



SUNSHINE ORDINANCE TASK FORCE CITY AND COUNTY OF SAN FRANCISCO MINUTES

REMOTE SPECIAL MEETING

January 12, 2021 – 6:30 PM

| | | | |
|--------|----------------------------|---------|------------------------------------|
| Seat 1 | Dean Schmidt | Seat 7 | Vacant |
| Seat 2 | Lila LaHood | Seat 8 | Vacant |
| Seat 3 | Vacant | Seat 9 | Chris Hyland |
| Seat 4 | Vacant | Seat 10 | Matthew Yankee - Vice Chair |
| Seat 5 | Jennifer Wong | Seat 11 | Fiona Hinze |
| Seat 6 | Bruce Wolfe - Chair | | |

Ex-officio (*non-voting*) Clerk of the Board of Supervisors or his or her designee

Ex-officio (*non-voting*) Mayor or his or her designee

1. CALL TO ORDER, ROLL CALL, AND AGENDA CHANGES

Chair B. Wolfe called the meeting to order at 6:32 PM. On the call of the roll Chair B. Wolfe and Members LaHood, Schmidt, Wong, Hyland, Yankee and Hinze were noted present. A quorum was present.

2. **File No. 21001:** Determine how to comply with Sunshine request; what information to disclose; and whether to disclose legal advice.

Chair Wolfe stated that the SOTF received a public records request regarding the suspension of regular memos previously provided by the City Attorney's Office that are included in each of the files. Chair Wolfe stated that in March 2020, the SOTF received notice that City Attorney memos would be suspended by our legal counsel. Chair Wolfe asked the SOTF to address this request and whether they should release those records and waive attorney/client privilege. Chair Wolfe addressed this matter by stating that SOTF legal counsel considered this email as legal advice and a privileged communication but that it is up to the SOTF on whether to waive their attorney/client privilege.

Deputy City Attorney Price Wolf stated that the SOTF is the client and that the email document is governed by attorney/client privilege, however the SOTF as a whole can waive that privilege. DCA Price Wolf stated that individually the SOTF members cannot decide to waive the privilege. DCA Price Wolf stated that the majority has to agree to constitute the waiver. DCA Price Wolf stated that his advice is to not release the requested records.

Chair Wolfe questioned the SOTF, should we release those records? SOTF DCA Price Wolf says it rises to privilege.

DCA Price Wolf noted that anytime there is legal advice from an attorney it is covered by attorney/client privilege and he advised the SOTF that they will be going against legal counsel to release that email. DCA Price Wolf opined that this email is protected communication. DCA Price Wolf stated that the only way for the SOTF to release this communication is to have a majority vote on it.

Member LaHood stated that the SOTF should waive privilege on this issue. Member LaHood stated that SOTF is about transparency. Member LaHood stated that she understands what DCA Price Wolf is saying however she is in favor of releasing the requested record because we know this particular issue and waive legal counsel's advice.

Action: Moved by Member Yankee, second by Member Hinze to waive attorney/client privilege on communication and release the requested records.

Public Comment:

David Pilpel noted that email communications are at issue and the client holds the privilege. Mr. Pilpel noted that there was no attachment in the Agenda and that neither he nor members of the public have seen this request. Mr. Pilpel stated that SOTF may decide to disclose and consider waiving the privilege.

Anonymous stated that on December 9, 2020, he sent an email requesting the email. Anonymous stated that he agrees with everything the SOTF Deputy City Attorney has advised today. Anonymous emphasized that SOTF should not consider the public interest balancing test and urged the SOTF to disclose and release the communication.

The motion PASSED by the following vote:

Ayes: 6 - Yankee, Hinze, Wong, LaHood, Hyland, Wolfe

Noes: 1 - Schmidt

Absent: 0 - None

3. **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)*

Tom Ostly noted that the audio of the July website is not correct.

Anonymous stated thanks to the SOTF. Anonymous noted that today is a great victory for Sunshine and metadata. Anonymous stated that for years San Francisco executives have refused to comply with the Ordinance. Anonymous stated that the Department of Public Works provided the requested records. Anonymous noted appreciation that Linda Gerull of the Department of

Technology continue working with members of the public to address technology issues.

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

Note actions.

5. **ADJOURNMENT**

There being no further business the meeting was adjourned at 7:37 p.m.

APPROVED: 2/3/21
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.