



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

July 16, 2019 - 4:00 PM

Regular Meeting

Seat 1	Matthew Cate	Seat 7	Rodman Martin
Seat 2	Lila LaHood	Seat 8	Frank Cannata
Seat 3	Josh Wolf - Vice Chair	Seat 9	Chris Hyland
Seat 4	Rishi Chopra	Seat 10	Matthew Yankee
Seat 5	Leuwam Tesfai	Seat 11	Fiona Hinze
Seat 6	Bruce Wolfe - 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 B. Wolfe called the meeting to order at 4:06 pm. On the call of the roll Chair B. Wolfe and Members LaHood, Tesfai, Martin, Cannata, and Yankee were noted present. Members J. Wolf, Hyland, Hinze, Chopra and Cate were noted not present. A quorum was present.

Member Cate was noted present at 4:21 pm

Member Hinze was noted present at 4:55 pm

2. Approval of minutes from the Sunshine Ordinance Task Force June 5, 2019, SOTF meeting.

The SOTF discussed the draft meeting minutes. Member Yankee requested a correction to the vote count in Items No. 5 and 8 in the June 5, 2019, minutes.

Action: Moved by Member Yankee, seconded by Member Cannata to approve the June 5, 2019, meeting minutes as amended.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 6 - B. Wolfe, LaHood, Tesfai, Martin, Cannata, and Yankee

Noes: 0 - None

Absent: 4 - J. Wolf, Chopra, Hinze and Cate

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

Speakers:

Bill Clark requested a log of phone calls to/from the San Francisco Arts Commission. Mr. Clark spoke about Section 8.3-1(2) which requires the Police and Fire Departments to keep phone call communications for six months.

4. **File No. 19017:** Complaint filed by Elica Vafaie, Asian Americans Advancing Justice, Asian law Caucus, Jeffrey Wang, Council on American-Islamic Relations, San Francisco Bay Area, Alan Schlosser No. CA American Civil Liberties Union of Northern California against Lt. Kathryn Waaland and the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Javeria Jamil (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Jamil stated that they learned of the requested white paper document while working with the Police Department on a particular case as it was an attachment to an email that was provided. Ms. Jamil stated that the Police Department and the FBI will not provide this document which is a violation of the California Public Records Act (CPRA) and not in the interest of the public. Ms. Jamil stated that the Police Department has also relied on privileged information and will not provide a legal reference for not turning over the document. Ms. Jamil stated that the SFPD violated 67.27(b).

Lt. Kathryn Waaland (Police Department) (Respondent), provided a summary of the department's position. Lt. Waaland stated that there is pending litigation surrounding this matter which will be heard in August 2019 (USDC 19-516706). Lt. Waaland stated that California Evidence Code, Section 1040, provides that those records are exempt from disclosure. Lt. Waaland stated that the document cannot be provided in redacted format as it is confidential. Lt. Waaland stated that she will not provide an explanation of the document because the Police Department is not allowed to share it. Lt. Waaland stated that once the litigation is concluded, the Police Department will provide the requested document.

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

Chair B. Wolfe requested that the Order of Determination provide that the SOTF be informed when the document no longer confidential and open to the public.

Member Tesfai opined that the requested records are not privileged and should be provided.

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

Action: Moved by Member Cannata, seconded by Member Cate, to find that the Police Department violated Administrative Code (Sunshine Ordinance), Sections 67.21(b), 67.21(e) and 67.26, by failing to provide the requested white pages document and refer the matter to the Compliance and Amendments Committee to ensure that the requested white pages document is provided.

Public Comment:

Name of commenter or state None.

The motion PASSED by the following vote:

Ayes: 8 - Cannata, Cate, Yankee, Martin, Tesfai, LaHood, Hinze, B. Wolfe

Noes: 0

Absent: 3 - Chopra, Hyland and J. Wolf

5. **File No. 19031:** Complaint filed by Mark Sullivan against Chris Corgas and the Office of Economic and Workforce Development for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.1(a)(c)(d)(g), by failing to allow access to records; 67.5 by failing to require that meetings be open and public and 67.32 by failing the provision of services to other agencies.

See File No. 19032 regarding request for continuance.

6. **File No. 19032:** Complaint filed by Mark Sullivan against Jonathan Goldberg, David Steinberg and Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21(a)(c)(d)(g), by failing to respond to a public records request in a timely and/or complete manner; 67.5 requiring that meetings be open and public and 67.32 provision of services to other agencies.

The Petitioner informed the SOTF Administrator on July 16, 2019, that due to illness he would be unavailable for the hearing and requested a continuance until August 7, 2019, for File Nos. 19031 and 19032.

The SOTF Administrator noted that the Respondent was informed that the Petitioner was unavailable.

Action: Moved by Member Cannata, seconded by Member Hinze to continue the matter to the August 7, 2019, SOTF meeting.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 8 - Cannata, Hinze, Yankee, Martin, Tesfai, LaHood, Cate, B. Wolfe
Noes: 0
Absent: 3 - Chopra, J. Wolf and Hyland

7. **File No. 18095: Hearing on the Status of the Order of Determination:** Complaint filed by Sandra Weese against Kevin Guy and the Office of Short-Term Rentals for violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Sandra Weese (Petitioner) provided a summary of the complaint. Ms. Weese stated that she has not received any documents from the Office of Short-Term Rentals as required by the Order of Determination. Ms. Weese stated that there is no new information and that the Office of Short-Term Rentals is disregarding the SOTF decision.

Christine Silva, Commission Affairs Manager, (Planning Department, Office of Short-Term Rentals) (Respondent), provided a summary of the department's position. Ms. Silva stated that the Office of Short-Term Rentals relied on advice from their Deputy City Attorney to not provide the requested records. Ms. Silva stated that the revealing personal information including email addresses and telephone numbers of the registrants would possibly close the program.

Chair B. Wolfe stated that these are business operations, does not see how this information is related to medical or personnel information and does not agree with the City Attorney's interpretation.

Member Cannata stated that this matter should be reviewed by the District Attorney.

Action: Moved by Member Cannata, seconded by Member Cate to forward this matter to the District Attorney for compliance of the SOTF Order of Determination by the Office of Short-Term Rentals.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 8 - Cannata, Cate, Yankee, Martin, Tesfai, LaHood, Hinze and B. Wolfe
Noes: 0
Absent: 3 - Chopra, Hyland and J. Wolf

Member Tesfai was noted absent at 6:00 pm.

8. **File No. 18059:** Complaint filed by William J. Clark against the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, by failing to make meeting minutes available in a timely manner. (June 5, 2018 - Advisory Committee of Street Artists and Crafts Examiners). (00:05:00 – 00:48:00)

Bill Clark (Petitioner) provided a summary of the complaint and requested the Committee find a violation. Mr. Clark stated that the basis for his complaint is that draft minutes were not made available ten days after the Advisory Committee of Street Artists and Craft Examiners meeting of June 5, 2018. Mr. Clark stated that the meetings are recorded and that he has a recording of the meeting. Mr. Clark stated that the Arts Commission stated that they were only required to keep a record. Mr. Clark stated that he believes the Arts Commission should keep minutes not just a record and that record should be timely.

Kate Patterson (Arts Commission) (Respondent), provided a summary of the department's position. Ms. Patterson stated that it is not the policy of the Arts Commission to post the minutes and audio recordings of the Committee in question on the Arts Commission's website and referred to the memo drafted by their City Attorney. Ms. Patterson stated the Arts Commission does provide a recording of the meeting upon request and within a reasonable period of time.

Chair B. Wolfe stated that the Arts Commission and its committees are policy bodies and are required to keep minutes and audio recordings.

Action: Moved by Member Cate, seconded by Member Martin, to find no violation of Administrative Code (Sunshine Ordinance) 67.16 and that the Minutes provided by the Arts Commission were timely.

Public Comment:

Robert Clark spoke against the motion and stated that the Arts Commission did not provide a recording of the June 5, 2018, meeting.

Kate Patterson spoke regarding Mr. Clark's original request for the draft minutes and stated that if they had asked for a recording it would have been provided.

The motion PASSED by the following vote:

Ayes: 7 - Cannata, Yankee, Cate, Martin, LaHood, Hinze, B. Wolfe

Noes: 0

Absent: 4 - Chopra, Hyland, Tesfai, and J. Wolf

Member LaHood stated that the SOTF should consider Administrative Code (Sunshine Ordinance) 67.21(c), regarding satisfying the Complainant's needs and to amend the original motion to find no violation of 67.16 and find a violation of 67.21(c).

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

Action: Moved by Member LaHood, seconded by Member Yankee, to amend the original motion to find no violation of 67.16 and find a violation of Administrative Code (Sunshine Ordinance) 67.21(c) for not providing the requested record.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 7 - LaHood, Yankee, Cate, Martin, Cannata, Hinze, B. Wolfe
Noes: 0
Absent: 4 - Chopra, Hyland, Tesfai, and J. Wolf

Action: Moved by Member Cannata, second by Member Yankee, to find no violation of Administrative Code (Sunshine Ordinance) 67.16.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 7 - Cannata, Yankee, LaHood, Cate, Martin, Hinze, B. Wolfe
Noes: 0
Absent: 4 - Chopra, Hyland, Tesfai, and J. Wolf

9. **File No. 19019:** Complaint filed by Javad Mirsaidi against David Steinberg Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

See File No. 19022 regarding hearing.

10. **File No. 19020:** Complaint filed by Javad Mirsaidi against David Steinberg and Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

See File No. 19022 regarding hearing.

11. **File No. 19021:** Complaint filed by Javad Mirsaidi against David Steinberg and Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

See File No. 19022 regarding hearing.

12. **File No. 19022:** Complaint filed by Javad Mirsaidi against David Steinberg and Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Action: Moved by Member Hinze, seconded by Member Martin to call and hear File Nos. 19019, 19020, 19021 and 19022 together.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - Hinze, Martin, Cannata, Yankee, LaHood, Cate, B. Wolfe

Noes: 0

Absent: 4 - Chopra, Hyland, Tesfai, and J. Wolf

Member Martin provided a summary of the Complaint Committee hearing on the matter.

Javad Mirsaidi (Petitioner) provided a summary of the complaint and requested the Committee find a violation. Mr. Mirsaidi stated that his initial request was for emails and correspondence. Mr. Mirsaidi stated that he provided search terms to Public Works Custodian of Records. Mr. Mirsaidi stated that the City Attorney involvement/review is slowing down the process. Mr. Mirsaidi stated he has received many documents that were reviewed by the City Attorney and that most of it is garbage. Mr. Mirsaidi stated that Public Works knows what to keep and disclose and the City Attorney does not need to be involved.

John Nadler spoke on behalf of the Petitioner. Mr. Nadler stated that the Petitioner has received documents and that the process has been going on for many months. Mr. Nadler stated that the City Attorney's Office is reviewing documents for privilege and that there is no clarity of reason for the review and/or pulling documents. Mr. Nadler stated that many of the corrupt documents have not been replaced and that there could still be a bottle neck at the City Attorney's Office.

David Steinberg (Public Works) (Respondent), provided a summary of the department's position. Mr. Steinberg stated that on April 17, 2018, a litigation hold letter went out to 23 people stating that they were not allowed to destroy records. Mr. Steinberg stated that City Attorney reviewed documents for attorney/client privilege due to pending litigation. Mr. Steinberg stated that he is the only Custodian of Records on staff at Public Works to review documents and public records requests. Mr. Steinberg stated that the emails from Public Works were originally provided as PST files and could have been corrupted at that time.

Erica Crane, City Attorney's Office, Respondent, stated that the City Attorney's Office reviewed documents because of pending federal litigation against the City by Mr. Mirsaidi and that they have no more documents to review. Ms. Crane stated that the City Attorney's Office only pulled documents for attorney/client privilege and did not produce

a privilege log and was not required to prepare one. Ms. Crane stated that the City Attorney's Office hired an outside firm to assist with the document review.

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

Action: Moved by Member Cannata, seconded by Member Hinze, to refer the matter to Compliance and Amendments Committee to ensure that procedures are in place for the Petitioner to receive requested documents and continued compliance by Public Works (The SOTF request that the matter be referred to the SOTF once the documents have been provided).

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: - Cannata, Hinze, Martin, Yankee, LaHood, Cate, B. Wolfe

Noes: - 0

Absent: 4 - Chopra, Hyland, Tesfai, and J. Wolf

13. **File No. 19070: Hearing to consider amendments to the SOTF By-Laws and Complaint Procedures.**

Member Hinze provided a report on the Rules Committee results of changes to the By-Laws and Complaint Procedures. The SOTF discussed the definition of an excused absence. Member Cannata stated that there should be three excused absences in a 12-month period and that the Chair should make the decision on the absences and decide whether or not to report it to the Board of Supervisors.

Action: Moved by Member Martin, second by Member Cannata, to adopt the changes of the By-Laws, Article II. Membership and Attendance, Section 2. Attendance.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - Martin, Cannata, Yankee, LaHood, Cate, Hinze, B. Wolfe

Noes: 0

Absent: 4 - Chopra, Hyland, Tesfai, and J. Wolf

14. **Reports from Sunshine Ordinance Task Force Committees.**

- Complaints Committee
Member Martin provided comment on the Complaint Committee hearings.
- Compliance and Amendments Committee
Member Cannata had nothing to report as this committee did not meet in July
- Education, Outreach and Training Committee
Chair Hyland was absent from this meeting
- Rules Committee
Member Hinze reported on the recent Committee meeting and discussed the Code of Conduct. Chair B. Wolfe stated that guidelines should be created for any chair who presides over a committee. Chair B. Wolfe recommended that this matter should be heard by the SOTF, that signers of the December 17, 2018, letter be present with Chair Hinze chairing the discussion and. Then returned to the Rules Committee for further discussion and recommendations.
- Information Technology Ad Hoc Committee
Chair B. Wolfe provided an update on the search for technology to assist on the search on Orders of Determination.

There were no actions.

Public Comment:
None.

15. **Sunshine Ordinance Task Force – Chair’s Report.**

Chair B. Wolfe provided a report on possible action to provide recommendation and/or amendments to the Privacy First Ordinance; File #190643.

There were no actions.

Public Comment:
None.

16. **Staff Report, Complaints and Communications.**

The SOTF Administrator provided comment on the below subjects.

- Task Force and Committee hearing schedule
- Complaints submitted and hearing files created
- Communications to the Task Force
 - The Administrator provided a written statement from Ann Treboux.
- Summary of pending complaints and other issues

Public Comment:
None.

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

The SOTF Administrator stated their vacation schedule.

Public Comment:

None.

18. **ADJOURNMENT**

There being no further business the meeting was adjourned at 10:00 p.m.

Action: Moved by Member Cannata, seconded by Member Cate to adjourn the meeting.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - Cannata, Cate, Yankee, Martin, Hinze, LaHood, B. Wolfe

Noes: 0

Absent: 4 - Chopra, Hyland, Tesfai, and J. Wolf

**APPROVED: August 7, 2019
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.