

File No. N/A

Item No. 13

SUNSHINE ORDINANCE TASK FORCE
AGENDA PACKET CONTENTS LIST

Sunshine Ordinance Task Force

Date: November 2, 2022

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Completed by: C. Leger Date 10/28/22

* An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document is in the file on a disk



SUNSHINE ORDINANCE TASK FORCE
Rules Committee
CITY AND COUNTY OF SAN FRANCISCO
MINUTES - DRAFT

REMOTE REGULAR MEETING

October 11, 2022
SCHEDULED START TIME 5:00 PM

Remote Regular Meeting

Members: Laurie Jones Neighbors, Laura Stein, Chris Hyland,

1. CALL TO ORDER, ROLL CALL, AND AGENDA CHANGES

Chair Neighbors called the meeting to order at 5:11 p.m. On the call of the roll Chair Neighbors, and Member Stein were noted present. Member Hyland was noted absent. A quorum was present.

There were no agenda changes.

2. Approval of the June 14, 2022, Rules Committee meeting minutes.

Action: Moved by Member Stein, seconded by Chair Neighbors to approve the June 14, 2022, meeting minutes.

Public Comment:

David Pilpel stated that nothing in the minutes is troubling and thinks that they characterize the meeting of four months ago.

The motion PASSED by the following vote:

Ayes: 2 - Stein, Neighbors
Noes: 0 - None
Absent: 1 - Hyland

3. **Public Comment:** Members of the public may address the Committee on matters that are within the Committee's jurisdiction but not on today's agenda.

Speakers:

David Pilpel wanted to refer to the document of 18 months ago and the period review of by-laws and complaint procedures and some of that stuff is before the Committee.

4. **File No. 22090:** Annual Report Proposal.

Member Stein summarized the last discussion and looked at a previous report done by the City on what the SOTF was doing.

Chair Neighbors noted that Member Stein's report was full of details. Chair Neighbors asked the SOTF City Attorney to report back that it would be within the Brown Act and that links are provided. Chair Neighbors requested that Member Stein formulate an Ad Hoc Committee of SOTF members to change the deadline of the proposal because it has passed.

Member Stein agreed as long as the links are public for the purposes of public comment feedback.

Action: Moved by Member Neighbors, seconded by Member Stein to direct Member Stein to form an Annual Report Ad Hoc Committee composed of less than a quorum of members of the full SOTF, with the charge of developing the process for, completing, and disseminating a 2022 Annual Report and accompanying press release for distribution to the BOS, the general public, and local media no later than January 31, 2023.

Public Comment:

David Pilpel stated that the Annual Report has always had a limited audience. Mr. Pilpel stated that he read the proposal and noted that it seems ambitious and may be more so than time allows.

The motion PASSED by the following vote.

Ayes: 3 - Neighbors, Stein
Noes: 0 - None
Absent: 1 - Hyland

5. File No. 22108: Review and Consider Proposed Efficiency Edits to the Complaint.

Member Hyland was noted present at 5:45 PM.

Chair Neighbors stated that the Rules Committee is to advise and make recommendations and go through the process of amending the By-Laws and came up with four points for change. Chair Neighbors stated that the Committee is in agreement with the process and Rules needs to think of how this would look in the By-Laws.

Action: Moved by Chair Neighbors, seconded by Member Stein that the Rules Committee make the following SOTF By-Law change recommendations to the full Task Force: 1) In Section 6, Setting Agendas, this sentence be added to the end of the paragraph: "The Task Force Administrator, at the direction of the Chair, may also include multiple files to be considered as one item, namely the Consent Calendar, which consists of matters routine in nature and not likely to be subject to debate or inquiry by the Members or or the public and which will typically be adopted in one motion, such as cases where both parties acknowledge specific violations have taken place and there is no dispute over substantive facts or when the Respondent pleads no contest." 3) Create a new section 10, Consent Calendar Procedures, and renumber all following sections. 4) Under the new section 10, Consent Calendar Procedures, add the following text: "After the Consent Calendar item is introduced by the Administrator, any Member may request one or more individual files be removed from the Consent Calendar and addressed on the same day's agenda as an independent item. The Administrator shall read into the record each item removed from the Consent Calendar. If Consent Calendar items are removed, they will be discussed immediately after adoption of the balance of the Consent Calendar. After an opportunity for public comment is provided, all matters remaining on the Consent Calendar shall be approved by a single action, with such single action to have the effect of individual action on each matter."

Chair Neighbors rescinded their motion and presented a new motion.

Action: Moved by Chair Neighbors, seconded by Member Stein that the Rules Committee make the following SOTF By-Law change recommendations to the full Task Force: 1) In Section 6, Setting Agendas, this sentence be added to the end of the paragraph: "The Task Force Administrator, at the direction of the Chair, may also include multiple files to be considered as one item, namely the Consent Calendar, which consists of matters routine in nature and not likely to be subject to debate or inquiry by the Members or or the public and which will typically be adopted in one motion, such as cases where both parties acknowledge specific violations have taken place and there is no dispute over substantive facts or when the Respondent pleads no contest." 2) In Section 9, Order of Business, after Approval of the Meeting Minutes, add the bulleted item Consent Calendar. 3) Create a new section 10, Consent Calendar Procedures, and renumber all following sections. 4) Under the new section 10, Consent Calendar Procedures, add the following text: "After the Consent Calendar item is introduced by the

Administrator, any Member may request one or more individual files be removed from the Consent Calendar and addressed on the same day's agenda as an independent item. The Administrator shall read into the record each item removed from the Consent Calendar. If Consent Calendar items are removed, they will be discussed immediately after adoption of the balance of the Consent Calendar. After an opportunity for public comment is provided, all matters remaining on the Consent Calendar shall be approved by a single action, with such single action to have the effect of individual action on each matter."

Public Comment:

David Pilpel stated that this item was captioned on this agenda as efficiency edits to complaint process and in the packet materials there are a number of communications from Chair Schmidt which include a notice on by-law changes to come back in June and does not imply there are changes to the by-laws.

The motion PASSED by the following vote.

Ayes: 3 - Neighbors, Stein, Hyland
Noes: 0 - None

6. File 22109: Proposed Amendment of By-Laws: Prohibiting presentations from political organizations and endorsements by the SOTF.

Chair Neighbors expressed concern about hearing time when there is a backlog of cases and that staying up until midnight is an ethical problem.

Member Stein stated that presentations from political organizations when there is a pending issue that a specific organization might want to speak on the issue.

Member Hyland stated that in the past other Sunshine groups come in and speak for information purposes and that rather than putting down a hard rule, this issue should be left to the call of the Chair and that a black and white rule can be trouble.

Action: Moved by Chair Neighbors, seconded by Member Hyland that the following statement to the full SOTF as a potential by-law addition: "invitations to political parties to make presentations at SOTF meetings require a SOTF majority vote."

Public Comment:

David Pilpel stated that this is solving a problem that doesn't really exist and that he has said before if someone wants to talk about Sunshine the discussion should be open.

Chair Neighbors rescinded their motion.

No action taken.

7. Announcements, Comments, Questions, Future Agenda Items, and Pending Calendar by members of the Rules Committee.

Chair Neighbors stated that the Committee would be revisiting the Pilot to the Respondents packet on December 13, 2022.

Member Stein is looking for a SOTF member to be part of an Ad Hoc Committee to finish drafting the Annual Report. Chair Neighbors will work with Member Stein.

Public Comment:

David Pilpel issued caution if the three of you are serving on this ad hoc committee will this be noticed as an ad hoc committee or an augmented Rules Committee and go through the noticing process and however many of you in the outside that if someone else. When have a good structure with the three of you and another SOTF member can participate and not get into trouble and that is why he recommended he did earlier

8. ADJOURNMENT

There being no further business the meeting was adjourned at 7:06 p.m.

APPROVED: DRAFT

Rules Committee

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.

From: Laura Stein <lstein.sotf@gmail.com>
Sent: Thursday, October 20, 2022 4:29 PM
To: Matt Yankee; Leger, Cheryl (BOS)
Cc: Laurie Neighbors
Subject: 2022 annual report proposal
Attachments: Annual Report Proposal Stein v. 1.docx; Annual Report Tasks.docx

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hi Chair Yankee,

After discussing it with the Rules Committee and Member Neighbors checking with legal counsel, Rules has proposed forming an ad hoc committee could have up to 5 members to handle the Annual Report. I would chair that Committee. Its purpose is to finalize plans for data collection and take on tasks that require organizational oversight, data collection, analysis, and write up for the report. Jan 31 was stated deadline for the annual report in the Rules Committee, though this might be difficult given that we need all data from 2022 first. April 27, 2023 is another date, which would be in time for presentation to board of supervisors, if the Jan 31 deadline proves too difficult.

Proposed Process: We would not notice ad hoc committee meetings, but would make relevant documents (including annual report drafts and data collection materials) available for viewing in real time to members of SOTF and the public. I could take public comment directly by email, since tracking public comment on the documents could become unmanageable if too voluminous. SOTF members could make comments directly on the appropriate documents. We can also place regular updates on the report on the full SOTF and Rules Committee agendas for ongoing public comment and member feedback throughout the process, and provide a link to the latest report materials. The item could appear on the full SOTF agenda regularly after item 1A (suggested by Cheryl). We would also solicit input from other SOTF members on report sections like case studies and practical/policy recommendations. We would save earlier versions of the report periodically. We would periodically save older working versions to allow people to see what has changed. We opted not to pursue the creation of a SOTF website for this purpose because of the time lag involved in getting documents approved and posted. We would do this through Google docs on my SOTF gmail account.

If you think this sounds good or if you foresee any problems, please advise. We have tried to map out a collaborative and transparent process that would still allow a committee to get this work done in an effective way and to hopefully bring more data into the report than we have seen in the past. I can either send an email out to members, or ask for volunteers for the ad hoc committee in the announcements section of the next SOTF meeting, as well as a call for submissions on case studies and practical/policy problems from members of the public and the task force. It would be nice to get this on the agenda of a full SOTF meeting as soon as possible. Perhaps titled "Discussion on the Process and Scope of the 2022 Annual Report."

I am also happy to discuss this further if you have any questions. Attached are 2 documents: an annual report proposal and a list of the tasks involved. At this point, both documents are aspirational in terms of being as comprehensive as possible in objectives and data collection. However, we may choose to narrow the objectives and data inputs with further discussion and feedback.

best, Member Stein

The Rules Committee members propose forming an ad hoc committee to draft an annual report of the SOTF for the 2022 year. This proposal addresses the purpose of the report, its intended audience, its scope, possible data to include, potential data sources, and the process for compiling draft versions and receiving public comment. The target date could be April 27 2023 for presentation to Board of Supervisors.

Purpose/Objectives: The report has multiple potential objectives, including to evaluate the usage and compliance with the SO and related laws, to educate and encourage better compliance among record providers, to raise the public visibility and use of the Sunshine Ordinance (SO), to update the Board of Supervisors of Sunshine Ordinance's functioning and challenges, and to allow the news media and other stakeholders to review the effectiveness of the SO and SOTF in helping people obtain public information.

Intended audience: Board of Supervisors, city agencies subject to the SO, newspapers and journalists, community-based organizations, activist and advocacy groups, business persons, and interested citizens who use the SO as a tool to further their particular objectives.

Scope: Provide quantitative and qualitative data on how San Franciscans are using the SO, on compliance with the SO by city entities, on the SOTF's record of resolving complaints, on the ability of the SO to provide a range of stakeholders with information they deem relevant, and on practical or policy problems that have developed in the administration of SO and proposed solutions.

Possible Data:

On SO Usage

Number of sunshine requests submitted yearly to the city (received in writing, invoke the SO) during the calendar year

Number of requests submitted to each department/agency

Number of people making requests to the city- CAN THIS BE DETERMINED?

Types of requesters (journalists, activists, employees, CBOs, commercial businesses, etc.)- CAN THIS BE DETERMINED?

Type of information requested- DIFFICULT TO OBTAIN

Type of information supplied-DIFFICULT TO OBTAIN

On SO Compliance by city agencies

How many requests were responded to by different agencies?

How many requests received no response or were refused?

What were the most common reasons for refusal cited?

What were the average response times for fulfilling requests?

Was information provided in full or in part?

Did any information request refusals result in litigation?

On SOTF Complaint Resolution

Number of complaints submitted to SOTF in the calendar year

Number of complaints processed that year

Number of complaints resolved in favor of the complainant

Number of complaints resolved in favor of city

Number of requests for reconsideration

Types of violations cited by SOTF

Number of orders complied with by city agencies

Number of times complaints were referred for noncompliance to the DA, AG, BoS, or Ethics

Actions recommended by DA, AG, BoS or Ethics for noncompliance

Number of hearings per complaint

Average length (minutes) of SOTF hearings and meetings

Average number of complaints on meeting agenda

On impact of the SO on local government transparency/accountability

3-5 cases where information was utilized by journalists, citizens, activists, businessmen, individuals, etc. to show impact of information obtained

On problems/challenges

Highlight developments around SO usage and compliance for BoS consideration.

Recently raised issues include move to online meetings, lack of legal memos, NextRequest practices, use of certain exemptions (rule of reason, attorney client privilege, etc), generalized form letters, etc.

Analyses: Focus on the frequencies and averages describing the information requests made, and their processing and resolution by city agencies. Which agencies received the most requests? Understand and compare how different city agencies receive and respond to information requests. Understand how effectively and efficiently the SOTF processes complaints by looking at frequencies and averages surrounding the process. Qualitatively consider the range and uses of information requested in brief case studies addressing the information sought, received, and how it was used by requesters. Average time (in months) to resolve complaints

Data sources:

- SOTF Orders of determination, SOTF complaint log, member's notes/submissions
- Short Surveys with city entities (email with follow up phone call?)
- CAO report
- NextRequest data obtained from City IT Dept. or NextRequest

-Short surveys of complainants/petitioners about whether their info was received or case was settled to their satisfaction and how their information was used, whether further litigation was pursued.

Process: At what stages will we release the work in progress for public comment? How will we structure and divide the work?

Distribution: We will provide copies of the report to SOTF members, to the Board of Supervisors, and make it available on our web page. The report should include a 1 page executive summary. We should create a press release around its publication for local media outlets that highlights the most salient information for San Franciscans.

Proposed Annual Report Tasks

Below are possible data points and sources of data that we could use for the Annual Report. We may decide to collect some or all of the proposed data. In some cases, the data may be incomplete, and therefore not generalizable, but it may still give us a better understanding of how the Sunshine Ordinance is currently operating in SF.

1-Draft Online Survey for Departments

Departments are not required to keep records of their Sunshine requests and responses, but they may do so. A survey could ascertain whether they keep records, what records they keep, and some overall data on requests and how they are processed. This survey could be submitted online using Survey Monkey or Google Surveys). Given that data might be missing or uneven, we should consider whether we want to do a survey. It would also require creating a contact list for city depts.

Data Fields:

Dept name, name of person completing survey, contact information, designated custodian of records (yes/no), name of custodian of records, does dept keep a record of all sunshine requests received (yes/no), what information do you track in these records (info fields), how many sunshine requests did you receive in 2022, how many of these requests were submitted on NextRequest or GovQA, for how many requests did you provide info, for how many requests did you not have the info requested, for how many requests did you have docs but withhold them, what were the most common reasons given for withholding information, what types of info were most commonly requested, what was your average response time for providing info, for how many requests did you redact information, what were the most common reasons for info redaction, did any sunshine requests result in litigation.

Source:

Dept Surveys

2-Develop SF Department Contact List

A contact list is needed only if we plan to do a survey. In the process of developing this list, we can also review whether depts explain sunshine protocols or contacts on their websites.

Data Fields:

City Dept or Agency (Name), Dept Web Address (URL), Contact Information (tel, email, site), Sunshine protocol or contact info on dept. website (yes/no), index to records online (yes/no), index to records contact (name, contact info), NextRequest or online protocol (NextRequest, GovQA, other)

Sources

<https://sf.gov/departments>, check individual dept websites for contact info and sunshine protocol

Search dept websites for “public record” and “sunshine”

https://index.sfgov.org/#/agency_list/5616ba1ee1d3fb8f05debfa6, SF index to records, includes some contact information

3-Draft Case Studies of Sunshine Request Information Uses

Develop guidelines for case studies and do case study outreach and follow up. Collect case studies from members of the public and assist with case study write up. Case studies should not be more than 1 paragraph long. Should include information on who requested the info, who provided it, what was the nature of the information, how was it used, and what larger demonstrable effect did the info have. What other questions should case studies answer?

Source:

Public and SOTF member submissions

4-NextRequest Data Collection & Analysis

Obtain NextRequest data by looking at it online. Can see timelines of the request, including when it was opened, when closed and what docs were released. Cannot see original request, only what files released.

Data Fields:

City Dept/Agency (Name), Web Address (URL), # of Requests Received on NextRequest 2022 (number), Type of Info Requested (brief description), # of Requests where info was provided, Reasons for Denial (brief description), # of Requests where information provided (number), reasons for denial (brief description), Average Number of days for final response, Redactions, Redaction Reasons Cited

Source:

<https://sanfrancisco.nextrequest.com/>, 15 use this service. For case numbers, the part of the number is the year, and the next part is the request number, i.e. 22 [year]-100 [request number]). Not all requests are visible, however. Can search by individual dept. Can easily download number of requests for the 15 depts and keep the links to the files. IT Dept, if they can fill in data about number of requests per dept.

5-SOTF Complaint Resolution data 2022-

Data Fields:

Complaint File #, Complainant (name), Respondent (name), Date Complaint Filed (date), Date Decision Issued (date), Date Order of Determination Issued (date), Date Withdrawn/Resolved (date), Resolution in Favor of Complainant (yes/no), violations found (specify violations), requested reconsideration (yes/no), SOTF confirmed compliance (yes/no), referred for noncompliance (yes/no), # of hearings held (# times in committee/task force), consent calendar item (yes/no)

Other Data Points:

of petitions submitted in 2022

of complaints resolved in 2022

of complaints pending at end of 2022

Sources:

2022 SOTF Meeting Minutes of full task force

2022 Meeting Agendas

2022 Orders of Determination

2022 EOTC Minutes

2022 Administrator Reports

6-Descriptions of “any practical or policy problems” related to the implementation of the Sunshine Ordinance.

Ask for 1 paragraph write up that includes: statement of the problem, examples of the problem, and possible solutions or actions needed.

Sources:

Public and SOTF member submissions

7-Write Report Sections (ideally, report should be 20 pages or less)

Executive Summary & Introduction

Purpose of Report

Method/Process

Findings (Survey & NextRequest Data providing overview of sunshine requests and processing, data on SOTF complaint resolution, case studies of SO impact, practical & policy problems)

Conclusion

