



# 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

October 3, 2018 - 4:00 PM

## Regular Meeting

Seat 1	Matthew Cate	Seat 7	Vacant
Seat 2	Lila LaHood	Seat 8	Frank Cannata
Seat 3	Josh Wolf	Seat 9	Chris Hyland - <b>Vice Chair</b>
Seat 4	Rishi Chopra	Seat 10	Vacant
Seat 5	Leuwam Tesfai	Seat 11	Fiona Hinze
Seat 6	Bruce Wolfe - <b>Chair</b>		

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 Wolfe called the meeting to order at 4:10 pm. On the call of the roll Chair Wolfe, and Members Tesfai, Cannata, Cate, LaHood and Hinze were noted present. Vice-Chair Hyland and Members J. Wolf and Chopra were noted not present. There was a quorum.

Chair Wolfe noted that Vice Chair Hyland is out of the country and excused from the meeting.

SOTF staff noted that the Respondent for File No. 18050 (Item No. 7) notified the Administrator that she had medical issues and was unable to attend the hearing. The Petitioner was informed of the emergency and did not attend the meeting.

SOTF staff noted that Julian Sarkar (Petitioner) File No. 18001 (Item No. 3) had an emergency hearing and requested to be heard later on the agenda. The Respondent from the Treasurer/Tax Collector's office was present and did not object to the delay.

**Member Cannata, seconded by Member Cate, moved to hear items out of order until the parties arrived.**

Public Comment:

None.

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

Ayes: 6 - Cannata, Cate, Tesfai, LaHood, Hinze, B. Wolfe

Noes: 0 - None

Absent: 3 - Hyland, Chopra, and J. Wolf

J. Wolf was noted present at 4:24 pm.

2. Approval of minutes from the Sunshine Ordinance Task Force August 1, 2018, meeting.

**Member LaHood, seconded by Member Cannata, moved to approve the August 1, 2018, meeting minutes.**

Public Comment:

None.

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

Ayes: 7 – LaHood, Cannata, Tesfai, J. Wolf, Cate, Hinze, B. Wolfe

Noes: 0 - None

Absent: 2 – Hyland, Chopra

3. **File No. 18001:** Complaint filed by Julian Sarkar against Jose Cisneros and the Office of the Treasurer and Tax Collector for allegedly violating Administrative Code (Sunshine Ordinance, Section 67.21), by failing to respond to a request for public records in a timely and/or complete manner.

*(On January 23, the Complaint Committee determined that the SOTF has jurisdiction and on April 17, 2018, the Education, Outreach and Training Committee referred the matter to the SOTF for hearing.)*

Chair Wolfe and J. Wolf provided a summary of the Education, Outreach and Training Committee's hearing on the matter.

Julian Sarkar (Petitioner) provided a summary of his complaint and requested the Committee find a violation. Mr. Sarkar stated that the Treasurer/Tax Collector's Office sent a letter to his home addressing him by using his nickname and threatened him with penalties if he did not register himself as a business. Mr. Sarkar stated that he was told to go to the website and register and complete their checklist which included information regarding what constitutes a business in San Francisco (if you work in the City at least seven days per year you constitute a business and therefore you must register). Mr. Sarkar stated that he requested records, on multiple occasions, regarding how the Respondent determined that Mr. Sarkar might have been running a business in San

Francisco and did not received an adequate response. Mr. Sarkar stated that in response to his request, he received copies of letters he sent in requesting information and included the letter from the Treasurer and Tax Collector's office and other emails from their employees sent to him. Mr. Sarkar stated that the Treasurer's/Tax Collector's office indicated that requested records are protected by the tax payer privilege and official information privilege.

Theresa Buckley, Treasurer and Tax Collector's Office (TTX) (Respondent) provided a summary of the department's response. Ms. Buckley provided a privilege log identifying documents responsive to Mr. Sarkar's request which were withheld according to the San Francisco Business and Tax Regulation Code under confidentiality provisions and tax payer information received in confidence. Ms. Buckley provided an overview of what the functions of the divisions of Treasurer/Tax Collector's Office. Ms. Buckley acknowledged that they mishandled Mr. Sarkar's original request for records and has taken steps to correct the situation. Ms. Buckley stated that information provided in confidence cannot be disclosed under Business and Taxation Code, Section 6.22-1.

**Member Cate, seconded by Member LaHood, moved to approve inclusion of the privilege log provided by Theresa Buckley, of the Treasurer and Tax Collector's Office.**

Public Comment:  
None.

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

Ayes: 7 – Cate, LaHood, Cannata, J. Wolf, Tesfai, Hinze, B. Wolfe  
Noes: 0 - None  
Absent: 2 - Hyland, Chopra

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

Deputy City Attorney Marc Price-Wolf responded to questions regarding privilege logs.

The SOTF suggested that a redacted version of the documents should have been provided.

**Member Cannata, seconded by Member J. Wolf, moved to find that the Treasurer and Tax Collector's Office violated Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to public records request in a timely manner.**

Public Comment:  
None.

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

Ayes: 7 - Cannata, J. Wolf, Cate, Tesfai, LaHood, Hinze, B. Wolfe

Noes: 0 - None

Absent: 2 - Hyland, Chopra

**Member Cannata, seconded by Member J. Wolf, moved to order the Treasurer/Tax Collector's Office provide redacted records responsive to the request for records.**

Public Comment:

None.

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

Ayes: 6 - Cannata, J. Wolf, Cate, LaHood, Hinze, B. Wolfe

Noes: 1 - Tesfai

Absent: 2 - Hyland, Chopra

Chair B. Wolfe referred the matter to the Compliance and Amendments Committee to insure compliance with the order to provided redacted records.

4. **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.*

Public Comment:

None.

5. **File No. 17129:** Complaint filed by Patrick Roddie against the Department of Public Health (DPH) 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.

*(On May 15, 2018, Compliance and Amendments Committee determined that SOTF has jurisdiction, that the records are public and re-referred the matter to the SOTF for hearing.)*

**Member Cannata, seconded by Member Tesfai moved to table Item Nos. 5 and 6 until the Respondent appears later in the meeting.**

Public Comment:

None.

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

Ayes: 7 – Cannata, Tesfai, J. Wolf, LaHood, Cate, Hinze, B. Wolfe

Noes: 0 - None

Absent: 1 – Hyland, Chopra

Upon arrival of the Respondent the SOTF called and heard the matter.

Member Cannata provided a summary of the Compliance and Amendments Committee hearing and request that the SOTF city attorney representative provide an opinion regarding whether California Health and Safety Code or that the Sunshine Ordinance takes precedence in the complaint. Member Cannata referenced Deputy City Attorney Colla's memo which opined that California Health and Safety Code requirements supersedes the Sunshine Ordinance.

Patrick Roddie (Petitioner) provided a summary of his complaint and requested the Committee find a violation. Mr. Roddie stated that he has been unsuccessful in getting information from the Department of Public Health.

Linda Acosta, Department of Public Health (Respondent), provided a summary of the department's position. Ms. Acosta stated that the State of California owns the requested death records and the department is required to refer all such requests to the California Department of Public Health. Ms. Acosta stated that all records in possession of the San Francisco Department of Public Health have been provided. Ms. Acosta provided an overview of how records are submitted to the state database where a physician of record or mortuaries will record a death. Ms. Acosta stated that authorized parties (such as a family member) can get a death record for \$22.00 per death certificate from DPH.

**Member J. Wolf, seconded by Member Cate moved to find that the Department of Public Health violated Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to public records request in a timely manner. In addition, the SOTF acknowledged that California Health and Safety Code takes precedence over the Sunshine Ordinance in regards to death records and that the San Francisco Department of Public Health is not allowed to retrieve death records from the state database on behalf of third parties.**

Public Comment:

None.

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

Ayes: 7 - J. Wolf, Cate, Tesfai, LaHood, Cannata, Hinze, B. Wolfe

Noes: 0 - None

Absent: 2 - Hyland, Chopra

The meeting was recessed from 6:25 p.m. to 6:35 p.m.

6. **File No. 18024:** Complaint filed by Patrick Roddie against the Department of Public Health 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.  
*(On May 15, 2018, the Compliance and Amendments Committee determined that the SOTF has jurisdiction, determined that the records are public and referred the matter to the SOTF for hearing.)*

Patrick Roddie (Petitioner) provided a summary of his complaint and requested the Committee find a violation. Mr. Roddie stated that he continues to try and obtain death records from Laguna Honda Hospital and San Francisco General Hospital and has been unsuccessful.

Linda Acosta, Department of Public Health (DPH) (Respondent), provided a summary of the Department's position. Ms. Acosta said that DPH provided Mr. Roddie death records by month from May 2002 through February 2018, the number of deaths from Laguna Hospital and San Francisco General Hospital. Ms. Acosta stated that DPH has provided all responsive records in their possession.

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

**Member Cannata, seconded by Member Hinze, moved to find that the Department of Public Health violated Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely manner.**

Public Comment:

None.

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

Ayes: 7 - Cannata, Hinze, J. Wolf, Cate, Tesfai, LaHood, B. Wolfe

Noes: 0 - None

Absent: 2 - Hyland, Chopra

7. **File No. 18050:** Complaint filed by Don Chan against the Juvenile Probation Commission (JPC) for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a request for public records in a timely and/or complete manner.

*(On July 17, 2018, the Compliance and Amendments Committee determined that the SOTF has jurisdiction, determined that the records are public and referred the matter to the SOTF for hearing).*

**Chair J. Wolf, seconded by Member Hinze, moved to continue the matter to the call of the chair.**

Public Comment:

None.

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

Ayes: 7 - J. Wolf, Hinze, Cannata, Cate, Tesfai, LaHood, B. Wolfe

Noes: 0 - None

Absent: 2 - Hyland, Chopra

8. **File No. 18058:** Complaint filed by Deonte Walker and Tamara Reed against the San Francisco Municipal Transportation Agency for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a request for public records in a timely and/or complete manner.

*(On August 21, 2018, the Education Outreach and Training Committee heard the matter and referred it to the SOTF for hearing.)*

Member J. Wolf provided a summary of the Education, Outreach and Training Committee hearing.

Tamara Reed and Deonte Walker (Petitioner) provided a summary of the complaint and requested the Committee find a violation. Ms. Reed provided a timeline of when emails were sent requesting documents and what was and was not received.

Donald Ellison, Director of Human Resources, San Francisco Municipal Transportation Agency (SFMTA) (Respondent), provided a summary of the department's position.

Mr. Ellison stated the following documents were requested and provided if they existed:

- approved leave
- vacation hours provided
- AWOL leave
- temp exempt disabled worker policies
- DWC - workers comp forms
- time cards
- sick pay and vacation time before and after the leave
- Mr. Walker's personnel file (cannot be provided but can be viewed in the SFMTA Office)

In response to questions from the SOTF Mr. Ellison stated that there is a disability leave and AWOL policy listed in the Memorandum of Understanding which was provided.

Chair B. Wolfe stated that Ms. Reed wants copies of the following documents:

- Access to Mr. Walker's personnel file
- Workers comp form with the signatures of Mr. Walker and his supervisor
- Updated and approved leaves and vacation schedule
- AWOL policy/dates and documentation
- Page numbers of the MOU related to the leave policy/requests

In addition, Chair Wolfe suggested that the parties consult with each other to determine if there are any other documents not yet provided.

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

**Member Tesfai, seconded by Member Hinze, moved to find that the San Francisco Municipal Transportation Agency violated Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a request for public records in a timely and/or complete manner and to refer the matter to the Compliance and Amendments Committee to ensure that the remaining documents have been provided.**

Public Comment:  
None.

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

Ayes: 7 - Tesfai, Hinze J. Wolf, Cannata, Cate, LaHood, B. Wolfe  
Noes: 0 - None  
Absent: 2 - Hyland, Chopra

**9. Sunshine Ordinance Task Force 2019 Meeting Schedule.**

The SOTF reviewed the 2019 meeting scheduled.

Public Comment:  
None.

No actions taken.

**10. Sunshine Ordinance Task Force - Annual Report.**

Chair Wolfe provided a summary of the Annual Report for 2016-17.

**Member Tesfai, seconded by Member Hinze, moved to authorize Chair Wolfe to finalize and submitted the 2016-17 Annual Report.**

Public Comment:  
None.

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

Ayes: 7 - Tesfai, Hinze, J. Wolf, LaHood, Cannata, Cate, B. Wolfe  
Noes: 0 - None  
Absent: 2 – Hyland, Chopra



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

- Complaints Committee - None
- Compliance and Amendments Committee - None
- Education, Outreach and Training Committee - None
- Rules Committee – Will be meeting on October 23, 2018, at 4:00 pm prior to the Complaints Committee; Members Hyland, Cate, Hinze and B. Wolfe to participate
- Information Technology Ad Hoc Committee – Chair Wolfe provided a summary of pending issues

Public Comment:

None.

No actions taken.

12. **Sunshine Ordinance Task Force - Chair’s Report.**

Chair Wolfe provided the Chair’s Report.

Public Comment:

None.

No action taken.

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

- Task Force and Committee hearing schedule
- Complaints submitted and hearing files created
- Communications to the Task Force
- Summary of pending complaints and other issues

Public Comment.

None.

No actions taken.

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

Public Comment.

None.

15. **ADJOURNMENT**

There being no further business the meeting was adjourned at 8:24 p.m.

**APPROVED**

**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.