



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

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**April 7, 2021 - 4:00 PM**

Seat 1	Dean Schmidt	Seat 7	Matthew Yankee - <b>Vice-Chair</b>
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 - <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

## **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: [Cheryl.Leger@sfgov.org](mailto:Cheryl.Leger@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 B. Wolfe called the meeting to order at 4:04 PM. On the call of the roll Chair B. Wolfe and Vice-Chair Yankee and Members, Schmidt, Frazier, Padmanabhan, Wong, Stein, Hyland, Neighbors, Forsley were noted present. Member LaHood was noted not present. A quorum was present.

There were no changes to the agenda.

2. **Approval of minutes from the Sunshine Ordinance Task Force Orientation and March 3, 2021, meeting.**

The SOTF discussed the draft March 3, 2021 meeting minutes. Vice-Chair Yankee noted on page 1, Hyland is listed as voting twice and request the time adjournment be listed. Member Stein requested that the question mark be removed from item 9. Member Padmanabhan noted that on item 2, Hyland and Wong are listed twice for a single vote and should be correct. Member Padmanabhan noted that item 3 lists Neighbors twice for a vote. It was noted that on page 3, under public comment, Peter Warfield comment should be corrected. Member Wong stated that Anonymous statements should not list a gender.

Chair Wolfe request that File No. 19131 action be amended to read as follows:

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.

**Action: Moved by Member Wong, seconded by Member Frazier, to approve the March 3, 2021, meeting minutes as amended.**

Public Comment:

Peter Warfield, Library Users Association, requested that his contact information be listed in the minutes and expressed disappointment in the listing of contact in the minutes. Mr. Warfield noted that some of the content in the minutes was not correct.

Anonymous stated that gender should not be listed for anonymous speakers and commented on previous actions/requested correction on motions listed in minutes.

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

Ayes: 10 - Hyland, Frazier, Forsley, Padmanabhan, Neighbors, Stein, Schmidt,  
Wong, Yankee, Wolfe  
Noes: 0 - None  
Absent: 1 - LaHood

Member LaHood was noted present at 4:30 p.m.

Chair Wolfe noted that the Respondent for Item No. 9 and 10 requested a continuance or to be moved up earlier on the agenda due to a conflict with the Police Commission regular meeting.

**Action: Moved by Member LaHood, seconded by Member Wong, to hear File Nos. 19048 and 19092 together.**

Public Comment:

Peter Warfield, Library Users Association, expressed concern with hearing Items 3 and 4 together and the allowed time for public comment when items are combined for hearing.

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

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

3. **File No. 19048:** Complaint filed by Justin Barker against the San Francisco Zoo for 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 February 20, 2021, the Compliance and Amendments Committee moved to return the matter to SOTF with recommendation for escalation of action due to noncompliance of the Order of Determination.)*

Member LaHood provided a summary of the Compliance and Amendments Committee recommendation. The SOTF discussed possible actions and escalations.

Deputy City Attorney Castillo responded to questions from the SOTF.

**Action: Moved by Member LaHood, seconded by Member Schmidt, to refer File Nos. 19048 and 19092 to Board of Supervisors President Walton, the Board of Supervisors and the Mayor and noted that the Recreation and Parks Department and SF Zoological Society have not complied with the SOTF Order of Determination to release the requested documents after repeated inquires. The**

**SOTF referenced Section 67.31 to urge the Mayor to recognize the Order of Determination and implementation of the Sunshine Ordinance.**

Public Comment:

Anonymous noted agreement with the motion and made suggestions to expand on it.

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

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

4. **File No. 19092:** Complaint filed by Justin Barker against the San Francisco Zoo for violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.  
*(On February 20, 2021, the Compliance and Amendments Committee moved to return the matter to SOTF with recommendation for escalation of action due to noncompliance of the Order of Determination.)*

Hearing combined with Item No. 3, File No. 19048. See Item 3 for discussion notes.

5. **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:

Ann Treboux noted the passing of Lawrence Fermigetti who was an artist who moved to San Francisco and was a presence in North Beach (requested the meeting be adjourned in honor).

Peter Warfield, Library Users Association, noted issues with procedures in hearing complaints. Mr. Warfield provide a summary of issues public comment at Public Library Commission hearings.

Mr. Hillier commented on their four complaints with the SOTF against the Behavioral Health Commission and the lack of a complaint file being created.

6. **File No. 19115:** Complaint filed by Ann Treboux against Margaret Baumgartner and the Office of the City Attorney for allegedly violating Administrative Code, (Sunshine Ordinance) Sections 67.25 by failing to respond to an Immediate Disclosure Request for public records in a timely and/or complete manner.

Ann Treboux (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Treboux provided a timeline of the events and

requested an amendment to the complaint. Ms. Treboux noted that the wrong documents were provided and she has not yet received the requested documents. Ms. Treboux stated that Ms. Baumgartner is the responsible party who was required to respond.

John Cote (City Attorney's Office) (Respondent), provided a summary of the department's position. Mr. Cote reference the department's written response and stated that at the time of the request it was an active court case against Ms. Treboux. Mr. Cote stated that Ms. Treboux has ignored the request to use the correct email address for public records request to the Office of the City Attorney. Mr. Cote noted that Ms. Baumgartner was out of the office with appropriate out of office information provided. Mr. Cote stated that all non-privileged documents have been provided to Ms. Treboux. Mr. Cote stated that the court system has a specific practice for all parties to get documents related to the court case. Mr. Cote requested the complaint be against the Office of the City Attorney and not Ms. Baumgartner.

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

**Action: Moved by Vice Chair Yankee, seconded by Member Padmanabhan, to find that Margaret Baumgartner and the Office of the City Attorney violated Administrative Code, Section 67.26, by not releasing disclosable records under presumption that Ms. Treboux was already in possession of the documents.**

Public Comment:

Anonymous express support of the motion and that the only relevant issues is are the document disclosable.

Peter Warfield, Library Users Associations, stated that past events should not affect the rights of members of the public and that repeated request for the same records is allowable.

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

Ayes: 8 - Hyland, Frazier, Padmanabhan, Neighbors, Stein, Wong, Yankee,  
LaHood

Noes: 3 - Forsley Schmidt, Wolfe

The meeting was recessed from 6:55 p.m. to 7:05 p.m.

7. **File No. 19126:** Complaint filed by Ann Treboux against the San Francisco Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

*(On February 3, 2021, the SOTF found there is jurisdiction, the records are public and moved to return the matter back to the SOTF for hearing.)*

Ann Treboux (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Treboux requested that Rebecca Krell be added as a respondent who stated that the documents were not provided due to attorney client privilege. Ms. Treboux provided a timeline of the request.

Michelle Axel (San Francisco Arts Commission) (Respondent), provided a summary of the department's position. Ms. Axel stated that the department responded to the request in a timely manner. Ms. Axel stated that no records were offered as the matter was in court and due to the advice of the Office of the City Attorney that the documents were attorney client privileged. Ms. Axel stated that the Arts Commission did search their own records and did not find any responsive records.

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

**Action: Moved by Vice Chair Yankee, seconded by Member Frazier, to find that the San Francisco Arts Commissions DID NOT violate Administrative Code, Section 67.25, by failing to respond to an Immediate Disclosure request.**

Public Comment:

Anonymous stated that Ms. Trickey's communication, as an employee, should be considered a public record and personal devices should have been searched.

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

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

8. **File No. 19124:** Complaint filed by Anonymous against Chief William Scott and Lt. R. Andrew Cox and the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.25, 67.26, 67.27, by failing to provide assistance, by failing to provide a timely or complete response to a records request, by failing to provide rolling responses, by failing to keep withholding to the minimal portion of public records, and by failing to provide written justification for withholding.

*(On December 22, 2020 the Compliance and Amendments Committee found there is jurisdiction, that the records are public and referred the matter to the SOTF)*

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that Police Department procedures of

redacting and producing **SB 1421** documents were incorrect. Anonymous stated that released police misconduct records should redact with appropriated justification. Anonymous stated that they were only concerned with violation of Section 67.26.

Lt. Pera (Police Department) (Respondent), provided a summary of the department's position. Lt. Pera stated the department acknowledged that the response was not timely but that an extension of time was needed due to the complexity and volume of the request. Lt. Pera provided a timeline of the department's response and stated that redacted documents will be provided on a rolling basis due to staff time availability.

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

**Action: Moved by Member Stein, seconded by Member Frazier, to find that Chief William Scott, Lt. R. Andrew Cox and the Police Department violated Administrative Code, Section 67.26, by failing to key by footnote or other clear reference for the appropriate justification for withholdings.**

**Chair Wolfe requested the Compliance and Amendments Committee monitor compliance and requested the Police Department to notify the SOTF of when changes to the Police Department Policy occurs to comply with the new state law (Senate Bill 1421).**

Public Comment:

Peter Warfield, Library Users Association, commented on the requirements on Immediate Disclosure Request. Mr. Warfield commented on the limit of time to respond to public records request.

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

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

9. **File No. 20066:** Complaint filed by Anonymous against the Police Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b) incomplete response; 67.24(i) citation of unlawful public-interest balancing test; 67.26 nonminimal withholding; 67.27 failure to cite a specific provision of law for justification. *(On December 22, 2020, the Compliance and Amendments Committee found the records public and referred the matter to the SOTF.)*

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous provided various code references and explanations in support of their argument that Penal Code 832.7(b)(6) cannot be cited as a withholding justification for SB 1421 records. Anonymous stated that specific exemption must be used and catch all exemptions are inappropriate.

Sgt. Youngblood (Police Commission) (Respondent), provided a summary of the department's position. Sgt. Youngblood stated that the Commission is following the City Attorney's advice regarding closed session meetings and performance evaluations and Senate Bill 1421 does not apply.

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

**Action: Moved by Vice Chair Yankee, seconded by Member Schmidt, to find that the Police Commission violated Administrative Code, Section 67.24(i), by relying on an impermissible balance test.**

Public Comment:

None.

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

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

10. **File No. 19145:** Complaint filed by Chris Kohrs against the Police Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.5 and 67.21, by failing to respond to a public records request in a timely and/or complete manner. *(On January 26, 2021, the Compliance and Amendments Committee moved to refer the matter back to SOTF with findings that the recordings of the closed sessions exist and that while some of them have been produced to the petitioner, under the justification of Penal Code 832.7, we also find that the records are public under 67.8-1. In addition, the Committee makes no judgement except to report these findings, under the justification of 832.7(a) which the respondent is upholding as justification for withholding the records and that the SOTF should consider Penal Code 832.7(b) as a test if (a) actually applies.)*

Chris Kohrs (Petitioner) and Sgt. Youngblood (Police Commission) (Respondent), responded to questions from the SOTF.

**Action: Moved by Member Schmidt, seconded by Member Wong, to find that the Police Commission DID NOT violate Administrative Code, Sections 67.21 and 67.5.**

(Member Forsley withdrew their second after public comment and Member Wong assumed the second)

Public Comment:

Speaker commented on the discussion of the SOTF.

Anonymous commented on the tactic used by the Police Commission to hide documents.

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

Ayes: 6 - Padmanabhan, Neighbors, Stein, Schmidt, Wong, Yankee  
Noes: 4 - Hyland, Forsley, LaHood, Wolfe  
Absent: 1 - Frazier

Member Frazier was noted absent at 10:20 p.m.

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

- Task Force and Committee hearing schedule
- Complaints submitted and hearing files created
- Complaint Committee minutes
- Summary of pending complaints and other issues

Assistant Clerk Victor Young presented the Report to the SOTF and answered questions from the SOTF.

Chair Wolfe provide comments on Teleconference platform and appointments to the SOTF.

Public Comment:

Peter Warfield, Library Users Association, stated that the Clerk of the Board should provide administrative support to the SOTF. Mr. Warfield commented on the response from the SOTF administrator to correct complaints.

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

Chair Wolfe noted that the City Attorney is providing advice regarding 67.25 conversions to 67.21 requests; mentioned use of the rules of reason; and use of the balancing test.

Public Comment:

Peter Warfield, Library Users Association, expressed support of the referenced items and commented on NextRequest use.

**13. ADJOURNMENT**

There being no further business the meeting was adjourned at 10:41 p.m.

**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.