



SUNSHINE ORDINANCE TASK FORCE CITY AND COUNTY OF SAN FRANCISCO MINUTES

REMOTE REGULAR MEETING

March 3, 2021 - 4:00 PM

Regular Remote Meeting

Seat 1	Dean Schmidt	Seat 7	Matthew Yankee - Vice-Chair
Seat 2	Lila LaHood	Seat 8	Chris Hyland
Seat 3	Kevin Frazier	Seat 9	Laurie Jones Neighbors
Seat 4	Jaya Padmanabhan	Seat 10	Kai Forsley
Seat 5	Jennifer Wong	Seat 11	Bruce Wolfe - Chair
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, Frazier, Padmanabhan, Wong, Stein, Yankee, Hyland, Neighbors, Forsley were noted present. A quorum was present.

a) Shall SOTF waive Complaint Procedure Rules to allow more than two complaints to be heard in the same meeting by the same complainant?

Action: Moved by Member Hyland, seconded by Member Frazier, to waive the two complaint per hearing limit requirement for the Sunshine Ordinance Task Force.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 10 - Hyland, Frazier, Padmanabhan, Neighbors, Stein, Schmidt, Wong, Yankee, LaHood, Wolfe

Noes: 1 - Forsley

2. **Approval of minutes from the Information Technology Committee December 17, 2019, meeting.**

The SOTF discussed the draft Information Technology meeting minutes.

Action: Moved by Vice-Chair Yankee, seconded by Chair Wolfe, to approve the December 17, 2019, meeting minutes.

Public Comment:

Peter Warfield stated that he had difficulty understanding the minutes and could not identify the male voice who said something about the and who could answer questions.

Anonymous stated regarding pdf page 5 which is in the minutes as page 4, Mr. Heckel cites 6294, which is not correct.

The motion PASSED by the following vote:

Ayes: 11 - Hyland, Frazier, Forsley, Padmanabhan, Neighbors, Stein, Schmidt, Wong, Yankee, LaHood, Wolfe

Noes: 0 - None

Approval of minutes from the Sunshine Ordinance Task Force January 6, 2021, meeting.

The SOTF discussed the draft Sunshine Task Force January 6, 2021, meeting minutes.

Action: Moved by Member Wong, seconded by Member Frazier, to approve the January 6, 2021, meeting minutes.

Public Comment:

Anonymous suggested changes to the motion on page 6 as stated by Member Yankee

The motion PASSED by the following vote:

Ayes: 11 - Wong, Frazier, Padmanabhan, Neighbors, Stein, Forsley, Schmidt, Yankee, LaHood, Hyland, Wolfe

Noes: 0 - None

Approval of minutes from the Sunshine Ordinance Task Force January 12, 2021, meeting.

The SOTF discussed the draft Sunshine Task Force January 12, 2021, meeting minutes.

Action: Moved by Member Frazier, seconded by Member Neighbors, to approve the January 12, 2021, meeting minutes.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 11 - Frazier, Neighbors, Padmanabhan, Stein, Forsley, Schmidt, Wong,
Yankee, LaHood, Hyland, Wolfe
Noes: 0 - None

Approval of minutes from the Sunshine Ordinance Task Force February 3, 2021, meeting.

The SOTF discussed the draft Sunshine Task Force February 3, 2021, meeting minutes and requested that Items 5 and 6 reflect the corrected changes in the votes.

Action: Moved by Member Yankee, seconded by Member Forsley, to approve the February 3, 2021, meeting minutes as amended.

Public Comment:

Peter Warfield stated that at regular SOTF meetings held at City Hall people can be approached in person. Mr. Warfield noted that the group Library Users, of which he is head that contact information is not included in the minutes and would like that to happen.

Anonymous noted a minor correction.

The motion PASSED by the following vote:

Ayes: 11 - Yankee, Forsley, Neighbors, Frazier, Padmanabhan, Stein, Schmidt,
Wong, LaHood, Hyland, Wolfe
Noes: 0 - None

The SOTF moved to pass public comment item 4 and to proceed with item 5.

- 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.*

Speakers:

Peter Warfield noted that he is concerned about effectiveness and usefulness of open government in the City. Mr. Warfield spoke about Administrative Code Section 67.30 and the established duties of the SOTF not just going to hearings and advising and reporting on how things are going. Mr. Warfield suggested that minutes contain detailed information of motions.

Anonymous wanted to note that in the motion of the last item that it is important that it be recorded literally as stated by the mover. Anonymous also spoke about his victory in requesting and receiving emails of Harlen Kelly and Walter Wong and other corrupt individuals from the PUC which discussed the criminal complaint against Mr. Kelly. Anonymous stated that it is unclear why Dennis Herrera waited until now to release those records.

Hayden Miller inquired into whether a violation occurred and if open government laws have changed. Mr. Miller stated that it is hard to piece together and understand the changes to the Ordinance.

5. **File No. 19131:** Complaint filed by Anonymous against Jose Cisneros, Theresa Buckley and the Treasurer's Office for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.24, 67.26, 67.27, by failing to respond to a request for records in a timely and/or complete manner, failing to assist, withheld more than the minimally exempt portion of a public record.

Member LaHood provided a synopsis of the complaint.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that on December 7, 2019 he made a standard request for Prop G and Non-Prop G calendars and was provided two separate timely responses on December 10, 2019. Anonymous noted that they withheld all information regarding meetings between the Mayor and Mr. Cisneros and metadata. Anonymous stated that the SOTF has previously ruled that both the Mayor and the Treasurer's Office should not withhold that information and that they must provide a full electronic copy of the file.

Debra Lew (Treasurer and Tax Collector) (Respondent) provided a summary of the department's position. Ms. Lew stated that the Treasurer's Office is exempt from producing metadata. Ms. Lew has heard the argument regarding irreparable harm that can be caused from such a disclosure. Ms. Lew stated that there is no clear guidance on what can be disclosed and therefore that information was withheld.

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

Action: Moved by Member Neighbors, seconded by Member Schmidt, to find that Jose Cisneros, Theresa Buckley, and Treasurer/Tax Collector's Office violated Administrative Code, Sunshine Ordinance Sections 67.21(b) for printing and scanning electronic records which does not constitute a 'copy' of the original record; 67.26 for withholding all information about a future meeting between Cisneros and the Mayor; 67.26 for withhold hyperlink urls and email address; and 67.26 for withholding all non-exempt emails and calendar metadata instead of minimally redacting it.

Public Comment:

Peter Warfield stated he observed and appreciates the discussion by members and thinks it is useful, but when referring to prior discussions the SOTF could be more explicit. Mr. Warfield asked where the knowledgeable Respondent is because they must have a knowledgeable person from the department appear at SOTF hearings. Mr. Warfield suggested a violation of 67.21-1.

Chair Wolfe revised the motion to include a violation of 67.21-1.

Action: Moved by Chair Wolfe, seconded by Member Hyland, to amend the original motion and add violations of Administrative Code, Sunshine Ordinance Sections 67.21-1(b) and 67.21-2 for an untimely and incomplete response.

Public Comment on the amendment:

Peter Warfield noted that the respondent also has a right to due process. Mr. Warfield stated that the SOTF does find violations of sections of the law at a hearing such as when a party does not show up to the hearing.

Chair Wolfe rescinded the motion to amend.

The motion PASSED by the following vote:

Ayes: 10 - Neighbors, Schmidt, Frazier, Padmanabhan, Stein, Wong, Yankee, LaHood, Hyland, Wolfe
Noes: 1 - Forsley

- 6. File No. 19134:** Complaint filed by Anonymous against Rob Reiter and City Hall Building Management for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

The Chair moved for a motion to combine File Nos. 19134 and 19136 below.

Member Yankee provided a synopsis of the Complaint Committee hearing where the issue of combining File Nos. 19134 and 19136 was discussed and reiterated that both parties agreed that the motion was directed at Naomi Kelly and to combine the two matters.

Action: Moved by Member Yankee, seconded by Member Stein, to combine and hear File Nos. 19134 and 19136.

Public Comment:

Peter Warfield expressed thanks for the explanation and asked that everyone involved in the complaint confirm that they are okay with combining of two complaints.

The motion PASSED by the following vote:

Ayes: 11 - Yankee, Stein, Neighbors, Frazier, Padmanabhan, Schmidt, Wong,
LaHood, Hyland, Wolfe, Forsley

Noes: 0 - None

Chair Wolfe noted that the Respondent would not be available for the hearing and requested a continuance of both matters.

Anonymous asked that the SOTF proceed because these cases are over a year old.

Chair Wolfe stated that the Respondent advised that they would not be available for the hearing and requested a continuance. Chair Wolfe noted that there was no action regarding the request to continue, however Public Comment was allowed.

Public Comment:

Peter Warfield expressed appreciation for having the discussion. Mr. Warfield stated that it is unfair that the complainant is present at every hearing. Mr. Warfield opined that the SOTF is handling this issue correctly. Mr. Warfield counted six respondents based on the materials provided. Mr. Warfield stated that someone should stand in for the respondent.

Anonymous speaker stated it is ridiculous that for those required to participate do not do so because of the pandemic. Anonymous stated these issues have been raised multiple times and that the department could have designated someone else to participate in the hearing.

Stephen Malloy expressed support for Anonymous and stated that the City has plans for this type of situation. Mr. Malloy stated that this situation should be resolved on behalf of the Complainant.

Chair Wolfe noted the following action by the Complaint Committee of November 17, 2020, that Member Yankee, second by Member Schmidt, moved to combine Files Nos. 19134 and 19136 and have respondent Naomi Kelly Office of the City Administrator and City Hall Building Management named, that the records are public and refer the matter to the SOTF.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that on December 7, 2019, he made an Immediate Disclosure Request for Prop G and Non-Prop G emails and calendars for File Nos. 19134 and 19136. Anonymous stated that he did not receive a response within the five-day window as required. Anonymous noted that on November 17, 2020, he received some responsive records. Anonymous stated that Respondent's argument was lack of sufficient staff. Anonymous asked the SOTF to find a violation of 67.25 for an incomplete response to an Immediate Disclosure Request.

The Respondent contacted the SOTF Administrator and informed them that they were not available for the hearing.

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

Action: Moved by Member LaHood, seconded by Member Wong to find a violation of Administrative Code, Sunshine Ordinance Section 67.25 for an untimely and incomplete response of an Immediate Disclosure Request.

Public Comment:

Peter Warfield stated that the absence of a respondent is disrespectful to all parties and that responding to a public records request is part of everyone's job.

The motion PASSED by the following vote:

Ayes: 11 - LaHood, Wong, Yankee, Stein, Neighbors, Frazier, Padmanabhan, Schmidt, Hyland, Wolfe, Forsley

Noes: 0 - None

7. **File No. 19136:** Complaint filed by Anonymous against Naomi Kelly and the Office of the City Administrator for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

This matter was combined into File No. 19134. See actions in Item 6.

8. **File No. 19140:** Complaint filed by Stephen Malloy against the Department of Human Resources for violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.24(h), 67.26, 67.27, 67.25 and 67.34, by failing to respond to a request for public records in a timely and/or complete manner.

Member LaHood provided a synopsis of the case and noted that the Compliance and Amendments Committee returned the case to SOTF and recommended escalation of matter to the Ethics Commission.

Stephen Malloy (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Malloy stated that the records provided are completely redated and no metadata was provided. Mr. Malloy stated that six City Officials in the Department of Human Resources have corresponded with him and he has not received records of texts, voicemails and meeting minutes.

A representative from The Department of Human Resources was not present at the hearing and did not inform the Administrator of their absence.

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

Action: Moved by Member Forsley, seconded by Member Frazier, to refer the matter to the Ethics Commission for enforcement of the SOTF Order of

Determination, requested that the Department of Human Resources produce the requested documents and that the Ethics Commission find a violation of Administrative Code, Sunshine Ordinance Section 67.34 for willful failure to comply.

Public Comment:

Anonymous stated that it is the Task Force's responsibility to do its own duty and make the referral to the Ethics commission. Anonymous noted that sometimes the SOTF rulings do make a difference. Anonymous stated treating transparency as a lost cause is what law-breaking officials want.

Peter Warfield noted that one of the things mentioned was that the SOTF is aware of its enforcement limits. Mr. Warfield agrees with Anonymous that something needs to be done when a violation is found and there needs to be enforcement.

The motion PASSED by the following vote:

Ayes: 11 - Forsley, Frazier, Yankee, Stein, Neighbors, Padmanabhan, Wong,
LaHood, Schmidt, Hyland, Wolfe,
Noes: 0 - None

9. Chair's Report - Special Projects.

Chair Wolfe presented the Chair's Report.

Public Comment:

Anonymous provided comment regarding NextRequest and noted that it has been fantastic and that the departments that use NextRequest will follow timeliness. Anonymous stated that there are serious problems for people who do not have access to this system or don't have software. Anonymous stated that there is a court case that stated that a City Department cannot require the agreement of the public to take the extra steps of getting records. Anonymous opined that this system has a lot of benefit to the City, however it is not easy to use even for people who are adept at using the system.

Peter Warfield noted extreme disappointed that this agenda item was not well described and gave no indication of what the discussion would be about. Mr. Warfield stated that the changes that have occurred because of the Mayors and Governors' Orders to figure out what is legal and not and give people a sense of what is required and not. Mr. Warfield questioned the value of NextRequest. Mr. Warfield asked where did it come from and who decided to get it and that he thinks it is a catastrophe.

10. Hearing - Recommendations from the Complaint Committee regarding existing Complaint Form and proposed revised Complaint Form.

The SOTF discussed the hearing matter.

Public Comment:

Anonymous stated that he initially drafted this because some members of the public commented here that they were unsure what to allege or what to include. I agree with the Task Force members that Part 2 should be required and moved to the top, and that the portions struck out should be brought back to help educate. Anonymous also suggested sending it to the Mayor's Office on Disability for an accessibility review.

Denta Tadesse provided a summary of his previously filed complaints. Mr. Tadesse said he filed complaints and did the best he could. Mr. Tadesse stated that there are structures within the SOTF that muddles the whole process.

Action: Moved by Chair Wolfe, seconded by Member Neighbors, to approve the changes to the complaint form and to request the compliant form be provide to the Mayor's Disability Commission for review.

Public Comment:

Anonymous commented on how committees handle backlog and that he noticed that at the end of the agenda. Anonymous asked if there is there a way to fill last minute open spots on the agenda as they become available.

Denta Tadesse requested that the Compliance and Amendments Committee to meet regarding his access to City Hall and his Orders of Determination 18028. Mr. Tadesse requested an Order for matter 18010 because he never got that Order. Mr. Tadesse stated that the Sheriff did not allow him to go to a meeting.

The motion PASSED by the following vote:

Ayes: 11 - Wolfe, Neighbors, Forsley, Frazier, Yankee, Stein, Padmanabhan,
Wong, LaHood, Schmidt, Hyland

Noes: 0 - None

11. Administrator's Report, Complaints and Communications.

The Cheryl Leger, SOTF Administrator, presented the Report to the SOTF and answered questions from the SOTF.

Public Comment:

Anonymous asked the SOTF to consider replacing unused slots with other complainants.

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

Public Comment:

Anonymous asked to please make all hyperlinks in the agendas blue and underline to give them a link affordance.

Peter Warfield stated that the SOTF should be identifying specific explanatory documents in the agenda because there are people who don't get it or don't have computers and use paper. Mr. Warfield stated that the digital equity strategic plan 2019-2024 states more than 100,000 people don't have access to computers. Mr. Warfield learned that those with the least access are people making under 25,000 per year.

13. ADJOURNMENT

The motion to adjourn the meeting PASSED by the following vote:

Ayes: 11 - Yankee, Stein, Forsley, Neighbors, Frazier, Padmanabhan, Schmidt,
Wong, LaHood, Hyland, Wolfe
Noes: 0 – None

The Committee adjourned at 9:23 PM.

APPROVED: 4/7/21
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.