



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

## REMOTE MEETING

September 7, 2022 - 4:00 PM

Seat 1	Dean Schmidt	Seat 7	Matthew Yankee - <b>Chair</b>
Seat 2	Lila LaHood	Seat 8	Chris Hyland
Seat 3	Vacant	Seat 9	Laurie Jones Neighbors
Seat 4	Jaya Padmanabhan	Seat 10	Thuan Thao Hill
Seat 5	Jennifer Wong - <b>Vice-Chair</b>	Seat 11	Bruce Wolfe
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 Yankee called the meeting to order at 4:07 PM. On the call of the roll Chair Yankee and Members, Schmidt, LaHood, Padmanabhan, Stein, Yankee, Hyland, Neighbors were noted present. Vice-Chair Wong and Member Hill were noted absent. A quorum was present.

The Committee discussed the agenda and moved to adjust the language on Item 7, File No. 21153.

**Action: Moved by Member Stein, seconded by Member Neighbors, to remove the following language from the Complaint Summary of Item 7, File 21153, “and the Office of the City Attorney.”**

Public Comment:

Peter Warfield, Executive Director Library Users Association,  
[libraryusers2004@yahoo.com](mailto:libraryusers2004@yahoo.com), P.O. Box 170544, San Francisco, California,  
94117-0544, requested clarification of the motion.

Anonymous stated that he is requesting clarification of an administrative error and that the complaint is against Dennis Herrera because he was not the City Attorney at the time of the complaint.

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

Ayes: 8 - Stein, Neighbors, Hyland, Yankee, LaHood, B. Wolfe, Schmidt,  
Padmanabhan

Noes: 0 - None

Absent: 2 - Wong, Hill

**1A. FINDINGS TO ALLOW TELECONFERENCED MEETINGS UNDER CALIFORNIA GOVERNMENT CODE SECTION 54953(e).**

The Task Force is expected to consider a motion setting forth findings required under Assembly Bill 361 (AB 361) that would allow the committee to hold the meeting remotely according to the modified Brown Act teleconferencing set forth in AB 361.

The SOTF noted that every thirty days, the SOTF must have findings for continued meetings of this body, to recognize that the state of emergency will continue to impact the body and as long as local officials continue to recommend that emergency procedures remain in place. The SOTF is required to approve these findings, or the remote meeting cannot take place.

**Action: Moved by Member LaHood, seconded by Member Stein, to approve the attached motion 1A.**

**Public Comment:**

Peter Warfield stated that he heard that remote meetings would end September 30, 2022.

David Pilpel noted interest in changing attendance requirements from the Mayor's Office and is not aware of any new guidance.

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

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

Noes: 0 - None

Absent: 2 - Wong, Hill

Vice-Chair Wong was noted present at 4:26 pm.

2. **Approval of the minutes from the Sunshine Ordinance Task Force July 6, 2022, regular meeting.**

**Action: Moved by Vice-Chair Wong, seconded by Member Neighbors, to approve the July 6, 2022, minutes.**

Public Comment:

Peter Warfield stated that he wants his contact information included each time he makes Public Comment. Mr. Warfield also stated that Public Comment needs to be clear.

David Pilpel commented on Mr. Warfield's statement.

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

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

Noes: 0 - None

Absent: 1 - Hill

3. **Approval of the minutes from the Sunshine Ordinance Task Force August 3, 2022, regular meeting.**

**Action: Moved by Vice-Chair Wong, seconded by Member Padmanabhan, to approve the August 3, 2022, minutes.**

Public Comment:

David Pilpel provided comments on the minutes.

Peter Warfield stated he wants his contact information included each time he provides Public Comment and provide various comments regarding the minutes.

Anonymous #3 thanked Member Padmanabhan for the substantive corrections and asked that item 9 be checked.

Vice-Chair Wong rescinded their motion.

**Action: Moved by Member Wolfe, seconded by Vice-Chair Wong, to continue the item to the next meeting.**

Public Comment:

None.

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

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

Noes: 0 - None

Absent: 1 - Hill

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

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

Chair Yankee stated that he received a communication from John Arntz of the Department of Elections regarding the records to provide requestors.

No actions taken.

Public Comment:

Peter Warfield stated that he would appreciate it if the exact wording was read into the record.

David Pilpel stated that the hearing schedule for September and October meetings conflict with the Jewish Holidays.

**4A. Communication from Legal Counsel regarding a Parental Leave Policy:**

Consider scheduling a future hearing to amend the Sunshine Ordinance Task Force's Bylaws pursuant to Administrative Code Chapter 67B.

Deputy City Attorney David Ries stated that this item is in regard to in person participation in public body meetings and the city’s charter which permits an exception under the emergency section that members can only be excused from attendance, for example, childbirth. The Board of Supervisors has an ordinance to create a parental leave that permits participation at public meetings when a commissioner requires and due to a physical inability to participate.

Chair Yankee proposed that the SOTF Administrator and he work on this issue to get it scheduled and posted for an official adoption at the October SOTF meeting.

**Action: Moved by Member Wolfe, seconded by Member Neighbors, to authorize the SOTF Chair to work with staff to finalize the sample language of SOTF By-Law amendment and bring it to our next meeting for approval.**

Public Comment:

David Pilpel expressed concerns about the language suggested by the SOTF and recommends that SOTF have their Deputy City Attorneys review the material.

Peter Warfield expressed appreciation for SOTF consideration of the matter.

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

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

Noes: 0 - None

Absent: 1 - Hill

**4B. Timeline for the SOTF Administrator to send notifications of SOTF**

**Determinations:** Review implementation of the motion passed for Item #9 at the March 2, 2022, meeting of the Sunshine Ordinance Task Force.

Chair Yankee stated that last month, motion notifications sent to the parties were incorrect and the audio was not available. Chair Yankee noted that the Administrator sent out the actions to allow recipients of these orders to check and verify.

**Public Comment:**

David Pilpel stated there is a template used at the SOTF hearing and at the close of the hearing there is an action to find a violation.

Mark Sullivan suggested that language go along the lines of what the SOTF member states and administrator gets it in writing during the meeting.

Anonymous #3 noted that the immediacy of the action is important and that it should not be multiple days.

Peter Warfield stated that he agrees with Member Hyland and provided various comments on the matter. Mr. Warfield read 67.21(e) into the record.

There was no action taken.

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 the SOTF should always work for the right to public access law.

Peter Warfield stated the SOTF is providing for the public which is a chance for members of the public to be heard with respect to issues regarding Sunshine.

Anonymous #3 stated that he agreed with both prior speakers, but especially agreed with Mr. Sullivan.

**NOTE: Hearings on complaints and other agenda items listed below will begin no earlier than 5:00 P.M.**

Chair Yankee called a recess at 6:30 PM until 6:40 PM

Roll Call: Schmidt, Lahood, Padmanabhan, Wong, Stein, Hyland, Neighbors, Wolfe, Yankee

Member Wolfe was noted absent at 6:41 PM.

6. **File No. 21151:** Complaint filed by Jerry Dratler against Rich Hillis, Chanbory Son, and the Planning Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to public records request in a timely and/or complete manner.

Jerry Dratler (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Dratler stated that on November 6, 2021, he requested records pertaining to a five-million-dollar loan for 635 Pacheco Street. Mr. Dratler stated that the Planning Department did not disclose they were withholding records or that records were redacted and closed the request. Mr. Dratler stated that the plans were approved and there was no explanation as to why the records were redacted.

Jonas Ionin (Respondent) provided a summary of the department's position. Mr. Ionin stated that this is an old case, and that Mr. Dratler is requesting records from 2005. Mr. Ionin stated that Mr. Dratler is claiming that the Planning Department is withholding documents that are not in their possession and have suggested that Mr. Dratler go to the Dept. of Building Inspection because the missing pages may be found there. Mr. Ionin stated that the Planning Department is not withholding records related to 365 Pacheco Street.

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

**Action: Moved by Member Schmidt, seconded by Member Neighbors, that Rich Hillis, Chanbory Son, and the Planning Department violated the California Public Records Act 6253(c), by failing to respond to a public records request in a timely manner regarding records withheld for attorney/client privilege.**

**Public Comment:**

Anonymous stated that the motion makes sense because the law requires reasons to be produced and suggested amending the motion to add 67.27 and 67.26 regarding a portion of the entire record withheld and redacted.

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

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

Member Wolfe was present at 7:29 pm.

7. **File No. 21153:** Complaint filed by Anonymous (ARE) against Dennis Herrera and the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.29-5(a), by failing to keep or cause to be kept a calendar with certain minimum information about his business meeting, and to disclose them as public records and willful failure to discharge any duties imposed by the Sunshine Ordinance, Brown Act or the Public Records Act and 67.34 willful violation constituting official misconduct.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find violations. Anonymous stated that he had a similar case with the same respondent, same request, and same violations. Anonymous stated he asked Mr. Herrera personally if he would turn over his calendars. Anonymous stated he is requesting a violation of 67.34 for willful failure to produce records.

Mayara Ruski Augusto Sa (Office of the City Attorney) (Respondent) provided a summary of the department's position. Ms. Augusto Sa stated that on November 1, 2021, Dennis Herrera became the General Manager of the SFPUC. Ms. Augusto Sa stated that one week later Anonymous requested Mr. Herrera's calendar entries for the first three days of office and then complained about the entries for the first two days. Ms. Augusto Sa stated that Anonymous' response noted incorrect descriptions of several meetings were disclosed and that as required by 67.25 missing general statements. Ms. Augusto Sa stated that Mr. Herrera was in a new job and getting up to speed. Ms. August Sa requested that the complaint be dismissed.

**Action: Moved by Member Wolfe, seconded by Vice-Chair Wong to find that Dennis Herrera and Public Utilities Commission in violation of Administrative Code, Sunshine Ordinance, Section(s) 67.29-5(a) by failing to keep calendars or providing calendars in a timely manner and that such calendars shall be public records and shall be available to any requestor three business days subsequent to the calendar date and this item be referred to CAC for monitoring and to find a violation of 67.34 for continued willful failure to not providing the requested calendar entries.**

**It was noted that Member Wolfe shall take the lead on developing a presentation to the Ethics Commission to be presented in person.**

Public Comment:

Peter Warfield thinks there needs to be more clarity on why the SOTF considers it a willful violation.

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

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

Noes: 0 - None

Absent: 1 - Hill

8. **File No. 22012:** Complaint filed by Anonymous (SFT) against Director Greg Colfax and the Department of Public Health for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find violations. Anonymous stated that this is a standard request for records which originally the Department of Public Health (DPH) did not provide. Anonymous stated DPH requested that he submit his records request to the NextRequest system, or his records would not be provided. Anonymous stated that DPH eventually turned over two documents that originally DPH was not providing. Anonymous is requesting violations of 67.21(b) for failure to comply with the request, 67.26 for nonminimal withholding and 67.27 for failure to provide justification for withholding.

Natalie Pojman (Department of Public Health) (Respondent), provided a summary of the department's position. Ms. Pojman stated that on February 15, 2022, the requestor opened a request to preserve documents and produce exact copies of the last 90 days of emails and include correspondence with the mayor's staff. Ms. Pojman stated that on February 17, 2022, DPH sent an email asking Anonymous to narrow his request, which the Petitioner complied with. On March 3, 2022, Ms. Pojman stated that an email was received by DPH staff requesting emails with the mayor's staff. On April 14, 2022, the records were provided.

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

**Action: Moved by Vice-Chair Wong, seconded by Member Wolfe, to find that Director Greg Colfax and the Department of Public Health in violation of Administrative Code, Sunshine Ordinance, Section(s) 67.21(b) by failing to provide requested records in a timely and/or complete manner, 67.26 by failing to keep withholding to a minimum and orders Director Grant Colfax and the Department of Public Health to continue to turn over requested records. In addition, the matter will be forwarded to the Compliance and Amendments Committee for monitoring.**



Public Comment:

Peter Warfield expressed support for the motion but is concerned about Immediate Disclosure Requests that are not supported by law.

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

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

Noes: 1 - Schmidt

Absent: 1 - Hill

9. **File No. 22013:** Complaint filed by Yuli Huang against David Steinberg and Public Works for allegedly violating Administrator Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Yuli Huang (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Huang stated that the information he is seeking is for construction installation of machinery driving sheet piles into the ground and the paperwork stemming from excavation and shoring products. Mr. Huang stated that he was told that the records he is seeking do not exist.

David Steinberg (Public Works) (Respondent), provided a summary of the department's position. Mr. Steinberg stated that the records Mr. Huang is requesting do not exist and that it is not a general practice that they would.

Ray Lui spoke in support of the Respondent. Mr. Lui stated that the vibrations caused by machinery driving sheet piles into the ground and the paperwork stemming from those excavations and these shoring products generally do not exist.

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

**Action: Moved by Member Schmidt, seconded by Member Wolfe, to find no violation with the caveat that the record would be public if it existed.**

Public Comment:

None.

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

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

Noes: 0 - None

Absent: 1 - Hill

Chair Yankee called a recess from 9:42 PM until 9:47 PM.

Roll call: Schmidt, Lahood, Padmanabhan, Wong, Stein, Hyland, Neighbors, Wolfe, Yankee

10. **File No. 22014:** Complaint filed by Sergei Severinov against Lt. Lynn Reilly and the Police Department for allegedly violating Administrator Code (Sunshine Ordinance), Section(s) 67.21(b), by failing to respond to a public records request in a timely and/or complete manner.

Sergei Severinov (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Severinov stated that on February 15, 2022, he sent a records request to the San Francisco Police Department and on February 16, 2022, they responded that they have no records.

Lt. Lynn Reilly (Police Department) (Respondent), provided a summary of the department's position. Lt. Reilly stated that on February 15, 2022, the department received a request for criminal records from Mr. Severinov. On February 16, a response was provided to the Petitioner. Lt. Reilly stated that by law the Police Department cannot run names in the criminal records system or refer the request to the Department of Emergency Management. Lt. Reilly stated that the Police Department did their due diligence and was not able to locate anything.

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

**Action: Moved by Chair Yankee, seconded by Member Wolfe, to find that the Police Department violated Administrative Code, Sunshine Ordinance Section(s) 67.21(c) by failing to provide assistance in finding the records and 67.27 by failing to provide an explicit justification in writing for the withholding records. The SOTF ordered the Police Department to provide more extensive assistance in locating the requested records and further orders the Police Department to provide a justification or location of the existence of records for each of the 25 separate requests in the complainant's overall request and forward the matter to the Compliance and Amendments Committee.**

Public Comment:

Peter Warfield stated thanks for the interesting discussion and suggested that a due date.

David Pilpel stated that the motion is a great example of the text of the motion and the substance of the decision and written order.

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

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

Noes: 0 - None

Absent: 1 - Hill

11. **Proposed Amendment of By-Laws:** Prohibiting presentations from political organizations and endorsements by the SOTF.

Member Neighbors stated that she is bringing this motion because of the lack of policy on this issue. Member Neighbors stated that it is useful to think in terms of what we have done regarding endorsements in the past, the SOTF does not have a policy manual like the Board of Supervisors and that it might be interesting to think about the limits of the SOTF endorsements. Member Neighbors suggested that this item be included in the next Rules Committee agenda.

Public Comment:

David Pilpel supported continuing the discussion at the Rules Committee.

No actions were taken.

12. **Review and Consider Proposed Efficiency Edits to the Complaint Process.**

**Action: Moved by Vice-Chair Wong, seconded by Member Hyland to continue the item to the next SOTF hearing immediately following Public Comment.**

Public Comment:

David Pilpel asked that the Task Force to provide a redlined version with amended changes and a clean version of the complaint procedures.

Peter Warfield thinks it fine to suggest a date for the Rules Committee hearing but would urge the Task Force to modify the materials to provide what is suggested for the public.

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

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

Noes: 0 - None

Absent: 1 - Hill

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

No public comment.

No actions taken.

14. **ADJOURNMENT**

There being no further business the meeting was adjourned at 11:45 pm.

**APPROVED: DRAFT**  
**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.