



SUNSHINE ORDINANCE TASK FORCE CITY AND COUNTY OF SAN FRANCISCO MINUTES

REMOTE REGULAR MEETING

May 5, 2021 - 4:00 PM

Remote Regular 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 4:01 PM. On the call of the roll Chair B. Wolfe and Members, Schmidt, LaHood, Frazier, Padmanabhan, Wong, Stein, Yankee, Hyland, Neighbors and Forsley were noted present. A quorum was present.

The Committee discussed the Agenda and noted that Item No. 8, File No. 20092 was withdrawn by the Petitioner via mail on May 4, 2021.

2. **Approval of minutes from the Sunshine Ordinance Task Force Rules Committee of September 24, 2019, meeting.**

The SOTF discussed the draft meeting minutes. Member Yankee requested that that minutes be corrected to reflect that Item 2 shows the correct the number of votes taken and that Members Wolfe and LaHood were noted present.

Action: Moved by Member Yankee, seconded by Member LaHood, to approve the September 24, 2019, Rules Committee meeting minutes as amended.

Public Comment:

Peter Warfield, Executive Director, Library Users Association,
Libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, CA 94117-0544. Mr. Warfield noted that if minutes are not approved by Committee after six months they would come before the SOTF.

The motion PASSED by the following vote:

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

3. Approval of the minutes from the Sunshine Ordinance Task Force April 7, 2021 meeting.

The SOTF discussed the draft meeting minutes. Member Stein provided several adjustments to the Minutes which are noted.

Action: Moved by Member Hyland, seconded by Member Frazier, to approve the April 7, 2021, SOTF meeting minutes as amended.

Public Comment:

Peter Warfield stated that he wanted his correct contact information added to the Minutes.
Anonymous thanked Member Stein for providing the corrections to the April 7, 2021 Minutes.

The motion PASSED by the following vote:

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

4. File No. 19144: Complaint filed by Anonymous against the Department of Police Accountability, Paul Henderson, Diana Rosenstein, Stephanie Wargo-Wilson, and Mary Polk for allegedly violating Administrative Code (Sunshine Ordinance), Sections, 67.21, 67.24, 67.26 and 67.27, by failing to respond to a public records request in a timely and/or complete manner, failing to assist in a timely or complete manner, failing to cite lawful justification for exemption, failing to key redactions by footnotes or other clear references to justifications, and failing to withhold the minimal portion of records.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that the request for records was made in November 2019. Anonymous stated that the Dept. of Police Accountability (DPA) was not following Sunshine rules. Anonymous stated that DPA was not willing to correct prior productions and that he was not entirely sure what records they were withholding. Anonymous acknowledged that SB1421 records are like other records and should be produced and that all Sunshine rules apply. Anonymous stated that citing Penal Code 832.7(b)(6) is an impermissible balancing test.

Sara Maunder (Department of Police Accountability) (Respondent), provided a summary of the department's position. Ms. Maunder stated that this matter is regarding an Immediate Disclosure Request made on November 28, 2019, (Thanksgiving Day) and

that the office was closed. Ms. Maunder stated that the request was not simple or easy to respond to and additional time was needed to respond. Ms. Maunder stated that on December 19, 2019, an email was sent to the Petitioner explaining that they had produced the requested records, that additional documents would be provided on a rolling basis and that legal justifications were provided. Ms. Maunder noted that audio files will be produced once technology for redacting the file was purchased.

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

Action: Moved by Member Neighbors, seconded by Member Stein, to find that the Department of Police Accountability violated Administrative Code, Sunshine Ordinance Sections 67.27 failure to justify withholding of information in writing, Admin Code 67.26 failure to key redactions, Admin Code 67.24(i) for impermissible balancing test, CPRA Gov Code 6253(d) via Admin Code 67.21(k) for failing to state the name and title of every person responsible for denying access.

Public Comment:

Peter Warfield wanted to draw attention to the SOTF that the difficulty with the time it is taking the department to redact videos and hiring someone to do the redaction, which is required.

Anonymous #2 stated that after watching the police reform, they are worried that the department would take a long time redacting the information.

Speaker stated that they don't see what we are all doing here.

The motion PASSED by the following vote:

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

Noes: 1 - Frazier

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*).

Speakers:

Peter Warfield hopes that the SOTF will attend other remote meetings as members of the public and observe the differences between them. Mr. Warfield noted that the practice of not muting anyone is excellent because in other meetings the speakers are muted.

Anonymous noted the positive step that the government is complying with what SOTF says. Anonymous also noted the point of Ordinance is that 11 volunteer members of the public are the people to decide what is public.

6. **File No. 20077:** Complaint filed by Tom Borden against Recreation and Parks Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections

67.21, by failing to respond to a public records request in a timely and/or complete manner.

Tom Borden (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Borden stated that he made a records request to the Recreation and Parks Department and was provided incomplete information. Mr. Borden stated that the missing records include a project area map and an itemization of \$1.5 million of the Rec and Park budget was not accounted for. Mr. Borden stated that Rec and Park said they would provide the further information and have not done so.

The Respondent did not send a knowledgeable person to attend the meeting.

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 the Recreation and Parks Department violated Administrative Code, Sunshine Ordinance Section 67.21 by failing to respond to a records request in a complete and/or timely manner and Section 67.21(e) by failing to send a representative to the hearing.

Public Comment:

Peter Warfield thanked the SOTF for the process gone through and motion. Library Users is very concerned that the whole City should be providing records and glad the SOTF is insisting on attendance.

The motion PASSED by the following vote:

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

7. **File No. 20079:** Complaint filed by Shane Anderies against District Attorney's Office and Chesa Boudin for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(e) failing to respond to a records request in a timely and/or complete manner; 67.25 by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner; 67.26 withholding kept to a minimum and 67.27 failing to provide justification for withholding responsive documents.

Shane Anderies (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Anderies stated that on February 4, 2020, he requested all records from January 2019, and specifically requested communications from Mr. Boudin to Thomas Ostly. Mr. Anderies stated that he received a letter from Robyn Burke detailing what transpired with the records search. Mr. Anderies stated that he would take the matter off calendar if Ms. Burke completed a search that went back to January 2020. Mr. Anderies stated that Ms. Burke did not indicate attorney/client

privilege on the five documents not provided as an issue and that there is no reason for withholding those records.

Robyn Burke (District Attorney's Office) (Respondent), provided a summary of the department's position. Ms. Burke stated that an email sent January 22, 2020, which was the result of the survey and that when initially searched was not pulled because it was an attachment to an email that was not disclosed. Ms. Burke also referred to another letter which was not produced and then was after the initial request. Ms. Burke stated that she will ask the District Attorney's IT department why these records were not searched properly.

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

Action: Moved by Member Padmanabhan, seconded by Member Frazier, to find that the District Attorney's Office violated Administrative Code, Sunshine Ordinance Sections 67.21(e) by failing to respond to a records request in a complete and/or timely manner; 67.26 by failing to keep withholding to a minimum and 67.27 by failing to provide legal justifications for withholding.

Public Comment:

Anonymous wanted to clarify what Member LaHood said because it is was important if a search was not done. Anonymous questioned if they did the search at the time of the original request?

Anonymous #2 wondered if messages were deleted from Mr. Boudin's device, could messages be retrieved from the people he was communicating with?

Member Yankee moved to amend the original motion as follows.

Action: Moved by Member Yankee, seconded by Member Wong, to continue the matter to the next SOTF hearing to allow the Respondent time to conduct a Signal search for records within the next seven days. (The SOTF also requested that the matter be monitored by the Compliance and Amendments Committee after the next SOTF hearing.)

Public Comment on the amendment:

None.

The motion PASSED by the following vote:

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

Noes: 0 - None

Member LaHood suggested an amendment to the second motion that the SOTF ask that in addition to requesting a continuance, a response to whether a signal search was performed in the original request.

Action: Moved by Member LaHood, second by Member Yankee, that the SOTF request a seven-day continuance to allow the District Attorney's Office to determine if a Signal search was performed on the original request. (SOTF requested that the matter be referred to the Compliance and Amendments Committee for monitoring.)

Public Comment on the motion to amend.

Anonymous #2 noted that a week to conduct a search for records is too much time and that all records are supposed to be accessible.

The motion PASSED by the following vote:

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

Action on Original Motion with Amendments: Moved by Member Padmanabhan, seconded by Member Frazier, to continue the matter to the next SOTF hearing to allow the Respondent time to conduct a Signal search for records within the next seven days and to allow the District Attorney's Office to determine if a Signal search was performed on the original request. (The SOTF also requested that the matter be monitored by the Compliance and Amendments Committee after the next SOTF hearing.)

Public Comment:

None.

The motion PASSED by the following vote:

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

Member Hyland was noted not present at 8:22 PM.

9. Sunshine Ordinance Task Force – Election of officers.

The SOTF discussed the role of the Chair and Vicechair.

Member Hyland nominated Bruce Wolfe as Chair.

Action: Moved by Member Hyland, seconded by Member Frazier, to elect Bruce Wolfe as SOTF Chair.

Public Comment:

Anonymous noted that the SOTF goes beyond the Brown Act. Anonymous also stated that this committee takes the time of all members.

Anonymous #2 said that it might be helpful to have more public input during this selection of chairs and leadership roles.

The motion PASSED by the following vote:

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

Member Forsely moved to nominate Matthew Yankee as Vicechair.

Member Wong stated she is open to shadowing Matthew Yankee as Vicechair.

Action: Moved by Member Frazier, seconded by Member Stein, to elect Matthew Yankee as Vicechair.

Public Comment:

Anonymous #2 stated this was the makeup last year and feels like organizations are healthier to not have the same leadership positions to the same people.

Anonymous thinks it is a great to have someone to shadow the vicechair.

The motion PASSED by the following vote:

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

10. Take position and make a recommendation to Board of Supervisors on AB703, AB339 and SB16.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB339

AB339

The SOTF discussed the variety of proposals for AB339, much of which has to do with extending options for video conferencing. Member Stein noted there are changes in foreign language requirements. The SOTF also discussed making a recommendation while the language is still changing and the concern about making a recommendation while the Bill is still in process. The SOTF's

recommendation is to oppose the amendments published on May 4, 2021, at 9:00 PM.

Public Comment:

Anonymous encouraged the SOTF to not recommend this legislation to the Board of Supervisors because the text watered down is a Trojan horse regarding public meetings.

Anonymous #2 stated that they don't understand the point of recommending this legislation to the Board of Supervisor because the legislation has not passed but also admits that they have not read the bill.

Peter Warfield noted his thanks to Member LaHood for addressing the issue of those in San Francisco without internet access and can only participate by phone.

Action: Moved by Chair Wolfe, second by Member Neighbors, to recommend that the Board of Supervisors oppose the amendments to AB339 and that removing the jurisdiction around the minimum of 250,000 people is inappropriate and not within the spirit of open meetings and public right to voice their concerns, that repeal of section 54954.2 is abhorrent to the spirit of Sunshine and public meetings and be restored which includes the interpretation services and includes the sentiments of public testimony heard tonight on this matter and includes our recommendations.

Public Comment:

Peter Warfield thanked the SOTF for the motion and thinks it would be an improvement to make specifications about the public comments and thinks what was said is important.

Anonymous stated agreement with Mr. Warfield and suggested that the motion says that the Board of Supervisors should recommend opposition to strike the phrase in section 2.

The motion PASSED by the following vote:

Ayes: 9 - Wolfe, Neighbors, Stein, Padmanabhan, Yankee, LaHood, Forsley,
Wong, Frazier,

Noes: 1 - Schmidt

Absent: 1 - Hyland

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB703

AB703

The SOTF discussed legislation AB703 and made the recommendation to support the language published on April 29, 2021, at 9:00 PM.

Public Comment:

Anonymous stated that he transfers all supportive comments in writing for AB339 and anything that improves access is always a good thing.

Action: Moved by Chair Wolfe, seconded by Member Yankee to recommend to the Board of Supervisors support of AB703, that it would improve access to public meetings as of the published date April 29, 2021 at 9:00 PM.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 1 - Hyland.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB16

SB16

The SOTF discussed legislation SB16 and supports the language published on April 15, 2021, at 9:00 PM.

Public Comment:

None.

Action: Moved by Member Neighbors, seconded by Member Schmidt to recommend that the SOTF advise the Board of Supervisors to endorse SB16.

Public Comment:

Anonymous thanked the SOTF for agendizing discussions on this law and thinks this will be an improvement to public access records access.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 1 - Hyland.

10. Administrator’s Report, Complaints and Communications.

The SOTF Administrator presented the Administrator’s Report to the SOTF.

Public Comment:

Peter Warfield stated that it was unclear to him why the Complaint Committee minutes were included in the Administrator’s Report.

Anonymous It appears that not everyone's correspondence to the SOTF is being included in the public correspondence section in the administrator's report. For fairness, please include everyone's correspondence in the administrator's report. As with the Board of Supervisors, ALL correspondence should be included without a filter.

Anonymous #2 expressed concern that the SOTF Administrator is the gateway and that some communications do not reach the SOTF members.

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

Member Yankee requested that “attachments” have blue hyperlinks.

Public Comment:

Peter Warfield spoke about his concern regarding the backlog.

Anonymous agreed with Member Yankee’s comments about the agenda. Anonymous also noted that nearly all city records and complaints are filed electronically and that most packets are in digital form.

Anonymous #2 stated that it would be nice to have WebEx and log into that platform. Anonymous also added support for platform uniformity.

12. ADJOURNMENT.

There being no further business the meeting was adjourned at 9:03 p.m.

**APPROVED: July 7, 2021
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.