



SUNSHINE ORDINANCE TASK FORCE CITY AND COUNTY OF SAN FRANCISCO MINUTES

REMOTE REGULAR MEETING

June 2, 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 4:05 PM. On the call of the roll Chair B. Wolfe, Vice Chair Yankee, and Members Schmidt, LaHood, Padmanabhan, Wong, Stein, Hyland and Neighbors, were noted present. Member Forsley and Member Frazier were noted not present. A quorum was present.

The Committee discussed the agenda changes and noted that the Petitioner in Item 7 made a timely request for accommodations. The Petitioner in Item 3 agreed to be heard after Item 7.

Action: Moved by Member Stein, seconded by Member Schmidt to allow Item 7, File No. 20067 to be heard before Item 3, File No. 20082 on the Agenda.

Public Comment:

Peter Warfield, Executive Director, Library Users Association, libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, California, 94117-0544 stated that he has no problem accommodating the request.

Zach Karnazes stated that he appreciates the accommodation due to his debilitating pain and inability to endure a lengthy meeting and is asking that Item 7 be heard first.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 2 - Forsley and Frazier

2. **Approval of minutes from the Sunshine Ordinance Task Force Rules Committee of May 5, 2021, meeting.**

The SOTF Administrator stated that the version included in the Agenda packet was not the correct version and requested that these minutes be addressed at the July 2021 SOTF hearing.

Action: Moved by Member Yankee, seconded by Member Hyland, to continue the approval of the May 5, 2021, meeting minutes to the July 7, 2021 SOTF meeting.

Public Comment:

Anonymous stated that if the minutes are not approved until July, that will delay Orders of Determination by one month and City Agencies will not be required to comply. Anonymous requested that the minutes get approved.

Peter Warfield noted that postponing approval of the minutes is very problematic especially for promoting matters for open government. Mr. Warfield stated that members of the public who have reviewed the minutes may have added corrections to make.

The motion PASSED by the following vote:

Ayes: 8 - Yankee, Hyland, Stein, Schmidt, LaHood, Neighbors, Wong, Wolfe

Noes: 1 - Padmanabhan

Absent: 2 - Forsley and Frazier

Member Forsley was noted present at 5:20 PM.

3. **File No. 20067:** Complaint filed by Zach Karnazes against the Mayor's Office on Disability for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Zach Karnazes (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Karnazes stated that he filed his request in January 2020 and received his records one year later in January 2021. Mr. Karnazes stated that his records were provided on a rolling basis. Mr. Karnazes stated that he made multiple requests for these records throughout 2020.

Deborah Kaplan (Deputy Director, Mayor's Office on Disability) (Respondent), provided a summary of the department's position. Ms. Kaplan stated that Mr. Karnazes began receiving his records in June 2020. Ms. Kaplan noted that her office didn't receive confirmation of receipt of the records and thus was unsure if he indeed had received them. Ms. Kaplan stated that because Mr. Karnazes had been unresponsive, in January 2021 her office resent the records. Ms. Kaplan stated that her office had been operating with limited staff capacity due employees being deployed to assist with the Covid-19 pandemic and not working at their regular jobs.

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

Action: Moved by Member Wong, seconded by Member Hyland, to find that the Mayor's Office on Disability violated Administrative Code, Sunshine Ordinance Section 67.21, by failing to respond to a records request in a timely and/or complete manner.

Public Comment:

Anonymous stated that Mr. Karnazes was owed a response notifying him of disclosable public records under the CPRA - pandemic or no pandemic - within 10 days, or an extension of up to 24 days. Waiting many months for even a single record is a violation no matter what else happened. Anonymous stated that the rule of reason discussed by the DCA and Member Schmidt applies only in case of chaos, none of which is this case.

Peter Warfield agrees with Anonymous that according to the California Public Records Act, responsive records should have been provided within 10 days.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 1 - Frazier

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.**

Anonymous stated that 67.25(c) and (d) are not merely about immediate disclosure requests and SOTF needs to reconsider this interpretation; the heading of the section is "immediacy of response" not only "immediate disclosure requests." Anonymous stated that Mr. Hooper's GBD cases 19061 and 19062 need to be heard. Anonymous stated that Member Schmidt was right in December 2020 that SOTF had already identified at least one violation, and Mr. Hooper should not need to find all possible violations before SOTF orders OEWD to comply.

Peter Warfield agreed with Anonymous regarding the importance of having contact with a requestor so that they do not experience a wall of silence.

Zach Karnazes thanked the Committee for their thoroughness and allowing his matter to be heard earlier in the Agenda. Mr. Karnazes stated that unless the term Immediate Disclosure Request is used, members of the Mayor's Office on Disability may ignore the request.

5. **File No. 20082:** Complaint filed by Library Users Association against Mary Ghirarduzzi and the Library Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.15 by failing to allow participation in public comment during a remote Library Commission meeting July 9, 2020.

Peter Warfield (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Warfield stated that on July 9, 2020, a special meeting took place and Library Users was denied an opportunity to speak during public comment on item 2. Mr. Warfield stated that he wanted to speak on behalf of those without internet access and that over 100,000 people in San Francisco are without computers.

Margot Shaub (Library Commission) (Respondent), provided a summary of the department's position. Ms. Shaub stated that the Petitioner had time to make his comment, but there was a technical issue. Ms. Shaub stated that the Library did not fail to allow public comment. Ms. Shaub stated that Mr. Warfield was able to make public comment throughout the remainder of the meeting.

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

Action: Moved by Member Schmidt, seconded by Member LaHood, to find that the Library Commission violated Administrative Code, Sunshine Ordinance Section 67.15, by failing to allow Public Comment and 67.13(a) by requiring payment to attend the meeting by telephone from outside the phone toll area.

Public Comment:

Anonymous stated that SOTF's ruling on the matter is significant because it will set a quality standard for how remote public meetings will be handled by all agencies going forward. Anonymous expressed support for the motion and stated that the SOTF should also consider an additional violation.

The motion PASSED by the following vote:

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

Noes: 1 - Hyland

Absent: 1 - Frazier

The Committee recessed from 7:05 PM to 7:15 PM.

6. **File No. 20068:** Complaint filed by James Chaffee against the Library Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.14 by failing to make audio recordings available on the website, 67.21 by failing to respond to a records request in a timely and/or complete manner and 67.29 by failing to maintain the Library Commission website.

The Petitioner was not present for the hearing but did submit correspondence on the subject of requiring that the Petitioner be present for the hearing on their matter.

Margot Shaub (Library Commission) (Respondent), was present but did not provide a summary of the department's position.

Chair Wolfe stated that he received a communication from Mr. Chaffee stating that there is no legal requirement for the Petitioner to attend a hearing on their matter. Chair Wolfe noted that the Complaint Procedures makes attendance a requirement and that the Committee has been operating with this requirement for several years.

Action: Moved by Member Schmidt, seconded by Member Stein, that the SOTF proceed with hearing Compliant No. 20068 with Mr. Chaffee in absentia and waive the Sunshine SOTF Complaint Procedures Section C, Subparagraph 7(d), requiring an initial in person appearance.

Public Comment:

Peter Warfield stated that Mr. Chaffee says things that all SOTF members should read. If requiring an appearance by the Petitioner, there would be a huge barrier because some people may be intimidated.

Anonymous agrees with Mr. Warfield. Anonymous stated that if the Complainant is insisting that the hearing go forward, then it should.

The motion FAILED by the following vote:

Ayes: 4 - Schmidt, Stein, Padmanabhan, Hyland

Noes: 6 - Neighbors, Forsley, Wong, Yankee, LaHood, Wolfe

Absent: 1 - Frazier

Chair Wolfe stated that the matter will be filed and dismissed without prejudice and that Mr. Chaffee has 60 days to request reopening of his matter in writing.

7. **File No. 20033:** Complaint filed by Anonymous against Mayor London Breed and the Office of the Mayor for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.29-5 by failing to keep or cause to be kept a compliant Prop G calendar.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that more information should be provided pursuant to Proposition G calendar requirements. Anonymous stated that these are recurring meetings which should have proper and specific descriptions in compliance with how Prop G calendars are maintained and the current entries not compliant with the law. Anonymous stated that these are not public meetings and there should be a description of what the Mayor discussed.

Hank Heckel (Office of Mayor London Breed) (Respondent), provided a summary of the department's position. Mr. Heckel stated that the examples shown by the Petitioner are entries that could have been an oversight. Mr. Heckel noted that he is open to amending these particular items. Mr. Heckel advised the SOTF that the information the Petitioner is addressing is the lack of specific statements of issues discussed and not an example of how the Mayor's calendar is maintained overall.

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

Action: Moved by Member Wong, seconded by Member Neighbors, to find that Mayor London Breed and the Office of the Mayor violated Administrative Code, Sunshine Ordinance, Section 67.29-5, by failing to keep a Prop G calendar correctly by failing to include a general statement of issues discussed.

Public Comment:

Anonymous recalled that many years ago a member of the public came before the SOTF regarding Mayor Lee's calendar and the SOTF did find a violation.

Peter Warfield stated that he agrees that keeping a complete Prop G calendar is important.

The motion PASSED by the following vote:

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

Noes: 1 - Forsley

Absent: 1 - Frazier

8. **File No. 20093:** Complaint filed by Karl Kramer against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21 by failing to respond to a records request in a timely and/or complete manner.

Karl Kramer (Petitioner) provided a summary of the complaint and requested the Committee to continue the matter. Mr. Kramer stated that he had an email exchange with David Steinberg of Department of Public Works and believes that the matter will be closed.

David Steinberg (Department of Public Works) (Respondent), provided a summary of the department's position. Mr. Steinberg stated that all requested records have been provided.

Action: Moved by Chair Wolfe, seconded by Member Stein, to recommend that the matter be continued pending an exchange of records between the parties and referred the matter to the Compliance and Amendments Committee for monitoring.

Public Comment:

Peter Warfield expressed frustration with the general public not knowing if compliance has been met.

Anonymous agreed with Mr. Warfield because Mr. Kramer is the Petitioner and Anonymous is not sure how long the records have been hidden until now and produced to Mr. Kramer.

Anonymous stated that they agreed with Mr. Warfield and the previous Anonymous speaker and believes that a violation has taken place.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 1 - Frazier

9. **File No. 20095:** Complaint filed by Karl Kramer against the Human Rights Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21 by failing to respond to a records request in a timely and/or complete manner.

Karl Kramer (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Kramer stated that he and Ms. Davis are working on an agreement to produce the requested records and asked that the matter be closed.

Sheryl Davis (Human Rights Commission) (Respondent), provided a summary of the department's position. Ms. Davis stated she is willing to provide Mr. Kramer with his responsive records.

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

Action: Moved by Member Yankee, seconded by Member Stein, to refer the matter to the Compliance and Amendments Committee to monitor that the documents have been received by Mr. Kramer. When the Compliance and Amendments Committee has verified that records have been received, the matter will be referred back to the SOTF for consideration of tabling the matter.

Public Comment:

David Steinberg stated that he supports the motion regarding the Human Rights Commission and wants to point out that Public Works has provided Mr. Kramer his requested records and that the only issue is timeliness.

Peter Warfield stated that this is a lesson to all City agencies that it is a violation of the law if the Petitioner receives their records on the hearing day and not before.

Anonymous stated that they are unsure if appropriate to receive Public Comment from Public Works regarding a Human Rights Commission complaint and that the issue of timeliness does matter.

Anonymous agreed with part of the comment by Anonymous #3 and that complaints are a way to get the SOTF to rule on a case and require that City Agencies improve or change their policies and agree to fix the problem.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 1 - Frazier

10. **Administrator's Report, Complaints and Communications.** (*Discussion and Action*)

Chair Wolfe requested that WebEx be up and running in time for the July 2021 SOTF hearing.

Member Schmidt addressed the nine-month backlog and requested that a meeting take place to discuss this issue.

Chair Wolfe agreed with Member Schmidt and stated that he is working hard to address the backlog issue including possible SOTF meetings that might take place in the middle of the month. Chair Wolfe invited Member Schmidt to propose any ideas on the issue. Chair Wolfe noted that he has been in communication with Linda Gerull of the Department of Technology.

Member Yankee noted that the May 18, 2021, Complaint Committee minutes have not been posted or included in the Administrator's Report.

Public Comment:

Peter Warfield stated that he is not sure what the SOTF is referring to when speaking about running meetings. Mr. Warfield requested that SOTF Committee meetings not take place at the same time as Board of Supervisor meetings.

Anonymous stated that WebEx and Microsoft Teams do not provide adequate privacy but that the Department of Technology should be looking into alternative video conferencing.

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

Member LaHood stated that at many Compliance and Amendments Committee hearings the subject of attorney/client privilege is addressed. Member LaHood suggested that meeting with SOTF deputy city attorneys to discuss the issue would be welcomed.

Chair Wolfe repeated that there is a backlog and dislikes asking people to take up more of their time at another meeting.

Member Schmidt stated that attorney/client privilege is a complicated issue.

Public Comment:

Peter Warfield thanked the committee for addressing this issue which is important. Mr. Warfield also suggested including NextRequest in that discussion.

12. **ADJOURNMENT**

There being no further business the meeting was adjourned at 10:16 PM.

APPROVED: July 2, 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.