



SUNSHINE ORDINANCE TASK FORCE CITY AND COUNTY OF SAN FRANCISCO MINUTES

REMOTE REGULAR MEETING

July 7, 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	Vacant	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 4:02 PM. On the call of the roll Chair B. Wolfe and Members, Schmidt, LaHood, Frazier, Padmanabhan, Wong, Stein, Yankee, Hyland and Neighbors were noted present. Member Forsley was noted not present. A quorum was present.

There were no agenda changes.

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

The SOTF discussed the draft meeting minutes of May 5, 2021. There were no changes.

Action: Moved by Member Wong, seconded by Member LaHood, to approve the May 5, 2021, meeting minutes.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 1 - Forsley

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

The SOTF discussed the draft meeting minutes of June 7, 2021. There were no changes.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 1 - Forsley

4. File No. 19145: Hearing regarding request for reconsideration. Complaint filed by Chris Kohrs against the Police Commission the SOTF found that the Police Commission **DID NOT** violate Administrative Code (Sunshine Ordinance), Sections 67.5 and 67.21, for failing to respond to a public records request in a timely and/or complete manner.

Member LaHood provided an overview of the most recent Compliance and Amendments Committee hearing where Mr. Kohrs case was heard. Member LaHood stated that the Committee found the Petitioner did not present any new information to warrant reconsideration.

Chris Kohrs (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Kohrs stated that he had new material to present to the SOTF. Mr. Kohrs stated that he still has not received a complete copy of the hearing recording, including the closed session, from the Police Commission. Mr. Kohrs stated that closed session hearings are covered by the Brown Act. Mr. Kohrs waived his privilege rights because the case involved a personnel matter, not litigation.

Sgt. Stacy Youngblood (Police Commission) (Respondent), provided a summary of the department's position. Sgt. Youngblood stated that this case was about use of force and that Mr. Kohrs' use of his automobile does not constitute use of force. Sgt. Youngblood stated that Mr. Kohrs has received a complete copy of his Police Commission hearing recording.

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

Action: Moved by Member Yankee, seconded by Member Neighbors to deny the Petitioner's motion for reconsideration.

Public Comment:

Anonymous #2 stated that Mr. Kohrs did provide new information and questioned whether or not the SOTF reviewed all the material and if in fact the SOTF did not review all the materials, how could they deny a reconsideration.

Mr. Sullivan stated that if the information exists at the time of the hearing, the Petitioner needs to explain what that new information is.

Anonymous #3 asked the SOTF to please vote against denial of reconsideration if you think any of the information provided by the petitioner was not available to you, the SOTF, last time.

Peter Warfield, Executive Director Library Users Association, libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, California, 94117-0544 noted that he is not a party to the action. Mr. Warfield stated he appreciates the new awareness that the SOTF has for possible convenience or timeliness.

Karina Wong feels these are public records that should be disclosed.

Anonymous #1 stated that it seems like certain public correspondence has been cited by the Petitioner and urges the SOTF to vote for reconsideration.

Anonymous #4 agrees with Karina Wong that there are major concerns but also sees there are new concerns related to transparency and played a tape clip on what can happen when there is no transparency. Anonymous #4 stated that a lawyer should review what is in the packet.

Navid Tulsu supports the evidence presented by Mr. Kohrs and thinks it should be reviewed carefully.

The motion FAILED by the following vote:

Ayes: 5 - Yankee, Neighbors, Schmidt, Hyland, Wong
Noes: 4 - LaHood, Padmanabhan, Stein, B. Wolfe
Absent: 1 - Forsley

Action: Moved by Member LaHood, second by Member Padmanabhan to allow reconsideration of the matter.

Public Comment:

Anonymous #1 strongly urged SOTF to vote in favor of reconsideration and the provisions of the Brown Act and that he should consult with Deputy City Attorney on SB 1421 and case law.

Peter Warfield stated thanks for the motion and that he is in favor of it. Mr. Warfield agrees with Anonymous and would favor having a reconsideration in the interest of justice.

Navid Tulsu stated that in the interest of full disclosure they urge support of a reconsideration. Mr. Tulsu stated that the SOTF owes it to him to give him this shot so that he can have his due process.

Anonymous #3 stated that his public correspondence has been mostly read into the record by the petitioner already. Anonymous stated that this is not a violation ruling and could set a bad precedent for SB 1421 records. There is no requirement that misconduct be on-duty. There is no requirement that use of force be intentional - police could run over or shoot a suspect and claim it was an accident - is that not a use of force? The Police Commission cannot invent attorney-client privilege for a personnel file-noticed closed session under the Brown Act. Please vote to reconsider.

Anonymous #5 expressed confusion on what is happening. If a person is in an accident and this becomes use of force by an officer. Saying every time a police officer is in an accident and it seems that use of force is intentional is saying if Mr. Kohrs intentionally hit a car.

Anonymous #4 that they fully support reconsideration of the case. Does not understand why the Police Commission is not providing the recording information.

Mark Sullivan stated that California Constitution Article 1, consistent with SOTF Complaint Procedures and consistent with spirit of Sunshine Ordinance all evidence shall be viewed most favorable to the petitioner.

Anonymous #6 wanted to support those who spoke about the reconsideration and thinks that there is room to review more information, all being said it would be to the benefit of City of San Francisco especially within this group, there is room to look into this further. Anonymous #6 urged the Committee to reconsider.

The motion FAILED by the following vote:

Ayes: 5 - Wolfe, LaHood, Padmanabhan, Neighbors, Stein
Noes: 4 - Hyland, Yankee, Wong, Schmidt
Absent: 1 - Forsley

There being no additional motion or action taken on this matter and the matter will not be reconsidered.

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.*

Mark Sullivan stated that any entity or other body that is in question before the Task Force must be considered in relationship to government, public officials, public money and the entity's goals. Not doing so ignores the elephant. You should not silo the entity. Requiring a department to be named in a complaint misses the point of jurisdiction. Point out to the task force that the Mayor's proclamations and suspensions of various parts of the Sunshine Ordinance are still in effect. The task force is still considering and finding on complaints on those suspended parts of the ordinance. They should be using The Brown Act or the CPRA where the incident of the complaint falls within the period of the suspension. There seems to be an inconsistency as to the task force implementation of what public access laws should be used and what city officials are using during this time of a declared emergency.

Anonymous #3 stated that records requests are not, contrary to what some may think, unimportant. Contents of records I requested are cited in federal charges against Harlan Kelly (but I got them published by PUC months earlier). Another of my requests proved that Mayor Breed personally directs Chief Scott to sweep homeless people by text. One of the threads you ordered disclosed to me is cited by the RCFP in suing the DoJ; and more. This is the incredible power of random-sampling records requests, exact electronic copies, and metadata. I don't mention this during hearings because it has no legal relevance. SOTF must continue to straightforwardly enforce the letter of the law against the City, without gate keeping or judging access, which is the Constitutional right of every person, for any or no purpose at all.

Anonymous #4 stated that every person has the right to public records and provided legal citations and supports random records requests.

James Chaffee stated that he submitted three letters and was discouraged that certain information was available only on the internet. Mr. Chaffee noted that he submitted a letter detailing there is no authority that requires the Petitioner to attend their hearing.

Anonymous #5 noted concern with unconventional ways of conducting meetings and would understand better if taking place at City Hall where he has attended many SOTF meetings.

6. **File No. 19143:** Complaint filed by Anonymous against Sheriff Paul Miyamoto, James Wilson and the Sheriff's Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.24, 67.25 and 67.27, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Member Schmidt provided a synopsis of the Complaint Committee hearing where this item was heard. Member Schmidt stated that in 19143 and 20009 the Sheriff's Office acknowledges that they want to amend and improve their Public Records processes.

Chair Wolfe stated that both cases will be heard and a decision on whether to combine the matters will be determined.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that the Sheriff's Department cited CPRA exemptions which are not allowed in San Francisco and they admit this. Anonymous noted that the Respondent failed to cite proper draft exemptions they cannot use.

Alison Lambert (Sheriff's Department) (Respondent), provided a summary of the department's position. Ms. Lambert stated that the Sheriff's Department has implemented new procedures for responding to records requests. Ms. Lambert confirmed that all staff who handle public records requests have attended classes and the Sheriff's Department is making every effort to be in compliance with the CPRA and the Sunshine Ordinance.

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

Action: Moved by Member Schmidt, seconded by Member Neighbors, to find that the Sheriff's Department violated Administrative Code, Sunshine Ordinance Sections 67.24 for citing the deliberative process privilege citing Government Code 6255 and citing CPRA draft exemptions, 67.25 by failing to respond to an Immediate Disclosure Request in a complete and/or timely manner, 67.27 by citing written justifications that did not apply.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 9 - Schmidt, Neighbors, LaHood, Padmanabhan, Yankee, Hyland, Wong,
Stein, B. Wolfe
Noes: 0 - None
Absent: 1 - Forsley

7. **File No. 20009:** Complaint filed by Anonymous against Sheriff Paul Miyamoto, Lt. J. Quanico and the Sheriff's Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.26 and 67.27, by failing to justify withholding and keeping withholding to a minimum.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that blanket cover letters had been sent out by the Sheriff's Office without legal justifications, or for withholding and that redactions of addressee names were redacted improperly in letters they sent. Anonymous has learned that the Sheriff's Office stopped using the blanket letters and that they revised their processes.

Alison Lambert (Sheriff's Department) (Respondent), provided a summary of the department's position. Ms. Lambert stated that her department has changed their records request response procedures. Ms. Lambert stated that every attempt was used to respond quickly and provide justification for redactions and sent an updated response on May 20. Ms. Lambert noted that this request was received while training was taking place. Ms. Lambert stated that they do not release information on prisoners unless they are in custody.

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

Action: Moved by Member Stein, seconded by Member Wong, to find that the Sheriff's Department violated Administrative Code, Sunshine Ordinance, Sections 67.26 by withholding the names of records requestors and 67.27 by failing to provide proper justification of redactions.

Public Comment:

Peter Warfield stated that he is not a party to the complaint, that he supports the facts and the motion and pointed out that changes to procedures that have not been questioned is not a defense.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 1 - Forsley

The SOTF recessed from 7:09 pm until 7:19 pm.

8. **File No. 19061:** Complaint filed by John Hooper against the Office of Economic and Workforce Development 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.

John Hooper (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Hooper stated that Mr. Heckel provided 140 pages of information and within that are a few pieces of information that the SOTF should be aware of. Mr. Hooper stated that Chris Corgas ran the GBD program through Public Works. Mr. Hooper stated that many of those records provided he had seen before. Mr. Hooper is not satisfied with the explanation of how money has been spent.

Mark Sullivan spoke in support of the Petitioner. Mr. Sullivan stated that Mr. Heckel provided records that were not new and should have been received by Mr. Hooper.

Marianne Thompson (Office of Economic and Workforce Development) (Respondent), provided a summary of the department's position. Ms. Thompson stated that she and Hank Heckel reviewed Mr. Hooper's list of 21 records that remain to be turned over to him. Ms. Thompson stated that she and Mr. Heckel have responded to Mr. Hooper's 21 questions and all records on that list have been provided to Mr. Hooper and the SOTF Administrator. Ms. Thompson stated that many of those records were provided in a hyperlink.

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

Action: Moved by Member Yankee, seconded by Member Padmanabhan, to find that the Office of Economic and Workforce Development violated Administrative Code, Section 67.21(b), by failing to provide records in a complete and/or timely manner. The SOTF referred the matter to the Compliance and amendments committee and requests that the records be provided to the Compliance and Amendments Committee and that Mr. Mark Sullivan assist Mr. Hooper to organize the documents.

Public Comment:

Anonymous #3 stated OEWD has not told you the full story. When this Task Force asked OEWD and DPW to index the records to the 21 Hooper bullet points, they refused to do so, as they told your February committee. Instead, after that hearing, I made my own 21 separate requests copying Mr. Hooper's bullet points to OEWD and DPW, which forced them to do the work anyway. In that process, OEWD provided me the original Hooper ~1700 pages, indexed which of the 21 requests related to which page numbers, and also produced NEW deliverables, emails, and funding requests from January 2019, which pre-date Mr. Hooper's very first request. However, even in this revision, they failed to search OEWD's financial tracking system "Total Grant Solutions" which they did only after I noticed that and forced them to do yet a *further* search. An agency cannot fail to search its own financial systems! This motion and violation is highly appropriate.

Peter Warfield stated that he is not a party to the action and congratulated Mr. Hooper for his persistence. Mr. Warfield stated that one should not have to be a computer tech to understand responses. Mr. Warfield supports the motion.

The motion PASSED by the following vote:

Ayes: 9 - Yankee, Padmanabhan, Stein, Wong, Schmidt, Neighbors, LaHood, Hyland, B. Wolfe
Noes: 0 - None
Absent: 1 - Forsley

9. **File No. 19062:** Complaint filed by John Hooper against Public Works 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.

John Hooper (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Hooper stated that Department of Public Works (DPW) provided a great deal of the funding for the GBDs and was working to promote the privatizing of City services. Mr. Hooper stated that Mr. Goldberg, formerly of Public Works, could provide information about billing of those services. Mr. Hooper provided information indicating that DPW is responsible for the funding information the public has asked for.

Mark Sullivan spoke in support of the Petitioner. Mr. Sullivan stated that DPW has funded most of the contracts for GBDs. Mr. Sullivan noted that the GBD program manager was responsible for budgeting that money.

David Steinberg (Department of Public Works) (Respondent), provided a summary of the department's position. Mr. Steinberg stated that this is the third time he has appeared before the SOTF. Mr. Steinberg stated that Mr. Hooper is asking about groups that never came to fruition and that the GBD in Dog Patch is the only established GBD in the City. Mr. Steinberg stated that Public Works has provided all records to Mr. Hooper and asks the SOTF to find no violation.

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

Action: Moved by Member Yankee, seconded by Member Hyland to find no violation against the Department of Public Works.

Public Comment:

Anonymous #3 requested that the committee vote against the motion for no violation: please vote against this motion. Consider Member Schmidt's arguments carefully; he is correct. Under *Community Youth Athletic Center v. City of National City*, 220 Cal.App.4th 1385 (Cal. Ct. App. 2013), the City, as a whole, must properly instruct its contractors to retrieve public records it does not have. Mr. Hooper's nine original requests mention BOTH Mission Dolores and the Greater Buena Vista areas in requests number four and nine. In the supplemental records provided by OEWD to me regarding the prior case 19061, OEWD explicitly gets confirmation from Public Works on approving these expenses and deliverables from Parks Alliance and its predecessor entities, showing DPW is deeply involved not just in GBDs generally or in some older contract, but these particular GBD formation activities.

Peter Warfield stated appreciation for the interesting discussion and wanted to mention that he does not have the link to the documentation for this hearing. Mr. Warfield stated that the department has access to those records and he wants to see them.

Marianne Thompson stated that the motion is correct in not finding DPW in violation. Ms. Thompson added that OEWD and DPW have worked very hard to get Mr. Hooper his records and notes that the funding for the Mission Dolores GBD was provided to OEWD by the District 8 Supervisor.

The motion FAILED by the following vote:

Ayes: 3 - Yankee, Hyland, Wong,

Noes: 6 - Schmidt, Wolfe, LaHood, Padmanabhan, Neighbors, Stein

Absent: 1 - Forsley

Action: Moved by Chair Wolfe, seconded by Member LaHood to find that the Department of Public Works violated Administrative Code, Sunshine Ordinance Section 67.21(c) by failing to provide the requested records in a complete and/or timely manner and orders that the Department of Public Works to and order DPW to request such records from Parks Alliance that might be available to them because they have them and assist Mr. Hooper in identifying the existence, form and nature of the records from SF Parks Alliance that may be available to them that the requestor is requesting within 14 days; and refers the matter to the Compliance and Amendments Committee for monitoring.

Public Comment:

Peter Warfield expressed happiness with the motion.

Anonymous #3 asked that the Committee please vote for this motion. Mr. Warfield is completely correct. The obligations, however, he mentions in the Sunshine Ordinance can only add to, and not take away from, the obligations under the CPRA. Under *Community Youth Athletic Center v. City of National City*, 220 Cal.App.4th 1385 (Cal. Ct. App. 2013), there is implied in the weaker CPRA an obligation for the City to go to its known custodians, including private contractors, and push them sufficiently to produce the records. If there is any remaining doubt that Public Works is inextricably intertwined in the efforts at issue in this case, see the defined terms in Appendix B, Definition of Grant Plan: "City team" includes 2 OEWD employees and Jonathan Goldberg of Public Works, and Project Areas A and B include neighborhoods around Buena Vista Park and Dolores Park.

The motion PASSED by the following vote:

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

Noes: 1 - Yankee

Absent: 1 - Forsley

10. Sunshine Ordinance Task Force – Chair’s Report.
 - Possible Response to SF Chronicle June 27, 2021 titled “I joined the SF’s Sunshine Ordinance Task Force to expose corruption. Instead, I’m a cog in the machine.”

The Committee discussed the resignation of former SOTF member Kevin Frazier and his article published in the Chronicle. Chair Wolfe opened the discussion and stated that Kevin Frazier submitted his letter of resignation stating that it was not his interest. Chair Wolfe stated that the article unfortunately reiterates Mr. Frazier’s misunderstanding of what the SOTF can accomplish, that Mr. Frazier had very little experience on the Committee and that there is value in what the Task Force does.

The Committee responded by noting that there is a back log of cases that Mr. Frazier could not see past and that because of the title of the article it may be difficult to replace his seat. Member Wong also stated that the City is in the middle of a pandemic making it difficult for members of the public to observe SOTF meetings. Member Neighbors stated that there has never been a case heard that she felt was petty and that she wants to make sure that the public does see the SOTF is critical to achieving the public’s goals. Member Stein noted that the article showed a lack of understanding of the rationale behind the freedom of information law.

Public Comment:

Peter Warfield stated that he repeats his contact information because the meetings do not take place in a public setting where he can approach people and discuss SOTF issues. Mr. Warfield stated that much of what former Member Frazier complained about can be addressed by the SOTF in Administrative Code, Sunshine Ordinance Section 67.3(c).

No action taken.

11. **Administrator’s Report, Complaints and Communications.** (*Discussion and Action*)

The SOTF Administrator presented the Administrator’s Report to the SOTF and responded to questions by the Committee.

Public Comment:

Peter Warfield stated that Library Users recently ask for the procedures for preparing agendas and minutes and did get something from the Administrator. However, it is problematic that Parties need to wait several months and then receiving a notice that they need to appear.

No action taken.

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

Member Stein raised the issue of the SOTF packets and that some of the 2,600 pages were redundant and not relevant.

Member Wong announced that there is a podcast called “On Our Watch” which investigates cases.

Chair Wolfe noted that all parties need to be identified in some way. Chair Wolfe has had several discussions with a particular Anonymous speaker on this subject and each speaker that provides comment is required to be identified.

Public Comment:

Peter Warfield agrees with Member Stein that the number of pages in the packet takes a lot of time to read and that the materials should be indexed for ease of review.

No actions taken.

13. **ADJOURNMENT**

There being no further business the meeting was adjourned at 11:20 p.m.

APPROVED: August 4, 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.