



# SUNSHINE ORDINANCE TASK FORCE CITY AND COUNTY OF SAN FRANCISCO MINUTES

## REMOTE REGULAR MEETING

August 4, 2021 - 4:00 PM

### Regular Remote Meeting

Seat 1	Dean Schmidt	Seat 7	Matthew Yankee - <b>Vice-Chair</b>
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 - <b>Chair</b>
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 4:13 PM. On the call of the roll Chair B. Wolfe, Vice-Chair Yankee, and Members, Schmidt, LaHood, Wong, Stein, Neighbors were noted present. Members Hyland, Padmanabhan and Forsley were noted not present. A quorum was present.

The were no agenda changes.

#### 2. **Approval of minutes from the Sunshine Ordinance Task Force July 7, 2021, meeting.**

The SOTF discussed the draft meeting minutes. Chair Wolfe noted that in File No. 19062 Mr. Hooper requested that there be a correction in the action. Member Stein requested that that minutes be corrected to reflect changes to Item 7 and Item 10. Vice-Chair Yankee requested that corrections be made to the action in Item 6.

**Action: Moved by Member Stein, seconded by Member Wong, to approve the July 7, 2021, meeting minutes as amended.**

Public Comment:

Patrick Monette-Shaw stated that he had no objections to the changes in the July 7 Minutes. Mr. Monette-Shaw noted that it is not clear whether Immediate Disclosure Requests amendments have been suspended indefinitely.

Peter Warfield, Executive Director Library Users Assn. [libraryusers2004@yahoo.com](mailto:libraryusers2004@yahoo.com), P.O. Box 170544, San Francisco, California, 94117-0544. Mr. Warfield stated that it is important to recognize the Brown Act when reviewing corrections/changes to the Minutes.

John Hooper stated that he wanted to make a clarification to the July 2021 SOTF minutes and noted that DPW was ordered to request Parks Alliance records.

Anonymous #3 expressed appreciation to Members Stein and Vice-Chair Yankee for noting the corrections to the July SOTF minutes.

**The motion PASSED by the following vote:**

Ayes: 8 - Stein, Wong, Neighbors, Forsley, Schmidt, Yankee, LaHood Wolfe  
Noes: 0 - None  
Absent: 2 - Hyland and Padmanabhan

Member Forsley was noted present at 4:34 PM.

3. **File No. 19103:** Complaint filed by Anonymous against Mayor London Breed, Hank Heckel and the Office of the Mayor for violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.25 and 67.26 by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Hank Heckel (Respondent) provided a summary of the position of the Mayor's Office. Mr. Heckel stated that in 2019 requests for future calendars, after consulting with the City Attorney, some of the entries were withheld. Mr. Heckel noted that an Order of Determination was issued in December 2020. Mr. Heckel stated that the Mayor's Office did provide the Petitioner with future calendars but would continue to withhold locations, dates and times because the City Attorney's opinion is that due to security issues, under 6245(f) of the Public Records Act, the position of the Mayor's Office is they will not disclose that information due to security of the Mayor.

Anonymous (Petitioner), provided a summary of their allegations of non-compliance with the Order of Determination. Anonymous stated that they do not agree with the position of the Mayor's Office and cited Evidence Code 1040 regarding the balancing test for a need for confidentiality and Gov Code 6254(f) regarding security procedures of a local police agency, and that they don't apply to calendars. Anonymous stated that they were asking for meetings that took place on the phone, virtually, or in City Hall and for the date, time and recurrence of weekly phone calls. Anonymous doesn't believe the balancing test supports that the public interest in nondisclosure *clearly outweighs* public interest in disclosure. Anonymous noted that there is no physical security threat as discussed in *Times Mirror Co. v Superior Court* for a phone call.

A question and answer period occurred.

**Moved by Member LaHood, seconded by Member Wong to forward the Order of Determination to the Board of Supervisors.**

Member LaHood rescinded their motion.

**Action: Moved by Vice-Chair Yankee, seconded by Member Schmidt to affirm the original SOTF Order of Determination and deems for meetings that the date, time of and location and participants of virtual meetings, future calendars of virtual telephone and City Hall meetings be disclosed and include that the SOTF determined that all information including telephone numbers and virtual information should be provided.**

Public Comment:

Patrick Monette-Shaw stated that he was not surprised that the Mayor's staff was not in compliance with the Order of Determination and observed that while Mayor Breed represented District 5 several violations by her were reported to the District Attorney's Office.

Mimi Klausner stated that she was disoriented because she was not able to see Members of the SOTF and that she is waiting for her case.

David Pilpel spoke as a former SOTF member and stated that he was listening to the proceedings. Mr. Pilpel stated that the reasons for not citing and nondisclosure are not acceptable.

Mark Sullivan read 67.21(e) into the record and noted that if the Custodian fails to comply with the request, the matter should be referred to the District Attorney or the Attorney General.

Peter Warfield, Executive Director, Library Users Association, provided his contact information and noted that the public commentators have made excellent comments and they should not ignore the specifics of the law.

Chair Wolfe provided an amendment to the motion with the agreement of the second.

**Moved by Chair Wolfe, seconded by Vice-Chair Yankee, to amend the original motion to read: that the SOTF affirms the original Order of Determination and deems and orders that the date, time, location and participants in the future calendars of virtual, telephone and City Hall meetings be disclosed immediately and to provide confirmation of their actions or inactions within five days of this meeting. If the respondent continues noncompliance with the Order of Determination, the SOTF Administrator shall notify the SOTF Chair who shall order the matter to be referred to the District Attorney pursuant to Administrative Code 67. 21(e) and the Ethics Commission for a show cause hearing as per Ethics Commission regulation Section 10(b).**

Public Comment on the Amendment.

Peter Warfield, Executive Director, Library Users Association, provided contact information and expressed thanks to the Chair for strengthening the motion.

Patrick Monette-Shaw expressed supports for the amendments but strongly urges Chair Wolfe to reconsider the five-day deadline provided to the Mayor's Office due to noncompliance with the original Order of Determination.

**The motion PASSED by the following vote:**

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

Noes: 0 - None

Absent: 1 - Hyland

Original Motion as Amended.

**Action on original motion as amended Moved by Vice-Chair Yankee, seconded by Member Schmidt, that the SOTF affirms the original Order of Determination and deems and orders that the date, time, location and participants in the future calendars of virtual, telephone and City Hall meetings be disclosed immediately and to provide confirmation of their actions or inactions within five days of this meeting. If the respondent continues noncompliance with the Order of Determination, the SOTF Administrator shall notify the SOTF Chair who shall order the matter to be referred to the District Attorney pursuant to Administrative Code 67. 21(e) and the Ethics Commission for a show cause hearing as per Ethics Commission regulation Section 10(b).**

**The motion PASSED by the following vote:**

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

Noes: 0 - None

Absent: 1 - Hyland

Member Padmanabhan was noted present at 5:30 PM.

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. *(No Action). Public comment shall be taken at 5:00 p.m. or as soon thereafter as possible.*

Patrick Monette-Shaw recapped his complaint filed on January 17 against the City Attorney. Mr. Monette-Shaw stated that it took 17 months between the time his case was opened and the Order of Determination was issued.

Peter Warfield, Executive Director, Library Users Association, provided his contact information that the Library Commission has not changed the processes of public comment.

Anonymous #3 stated that he has denounced various city officials and today they spoke of his cases before the District Attorney and the Public Utilities Commission. Anonymous #3 stated that the District Attorney has finally provided certain records as they are required to do but not all their records.

Theresa Ramirez, Labor Union 2061, stated that the Union has first-hand experience with transparency and appreciates the SOTF and the job it is performing.

David Pilpel stated that he is concerned about the SOTF backlog which is the highest it has ever been. Mr. Pilpel suggests that the SOTF memorialize and make public what has been learned while in Covid regarding public comment at virtual meetings.

Dr. Sumchai provided comment about the consistencies in the agenda that can convey bias or prejudice and wants the agenda to be consistent and not bias in subtle wording.

Mark Sullivan provided the following written public comment.

Mr. Sullivan stated that How SOTF members vote often falls on how narrowly or broadly you read provisions.

California Constitution, courts, Sunshine Ordinance instruct you to interpret provisions broadly only narrowly if the law expresses specifically to the contrary. Constitution “A statute, ... shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.”

*Sierra Club v. Superior Court* “where terms are ambiguous the constitutional canon requires an interpretation that maximizes the public’s right of access unless the Legislature has expressly provided to the contrary”.

“In other words, all public records are subject to disclosure unless the Legislature has expressly provided to the contrary.” *Williams v. Superior Court*

This is to say that if you are going to vote against a broad interpretation of a public access provision than you should cite a specific provision of statute that provides contrary exemption. Full:

<https://sfneighborhoods.net/3mincp.html>

The SOTF recessed from 6:45 PM to 6:55 PM.



5. **File No. 20106:** Complaint filed by Mimi Klausner against the Police Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.7 by grouping several agenda items into one and 67.15 by failing to allow participation in public comment during a Police Commission meeting.

Mimi Klausner (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Klausner stated that the Police Commission has multiple items grouped together and does not allow Public Comment for each individual item. Ms. Klausner also noted that in the past there has been a limited amount of time to make Public Comment. Ms. Klausner stated that there should be some indication on the agenda that Public Comment can be taken after each item.

Sgt. Stacy Youngblood (Police Commission) (Respondent), provided a summary of the department's position. Sgt. Youngblood stated that Commissioner Chair Malia Cohen was not present but that they had spoken with her regarding this issue and could speak for her. Sgt. Youngblood stated that Ms. Cohen moved Public Comment to the beginning of the Agenda. Sgt. Youngblood also stated that general Public Comment is on the Agenda, that it is announced when taken and members of the public have five minutes to speak.

A question and answer period occurred.

**Action: Moved by Member Wong, seconded by Member Padmanabhan, to find that the Police Commission violated Administrative Code, Sections 67.7(a) by grouping several agenda items into one, 67.15 filing to separate agenda items accordingly and failing to allow Public Comment on items individually. The SOTF orders the Police Commission to adjust their agenda to list each item on the agendas as an individual item and allow public comment on each agenda item independently. the SOTF request that the Police Commission attend a training with the Education, Outreach and Training Committee at their convenience.**

Public Comment:

Anonymous #3 noted that when a violation is found, the SOTF refers the matter to be monitored by the Compliance and Amendments Committee. Anonymous #3 stated that at the time of the Police Commission hearing there were violations for not splitting the agenda items and that the SOTF should find a violation.

Mark Sullivan recited Administrative Code Sunshine Ordinance 67.7 and added that each item on the Agenda is a separate report and should be noted as such.

Patrick Monette-Shaw stated that he agrees with Mr. Sullivan and thanked Ms. Klausner for bringing this matter forward. Mr. Monette-Shaw on the staffing of the Police Department and their compensation.

Peter Warfield, Executive Director, Library Users Association, provided his contact information stated that he agrees Mr. Sullivan and Anonymous #3. Mr. Warfield stated that the motion should be broadened and that an annual training should take place.

Member Wong, with the agreement of the second, amended their motion as follows.

**Action: Moved by Member Wong, seconded by Member Padmanabhan, to find that the Police Commission violated Administrative Code, Section(s) 67.7(a) by grouping several agenda items into one and 67.15 by failing to separate agenda items into individual items accordingly and by failing to allow public comment on items individually per 67.15. The SOTF order the Police Commission to adjust their agendas and list each of these items as independent agenda items allowing public comment for each item separately and for the Police Commission to attend a training on Administrative Code, Section 67.7 with the Education, Outreach and Training Committee at their pleasure.**

**Action: Moved by Chair Wolfe, seconded by Member Wong to replace the word order with urges.**

Public Comment:

Anonymous #3 agreed with the Motion and urges the SOTF to do what Member Wong requested.

Peter Warfield, Executive Director, Library Users Association, provided his contact information and questioned Member Wong's suggestion that the three violations should be broadened.

Patrick Monette-Shaw stated that a completion date should be included in the motion.

**The motion PASSED by the following vote:**

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

Noes: 0 - None

Absent: 1 – Hyland

Original Motion as amended.

**Action: Moved by Member Wong, seconded by Member Padmanabhan, to find that the Police Commission violated Administrative Code, Section(s) 67.7(a) by grouping several agenda items into one and 67.15 by failing to separate agenda items into individual items accordingly and by failing to allow public comment on items individually per 67.15. The SOTF urges the Police Commission to adjust their agendas and list each of these items as independent agenda items allowing public comment for each item separately and for the Police Commission to attend a training on Administrative Code, Section 67.7 with the Education, Outreach and Training Committee at their pleasure.**

**The motion PASSED by the following vote:**



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

6. **File No. 20011: Hearing Regarding Request for Reconsideration of Complaint.**

Complaint filed by Ahimsa Porter Sumchai against Mayor London Breed and the Office of the Mayor for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.15, 67.5 and 67.6, by failing to have a meeting quorum and failing to conduct business in a proper manner, failing to notice the time and place of the meeting, failing to allow public comment.

Dr. Ahimsa Porter Sumchai (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Dr. Sumchai stated that her complaint is about the Hunters Point Citizens Advisory Committee (HPCAC) hearing of January 7, 2020, where she was denied an opportunity for public comment and was told that she could not present information about biomonitoring. In addition, Dr. Sumchai stated that there was a meeting on radiology and that she was deliberately not invited. Dr. Sumchai also testified that on January 27, 2020, at a HPCAC meeting where she was again denied public comment, there was also no quorum and the minutes were falsified.

The Respondent was not present and did not advise the Administrator of their absence.

**Action: Moved by Vice-Chair Yankee, seconded by Chair Wolfe to refer the matter back to the Complaint Committee to address the January 27, 2020, meeting and remove any complaints about the SOTF because the SOTF cannot adjudicate itself and that time has lapsed for any request for reconsiderations of a SOTF 2019 Order of Determination.**

Public Comment:

Anonymous #3 noted that there are several complaints including a clerical error. Anonymous #3 stated that there is a letter from Dr. Sumchai where she describes the documentation at the first Committee meeting and that there was confusion.

Peter Warfield, Executive Director, Library Users Association, provided his contact information and expressed appreciation for the clarification made by Anonymous #3.

**The motion PASSED by the following vote:**

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

7. **File No. 20079:** Complaint filed by Shane Anderies against District Attorney's Office and Chesa Boudin for violating Administrative Code (Sunshine Ordinance), Sections Section(s) 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.

Member LaHood provided a synopsis of the matter. Member LaHood stated that the current Order of Determination should not have been issued. Member LaHood stated that a signal search was conducted, but the Committee had questions regarding the settings on this messaging app and requested advice from the SOTF Deputy City Attorney.

**Action: Moved by Member LaHood, seconded by Member Neighbors to rescind the original Order of Determination.**

Public Comment:

Anonymous #3 stated that this motion is the same one pointed out at the last meeting not just about the signal search.

Peter Warfield, Executive Director, Library Users Association, provided his contact information and noted that disappearing texts are not responsible government record keeping.

**The motion PASSED by the following vote:**

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

Shane Anderies (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Anderies stated that with regard to the Signal search there was a detour. Mr. Anderies noted he was requesting any written communications from Mr. Boudin regarding Mr. Ostly. Mr. Anderies stated that the Committee is focused on "Signal" and that the District Attorney's Office might be using a different message app. Mr. Anderies opined that every electronic device was not checked.

David Campos (District Attorney's Office) (Respondent), provided a summary of the department's position. Mr. Campos stated that as Member LaHood stated the Office conducted a signal search and did not find responsive records and only withheld five documents because they were privileged.

**Action: Moved by Vice-Chair Yankee that the District Attorney's Office violated Section 67.21(b) for not timely searching all requested records within the prescribed time frame.**

Vice-Chair Yankee rescinded their motion.

**Action: Moved by Member Padmanabhan, seconded by Member Schmidt, to find that Chesa Boudin and the District Attorney's Office violated Administrative Code, Section 67.21(b) by failing to respond in a complete and/or timely manner and 67.21(c) by failing to provide assistance to the Petitioner.**

Public Comment:

Anonymous 3# stated that the wording of the motion should be more specific and instead stated that the District Attorney's Office did not conduct a timely search of all responsive records.

Peter Warfield, Executive Director, Library Users Association, expressed support for Anonymous #3 statements and asked why the committee did not find a violation of 67.26, withholding kept to a minimum?

**The motion PASSED by the following vote:**

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

Member Forsley was noted absent at 10:30 PM.

## 8. Chair's Report

### 1. Project Catalyst Program.

Chair Wolfe stressed the importance of dealing with the backlog which he has discussed with Petitioner Anonymous #3, Vice-Chair Yankee and Member Wong. Chair Wolfe stated that the final outcome is always an Order of Determination, but questions whether respondents will admit noncompliance or compliance with the Ordinance. Chair Wolfe noted that the issue of Public Comment has yet to be determined. Chair Wolfe stated that this is a pilot project. Chair Wolfe stated that Anonymous #3 needs to identify specific complaints and responses and decide which respondents have not complied or admit no contest. Chair Wolfe stated that recordings of the proceedings will be available with the Administrator.

Anonymous #3 provided consent to the project.

**Action: Moved by Member Stein, seconded by Member LaHood, to approve the pilot program.**

Public Comment.

Peter Warfield, Executive Director, Library Users Association, stated that he finds the program alarming and wrong and noted that decision making is supposed to happen in public.

Patrick Monette-Shaw expressed concern that the meeting began at 4:00 PM and that we have all heard Mr. Warfield's contact information six times. Mr. Monette-Shaw suggested that the motion be amended to provide the advice from Anonymous #3.

Hank Heckel, Mayor's Office, stated that he trusts that this will be noticed in accordance with the Sunshine Ordinance and the Brown Act and if Anonymous #3 is working to resolve SOTF backlog of complaints. Mr. Heckel hopes that the SOTF includes respondents to the Prop G complaints.

Mark Sullivan agreed with Mr. Heckel regarding openness and the pilot program and believes this will bring down the case load.

**The motion PASSED by the following vote:**

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

Noes: 0 - None

Absent: 2 - Hyland and Forsley

Chair Wolfe stated that with regard to system wide advisories he prepared a draft but feels that SOTF Deputy City Attorney's should review it so the matter will have to wait until next month. Chair Wolfe noted that this particular advisory addresses timeliness.

Public Comment.

Patrick Monette-Shaw stated that he is seventy, happily retired and exhausted but acknowledged that the Chair drafted potential language and incorporate as many suggestions as he can.

Anonymous #3 thanked Mr. Monette-Shaw and the Chair.

Peter Warfield, Executive Director, Library Users Association, commended the publicizing and the education the SOTF is providing with respect to timeliness, but the SOTF still needs to do more.

Hank Heckel thanked the SOTF for their participation and commitment.

2. Annual Report to the Board of Supervisors.

Chair Wolfe stated that the Annual Report to the Board of Supervisors is not complete.

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

The SOTF Administrator presented the Administrator’s Report to the Task Force. There were no questions or comments.

Public Comment.

None.

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

Chair Wolfe told the SOTF that if they have items for the SOTF Agenda to send them to the Administrator who will forward them and start a paper trail.

Public Comment.

None.

11. **ADJOURNMENT**

There being no further business the meeting was adjourned at 12:04 AM.

**APPROVED: 9/1/21**  
**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.