Ron Cicero v. Police Department  
File No. 22107, Peter Warfield and Library Users Assn. v.  
City Librarian and the Public Library

**Action: Moved by Member Wolfe, seconded by Member Hill, to approve the Orders of Determination for File Nos. 22007, 22010 and 22107 and omit the word "Date" in parentheses at the top of each document.**

Public Comment:

David Pilpel provided amendments to the Orders of Determination.

Member Wolfe rescinded their original motion.

**Action: Moved by Member Wolfe, seconded by Member Hill, to continue File No. 22007 and approve File Nos. 22010 and 22107 and omit the word "Date" in parentheses at the top of each document.**

Public Comment:

None.

**The motion PASSED by the following vote:**

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

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

The SOTF Administrator presented the Administrator’s report.

Chair Yankee opened a discussion on SOTF hearing dates for July and August and lack of quorum.

**Action: Moved by Chair Yankee, seconded by Member Wolfe, to cancel the July 5, 2023, Sunshine Ordinance Task Force regular meeting and reschedule it for July 25, 2023, as a special meeting at, and cancel the July 25, 2023, Education, Outreach and Training Committee meeting.**

Public Comment:

David Pilpel confirmed the hearing dates.

**The motion PASSED by the following vote:**

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

Member Stein stated she will fill in as Chair of the Complaint Committee on June 20, 2023.

Public Comment:

None.

5. **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 opened the discussion and raised the issue of the Supervisor of Records no longer issuing orders to produce public records which may increase the workload of the Task Force.

Member Wolfe stated how late it is to get in a budget request; will the Clerk’s Office carry it or a supervisor?

Matthew heard that Ethics is facing significant cuts from their budget by the Mayor. Chair Yankee has not heard from Clerk Calvillo that there will be any budget increases.

Member Wolfe suggested that a meeting with Supervisor Chan, who chairs the Budget Committee, and the City Attorney take place to get something in writing from them regarding their relinquishing drafting memoranda.

**Action: Moved by Chair Yankee, seconded by Member Wolfe, to authorize Member Wolfe to engage with Supervisor Chan, who chairs the Budget Committee, and in consultation with the Clerk of the Board, regarding potential extra work the SOTF will undertake due to the change in the City Attorney and Supervisor of Records positions that they will no longer be issuing orders regarding public records requests and to request a commensurate increase or transfer of funds to the SOTF.**

Public Comment:

David Pilpel noted support for the motion, provided language to use to address to the City Attorney and good luck to Member Wolfe.

**The motion PASSED by the following vote:**

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

Noes: 0 - None

Absent: 1 - Schmidt

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)***

Wynship Hillier provided the following written public comment.

"Mr. Hillier related that the Task Force had ruled in his favor and against the Behavioral Health Commission on Oct. 6, 2021, and Feb. 2 and Apr. 6, 2022, regarding seven provisions of the Sunshine Ordinance, after which they went through eight months of monitoring before the Compliance and Amendments Committee. He said that this had not had much effect and held up the most recent agenda of the Commission, claiming that it showed 32 instances of violation of four of the provisions that had been the subjects of the orders. He went through the violations one by one and also displayed the Commission's submissions regarding the log of postings and the "policy and procedure manual" also requested by the orders."

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

The Task Force recessed at 7:01 PM and reconvened at 7:07 PM.

7. **File No. 22020:** Complaint filed by Sergei Severinov against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21(c), by failing to respond to a public records request in a timely and/or complete manner.

Sergei Severinov (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Severinov stated that this hearing deprives him of his due process rights. Mr. Severinov further states that when you read the announcement of this hearing, it states file 22020 will be heard and there is no mention of his other related

case 22014. Mr. Severinov stated that this hearing is illegal because he had no chance to provide documents from his related case no. 22014 to use in this argument. Mr. Severinov stated that his complaint no. 22014 should have been on the agenda. Mr. Severinov stated this shows that the SOTF does not understand that his rights have been violated.

Lt. William Toomey (Police Department) (Respondent), provided a summary of the department's position. Lt. Toomey stated that regarding case No. 22014, the matter went to the Compliance and Amendments Committee. Lt. Toomey stated that the Police Department reached out to the Department of Emergency Management and worked with them to complete the necessary redactions that the Police Department is not trained to do, and produce that document. Lt. Toomey stated that complaint No. 22014 complies, the redacted records were produced, and the department acted in good faith.

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

**Action: Moved by Member LaHood, seconded by Member Wolf, that File nos. 22020 and 22014 not be combined.**

Public Comment:

None.

**The motion PASSED by the following vote:**

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

Noes: 0 - None

Absent: 1 - Schmidt

**Hearing on the Complaint No. 22020.**

Sergei Severinov stated that the Police Department lied and failed to provide the body camera footage he requested. Mr. Severinov stated that he read a Dept. of Police Accountability report published on their website that mentions his request for information regarding the presence of police on his block between Cole and Schrader Streets on Grove Street and includes the date in question, September 22, 2021. Mr. Severinov requested body camera video from 9/21 - 9/22/21 which showed that the petitioner was not happy with decision and threatened to file a complaint against the officers. Mr. Severinov also noted that the Police Department as well as the Department of Police Accountability have failed to release the records requested.

Lt. William Toomey requested that the Petitioner provide a specific request. Lt. Toomey stated that on December 19, 2022, the Police Department received the request for body worn camera video footage. Lt. Toomey stated that the department was in the process of providing that footage to the Petitioner and that request was in the queue. Lt. Toomey stated that the request was in queue and that each second of the body camera footage needed review, redactions made and takes a long time to produce. Lt. Toomey stated that

the petitioner also requested footage on May 12 and was provided those records four weeks later. Lt. Toomey stated that the confusion is due to multiple requests for the same footage from the Petitioner.

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

**Action: Moved by Member Stein, seconded by Member Hill, to find that the Department of Police Accountability violated Administrative Code, Sunshine Ordinance, Section(s) 67.21(b), by failing to respond to a public records request in a timely manner or within ten days and to forward the matter to the Compliance and Amendments Committee. The SOTF requested that the SFPD provide copies of documents provided to Mr. Severinov and list other categories of responsive documents that they may have under its jurisdiction and to provide as a follow up process, and order that they turn over the body camera footage within two weeks.**

Public Comment:

Anonymous stated that the Task Force is confusing the process and that this issue has had an unduly amount time spent on it and there are issues that need to be addressed for this complaint.

**The motion PASSED by the following vote:**

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

Noes: 0 - None

Absent: 1 - Schmidt

8. **File No. 22012:** Complaint filed by Anonymous (SFT) against Director Grant Colfax and the Department of Public Health 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.

Member LaHood opened the discussion stating that City departments are destroying records due to current records retention policies and that a letter to the Board of Supervisors should be sent letting them know what is happening.

Member Hyland was noted absent at 7:26 PM.

Member Wolfe stated that two things need to be completed, the City Attorney shall advise, and the Executive Branch should remind people about the retention policy, not just the SOTF Ordinance, but state law and that perhaps a new ordinance requiring backups and applications and retain those public meeting records.

Member Hyland was noted present at 7:31 PM.

**Action: Moved by Chair Yankee, seconded by Vice-Chair Wong, to authorize Member Hill to draft and send a letter to the Committee on Information Technology regarding retention policies for all electronic messaging or communication applications which includes web conferencing software.**

Public Comment:

Victor Lim, Department of Public Health, stated he was present to answer questions.

**The motion PASSED by the following vote:**

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

Noes: 0 - None

Absent: 1 - Schmidt

9. **File No. 22015:** Complaint filed by Anonymous (MUC) against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, 67.25(d), 67.69-7(a); and 67.34, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner; failing to provide records on a rolling basis; failing to preserve and maintain records; and willfully violating the Sunshine Ordinance.

The Petitioner was not present and did not inform the SOTF Administrator of their absence.

The Respondent was not present and informed the SOTF Administrator of their absence and requested a postponement.

**Action: Moved by Member Stein, seconded by Member Wolfe, to table and close the case without prejudice under SOTF Complaint Procedures, Section 7B.**

Public Comment:

None.

**The motion PASSED by the following vote:**

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

Noes: 0 - None

Absent: 1 - Schmidt

10. **File No. 22023:** Complaint filed by Lance Carnes against Public Works 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.

Lance Carnes (Petitioner) provided a summary of the complaint and requested the Task Force find a violation. Mr. Carnes stated Public Works ordered 32 trees on Market Street be removed. Mr. Carnes wondered about the official decision and researched the

removal; specifically requested what Director Julie Rosenfield asked. Mr. Carnes heard from Brian Hong who explained that there was a 33<sup>rd</sup> tree also slated for removal. Mr. Carnes also heard from David Steinberg who said he didn't have the referenced email. Mr. Carnes also sent the same request to the Board of Appeals. Mr. Carnes asked how employees at Public Works are allowed to delete records.

David Steinberg (Public Works) (Respondent), provided a summary of the department's position. Mr. Steinberg stated that he and Chris Buck were prepared to answer questions about the BART tree relocation. Mr. Steinberg stated that Mr. Carnes submitted 243 records requests and he has worked diligently to respond to each one timely. Mr. Steinberg stated that when an email goes out there are materials that are not part of a case file or listed elsewhere to retain. Mr. Steinberg stated that when an email goes out, they retain one copy, and the attachments are often deleted. Mr. Steinberg stated that he responded in a timely manner.

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

**Action: Moved by Member Hyland seconded by Member Hill, to take the recommendation of the Education, Outreach and Training Committee to find no violation.**

Public Comment:

David Pilpel heard the discussion with Member Wolfe and noted that in Chapter 8 of the Administrative Code each department has their own records retention policy because each department has different types of records and there is a procedure in destroying their records.

**The motion PASSED by the following vote:**

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

Noes: 0 - None

Absent: 1 - Schmidt

11. **File No. 22022:** Complaint filed by Stiliyan Bejanski against the Office of the Treasurer and Tax Collector for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.25 and Government Code, Section 6253(c), by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Stiliyan Bejanski (Petitioner) provided a summary of the complaint and requested the Task Force find a violation. Mr. Bejanski stated that his request was submitted in 2022 and was not posted until 2023 which is clearly not within the correct time frame.

Chris Terrel (Treasury and Tax Department) (Respondent), provided a summary of the department's position. Mr. Terrel stated that the Department acknowledged the Immediate Disclosure Request and due to its voluminous nature, a response could not be provided within the allotted time frame. Mr. Terrel stated that there were over 550



responsive records. Mr. Terrel stated that the first set of records was provided within 90 days and the request was closed in May 2022. Mr. Terrel stated that records were provided as soon as they were available.

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

**Action: Moved by Chair Yankee, seconded by Member Hyland, to find that no violation occurred.**

Public Comment:

None.

**The motion PASSED by the following vote:**

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

Noes: 0 - None

Absent: 1 - Schmidt

12. **CONSENT AGENDA** - The Sunshine Ordinance Task Force shall review **File No. 22125** 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 June 7, 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. *(Discussion and Action)*

**File No. 22125** Complaint filed by HVSafe against Rich Hillis and the Planning Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21 and 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Member LaHood stated that the case was referred to the SOTF's Consent Agenda because the Planning Department admitted that their response was not timely during the Compliance and Amendments Committee hearing.

**Action: Moved by Member Hyland, seconded by Member Wolfe, to adopt the consent agenda.**

Public Comment:

David Pilpel stated that with the use of Department's Technology to their advantage and for him to say that the Planning Dept. went to spam for him points to jurisdiction and too many applications within city limits and the ability of respondents to respond correctly.

**The motion PASSED by the following vote:**

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

Noes: 0 - None

Absent: 1 - Schmidt

13. **Hearing – Sunshine Ordinance Amendment:** Consider proposing an amendment to the Sunshine Ordinance regarding electronic communications by City officials and requiring the use of official City email addresses. (*Discussion and Action*)

Chair Yankee stated that it makes sense for city officials on boards and commissions to have email addresses created.

Member Hyland stated that at the May 2023 SOTF hearing, there was discussion about this issue and Member Hill agreed to draft a letter about email and electronic communications. Member Hyland is asking the SOTF to weigh in on this letter.

Member Hill read the letter into the record.

Public Comment:

David Pilpel stated members of the Task Force are officers of the city not employees and that classification is for the purpose of employees. This determination should be a new section in Administrative Code about records.

No Action Taken. Chair Yankee stated that he would place this item on a future agenda.

14. **Hearing – Sunshine Ordinance Amendment:** Consider proposing an amendment to the Sunshine Ordinance regarding the requirement in Administrative Code 67.30(a) that "...the task force shall include at least one member who shall be a member of the public who is physically handicapped".

Chair Yankee stated the Mayor's Office on Disability recommended amending the Sunshine Ordinance to replace the phrase "physically handicapped" with the phrase "with a disability". The Task Force's legal counsel, DCA Kelly Collins, explained that Prop B of 2018 allows the Board of Supervisors to amend the Sunshine Ordinance only under specific circumstances. The Task Force discussed potential replacement language, and whether to recommend that the Board of Supervisors amend the Sunshine Ordinance or if it should instead be placed on a future election's ballot. .

Public Comment:

David Pilpel noted support for Member Hill who disclosed that he is physically disabled. Mr. Pilpel also noted a prior amendment to the Sunshine Ordinance approved by the voters changed the language from disabled to the current phrase "physically handicapped".

No Actions Taken. Chair Yankee stated that he would place this item on a future agenda.

15. **Oral report on a meeting with various Custodians of Records by Member Stein and Chair Yankee.**

Chair Yankee stated that Member Stein was contacted by several Custodians of Records to discuss specific issues.

Member Stein stated there was no agenda for the meeting. This group of Custodians of Records meets regularly to share information on how to bring their responses before the SOTF. The group expressed their frustration on going to committees and then the SOTF and thinks this process is inefficient because some committee hearings turn into full SOTF meetings. The group also agreed that NextRequest has received positive feedback from requestors.

Public Comment:

David Pilpel stated that it would be useful to do outreach to city departments, and when he was on the SOTF there was positive outreach. He said it is important to not have adversarial hearings and work together to improve public access to meeting records.

Peter Warfield, Executive Director Library Users Association, [libraryusers2004@yahoo.com](mailto:libraryusers2004@yahoo.com), P.O. Box 170544, San Francisco, California, 94117-0544 commented on that he is stunned. The SOTF prepared an annual report where it solicited the actual law breakers, not the public, and wants to know the status. He expressed disappointment that SOTF members are now going to meetings of potential law breakers to find out what is more convenient.

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

Member Wolfe stated that there needs to be a way to inform respondents about why they can't convert an IDR into a standard request. It is important that we let them know their stance on that and would appreciate a discussion with the other Members of the SOTF.

Public Comment:

Peter Warfield stated that the IDR has its role and doesn't understand why the respondent doesn't know that or not. There are provisions in the IDR if it will take longer than the next business day and can disable the timer and does and uses a library request.

17. **ADJOURNMENT**

There being no further business the meeting was adjourned at 10:47 pm.

**APPROVED: July 25, 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.