



SUNSHINE ORDINANCE TASK FORCE CITY AND COUNTY OF SAN FRANCISCO MINUTES REMOTE MEETING

Listen/Public Call-In Phone Number
1-415-906-4659
Conference ID: 905 497 083#

June 10, 2020 - 4:00 PM

Special Meeting

Seat 1	Vacant	Seat 7	Rodman Martin
Seat 2	Lila LaHood	Seat 8	Vacant
Seat 3	Josh Wolf - Vice Chair	Seat 9	Chris Hyland
Seat 4	Vacant	Seat 10	Matthew Yankee
Seat 5	Leuwam Tesfai	Seat 11	Fiona Hinze
Seat 6	Bruce Wolfe – Chair		

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 Gavin Newsom’s statewide order for all residents to “Stay at Home” – and the numerous local and state proclamations, orders and supplemental direction – aggressive directives have been issued to slow down and reduce the spread of the COVID-19 virus. Pursuant to the lifted restrictions on video conferencing and teleconferencing, Sunshine Ordinance Task Force meetings will be held through teleconferencing and will allow remote public comment.

PUBLIC CALL IN

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As the COVID-19 disease progresses, please visit the Sunshine Ordinance Task Force’s website (<https://sfgov.org/sunshine>) regularly to be updated on the current situation.

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 4:02 PM. On the call of the roll Chair B. Wolfe and Members LaHood, Martin, Tesfai, J. Wolf, Yankee and Hinze were noted present. A quorum was present. Member Hyland was noted not present.

There were no agenda changes.

Chair Wolfe read the following statement into the record:

“You must be the change you wish to see in the world.” ~ Mahatma Gandhi

Difficult and hopeful times we are in. We send condolences to those surviving and join in mourning the loss of George Floyd and all others in similar circumstance, and to those lost to COVID-19. We will take a moment of silence.

We also stand for transparency, accountability, justice and the light that has come as a consequence to these incidences. Sunshine being the best disinfectant.

Our charge as per the Sunshine Ordinance as presented by the Board of Supervisors to the ballot as Proposition G and approved by the People of the City and County of San Francisco in 1999, I quote from Administrative Code Section 67.30(c), “The Task Force shall advise the Board of Supervisors and provide information to other City departments on appropriate ways in which to implement this chapter. The Task Force shall develop appropriate goals to ensure practical and timely implementation of this chapter. The Task Force shall propose to the Board of Supervisors amendments to this chapter. The Task Force shall report to the Board of Supervisors at least once annually on any practical or policy problems encountered in the administration of this chapter. The Task Force shall receive and review the annual report of the Supervisor of Public Records and may request additional reports or information as it deems necessary. The Task Force shall make referrals to a municipal office with enforcement power under this ordinance or under the California Public Records Act and the Brown Act whenever it concludes that any person has violated any provisions of this ordinance or the Acts. The Task Force shall, from time to time as it sees fit, issue public reports evaluating compliance with this ordinance and related California laws by the City or any Department, Office, or Official thereof.

Quoting from the primary laws that allows our strong Sunshine Ordinance and others around the state to exist and enhance to provide increased efficiency and expediency.

CA Government Code, Section 6250 - CA Public Records Act - states: ‘In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.’

And

CA Government Code, Section 54950 - Ralph M. Brown Act - states: "In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created."

2. **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.**

Peter Warfield stated that he was glad that the Sunshine Ordinance Task Force was holding a meeting and that there is a straight-forward method for getting to the meeting. Mr. Warfield expressed concern that there is still difficulty getting to a scheduled meeting. Mr. Warfield stated that as more information is accessible only on the web, it leaves many citizens who do not own computers unable to access that information.

Anonymous #1 stated he was concerned that no action had been taken on File No. 20056 *Anonymous v. Michael Lambert*, filed on March 13, 2020. Anonymous stated that he wanted the SOTF Administrator to provide a timeline.

Michael Petrelis provided comment regarding the first item and the absence of an ex officio from the Clerk of the Board and the Mayor's Office. Mr. Petrelis stated that he did not know why the Mayor and the Clerk were not participating in SOTF meetings. Mr. Petrelis stated that he wanted SOTF meetings to air on the two City government television channels.

Anonymous #2 stated that the Mayor has repeatedly responded she has no public record of text messages sent or received. Anonymous stated that he has proof (widely publicized a few weeks ago in the media) that at least SFPD Chief Scott has text messages with the Mayor. Anonymous stated that Mayor Breed should not be able to destroy her public records. Anonymous stated that there should be an investigation of the Mayor for violation of SFAC 67.29-7(a) - failure to preserve and disclose correspondence.

- Anonymous #2 stated that the SOTF found Mayor London Breed violated San Francisco Administrative Code (SFAC) 67.21/26/27 in SOTF 19047 and that the Mayor's Office still refuses to comply. Anonymous stated that the SOTF found the City Attorney's office violated SFAC 67.21(b)/26/27 in SOTF 19044 and that Mr. Herrera refuses to comply, using the catch-all exemption as the excuse, even though this is a very old request. Anonymous requested that the SOTF schedule File Nos. 19044 and 19047 before Compliance Committee as soon as possible.

- Anonymous #2 stated that he wants to eliminate the Mayor's purported suspension of the Sunshine Ordinance.

Harry Bernstein stated that City College of San Francisco Chancellor Rocha was removed from office on March 26, 2020 in closed chamber. Mr. Bernstein wanted to make notice of this Brown Act violation. Mr. Bernstein stated that 10 years ago City College agreed to abide by the Sunshine Ordinance and that the college is trying to distance itself from Sunshine.

David Pilpel stated he appreciates that SOTF is holding a meeting, the Chair's introductory remarks and maintaining anonymity of callers. The Agenda only referenced having the meeting conducted in Microsoft Teams. Anonymous questioned if there is online access to Teams so that public when participating can see the members of the SOTF, not simply hear them.

Terrence Kerrisk stated that he met with the Department of Human Resources (DHR) on January 21, 2020. Mr. Kerrisk stated that he filed an Immediate Disclosure Request with DHR and they did not provide the requested records in a timely manner. Mr. Kerrisk feels that DHR was withholding information from him for 4 ½ years which is a violation and that it constitutes official misconduct. Mr. Kerrisk believes that he was retaliated against.

3. **File No. 20072: Per Board of Supervisors File No. 200552 – Authorizing Sunshine Ordinance Task Force to meet in June 2020 and inclusive of Administrative Code, Chapter 67 et al. but not limited to Administrative Code 67.30(c) - SF Sunshine Ordinance: Hearing to consider the impact of emergency orders, due to COVID 19, which resulted in the temporary suspension of various provisions of the California Public Records Act, Ralph M. Brown Open Meetings Act, San Francisco Sunshine Ordinance and other related laws and statutes that may apply within the jurisdiction of the Sunshine Ordinance Task Force.**

Chair Wolfe stated the following mission for this hearing:

Our task for today and upcoming meetings is to review, discuss and make recommendations for action to the Board of Supervisors in order to assure compliance and preserve the People's right to know.

The format:

- We will conclude this meeting at or before 7:00pm.
- Public Comment will be allowed at three minutes per person.
- We will be reviewing issues and topic areas that have the most effect regarding the entirety of city/county government and the administration and implementation of the CPRA, Brown Act and Sunshine Ordinance with regards to the Mayor's Emergency Proclamation, Executive Orders and Supplemental, meetings permission notices and City Attorney's opinions and advice memos, and other supporting materials contained in the agenda. If other information arises during the hearing, we will consider including it depending on the gravity or submit it to the file and continue its review at a subsequent meeting. We will

also discuss scheduling to restart hearing complaints again and the process to do so.

- The intent of today's meeting is to identify the most urgent of topic areas be taken up so recommendations can be made as soon as possible, hopefully, today.
- A Public Comment period will follow after all the issues and topic areas are presented by SOTF members.
- SOTF will review the highest priority topic areas to begin work on and process for the work to be done.
- SOTF will approve of these initial topic areas.
- I will call for SOTF members to volunteer or may request any one or another topic area to work and/or or I reserve to make assignments. They will do this work on their own as developing work product for the following meeting to report back for further discussion and possible action.
 - SOTF will allow the public to make written submissions to support each of these areas to our Administrator to be forwarded to the appropriate member(s) working on
- Additionally, SOTF may want to review and opine on the accuracy, authority and administration of how the Sunshine Ordinance was suspended in part or whole.
- Now we will hear from SOTF members on topic areas.
 - Agenda posting
 - Library - send communications that they are required to post agendas.
 - For non-video virtual conferences, address how members of the bodies are to remain present and not break quorum even during public comment.
- **Public records requests delayed during the emergency**

Member Martin stated that he was fearful of the request backlog from the past few months.

Chair Wolfe stated that there are probably many issues including public comment, and public records requests that affect the whole aspect of City government. Chair Wolfe stated that Governor Newsom provided an Executive Order allowing local agencies to administer public meetings. Chair Wolfed asked the members to keep the focus on the materials attached to this Agenda and not on specific cases.

Member LaHood stated that there have been delays in responding to records requests and that she wanted to work on that particular issue.

Member Hinze stated that in her professional job, she has experienced technical and other issues with virtual meetings specifically within the deaf and hard of hearing community. Member Hinze stated that she would like to address and work on those challenges.

- **Issues related to lack of meeting postings**

Chair Wolfe discussed the need to be consistent with meeting bodies posting agendas and information and a central place for the general public to find out about when meetings are taking place. Chair Wolfe stated that this is especially important because many city operations publish a calendar of meetings happening one week ahead of time. Chair Wolfe stated that he has received reports that the Public Library has not been posting agendas. Chair Wolfe stated that public comment allowed through Microsoft Teams should provide a platform for members of the public to view the hearing. Chair Wolfe stated that there needs to be a review when emergencies like COVID-19 happen and that there should be a line of communication for members of the public. Chair Wolfe stated that there needs to be an overall recommendation on how Sunshine Ordinance would be implemented to the Board of Supervisors.

Member Tesfai stated that the League of Women Voters (LWV) has met and had good conversations regarding public records, transparency and public meetings. Member Tesfai stated that the LWV discussed having one stop shop agendas for Task Force meetings, commissions and other organizations that provide links to agendas. Member Tesfai stated that the LWV met with Supervisor Fewer and her team to discuss emergencies like COVID-19, the emergency response and future decisions that would be made and the one-stop-shop for meetings idea.

Member J. Wolf stated the importance of identifying tools and tech requirements when using an online platform and how they are used.

Chair Wolfe stated that City government should establish a standardized platform that everyone can use. Chair Wolfe stated that he has participated in Zoom meetings that did not allow everyone to make a public comment. Chair Wolfe discussed the importance of listing some of the features and concerns using including standardized platforms with regards to usability and making sure there is an opportunity for the general public to use.

Member Yankee stated that it is important to get a list of all features in video platforms to pass along to who is managing them within the City so that everyone has access.

Chair Wolfe stated that based upon the Mayor's Supplemental Proclamations there was confusion amongst policy bodies and passive meeting bodies who could and could not meet. Chair Wolfe stated that the Board of Supervisors should resist approving those meetings until it is clear on who can and cannot meet. Chair Wolfe stated that there needs to be better communication between the Mayor's Office and the Board of Supervisors.

Public Comment:

Anonymous #2 urges the City continue its use of remote and virtual comment as standard practice for members of the public after the COVID-19 emergency is over. Anonymous #2 stated that members of the public must be able to attend in person, but they should also have the right to attend virtually if they so choose.

Anonymous #1 stated that he was unable to download the agenda attachments. Anonymous also stated that he wants an accounting of which matters have been processed. Chair Wolfe addressed Anonymous #1 questions.

David Pilpel stated that he has five topic areas to address; 1) validity of the Orders issued by the Governor, the Mayor and the advice related to that; 2) conduct of meetings with various subtopics during this emergency; 3) issues related to public records during this emergency; 4) SOTF workload and process during this emergency and thereafter; 5) planning for future emergencies. Mr. Pilpel stated that Item 4 could be addressed in the Administrator's report. Mr. Pilpel stated that item 5 could be handled going forward but does not need to be addressed at this time. Mr. Pilpel stated that with regards to items 2 and 3, that the SOTF should come to consensus and should be sent to boards and commission secretaries and the City Attorney. Mr. Pilpel stated that for those things that require more thought they should be addressed at a future meeting.

Peter Warfield stated that remote meetings are a catastrophe for members of the public who do not have access to the internet. Mr. Warfield stated that alternate resources, such as the Public Library which closed without notice on March 13, 2020, someone who does not have a computer is without access to agendas. Mr. Warfield stated that there have been no Library Commission meetings. Mr. Warfield stated that there needs to be a physical location for the disabled.

Member J. Wolf was noted absent at 5:14 PM.

- **Lack of access to the meetings during the emergency**

Chair Wolfe stated that while City Hall and other public offices are closed, people are working virtually which makes it difficult for the public to keep track of. Chair Wolfe opined that if people are working remotely and there are passive meetings, it should be made clear to the public.

Member Yankee stated that he recently checked the Controller's website which has a sub website called SF Prepared. Member Yankee stated SF Prepared has a continuity of operations plan template where it encourages city agencies to complete so that if there is an emergency they can follow through. Member Yankee also stated that he did not see any references to the Sunshine Ordinance in that plan and he encourages them to make that reference.

Member Tesfai stated that the SOTF doesn't have a business continuity plan but that SOTF should have one like the Controller's Office to set the example and lead.

Chair Wolfe stated that SFGov has a website for one stop shop which includes information on meetings. Chair Wolfe stated that City Hall had such a location but due to the emergency it was closed. Chair Wolfe stated that press conferences take place at City Hall with social distancing. Chair Wolfe stated that he has reviewed the features and functions of virtual conferencing and believes the City should create a platform that everyone should use. Chair Wolfe stated that the digital divide needs to be narrowed and require internet service providers to provide access to those within the digital divide spectrum.

Member Tesfai stated that the City of Sacramento recently engaged Comcast to provide internet access throughout the city.

Chair Wolfe stated that with the increase in parity it is important to continue moving forward with the Sunshine Ordinance as much as possible so that the public can get access to records. Chair Wolfe stated that the SOTF needs to bring back public meetings with full agendas. Chair Wolfe stated that Member Yankee's suggestion regarding a continuity plan should proceed. Chair Wolfe stated that agenda posting and League of Women Voters plan for one stop shop are good places to start.

Member Tesfai stated that members of the public have expressed challenges getting the SOTF agenda.

Member Yankee stated that each agency needs to establish a link to the meetings and corresponding information on their webpage.

Member Hinze stated that the Board of Supervisors should request a meeting with the Mayor's Office on Disability staff and sfgovtv to get best practices for the deaf and hard of hearing community to provide sign language interpreters. Member Hinze stated that at the last Police Commission hearing an interpreter was present but did not sign for the entire hearing. Member Hinze stated that she got that information third hand.

Chair Wolfe suggested to Member Hinze that interpretation be made available to every Board of Supervisors meeting.

Member LaHood stated that she would like to work on public records, specifically because there is not an allowance on releasing contracts. Member LaHood stated requests for existing contracts with hotels are often denied because it might compromise existing and possible future contracts. Member LaHood stated that SOTF wants the Board of Supervisors to take action and cited 67.24(e) to make sure city agencies are complying.

Member Tesfai stated that due to market sensitive information, the city agency should specify how long the contract should be kept confidential.

Chair Wolfe discussed parity of virtual meetings with SOTF and does the Task Force want to recommend a standard that they meet on? Chair Wolfe stated that the Police Commission started meeting two weeks ago. Chair Wolfe asked if the

SFMTA should be talking about replacing buses because the fleet is falling apart? Chair Wolfe stated that the scope of work should be specific to essential services or to request information. Chair Wolfe stated that the public needs to know about things regarding the emergency and that should be a high priority.

Chair Wolfe discussed what cases get heard as they come in and out of committees, especially because of the two complaint per petitioner rule. Chair Wolfe stated that the SOTF should provide expediency in the process. Chair Wolfe discussed monitoring of enforcement and that there is no way for members of the public to address that issue. Chair Wolfe stated that the SOTF has the ability to monitor, to refer for enforcement and to report violations of possible problems at meetings. Chair Wolfe stated that within the scope of the emergency, members of the public might be affected negatively and feel that they cannot address their issues.

Chair Wolfe stated that the SOTF should be charged with monitoring public meetings for implementation of the Sunshine Ordinance and the Brown Act. Chair Wolfe stated that the SOTF should be allowed to contact meeting bodies to address items that are out of scope or should be sent to the Board of Supervisors because an issue has an effect on certain members of the public. Chair Wolfe stated that this could be on a complaint basis until the shelter in place order is lifted. Chair Wolfe stated that a smaller committee could meet every two weeks to review agendas and have corresponding SOTF meetings and notify the chair of a Commission. Chair Wolfe stated that SOTF would have authority to make decisions that would be complied with.

Member Yankee stated that he supports meeting on an ad hoc basis and that a subcommittee group may be more effective.

Chair Wolfe stated that the SOTF cannot meet more than twice a month per the Board of Supervisors. Chair Wolfe stated that he supports an emergency ordinance to increase the number of days for agenda posting and suggested that all meeting bodies agendize their meetings 7 days in advance. Chair Wolfe stated that if the Board of Supervisors allows all meeting bodies to meet, it will create a disadvantage to members of the public.

Action: Moved by Member Hinze, seconded by Member Yankee, to provide the following suggestions to the Board of Supervisors regarding public records and public meetings.

- The SOTF recommends that under the Public Records Act the online index of records be used by all departments to include directive by the Board of Supervisors and the Mayor that all offices in their stead use the index of records to post public records to the fullest extent they are able.
- The SOTF recommends that regarding contracts, Administrative Code, Section 67.24(e), be complied with without exception.

- The SOTF recommends that American Sign Language interpretation be provided for all live and recorded public meetings.
- The SOTF recommends that the city created a central location for members of the public to obtain information regarding public meetings, the office hours of departments, and other information important to members of the public during the emergency. In addition, the SOTF recommends that the home page of each department include this information or a link to this information in an easily recognizable way/location.
- The SOTF recommends a one stop shop on sfgov's website; implementation of Supervisor Fewer's action including to direct the Board of Supervisors and the Mayor to assure there is a daily calendar of meetings with direction to agenda and supporting documents; a listing of what offices are open, or not, or are partially active and which parts are active; that the Board of Supervisors agenda template be used by all offices; and publish public meeting announcements on every home page of every office that holds public meetings.
- The SOTF recommends that all public meetings comply with the any Executive Orders issued by the Governor with regards to the Brown Act.
- The SOTF recommends expedited restoration of those provisions of the Sunshine Ordinance previously suspended with regards to public meetings.
- The SOTF recommends one standardized platform for virtual conferencing be used throughout the city for all virtual/remote public meetings and that public comment be fully made available to those who wish to participate without limitation.
- The SOTF recommends full virtual accessibility both for ADA and user friendliness.
- The SOTF recommends that regarding the Digital Divide, to require that the City provide internet service to members of the public to allow public access to virtual/remote public meetings.
- The SOTF recommends that all City Offices be directed to include Sunshine Ordinance provisions within their continuity of operations plan.
- The SOTF recommends universal adoption of the Board of Supervisors' public comment procedures, including the option for commenters to provide their names or retain anonymity, and queuing options which resemble the process used during in-person meetings.

Public Comment:

Anonymous #2 provided the following summary of their public comment.

- I agree that the City must comply with the full Sunshine Ordinance.
- For public meetings, please ask the BOS to terminate Paragraph 6 of the Fifth Supplement to the Mayor’s emergency COVID-19 proclamation.
- For public records, please ask the BOS to terminate Paragraphs 7(c, d) of the same Fifth Supplement for future contracts and the catch-all exemption for all records, which create loopholes in the Sunshine Ordinance, such as for hotel contracts.
- For meeting conduct, please ask the BOS to ensure all commenters may remain anonymous if they so wish.

Action: Moved by Member Hinze, seconded by Member Yankee, to amend the motion to incorporate the suggestions of Public Commenter Anonymous #2, and to provide the amended suggestions to the Board of Supervisors regarding public records and public meetings.

The motion PASSED by the following vote:

Ayes: 6 - Tesfai, Hinze, LaHood, Martin, Yankee, B. Wolfe

Noes: 0 - None

Absent: 2 - J. Wolf, Hyland

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

The Administrator presented the report. The Administrator reported there are approximately 73 complaints pending and that approximately 15 new complaints.

Public Comment:

None.

No actions taken.

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

No action taken.

6. **ADJOURNMENT**

There being no further business the meeting was adjourned at 7:36 p.m.

APPROVED: June 23, 2020
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.