



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

## REMOTE REGULAR MEETING

February 2, 2022 - 4:00 PM

### Regular Remote Meeting

|        |                  |         |                                    |
|--------|------------------|---------|------------------------------------|
| Seat 1 | Dean Schmidt     | Seat 7  | Matthew Yankee - <b>Vice-Chair</b> |
| Seat 2 | Lila LaHood      | Seat 8  | Chris Hyland                       |
| Seat 3 | Vacant           | Seat 9  | Laurie Jones Neighbors             |
| Seat 4 | Jaya Padmanabhan | Seat 10 | Vacant                             |
| Seat 5 | Jennifer Wong    | Seat 11 | Bruce Wolfe - <b>Chair</b>         |
| 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 B. Wolfe called the meeting to order at 4:03 PM. On the call of the roll Chair B. Wolfe and Members Schmidt, LaHood, Padmanabhan, Wong, Stein, Yankee, Hyland, Neighbors were noted present. A quorum was present.

Chair Wolfe stated that complaint nos. 20100 and 20143 were combined at the October 3, 2021, and the merits of those complaints were addressed. Chair Wolfe stated that this meeting is to address legal counsel advice and to have that included and applied to this meeting.

Chair Wolfe also stated that the meeting will adjourn with gratitude and remembrance of Bob Planthold.

#### 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.

The SOTF noted that every thirty days, the SOTF must have findings for continued meetings of this body, to recognize that the state of emergency will continue to impact the body and as long as local officials continue to recommend

that emergency procedures remain in place. The SOTF is required to approve these findings, or the remote meeting cannot take place.

**Action: Moved by Member LaHood, seconded by Member Wong, to approve the attached motion 1A.**

Public Comment:

Patrick Monette-Shaw stated that he supports the motion to hold meetings as AB361 recommends and thanks for adjourning the meeting for Bob Planthold.

Peter Warfield, Executive Director Library Users Association, [libraryusers2004@yahoo.com](mailto:libraryusers2004@yahoo.com), P.O. Box 170544, San Francisco, California, 94117-0544. Mr. Warfield supported closing the hearing in honor of Bob Planthold.

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

Ayes: 9 - LaHood, Wong, Yankee, B. Wolfe, Neighbors, Stein, Padmanabhan, Hyland, Schmidt  
Noes: 0 - None

**2. Approval of minutes from the Sunshine Ordinance Task Force meeting of January 5, 2022, meeting.**

The SOTF discussed the draft meeting minutes. Member Padmanabhan noted an incorrect mover on the motion regarding file no. 21152 and requested that the minutes be approved with amendments.

**Action: Moved by Member Wong, seconded by Member Padmanabhan, to approve the January 5, 2022, meeting minutes with the position adjustment of item 9 and include Mr. Hillier's 150-word statement.**

Public Comment:

Jarmee Thieu asked the SOTF to notify the District Attorney and the Board of Supervisors that the Human Services Agency has not provided all requested records.

Peter Warfield stated the importance of providing contact information and noted that his information should have been included in the January minutes.

Patrick Monette-Shaw noted the monotony of Mr. Warfield continually providing his contact information at each opportunity during public comment.

Wynship Hillier requested that the Chair postpone the approval of the January minutes.

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

Ayes: 9 - Wong, Padmanabhan, Hyland, Yankee, B. Wolfe, LaHood, Neighbors, Schmidt, Stein

Noes: 0 - None

3. **File No. 19140:** Complaint filed by Stephen Malloy against the Department of Human Resources for violating Administrative Code (Sunshine Ordinance), Sections 67.21(e) for not sending an authorized representative to the hearing; 67.25, by failing to respond to a request for public records in a timely and/or complete manner; 67.24(h) for deliberative process exemption; 67.26 for keeping withholding to a minimum and 67.27 not providing a footnote and key legal citations.

Member LaHood provided a synopsis of the hearing before the Compliance and Amendments Committee.

Stephen Malloy (Petitioner) provided a summary of the complaint and requested the Task Force to find a violation. Mr. Malloy stated that the redacted records were included in the packet and that there have been no new redactions or records provided by Human Resources. Mr. Malloy requested that the SOTF find a violation of 67.34 for willful misconduct.

Ted Wisinski (Department of Human Resources) (Respondent), provided a summary of the department's position. Mr. Wisinski stated that after counsel with their Deputy City Attorney it is now noted that the records provided to Mr. Malloy were not redacted properly and should have been withheld.

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

**Action: Moved by Member Schmidt seconded by Member LaHood to continue the matter to the call of the Chair.**

Public Comment:

Peter Warfield stated that he is not a party to the cause but cares about open effective government and enforcement. Mr. Warfield noted there have been multiple appearances by the petitioner and that this matter has dragged on for some time.

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

Ayes: 9 - Schmidt, LaHood, Wong, Padmanabhan, Hyland, Yankee, B. Wolfe, Neighbors, Stein

Noes: 0 - None

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. ***Public comment shall be taken at 5:00 p.m. or as soon thereafter as possible.***

Patrick Monette-Shaw noted that despite the SOTF Retreat Agenda having been posted on the SOTF website, it was not posted on the Board of Supervisors online calendar. Mr. Monette-Shaw noted that any actions taken on January 25, 2022, may be moot.

Peter Warfield expressed support for the previous public commentor regarding the January 25, 2022, SOTF meeting and that there should be more invitation and openness to the public.

5. **File No. 20011:** Complaint filed by Ahimsa Porter Sumchai against Mayor London Breed and the Office of the Mayor for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.15, 67.5 and 67.6, by failing to have a meeting quorum and failing to conduct business in a proper manner, failing to notice the time and place of the meeting, failing to allow public comment.

Dr. Ahimsa Porter Sumchai (Petitioner) provided a summary of the complaint and requested the Task Force to find a violation. Dr. Sumchai stated that it was unclear why the Deputy City Attorney advice was privileged and warranted dismissal on that basis. Dr. Sumchai is willing to accept that the SOTF lacks jurisdiction on this matter.

Hank Heckel (Mayor's Office) (Respondent), provided a summary of the department's position. Mr. Heckel noted that the Hunters Point Shipyard Advisory Committee is a passive meeting body and that it does not fall under the jurisdiction of the SOTF. Mr. Heckel asked that the opinion provided by the SOTF Deputy City Attorney should be made public.

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

**Action: Moved by Member Schmidt, seconded by Member Stein to close the file.**

Public Comment:

Patrick Monette-Shaw stated that the HPSAC was initially created by the Mayor. Mr. Monette-Shaw stated there are recent media reports indicating that the air quality is poor and that housing units have been built despite poor air quality.

Peter Warfield stated that Dr. Sumchai has done tremendous work.

Wynship Hillier provided the following written public comment.

“In response to Mr. Warfield's comment, although the Task Force has jurisdiction over violations of the Brown Act, they do not have jurisdiction over violations of the Brown Act committed by legislative bodies that are not policy bodies under the Sunshine Ordinance. Were it otherwise,

people could come to San Francisco from other counties to have the Task Force adjudicate violations of the Brown Act occurring in the other counties.”

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

Ayes: 9 - Schmidt, Stein, LaHood, Wong, Padmanabhan, Hyland, Yankee, B. Wolfe, Neighbors  
Noes: 0 - None

The SOTF recessed at 5:55 p.m. and reconvened at 6:05 p.m.

6. **File No. 20100:** Complaint filed by Wynship Hillier against the Behavioral Health Commission, formerly known as the Mental Health Board for allegedly violating, Section 67.7(a) failing to post the Agenda 72 hours in advance and failure to provide a description of each item of business; 67.7(b) failing to post documents on the website or make available to the public; 67.7(d) failure to take action on any item not on the Agenda; 67.7(g) failing to allow public comment; 67.9(a) failure to post relevant documents on the internet.

Vice-Chair Yankee stated that he is only interested in how the City Attorney memo relates to this case.

Deputy City Attorney Helen Castillo stated that the request was whether the holdover provision applied. Ms. Castillo noted that the Welfare and Institutions Code does not limit the number of terms a member is allowed to participate.

**Action: Moved by Member Stein, seconded by Member Schmidt, to take no further action on Administrative Code (Sunshine Ordinance), Section 67.3(d) and close the file.**

Chair Wolfe asked if the committee falls under jurisdiction and whether the holdover provisions apply?

Member Stein amended their original motion.

**Action: Moved by Member Stein, seconded by Member Schmidt, to reaffirm that the Behavioral Health Commission violated Administrative Code (Sunshine Ordinance) Sections 67.7(a) by failing to post the Agenda in a timely manner; 67.7(b) by failing to provide a clear description of the matters; 67.7(g); by failing to provide notices and agendas for regular and special meetings that include the language Know Your Rights Under Sunshine; 67.9(a) by failing to provide agendas and related materials for distribution. The SOTF forwarded the matter to the Compliance and Amendments Committee for monitoring.**

Wynship Hillier (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Hillier stated that DCA Castillo just now said that she did not intend her written opinion on this matter to extend beyond local law to \*Cal.

Welf. and Inst. Code\* § 5600, \*et seq.\* If this were the case, and it were true that state law controls and holdover service were disallowed, then a majority of members was not present at the July 15, 2020, meeting of the San Francisco Behavioral Health Commission, and the Task Force had no jurisdiction over claims of violations of the Sunshine Ordinance at this meeting, because only three members present thereat had current appointments. For if the Task Force also holds, with the \*Good Government Guide\*, that "a majority of the members" meant a majority of the maximum number of members allowable by law, then there was not a majority of 17 members present at this meeting.

Geoffrey Grier (Behavioral Health Commission) (Respondent), provided a summary of the department's position. Mr. Grier stated that DCA memo is clear and this committee is not under SOTF jurisdiction due to the holdover commissioners retain their position until they are replaced. Mr. Grier noted that there was no violation of 67.7(d) but did state openly that there was a failure to post agendas due to the international crisis. However, there was no failure to allow public comment.

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

**Public Comment:**

Commissioner Parks stated they have been on the Commission six years and that Mr. Hillier is putting roadblocks in attempts to provide services to this City.

Commissioner Jackson Lane has been on the Commission for four years and noted that there has been due diligence in following the Sunshine Task Force and the Brown Act requirements. Commissioner Lane noted that there are holdover Commissioners.

Peter Warfield expressed his concern about open government and thanked both parties and the multiple respondents for making an appearance.

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

Ayes: 9 - Stein, Schmidt, LaHood, Wong, Padmanabhan, Hyland, Yankee, B. Wolfe, Neighbors

Noes: 0 - None

7. **File No. 21114:** Monica Price and the First Amendment Coalition against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing respond to a public records request in a timely and/or complete manner.

Monica Price (First Amendment Coalition, Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Price stated that on August 3, 2021, the First Amendment Coalition requested records related to the death of Mr. Clements while he was placed in restraints in police custody. Ms. Price stated that

the Medical Examiner determined that Mr. Clements' cause of death was cardiopulmonary intoxication while in police custody and that law enforcement was a contributing cause to his death. Ms. Price asked the police department for Mr. Clements records and was told there are none.

The Respondent from the Police Department was not present and did not inform the SOTF Administrator of their absence.

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

**Action: Moved by Member Stein, seconded by Member Neighbors to find that the Police Department violated Administrative Code (Sunshine Ordinance) Sections 67.24(d) by failing to provide public records, and 67.21(e) by failing to send a representative to the hearing and CPRA 6253 by failing to respond in a complete and timely manner and ordered that the public records be produced within five days or a referral to the District Attorney of their failure to comply.**

Public Comment:

Peter Warfield thanked the SOTF for a good analysis and motion and noted the violations of 67.21 for timeliness and CPRA 6253 for failure to respond in a complete and timely manner.

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

Ayes: 9 - Stein, Neighbors, Schmidt, LaHood, Wong, Padmanabhan, Hyland,  
Yankee, B. Wolfe  
Noes: 0 - None

8. **File No. 21115:** Monica Price and the First Amendment Coalition against the Office of the District Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing respond to a public records request in a timely and/or complete manner.

Member Schmidt provided a synopsis of the complaint.

Monica Price (First Amendment Coalition, Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Price stated that on August 3, 2021, her office requested records related to Mr. Clement's death from the District Attorney. Ms. Price stated that she received a form letter encouraging requestors not to ask for video and audio records because it takes too long to provide. Ms. Price said that on October 22, 2021, she requested the privilege log and got no response. On January 22, 2022, the District Attorney's Office released paper records.

Robyn Burke (District Attorney's Office) (Respondent), provided a summary of the department's position. Robyn Burke stated that as of February 2, 2021, all records and

video have been provided to Ms. Price and acknowledged that the time to respond to Ms. Price and get the materials to her was too long.

Stephanie Brewster (District Attorney's Office) noted that the department is working diligently to put new processes in place and that due to the challenges of Covid and staff shortages the response to Ms. Price was not timely. Ms. Brewster will be taking over for Ms. Burke in the future.

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

**Action: Moved by Vice-Chair Yankee, seconded by Member Neighbors, to find that the District Attorney's Office violated Administrative Code, (Sunshine Ordinance) Sections 67.24(d) by failing to cooperate with the press and other members of the public regarding police activities; 67.27 by failing to provide a redaction key or other reference to the appropriate justifications; CPRA 6253(b) by failing to provide records in a complete and/or timely manner; and 6253(c) by failing to notify the person making the request of the determination and the reasons for withholding the records. The SOTF orders the District Attorney's Office to cease using discouraging language in their communications.**

Public Comment:

Patrick Monette-Shaw stated that he thought there was a section discouraging requestors from using that type of language and that there is a specific citation in the Ordinance that requestors do not have to disclose why they are requesting records.

Peter Warfield expressed curiosity for why 67.21 was not being cited and thanked Vice-Chair Yankee for suggesting that discouraging language in correspondence cease to be used.

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

Ayes: 9 - Yankee, Neighbors, Stein, Schmidt, LaHood, Wong, Padmanabhan,  
Hyland, B. Wolfe  
Noes: 0 - None

9. **Chair's Report:**

- a. BOS Budget Ask for additional staffing: Outreach plan for SOTF and general public support to achieve success.

Chair Wolfe requested that SOTF members contact their District Supervisor in support of the Budget Ask for the SOTF because this item will be addressed by the Board of Supervisors soon. Chair Wolfe stated that he has spoken with Clerk of the Board Calvillo who has contacted members of the Board regarding support of this item.



Public Comment:

Patrick Monette-Shaw stated that in the last few months he has tried to get language or bullet points to send to his supervisor regarding the SOTF Budget Ask.

b. Annual Report: Collect items to include.

Chair Wolfe stated that there is a lot of information that comes to the office that should be included in the report and that the Chair should report to the Board of Supervisors annually.

Member Stein stated that cities are doing reports on freedom of information and public records laws. Member Stein stated that the Annual Report is data driven and that SOTF members should be appointed to collect the data.

Member Neighbors suggested that case studies of the most compelling decisions could be cases around policing for the annual report.

Public Comment:

Patrick Monette-Shaw volunteered his time help prepare the Annual Report and that there is a boatload of material to report.

David Pilpel agreed that the SOTF has issued annual reports in general practice prior to April 27 when the Board considers reappointments.

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

SOTF Administrator Leger presented the Administrator’s Report and answered questions from the SOTF.

No actions taken.

Public Comment:

None.

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

Chair Wolfe stated that everyone saw the communication from the Ethics Commission and the City Attorney regarding Behested Payments. Members of the SOTF may ask DCA Helen Castillo for advice if it becomes personal and/or might affect them personally, they can do that under attorney/client advice.

No actions taken.

Public Comment:

David Pilpel suggested that the SOTF meet twice a month and committees twice a month with Compliance and Amendments and Education, Outreach and Training alternate the fourth Tuesday of the month. Mr. Pilpel also noted the passing of Bob Planthold.

12. **ADJOURNMENT**

Chair Wolfe adjourned the meeting in memory of Bob Planthold who was an original member of the SOTF, who also served on the Ethics Commission and was a staunch disability advocate.

Public Comment:

David Pilpel stated that he knew Bob Planthold well and served together on the SOTF and was chair in 1999 and later served on the Ethics Commission. Mr. Pilpel stated that Mr. Planthold was engaged in many civic issues and cared deeply about San Francisco.

There being no further business the meeting was adjourned at 9:22 pm.

**APPROVED: 5/4/22**  
**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.