



SUNSHINE ORDINANCE TASK FORCE CITY AND COUNTY OF SAN FRANCISCO MINUTES

REMOTE REGULAR MEETING

May 4, 2022 - 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	Vacant	Seat 9	Laurie Jones Neighbors
Seat 4	Jaya Padmanabhan	Seat 10	Thuan Thao Hill
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 4:04 PM. On the call of the roll Chair B. Wolfe and Members, Schmidt, LaHood, Padmanabhan, Wong, Stein, Yankee, Hyland, Neighbors and Hill were noted present. A quorum was present.

Administrator Leger stated that Petitioner Claudia Ovalles requested a postponement of her case, Item 7, File No. 21141, scheduled for this hearing.

The Task Force discussed the Agenda and the Petitioner's request.

Action: Moved by LaHood, seconded by Member Hyland to postpone File No. 7, File No. 21141 to the call of the Chair.

Public Comment:

Peter Warfield, Executive Director, Library Users Association,
libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, California,
94117-0544, suggested that it would be helpful to repeat the procedures if the
Petitioner is requesting a postponement.

Anonymous stated that they see no problem with postponing this case.

The motion PASSED by the following vote:

Ayes: 10 - LaHood, Hyland, Yankee, Wong, Schmidt, B. Wolfe, Neighbors,
Stein, Padmanabhan, Hill

Noes: 0 - None

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.

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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 Vice-Chair Yankee, seconded by Member Wong, to approve the attached motion 1A.

Public Comment:

Peter Warfield stated that there have been hybrid meetings at the Redistricting Task Force hearings and that there should be discussion on whether masks are mandatory for real person activities and what is appropriate for remote and in person meetings.

Anonymous stated that through research and discussion, what's happening and what's appropriate for a remote versus in person meetings? Presumably, since they're a hybrid, meetings now for some time at the Board of Supervisors and at the Redistricting Task Force, and so on and so forth, seems that there ought to be some discussion.

The motion PASSED by the following vote:

Ayes: 10 - Yankee, Wong, Schmidt, B. Wolfe, Neighbors, Stein, Hyland,
Padmanabhan, LaHood, Hill

Noes: 0 - None

2. **Approval of the minutes from the Sunshine Ordinance Task Force February 2, 2022, regular meeting with amendments.**

The Task Force discussed the February 2, 2022, Sunshine Task Force minutes.

Action: Moved by Member LaHood, seconded by Member Wong, to approve the February 2, 2022, minutes with the caveat that the Administrator re-listen to the audio playback and clarify if Member Stein rescinded or restated her motion, which is a non-substantive change.

Public Comment:

Wynship Hillier provided the following written public comment: “The minutes for this meeting are still inaccurate. Item no. 6, page P10, shows two bold action items. The first of these (the short one) may be deleted entirely, because it was withdrawn. RONR (12th ed.) 48:4(6). The second action item on no. 6 contains an inaccuracy: third line from the bottom, it says that there is no violation of 67.3(d). This is not what the recording says at appx. 2:18:30, where Stein said to take no further action on 67.3(d). It makes no sense to speak of a violation of 67.3(d), because 67.3(d) does not command any person to do or forbear anything. You can make these changes without postponing to a future meeting because the current text makes no sense, but a reasonable person would conclude that no action was taken, and so the change would be nonsubstantive and allowable without notice.”

David Pilpel noted that the previous speaker misspoke and that the Charter supersedes Robert’s Rules.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 1 - Stein

3. **Approval of the minutes from the Sunshine Ordinance Task Force April 6, 2022, regular meeting.**

The Task Force discussed the April 6, 2022, Sunshine Task Force minutes.

Action: Moved by Vice-Chair Yankee, seconded by Member Padmanabhan, to approve the April 6, 2022, Sunshine Task Force minutes.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 1 - Stein

4. **Notice of Intent to amend to By-Laws, Section 9, Order of Business to move the Administrator’s Report to after approval of the meeting minutes (continuation of hearing).**

The Task Force discussed a proposed amendment to the By-Laws, that public comment in any complaint file will not be heard until 5:00 PM or later. Deputy City Attorney Mark Price Wolf agreed with the Task Force that By-Laws be amended.

Action: Moved by Vice-Chair Yankee, seconded by Member Wong, to approve the amendments to the By-Laws.

Public Comment:

David Pilpel suggested that action on this item not take place as there is no urgency and suggested that a red-lined version of the By-Laws showing the new language in article 4, section 9 and a notice of intent was not posted.

Vice-Chair Yankee withdrew their motion.

No action taken. A public notice of the by-law changes will be posted for the next meeting and a red-lined version of them will be included as an attachment with the agenda item.

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

Administrator Leger presented the Administrator’s Report to the SOTF and responded to questions.

Member Schmidt stated that the February complaint process should be on the June Agenda.

Public Comment:

David Pilpel noted that the scheduling under item 1 is confusing for the months of May and Education, Outreach and Training Committee should be scheduled for May 24.

Peter Warfield noted that committee meeting start times are a concern to members of the public and discussed the work it took to change the SOTF meeting dates.

No action taken.

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.***

Peter Warfield noted the importance of providing contact information to encourage discussion of the issues raised at these meetings. Mr. Warfield stated that with respect to complaints, he doesn't understand why committees don't forward a suggestion for a final decision to the SOTF.

7. **File No. 21159:** Complaint filed by Bob Planthold against the Department of Building Inspection Commission (Access Appeals Commission) for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.16 by failing to post meeting minutes (2000 through 2011).

Member Hyland provided a synopsis of the case as heard by the Education, Outreach and Training Committee.

There was no person present to speak on behalf of Mr. Planthold who is deceased.

Patrick Hannon (Planning Department) (Respondent), provided a summary of the department's position. Mr. Hannon acknowledged that from 2000 to 2011 minutes of Department of Building Inspection were not timely posted. Mr. Hannon appreciates that Mr. Planthold brought this to his attention and believes that the issue has been resolved.

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

Action: Moved by Member Schmidt, seconded by Member Hill, to find no violation and close the case.

Public Comment:

Peter Warfield stated that he thinks the motion is wrong and is surprised with the process.

The motion FAILED by the following vote:

Ayes: 4 - Schmidt, Hyland, Neighbors, Hill

Noes: 6 - Wolfe, Yankee, LaHood, Padmanabhan, Wong, Stein

Action: Moved by Vice-Chair Yankee, seconded by Member Stein, that the Department of Building Inspection Access Appeals Commission violated Administrative Code (Sunshine Ordinance), Section(s) 67.29-2, by failing to post the meeting minutes online within 48 hours after they have been approved.

Public Comment:

Peter Warfield stated that this is the reverse of the other motion and that the Department of Building Inspection needs to maintain their website consistently week after week.

The motion PASSED by the following vote:

Ayes: 7 - Yankee, Hill, Hyland, Wong, Padmanabhan, LaHood, Wolfe

Noes: 2 - Neighbors, Schmidt

Absent: 1 - Stein

8. **File No. 21139:** Complaint filed by Harris Hudson against Randy Quezada and the Port of San Francisco for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Harris Hudson (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Hudson stated that on February 9, 2021, he sent an Immediate Disclosure Request to the Port of San Francisco. Mr. Hudson stated that the requested records were not provided in a timely manner until March 6, 2022.

Randy Quezada (Port of San Francisco) (Respondent), provided a summary of the department's position. Mr. Quezada stated that the Port of San Francisco provided the responsive records to Mr. Hudson's Immediate Disclosure Request in a timely manner. Mr. Quezada stated that on March 4 the Port investigated Mr. Harris's email claiming that his records were not provided timely and found no wrong doing.

Jerry Burdick (Port of San Francisco) stated that he contacted the Department of Technology to trouble shoot what Mr. Quezada and his staff missed regarding this records request.

Spencer Mak (Department of Technology) stated that Mr. Hudson's email went to the junk folder and that the standard action is to delete it after 14 days.

Linda Gerull (Department of Technology) stated that the email was never received by the Port. Ms. Gerull noted that the Port IT Department checked the junk folder and nothing was received. Ms. Gerull believes that the email was just sent to draft and was not properly sent.

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

Action: Moved by Member Padmanabhan, seconded by Member Neighbors, to find that the Port of San Francisco and Randy Quezada violated Administrative Code, Sunshine Ordinance, Section 67.25 by failing to provide the records responsive to the Immediate Disclosure Request in a timely and complete manner.

Public Comment:

Peter Warfield recited Administrative Code Section 67.21(b). Mr. Warfield also noted that the Respondent is responsible for figuring out what tools are useful for the search.

The motion PASSED by the following vote:

Ayes: 9 - Padmanabhan, Neighbors, LaHood, Hyland, Wong, Schmidt, B. Wolfe, Stein, Hill
Noes: 1 - Yankee

9. **File No. 21141:** Complaint filed by Claudia Ovalles against the Office of the District Attorney 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.

Please see Item 1 for the action taken on this case.

Chair Wolfe called a recess at 7:53 PM until 8:00 PM. The SOTF Administrator called roll after the break.

Present - Padmanabhan, Neighbors, LaHood, Hyland, Wong, Schmidt, B. Wolfe, Stein, Hill, Yankee

10. **File No. 21144:** Complaint filed by Mark Sullivan against the Department of Technology for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21(a), 67.21-1(a), 67.25(a), 67.26, and 67.27, and California Public Records Act, Section(s) 6253(b)(c)(d) 6253.3, and 6253.10(a), by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner and failing to keep withholdings to a minimum.

Mark Sullivan (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Sullivan stated that the Department of Technology responded to his request and that tardiness was not an issue. Mr. Sullivan stated that searching the database is reliable and retrievable and downloadable.

Linda Gerull (Department of Technology) (Respondent), provided a summary of the department's position. Ms. Gerull stated that the department did its due diligence in responding to Mr. Sullivan's request. Ms. Gerull noted that the basis of Mr. Sullivan's complaint is around search capabilities and contract with Next/Request which was the reason they provided licensing information.

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 Department of Technology violated the California Public Records Act 6253(c) by failing to respond to the records request in a timely and complete manner.

Public Comment:

Peter Warfield stated that he agrees with anything finding something wrong with Next/Request. Mr. Warfield stated that Next/Request is sold as a wonderful way to get a range of public request responses but forces the user to go through hoops to get information that can be obtained using a simple email.

David Steinberg stated that he is the Custodian of Records at Public Works and understands the timeliness issue being discussed. Mr. Steinberg noted that when Ms. Gerull was talking about default settings on Next/Request, those are private records subject to Sunshine.

The motion PASSED by the following vote:

Ayes: 10 - Yankee, Schmidt, Padmanabhan, Neighbors, LaHood, Hyland, Wong,
B. Wolfe, Stein, Hill
Noes: 0 - None

11. SOTF Officer Elections for Chair and Vice-Chair.

Member LaHood, seconded by Member Neighbors, nominated Matthew Yankee to the position of Chair. Vice-Chair Yankee accepted the nomination.

Action: Moved by Member Hyland, seconded by Member Schmidt, to elect Matthew Yankee as Chair of the Sunshine Task Force.

Public Comment:

David Pilpel stated that Vice-Chair Yankee should be aware of the time commitment and will do a fine job. Mr. Pilpel stated that he also thinks very highly of Member Hyland and thanked everyone for their service.

Peter Warfield endorses Vice-Chair Yankee who he believes has shown considerable grasp of the law and has explained his position on matters very clearly.

The motion PASSED by the following vote:

Ayes: 10 - Hyland, Schmidt, Yankee, Padmanabhan, Neighbors, LaHood, Wong,
B. Wolfe, Stein, Hill
Noes: 0 - None

Member Neighbors nominated Member Wong to the position of Vice-Chair. Member Wong accepted the nomination.

Member Hyland nominated Member Neighbors to the position of Vice-Chair. Member Neighbors declined the nomination.

Member Schmidt nominated Member Stein to the position of Vice-Chair. Member Stein declined the nomination.

Action: Moved by Member LaHood, seconded by Member Padmanabhan, to elect Member Wong as Vice-Chair of the Sunshine Task Force.

Public Comment:

David Pilpel stated that he believes Member Wong will do a fine job as Vice-Chair.

Peter Warfield expressed disappointment that there were no speeches amongst the candidates and is disappointed that Member Stein declined the nomination but wished Member Wong well.

The motion PASSED by the following vote:

Ayes: 10 - LaHood, Padmanabhan, Hyland, Schmidt, Yankee, Neighbors, Wong,
B. Wolfe, Stein, Hill
Noes: 0 - None

12. **Draft of suggested changes by Member Stein to the Complaint Procedures and changes involving Orders and determinations.**

Member Stein stated that the changes to the language reflect a discussion at the Complaint Committee hearing of March 15 and a full SOTF hearing on April 4. Member Stein stated that it should be clear that within five days a determination will be effective and that the day following a Sunshine Task Force hearing the parties will receive a notice of that determination.

Action: Moved by Member Schmidt, seconded by Member Stein, to accept the new language replacing the word certify with the word confirm and approve the changes in the Complaint Procedures.

Public Comment:

Peter Warfield stated that a document accepting the red-lined changes needs to be provided.

David Pilpel has no objection to the changes but thinks that a red-lined version should have been provided. Mr. Pilpel noted that the idea is to change when the

five days starts that a decision is rendered but does not start to run when an order is issued by the Task Force.

Mark Sullivan stated that Member Stein has done a very good job and that the five-day requirement is a good rule.

The motion PASSED by the following vote:

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

Noes: 1 - Hill

Member Neighbors was absent at 9:57 PM.

13. **Case of statutory interpretation of “contemporaneous.”**

Deputy City Attorney Marc Price Wolf stated that a recent court case having to do with how the statute is interpreted regarding the definition of the word “contemporaneous” was decided April 7, 2021. The case involves a public records request for the names of all those arrested with DUIs. The county declined to provide the requested records, and the court agreed.

Public Comment:

David Pilpel stated that there is a case from the early 1990’s that had an impact on 67.24(d) and CPRA 6254(f) that had to do with law enforcement information, the strong police presence in Sacramento and access to law enforcement information, the police lobby and sheriff and their conduct.

Mark Sullivan provided his opinion regarding the term and definition of contemporaneous.

No action taken.

14. **Hearing: Composition of SOTF Agenda Packets – mandatory review of pilot program (continuation of hearing.)**

Chair Wolfe stated that this is Member Neighbors agenda item and that she has left the meeting. Chair Wolfe stated that the matter should be continued to the call of the Chair.

Public Comment:

David Pilpel stated that the Complaint Procedures needs a more detailed review and should be condensed into one document. Mr. Pilpel noted there has been an abundance of verbiage and he has no problems reviewing the pilot program and what makes the most sense for the public.

No action taken.

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

Member LaHood expressed excitement about having Vice-Chair Yankee as Chair and Member Wong as Vice-Chair and suggested the process of having a person shadowing the two officers.

Vice-Chair Yankee stated that he has been watching meetings and has noticed that as hybrid meetings continue they are more conducive to public comment but that there are concerns related to the lengthy meetings.

Chair Wolfe stated that he observed Budget and Redistricting hearings and there needs to be a discussion on the Brown Act and how it is being operated.

Public Comment:

David Pilpel noted that Chair Wolfe should finish preparing the Annual Report.

Peter Warfield stated there is a lot to discuss with a new regime. Mr. Warfield stated that at the Redistricting hearings the last public comment was taken at 4:04 am. Mr. Warfield believes there are serious problems with respect to technology.

No actions taken.

16. **ADJOURNMENT**

There being no further business the meeting was adjourned at 10:48 PM.

APPROVED: June 1, 2022
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.