



SUNSHINE ORDINANCE TASK FORCE CITY AND COUNTY OF SAN FRANCISCO MINUTES - DRAFT REGULAR MEETING

REMOTE REGULAR MEETING VIA VIDEOCONFERENCE

February 1, 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	Jaya Padmanabhan	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

Remote Access to Information and Participation

In accordance with Governor Newsom's Executive Order No. N-33-20 declaring a State of Emergency regarding the COVID-19 outbreak and Mayor London N. Breed's Proclamation declaring a Local Emergency issued on February 25, 2020, including the guidance for gatherings issued by the San Francisco Department of Public Health Officer, aggressive directives were issued to reduce the spread of COVID-19. On March 17, 2020, the Board of Supervisors authorized their Board and Committee meetings to convene remotely (via Microsoft Teams) and will allow remote public comment via teleconference.

Members of the public may participate by phone or may submit their comments by email to: sotf@sfgov.org; all comments received will be made a part of the official record. Sunshine Ordinance Task Force agendas and their associated documents are available at <https://sfbos.org/sunshine>.

As the COVID-19 disease progresses, please visit the Sunshine Ordinance Task Force website regularly to be updated on the current situation as it affects the legislative process.

Meeting Decorum: Any member of the Sunshine Ordinance Task Force may call for decorum due to disorderly conduct of meeting participants. Persons who engage in threatening and/or menacing behavior may be asked to leave.

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

Chair Yankee called the meeting to order at 4:05 PM. On the call of the roll Chair Yankee and Members Schmidt, LaHood, Padmanabhan, Stein, Hyland, and Hill were noted present. Members Wong and Wolfe were noted absent. A quorum was present.

Chair Yankee responded to communications regarding and provided information regarding posting of agenda at the Public Library and discussions occurred.

Marc Price Wolf (Office of the City Attorney) provided information regarding posting of agendas at the Public Library.

Chair Yankee provided information on the request for postponement from Maria Schulman for Items No. 9 and 10 due to lack of notice.

Action: Moved by Chair Yankee, seconded by Member Hyland, to continued item No. 9 and 10, to the March 1, 2023, SOTF meeting, due to lack of notice of meeting for the February 1, 2023, meeting.

Public Comment:

Wynship Hillier provided comments regarding requirements to post agenda at the Public Library. Mr. Hillier stated that the Public Library informed him that the Library maintains a deadline for submission by Friday at 4:30 p.m. and only staff the Government Document Division from Monday to Friday.

Speaker requested information as to how to files a SOTF complaint. (Staff advised that the Speaker should contact the SOTF Office for instructions.)

The motion PASSED by the following vote:

Ayes: 7 – Schmidt, LaHood, Padmanabhan, Stein, Hyland, Hill, Yankee

Noes: 0 - None

Absent: 2 – Wong, Wolfe

1A. FINDINGS TO ALLOW TELECONFERENCED MEETINGS UNDER CALIFORNIA GOVERNMENT CODE SECTION 54953(e).

The Task Force is expected to consider a motion setting forth findings required under Assembly Bill 361 (AB 361) that would allow the committee to hold the meeting remotely according to the modified Brown Act teleconferencing set forth in AB 361.

Action: Moved by Member Hyland, seconded by Member LaHood, to approve motion 1A.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 – Schmidt, LaHood, Padmanabhan, Stein, Hyland, Hill, Yankee
Noes: 0 - None
Absent: 2 – Wong, Wolfe

Member Wolfe was noted present at 4:42 p.m.

2. Approval of the minutes from the Sunshine Ordinance Task Force Regular Meeting of December 7, 2022.

Action: Moved by Member Padmanabhan, seconded by Member Stein, to approve the December 7, 2022, minutes as amended.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 – Schmidt, LaHood, Padmanabhan, Stein, Hyland, Hill, Wolfe, Yankee
Noes: 0 - None
Absent: 1 – Wong

**3. Approval of the Orders of Determination:
File Nos. 22014, 21126, 22084, 20009, 20120, 21007, 21008, 21021, 21036, 21039,
21052, 21066, 21081, 21084, 21085, 21086, 21088, 21114, 21124, 21126, 21139, 21141,
21144, 21148, 21152, 21159, 22013**

Action: Moved by Chair Yankee, seconded by Member Stein, to approve the Orders of Determination, excluding File No. 20009.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 - Schmidt, LaHood, Padmanabhan, Stein, Hyland, Hill, Wolfe, Yankee
Noes: 0 - None
Absent: 1 - Wong

4. **File No. 22143: Annual Supervisor of Records Report from City Attorney:** Review and potential acceptance of the annual report.

Jen Kwart (Office of the City Attorney); presented the Annual Supervisor of Records Report and responded to questions.

Public Comment:

None.

No actions taken on Item No. 4.

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

- Task Force and Committee tentative hearing schedule
- Complaints submitted and hearing files created
- Public Communications
- Complaint Committee minutes
- Record of emails received

The SOTF discussed the Administrator’s Report.

Public Comment:

None.

No actions taken on Item No. 5.

5A. Communication from the City Attorney’s Office: Discuss the memorandum entitled “Legal Rules Governing Participation by Members of Policy Bodies in Meetings Beginning March 1, 2023” and potentially develop related procedures for Sunshine Ordinance Task Force meetings as they transition back to being held in-person.

Marc Price Wolf (Office of the City Attorney); provided information on the matter and responded to questions from the Task Force.

Public Comment:

None.

No actions taken on Item No. 5A.

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.**

Wynship Hillier noted that the agenda was not posted at the Public Library in a timely manner and provided additional information on the issue.

Mark Sullivan commented on the duties of the SOTF and his previous complaints.

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

7. **Closing Pending Complaints:** Hearing to consider closing the following complaint files and dismissing them without prejudice pursuant to SOTF Complaint Procedure 7(b). The Complainant has communicated to the Task Force Administrator that they will not be attending hearings for these files.

1. File 20014 - Anonymous v. City Attorney
2. File 20030 - Anonymous v. City Attorney
3. File 20063 - Anonymous v. Dept. of Police Accountability
4. File 20074 - Anonymous v. City Attorney
5. File 20080 - Anonymous v. J. Kositsky
6. File 20081 - Anonymous v. Controller's Office
7. File 20110 - Anonymous v. Sheriff's Office
8. File 20111 - Anonymous v. Mayor's Office
9. File 20113 - Anonymous v. Mayor's Office
10. File 20114 - Anonymous v. Dennis Herrera, City Attorney
11. File 20121 - Anonymous v. Sheriff's Office
12. File 20130 - Anonymous v. David Steinberg and Dept of Public Works
13. File 20133 - Anonymous v. Dennis Herrera, Brittney Feitelberg, John Cote
14. File 20135 - Anonymous v. Lt. Andrew Cox, Chief William Scott
15. File 20136 - Anonymous v. J. Givner, O Buta, D. Herrera and the Office of the City Attorney
16. File 20138 - Anonymous v. Mayor's Office
17. File 20139 - Anonymous v. Alaraic Degrafinried
18. File 20140 - Anonymous v. Naomi Kelly
19. File 20141 - Anonymous v. D. Herrera, O. Buta and the Office of the City Attorney
20. File 20142 - Anonymous v. Medical Examiner
21. File 21005 - Anonymous v. C. Boudin and the District Attorney's Office
22. File 21006 - Anonymous v. Mayor Breed and Hank Heckel
23. File 21013 - Anonymous v. Dept. of Public Health
24. File 21020 - Anonymous v. Office of the Clerk of the Board
25. File 21022 - Anonymous v. Dept. of Emergency Management
26. File 21023 - Anonymous v. Mayor Breed and Hank Heckel
27. File 21028 - Anonymous v. Clerk of the Board Calvillo
28. File 21029 - Anonymous v. Supervisor Gordon Mar
29. File 21030 - Anonymous v. Supervisor Dean Preston
30. File 21031 - Anonymous v. Dept. of Police Accountability

31. File 21037 - Anonymous v. Dept. of Emergency Management
32. File 21045 - Anonymous v. Ethics Commission
33. File 21051 - Anonymous v. District Attorney
34. File 21053 - Anonymous v. Public Utilities Commission
35. File 21061 - Anonymous v. Dennis Herrera, John Cote, Brad Russi, Jon Givner, Randy Parent
36. File 21076 - Anonymous v. Public Utilities Commission and Acting General Manager Michael Carlin
37. File 21079 - Anonymous v. Public Library, Michael Lambert, Margot Shaub
38. File 21082 - Anonymous v. Recreation and Parks
39. File 21083 - Anonymous v. Recreation and Parks
40. File 21092 - Anonymous v. Public Utilities Commission
41. File 21102 - Anonymous v. Recreation and Parks Dept., Phil Ginsburg
42. File 21104 - Anonymous v. Supervisor Preston
43. File 21105 - Anonymous v. Chesa Boudin, Kate Chatfield and the District Attorney's Office
44. File 21123 - Anonymous v. Port and Port Commission
45. File 21127 - Anonymous v. Office of the Mayor, Mayor London Breed and Hank Heckel
46. File 21130 - Anonymous v. City and County of San Francisco
47. File 21135 - Anonymous v. Supervisor Ronen
48. File 21138 - Anonymous v. Chesa Boudin
49. File 21147 - Anonymous v. Dennis Herrera and the City Attorney's Office
50. File 21164 - Anonymous v. Dept. of Emergency Management
51. File 22025 - Anonymous v. District Attorney
52. File 22026 - Anonymous v. Mayor's Office
53. File 22042 - Anonymous v. Ben Rosenfield
54. File 22051 - Anonymous v. Trent Rhorer, Human Services Agency
55. File 22090 - Anonymous v. Mayor London Breed

Action: Moved by Member Wolfe, seconded by Member Padmanabhan, to close the listed complaints without prejudice.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 - Schmidt, LaHood, Padmanabhan, Stein, Hyland, Hill, Wolfe, Yankee

Noes: 0 - None

Absent: 1 – Wong

8. **File No. 22018:** Complaint filed by Peter Drekmeier against the San Francisco Public Utilities Commission 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.

(On April 19, 2022, the Complaint Committee moved to find the records are public, there is jurisdiction and forward the case to the SOTF and consider a

violation of 67.21 by asserting attorney/client privilege as an exemption to all the documents sought by a petitioner and a violation of 67.24(b)(2).)

Peter Drekmeier (Petitioner) provided a summary of the complaint and requested the Task Force find a violation. Mr. Drekmeier stated the SFPUC denied his request for public records due to attorney client privilege or responded via email that there were no documents related to the request.

Mayara Ruski Augusto Sa (San Francisco Public Utilities Commission (SFPUC)) (Respondent) provided a summary of the department's position. Ms. Sa stated that hundreds of documents were released to Mr. Drekmeier and provided examples of documents that were released. Ms. Sa stated that Mr. Drekmeier received tables, results and supporting documents. Ms. Sa stated that all responsive public records were provided and there are no narrative documents explaining the results. Ms. Sa stated that certain records were initially withheld due to pending litigation but were later released and no additional documents responsive to the request exist.

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

Action: Moved by Member Stein seconded by Member Padmanabhan, to find that the San Francisco Public Utilities Commission, violated Administrative Code, (Sunshine Ordinance), Section 67.21(b), by failing to provide records in a timely manner. The SOTF orders the release of any public records or public information that would help explain the water rationing calculation numbers as requested by the Complainant. The SOTF refers the matter to the Compliance and Amendments Committee to monitor compliances with the SOTF Order.

Public Comment:

Mark Sullivan commented on the motion and the nature of what constitutes a public records.

Wynship Hillier stated that the SOTF would violate the Brown Act and other laws due to the agenda posting not being timely and in the proper location.

Peter Warfield, Executive Director Library Users Association, libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, California, 94117-0544 commented on the use of the word 'document' being misinterpreted and the processes used by the SFPUC.

The motion PASSED by the following vote:

Ayes: 8 - Schmidt, LaHood, Padmanabhan, Stein, Hyland, Hill, Wolfe, Yankee

Noes: 0 - None

Absent: 1 – Wong

9. **File No. 21128:** Complaint filed by Maria Schulman against Mayara Ruski, Augusto Sa, and the San Francisco Public Utilities Commission (SFPUC) for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, 67.26(b) and 67.27, and California Public Records Action, Section 6253(d), by failing to respond to a request for public records in a timely and/or complete manner and failing to provide written justification for withholdings.

(On September 20, 2022, the Complaint Committee moved to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing for consideration of timeliness delays and overbroad interpretation of privacy exemptions.)

Items Nos. 9 and 10 were continued to March 1, 2023, due to lack of notice at the beginning of the meeting under Item No. 1.

10. **File No. 21132:** Complaint filed by Maria Schulman against Sherrie Valdez and the Department of Public Health (DPH) for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a request for public records in a timely and/or complete manner.

(On September 20, 2022, the Complaint Committee moved by Member Stein, seconded by Chair Schmidt, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing.)

Items Nos. 9 and 10 were continued to March 1, 2023, due to lack of notice at the beginning of the meeting under Item No. 1.

Chair Yankee recessed the meeting at 6:41p.m. and reconvened at 6:54 p.m.

Upon returning from recess roll call was taken with Member Wong being noted absent. A quorum was present.

11. **File No. 18086:** Complaint filed by Mark Sullivan against the Mission Dolores Green Benefit District Formation Committee for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.14, by failing to allow video and audio recording filming and still photography of a policy body.

(On March 6, 2019, a motion by the Sunshine Ordinance Task Force to find jurisdiction FAILED. On September 28, 2021, the Compliance and Amendments Committee moved to grant the request for reconsideration of Complaint No. 18086 as the Committee now finds jurisdiction based on their understanding of the role of Public Works. On November 2, 2022, the Sunshine Ordinance Task Force moved to allow the reconsideration of this matter.)

Mark Sullivan (Petitioner) provided a summary of the complaint and requested the Task Force find a violation. Mr. Sullivan provided legal precedent/case history of similar situation and the extent of the city's involvement in creating the Green Benefit District Formation Committee.

A Respondent in the matter was not present and did not communicate with the SOTF Office regarding the lack of attendance.

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

Action: Moved by Chair Yankee, seconded by Member Schmidt, to find that the SOTF does not have jurisdiction over the Mission Dolores Green Benefit District Formation Committee.

Public Comment:

Mark Sullivan (Petitioner) provided his rebuttal during Public Comment.

The motion PASSED by the following vote:

Ayes: 7 - Schmidt, Padmanabhan, Stein, Hyland, Hill, Wolfe, Yankee

Noes: 1 - LaHood

Absent: 1 - Wong

12. **Complaints Involving the SOTF:** Potential consideration of rescinding votes taken by the Sunshine Ordinance Task Force on Item #4B from its November 2, 2022, regular meeting and Items #6A & #6B from its December 7, 2022, regular meeting.

Chair Yankee provided a summary as to the reason the matter was scheduled and provided an opportunity for members of the SOTF to comment.

Public Comment:

None.

No Actions taken on Item No. 12.

13. **File No. 23004: CONSENT AGENDA** - The Sunshine Ordinance Task Force shall review File Nos. 22131 and 22110 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 February 1, 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.

13(A). File No. 22131 Complaint filed by Michael Petrelis against Supervisor Gordon Mar, Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.29-5, by failing to respond to a request for Proposition G Calendar in a timely and/or complete manner.

(On January 17, 2023, Complaint Committee requested that this matter be included in the Consent Calendar for a violation of 67.29-5 for failing to respond to a Prop G calendar and Administrative Code, Sunshine Ordinance Section 67.21(e) by Supervisor Mar for failing to attend the hearing and referred the

matter to the Compliance and Amendments Committee to follow up about where records go when a supervisor leaves office and to obtain the most current contact information of a former member of the Board of Supervisors and make sure they are properly notified when scheduled before the SOTF.)

13(B). File No. 22110 Complaint filed by Anonymous (ARE) against Supervisor Matt Dorsey for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21(b) for failure to respond to a records request within 10 days, 67.25 failure to acknowledge an immediate disclosure request within one business day and for violations of Government Code 6253(c) for failure to respond to a public records request in a timely manner.

(On October 28, 2022, the Complaint Committee moved to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF Consent Agenda for violations of 67.25 failing to respond to an Immediate Disclosure Request in a complete and/or timely manner.)

Action: Moved by Member Wolfe seconded by Member Hill, to adopt the recommended findings of the Complaint Committee for File Nos. 22131 and 22110.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 8 - Schmidt, LaHood, Padmanabhan, Stein, Hyland, Hill, Wolfe, Yankee

Noes: 0 - None

Absent: 1 - Wong

14. **Annual Report:** Updates and discussion regarding the Annual Report of the Sunshine Ordinance Task Force.

Member Stein provided an update on the survey to city departments regarding Sunshine requests and possible issues with using a non-city email to initiate the survey. Member Stein suggested that it would be better if the survey request came from the sotf@sfgov.org email address to prevent phishing concerns.

Member Stein said she has submitted a form to the SOTF administrator to post on the website in order to collect Sunshine stories from the public, but she has not heard back on whether that has been approved for posting. She requested follow up with the Administrator or her Supervisor about whether the form has been reviewed and can be posted. Member Stein commented that a survey of individuals who have submitted complaints to SOTF already exists on the SOTF website and could be used in the annual report, but that the SOTF Administrator has reportedly never received any responses to the survey. There is a question about where the results go, and whether people know of the survey's existence.

Member Stein clarified that the survey request sent out last week consists of 10 short questions designed to collect information on sunshine use for the creation of the next annual report.

Upon discussion the SOTF noted that the Clerk of the Board reviews changes to the website before they can be implemented.

Public Comment:

Peter Warfield (Library Users Association) commented on the data gathering and survey being performed by the SOTF. Mr. Warfield suggested gathering additional information from the Petitioners/Complainants for improvement purposes.

No Actions Taken on Item No. 14. (Chair Yankee intends to reschedule at a future SOTF meeting as needed.)

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

(Note: Public Comment on this item is limited to subject matters presented by members of the SOTF.)

Chair Yankee stated that he was contacted by Civil Grand Jury and will be presenting to them shortly.

Member Hill expressed his appreciation of everybody's flexibility of his recent and future absences.

Chair Yankee provide information on returning to live in person meetings.

Public Comment:

Peter Warfield commented on statements made by members of the SOTF and requested copy of survey reference in Item No. 14.

Wynship Hillier commented on the 72-hour posting of the SOTF agendas requirements.

16. **ADJOURNMENT**

There being no further business the meeting was adjourned at 8:22 pm.

**APPROVED: DRAFT
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.

