CALL TO ORDER, ROLL CALL, AND AGENDA CHANGES

Chair B. Wolfe called the meeting to order at 4:08 PM. On the call of the roll Chair Wolfe and Members Schmidt, LaHood, Padmanabhan, Stein, Yankee, Hyland, Neighbors were noted present. Member Wong was noted not present. A quorum was present.

The Committee discussed the Agenda and noted that in Item No. 6 (File No. 20056) the Petitioner requested a postponement.

The Committee suggested continuing Item 12 until the November Sunshine Ordinance Task Force hearing due to lack of attachment.

Action: Moved by Chair Wolfe, seconded by Member Hyland, to continue Item Nos. 6 and 12 to the Call of the Chair.

Public Comment:

None.
The motion PASSED by the following vote:

Ayes: 8 - B. Wolfe, Hyland, Yankee, LaHood, Neighbors, Stein, Padmanabhan, Schmidt
Noes: 0 - None
Absent: 1 - Wong

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 AB361.

Deputy City Attorney Helen Castillo advised the Committee that AB361 requires that after September 30, 2021, 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, second by Vice-Chair Yankee, to approve the motion to follow the requirements of AB361.

Public Comment:

David Pilpel provided suggested edits to the motion to streamline the language.

The motion PASSED by the following vote:

Ayes: 8 - LaHood, Yankee, Wolfe, Hyland, Neighbors, Stein, Padmanabhan, Schmidt
Noes: 0 - None
Absent: 1 - Wong

2. Approval of minutes from the Sunshine Ordinance Task Force Rules Committee of September 1, 2021, meeting.

The SOTF discussed the draft meeting minutes.

Action: Moved by Member Stein, seconded by Member Neighbors, to approve the September 1, 2021, meeting minutes.

Public Comment:

None.
The motion PASSED by the following vote:

Ayes: 8 - Yankee, Stein, Neighbors, LaHood, B. Wolfe, Hyland, Padmanabhan, Schmidt
Noes: 0 - None
Absent: 1 - Wong

3. Board of Supervisors Ordinance #201132 - Campaign and Governmental Conduct Code - Behested Payments.

Chair Wolfe explained that there is a Board of Supervisors Ordinance which created restrictions on activities with regard to fundraising by nonprofits and other types of entities. Chair Wolfe requested that the matter be continued to the November SOTF hearing to allow for suggestions and a response form the Committee.

Action: Moved by Member LaHood, seconded by Member Stein, to continue the item to the Call of the Chair.

Public Comment.

David Pilpel stated that the SOTF is a policy body and does exercise some sovereign powers in the City, although they are limited, decision making powers.

The motion PASSED by the following vote:

Ayes: 8 - LaHood, Stein, Neighbors, B. Wolfe, Hyland, Padmanabhan, Schmidt, Yankee
Noes: 0 - None
Absent: 1 – Wong

Vice-Chair Yankee was noted absent at 4:56 PM

4. File No. 21054: Complaint filed by Patrick Monette-Shaw against Grant Colfax, Veronica Vien and the Department of Public Health for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21 by failing respond to a public records request in a timely and/or complete manner.

Patrick Monette-Shaw (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Monette-Shaw stated that he requested information from San Francisco Zuckerberg General and Laguna Honda Hospital regarding out of county dispatched patients. Mr. Monette-Shaw filed his complaint on May 4, 2021, and that despite a chronology submitted to summarize the complaint the Department of Public Health has not responded to his request. Mr. Monette-Shaw stated that in previous years that information has been provided.

Christine Padilla (Department of Public Health (DPH)) (Respondent), provided a summary of the department’s position. Ms. Padilla stated that DPH has adopted a new electronic system which does not track out of county discharge systems because that was
a manual process. Ms. Padilla stated that she needed to speak with her supervisor to understand what the manual process is. Ms. Padilla acknowledged that her department owes the requestor additional documents.

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

**Action:** Moved by Member Padmanabhan, seconded by Member Schmidt, to find that the Department of Public Health violated Administrative Code, Sunshine Ordinance Section(s) 67.21(b) by failing to provide a complete production of records, 67.21(c) failing to provide the requestor assistance in locating records, and 67.27 failing to provide justifications for redactions. The SOTF further requested that the outstanding records be provided to the requestor within five business days of the issuance of the Order of Determination and referred to the Compliance and Amendments Committee for monitoring.

**Public Comment:**

Dr. Theresa Palmer stated that she has a sincere interest in the dumping of people out of the county. Dr. Palmer stated that there is data on discharges and that Public Health just doesn’t want to know who is out of county.

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

- **Ayes:** 7 - Padmanabhan, Schmidt, LaHood, Stein, Neighbors, B. Wolfe, Hyland
- **Noes:** 0 - None
- **Absent:** 2 - Wong, Yankee

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 provided the following written summary of their public comment:

“Sunshine requires employees give accurate, truthful information. Section 67.22 (b) … "informal contacts between employees and members of public …confined to accurate information not confidential by law." SOTF should hold informal hearings? Broad interpretation, employees must provide accurate information formal situations. Language to back it up. Section 67.1 (b) "The people do not cede to these entities the right to decide what the people should know about the operations of local government." Also “know” is used in 67.1 (d) and The Brown Act 54950. Dictionary.com Know - to perceive or understand as fact or truth; Mirriam-Webster Know - to be aware of the truth or factuality. SOTF does not put people under oath, Sunshine Ordinance requires government employees provide accurate and truthful information at hearings. Section 67.22 (e)
protecting public employees from disciplinary action for being accurate, speaking the truth and disclosing any public information or a public record.”

Wynship Hillier described the process he adheres to when preparing a complaint. Mr. Hillier noted that when preparing complaints he includes bookmarks and highlighting which is stripped out when the record becomes part of the agenda packet and wants to know if the SOTF has access to those records.

Patrick Monette-Shaw noted extreme disappointment with the SOTF. Mr. Monette-Shaw stated that he has been engaged in filing Sunshine Complaints since the tenure of Alan Grossman and supported the SOTF at City Hall that on this date. Mr. Monette-Shaw noted that the SOTF is being snowed and that several new members of the SOTF are not knowledgeable about City agencies.

6. **File No. 20056**: Complaint filed by Anonymous against City Librarian Michael Lambert for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b)(l) by failing to respond to a records request in a complete and timely manner.

See above motion to continue the matter to the Call of the Chair.

Vice-Chair Yankee was noted present at 5:55 PM

7. **File No. 20100**: Complaint filed by Wynship Hillier against the Behavioral Health Commission, formerly known as the Mental Health Board for allegedly violating, Section 67.7(a) failing to post the Agenda 72 hours in advance and failure to provide a description of each item of business; 67.7(b) failing to post documents on the website or make available to the public; 67.7(d) failure to take action on any item not on the Agenda; 67.7(g) failing to allow public comment; 67.9(a) failure to post relevant documents on the internet.

Chair Wolfe noted that both Items 7 and 8 were heard by different Committees and suggested a motion to combine the items.

Both the Petitioner and Respondent agreed to combining the two matters.

**Action:** Moved by Chair Wolfe, seconded by Member Hyland, to combine Items 7 and 8, File Nos. 20100 and 20143, respectively. (File No. 20143 combined into 20100)

Public Comment:

Mark Sullivan provided the following written summary of their public comment

“Behavioral Health Commission SF AC 15.13 (a) 3-year terms for members. SF AC 15.13 (b) serve no more than 2 consecutive full terms. Partial term of 1.5 years means max term 6 years with possible 1.49 more years. No possible consecutive holdover service beyond. Agree with Wolfe Sec 67.3 (d) (3) commission by ordinance BOS, most likely definition. 54952. As used in this chapter, “legislative body” means: (a) The governing body of a local agency or
any other local body created by state or federal statute. Covers local body if welfare code says body is state. Section 67.3(d)(7) clearer language: Any advisory board, commission, committee, or council created by a federal grant, State grant, or local grant whose members are appointed by City officials, employees or agents. Merriam-Webster. Grant 2: to bestow or transfer formally. Doesn’t apply to this commission. SF city uses “grant” for contract.”

The motion PASSED by the following vote:

Ayes: 8 - Wolfe, Hyland, Padmanabhan, Schmidt, LaHood, Stein, Neighbors, Yankee
Absent: 1 - Wong

Member Wong was noted present at 6:06 PM.

Wynship Hillier (Petitioner) provided a summary of the complaint and requested the SOTF to find a violation. Mr. Hillier stated that at the July 15, 2020, Behavioral Health Commission meeting there were three commission members present which is required for there to have been a majority of the members present. Mr. Hillier stated that he does not take the position that the word member means that this definition, is incorrect office, vacancy or seat and stated that he has an unbeatable argument that Charter Section 4.104(b) did not apply to the Commission.

Geoffrey Grier (Behavioral Health Commission - Department of Public Health) (Respondent). Mr. Grier stated that Mr. Hillier is calling quorum into question. Mr. Grier has been working with the Rules Committee and the Board of Supervisors to fill the remainder of the vacant seats. Mr. Grier stated that with regard to the citation of Administrative Code 67.7(a) failure to post the agenda, the IT department of the Department of Public Health can validate the posting of the agenda. Mr. Grier noted that actions were taken on July 15 and were evidenced in the minutes. Mr. Grier stated that public comment was also taken at that meeting. Mr. Grier stated that the allegation of failure to post the Agenda is false. Mr. Grier also checked the back record and the meeting that supposedly took place on July 6 is also false.

Carletta Jackson Lane, Co-Chair (Behavioral Health Commission) provided the following supporting statement. Ms. Jackson Lane stated that the BHC has always followed the correct procedures outlined by the Department of Public Health and the Mental Health Services Act and the DPH IT team can provide confirmation.

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

Action: Moved by Member Stein, seconded by Member Schmidt, to find that the Behavioral Health Commission violated Administrative Code, Sunshine Ordinance, Section(s) 67.7(a) by failing to provide an adequate description of agenda items; 67.7(b) failing to post supporting documents on-line or make them available as soon as they are available, 67.7(g) failing to include notices of rights under the Sunshine
Ordinance on the agenda, and 67.9(a) failing to post supplementary documents for the meeting on the internet. Public Comment:

Stephen Banuealos, Commissioner (Behavioral Health Commission) stated that he was not on the Commission during the Summer of 2020. Mr. Banuealos confirmed the lack of staff for the BHC was an issue. Mr. Banuealos stated that the Commission will implement actions in the future that specifically addresses members terming out every few years.

The motion PASSED by the following vote:

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

Action: Moved by Chair Wolfe, seconded by Vice-Chair Yankee, to continue the matter to the Call of the Chair to review the status of the Behavioral Health Commission as to whether it falls under the jurisdiction of the Ordinance under 67.3(d) and to further review how the holdover provisions apply.

Public Comment:

None.

The motion PASSED by the following vote:

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

Action: Moved by Vice-Chair Yankee, seconded by Chair Wolfe, to find that the Behavioral Health Commission violated Administrative Code (Sunshine Ordinance), Section(s) 67.7(a) by failing to post their Agenda 72 hours in advance the meeting.

Public Comment:

Speaker No. 2 noted that they heard Mr. Grier state that he presented evidence that the agenda was posted 72 hours in advance of a hearing.

Patrick Monette-Shaw commended Vice-Chair Yankee and supports the motion.

The motion PASSED by the following vote:

Ayes: 8 - Yankee, Wolfe, Hyland, Padmanabhan, Schmidt, LaHood, Neighbors, Wong
Noes: 1 - Stein
The meeting was recessed from 8:27 PM to 8:37 PM.

8. **File No. 20143:** Complaint filed by Wynship Hillier against the Behavioral Health Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.7(a) by failing to post the Agenda 72 hours in advance of the meeting and failure to provide a description of each item of business; 67.7(b) failing to post documents on the website or make available to the public; 67.7(g) failing to allow public comment; 67.7(g) failing to include notices rights under the Sunshine Ordinance on the agenda; 67.7(h) failing to include contact information and the Administrator’s name on the agenda; 67.9(a) failure to post relevant documents on the internet; 67.15(c) failing to allow public comment; and 67.21(b) failing to make files available to the public.

File No. 20143 Combined into File No. 20100.

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

Member LaHood provided a synopsis of the Compliance and Amendments Committee hearing on the matter.

Karl Kramer (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Kramer stated that records had been provided but not to his satisfaction. Mr. Kramer stated he told David Steinberg, Custodian of Records for Public Works, that if he could get all the requested records, he would be willing to withdraw the complaint. Mr. Kramer stated that Mr. Steinberg suggested that he speak with Devon McAuley also from Public Works. Mr. Kramer stated that he never heard from Mr. McAuley.

David Steinberg (Public Works (DPW)) (Respondent), provided a summary of the department’s position. Mr. Steinberg stated that the minutes are incorrect and that the Complaint Committee suggested finding a violation of timeliness even though he provided the records. Mr. Steinberg stated that the communication received did not indicate it was a records request. Mr. Steinberg stated that he was not aware of the request for records until informed by SOTF Administrator Leger and he responded with records on that same date. Mr. Steinberg also noted that Mr. Kramer sent the request to the DPW general email account and no one had seen the request.

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

**Action:** Moved by Member Neighbors, seconded by Vice-Chair Yankee, to find that Alaric Degrafinried and Public Works violated Administrative Code (Sunshine Ordinance), Section 67.21(b) by failing to provide records in a timely and complete manner.

Public Comment:
None.

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

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

10. **File No. 20120:** Complaint filed by Ileina Afuha’amango against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a records request for public records in a timely and/or complete manner.

Ileina Afuha’amango (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Afuha’amango stated that on October 5, 2020, she submitted a request for a police report and was told by Lt. Pilot that he could not release the report at that time due to an ongoing investigation and stated that the facts of the case might change. Ms. Afuha’amango stated that the Police Department provided her its CISU Unit Order 20-18 Procedures Manual for the Release of Police Reports to the Public. Ms. Afuha’amango also noted that nowhere in that policy does it say the Medical Examiner’s Office needs to complete its review of the matter. Ms. Afuha’amango stated that in January 2021, she received the requested records.

Lt. Arran Pera (Police Department) (Respondent), provided a summary of the department’s position. Lt. Pera stated that this case involved a homicide and the cause of death was unknown. Lt. Pera stated that the Medical Examiner’s Office is required to provide the release of their report before it can be shared because the cause of death was unknown and it was not an ordinary case. Lt. Pera stated on October 9, 2020, the Department provided the requested policies. Lt. Pera noted that he provided updates to Ms. Afuha’amango and on January 2021 the Department released the report to Ms. Afuha’amango.

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

**Action:** Moved by Vice-Chair Yankee, seconded by Member Wong to find that the Police Department violated Administrative Code, Section 67.27, by failing to justify the withholding in writing.

Public Comment:

None.

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

Ayes: 8 - Yankee, Wong, Wolfe, Hyland, Padmanabhan, LaHood, Stein, Neighbors
Noes: 1 - Schmidt
11. **File No. 20011**: 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.

Member Schmidt provided a synopsis of the findings of the Complaint Committee.

Dr. Ahimsa Porter Sumchai (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Dr. Sumchai stated that the agenda from the Hunters Point Shipyard Citizens Advisory Committee (HPSCAC) cites complaints stemming from SOTF Complaint No. 19077. Dr. Sumchai stated that a meeting was held on July 20, 2017, where only one member of the committee was present. Dr. Sumchai noted that after the meeting took place, falsified minutes were drafted and posted. Dr. Sumchai stated that those minutes contradict the testimony of the full SOTF of 2019 in which the respondent stated there was a quorum. Dr. Sumchai stated that she also planned to attend the January 27 HPSCAC meeting and present slides of her research on biomonitoring of fire department women personnel during public comment. Dr. Sumchai stated that the SOTF has an email thread showing initial approval made by Ms. Vincent for Dr. Sumchai to present her biomonitoring slides and use the HPSCAC equipment during public comment and was then told she could not present her research which violated her rights to free speech and oppressed her freedom.

Alisa Vincent (Hunters Point Shipyard Citizens Advisory Committee (HPSCAC) (Respondent), provided a summary of the department’s position. Ms. Vincent stated that she would only address the denial of public comment. Ms. Vincent stated that initially Dr. Sumchai’s slide presentation was approved and she was allowed to use the equipment of the HPSCAC to present her slides. Ms. Vincent stated that her supervisor reversed their decision allowing Dr. Sumchai to present because they believed Dr. Sumchai was using this venue to solicit for and promote her business.

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

**Action:** Moved by Member Schmidt, seconded by Member LaHood to find that the Hunters Point Citizens Advisory Committee violated Administrative Code (Sunshine Ordinance), Section 67.15(d) by abridging/prohibiting public criticism of a policy body.

Public Comment.

David Pilpel stated that he doesn’t believe this is a policy body but is a passive meeting body and that the body can entertain questions.

Member Schmidt rescinded their previous motion. The second agreed.
Action: Moved by Member Schmidt, seconded by Member LaHood, to find that the Hunters Point Citizens Advisory Committee violated Administrative Code (Sunshine Ordinance), Section 67.4(a)(3) by failing to allow Dr. Sumchai to present during public comment based on the substance of the presentation

Public Comment.

David Pilpel noted respect to Member Schmidt but also stated that it would be difficult to find a violation of 67.4.

The motion FAILED by the following vote:

Ayes: 4 - Schmidt, LaHood, Padmanabhan, Wong
Noes: 5 - Wolfe, Yankee, Stein, Hyland Neighbors
Absent: 0 - None

Action: Moved by Chair Wolfe, seconded by Member LaHood, to continue the matter to the Call of the Chair pending the results of research by the SOTF Deputy City Attorney and committee review (to be determined by the Chair) prior to additional SOTF hearings.

Public Comment:

None.

The motion PASSED by the following vote:

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

12. Project Catalytic will be centered by the category of the actual, initial request made by the complainant. Meaning the stated request will be the same for multiple complaints despite being to different respondents.

The SOTF continued the matter to the call of the Chair

The motion PASSED by the following vote:

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


Deputy City Attorney Helen Castillo stated that some of the provisions have been signed into law. AB361 and AB339 are similar and requires that public boards provide public
access even if all members attend. AB703 is still in committee and SB16 was just signed into law but does not go into effect immediately. SB16 has to do with public records requests that go to Police Departments and will amend provisions of Evidence Code 1025, 832.12 and add 832.13.

Public Comment.

David Pilpel stated that the memo from the City Attorney’s Office about 361 is very helpful and suggested that the Committee draft advice that the SOTF can approve and circulate to city departments about how to conduct meetings under AB361.

No actions taken at this time pending a Deputy City Attorney analysis and report.

14. **Review of Draft Complaint Form.**

SOTF Administrator Leger stated that the form has been approved by the Mayor’s Office on Disability.

Member Stein made noted comments and suggestions.

**Action:** Moved by Vice-Chair Yankee, seconded by Member LaHood, to approve the form as amended.

Public Comment.

David Pilpel noted appreciation of Member Stein’s suggested edits. Mr. Pilpel stated that members of the public who wish to file complaints with the SOTF should take note that completing this form is optional.

Vice-Chair Yankee rescinded their motion. The seconded agreed.

**Action:** Moved by Chair Wolfe, seconded by Member Stein, to continue the matter to the Call of the Chair. It was advised that SOTF members forward their updates and suggestions to the SOTF Administrator including items on public meetings.

Public Comment.

None.

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

Ayes: 9 - Wolfe, Stein, LaHood, Yankee, Wong, Hyland, Padmanabhan, Neighbors, Schmidt
Noes: 0 - None
Absent: 0 - None
15. **Chair’s Report.**

Chair Wolfe provided a synopsis of the Chair’s Report and noted that most Custodians are not provided proper training when responding to a records request. Chair Wolfe noted that many have been before the SOTF and turned a ten-day response to include an additional 14 days.

Member Hyland stated that information should be provided on one page, should catch their attention and include notice that they will be in violation.

Deputy City Attorney Helen Castillo stated that this information contradicts the advice of the City Attorney.

**Action:** Moved by Chair Wolfe, seconded by Member Hyland, to continue the matter to the Call of the Chair.

**Public Comment.**

David Pilpel stated that this seems like lecturing, too long and not relevant to Covid.

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

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

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

No actions taken.

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

No actions taken.

18. **ADJOURNMENT**

Moved by Vice-Chair Yankee, seconded by Member Stein, to adjourn the meeting.

**Public Comment.**

David Pilpel stated that Administrators Leger and Young are doing a fine job and the continuing increase of complaints compared to the disposition of the SOTF and addressed the number of outstanding complaints.

There being no further business the meeting was adjourned at 12:45 am.
APPROVED: 12/3/21
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.