



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

REMOTE REGULAR MEETING

November 4, 2020 - 4:00 PM

Regular Meeting

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
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 4:17 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. **Highlights of the Sunshine Ordinance: Section 67.15 (a & b), Public Testimony.**

Chair Wolfe opened the conversation and stated that he has reports from members of the public of confusion regarding which bodies manage public testimony and how under the Sunshine Ordinance. Chair Wolfe has also heard that members of the public have not been allowed to make public comment. Chair Wolfe also noted that some meeting bodies do not know they are policy bodies and need to change the way they organize and schedule their meetings. Chair Wolfe opined that the Education, Outreach and Training Committee provide assistance including training.

Public Comment:

Peter Warfield, Executive Director Library Users and can be reached at libraryusers2004@yahoo.com stated that he has heard people express concern about the inability to comment on the Board of Supervisors committee meetings. Mr. Warfield stated that his first concern is the complete lack of clarity on this subject on the agenda. Mr. Warfield noted that sometimes the time allowed for public comment is reduced from two minutes to one minute.

Anonymous stated they agreed with Mr. Warfield and wanted to follow up on what he said. Anonymous stated that when a Supervisor introduces legislation, most people do not know there are subcommittees. Anonymous noted that this person may not have attended the neighborhood meeting and may not be aware that the issue is before the Board of Supervisors. Anonymous stated that committee meetings take place during the daytime. Anonymous stated that at committee meetings, if no one calls in to comment, they will close public comment before public is allowed or able to comment.

David Pilpel stated that this section generally mirrors California Government Code 549.543 as to public comment on agenda items. Mr. Pilpel stated that the concept of not allowing public comment at parent body where a committee has heard the item is an old concept of the Brown Act that was not introduced as a new item in the Sunshine Ordinance, but it duplicates that concept. Mr. Pilpel stated that if the Chair would respond as to whether his intention was to discuss this section at every meeting or as an opportunity to highlight a particular section of the Ordinance and call it to people's attention.

3. **Approval of minutes from the Sunshine Ordinance Task Force October 7, 2020, meeting.**

The SOTF discussed the draft meeting minutes and there were no changes.

Action: Moved by Member Yankee, seconded by Member Wong, to approve the October 7, 2020, meeting minutes.

Public Comment:

Peter Warfield stated that he did not attend that October Sunshine Task Force meeting. Mr. Warfield stated that he wants specifics about what the minutes mean. Mr. Warfield stated that he would like to see minimal descriptions of the minutes and does not think that the description is in accordance with the Ordinance.

The motion PASSED by the following vote:

Ayes: 7 - Yankee, Wong, J. Wolf, Schmidt, LaHood, Hinze, B. Wolfe

Noes: 0 - None

Absent: 0 - None

4. **Presentation of the Annual Supervisor of Records Report.**

John Cote presented the 20th Annual Supervisor of Records Report of 2019 and provided comments on those sections relating to the Sunshine Ordinance Task Force.

Public Comment:

Peter Warfield, Executive Director Library Users and can be reached at libraryusers2004@yahoo.com stated that the report is always interesting and

appreciates the report as required by law. Mr. Warfield has been before the SOTF about this issue. Mr. Warfield stated that in almost none of the cases the Supervisor of Records provides a conclusion and thinks the SOTF should not accept the report.

David Pilpel stated that with regard to Mr. Warfield's point, the SOTF has discussed the 10-day response before. Mr. Pilpel stated that when he was on the SOTF he asked the City Attorney and what their process was an inquiry in 10-day response. Mr. Pilpel noted that Brad Russi should have been presenting the report instead of Mr. Cote.

5. **Commemoration and In Memoriam of Allen Grossman, Sunshine Curator ~ Defender ~ Guardian.**

Chair Wolfe stated that Allen Grossman was someone from San Franciscans for Sunshine. Chair Wolfe wanted people to know that Alan Grossman was an open government advocate. Chair Wolfe noted that he began writing amendments to the Sunshine Ordinance which has been revised many times. Chair Wolfe invited Alison Washburn, who is a member of San Franciscans for Sunshine, to speak on Mr. Grossman.

Alison Washburn stated that she knew Alan for about 12 years and sat on seat no. 5. Ms. Washburn stated that Mr. Grossman was tireless and constantly pushing for a stronger Ordinance. Ms. Washburn stated that 10 years ago when Sunshine needed to become a Charter Amendment he worked tirelessly and played a major role to make the Ordinance stronger. Ms. Washburn stated that Mr. Grossman was a model of a public advocate.

Public Comment:

Peter Warfield, Executive Director Library Users and can be reached at libraryusers2004@yahoo.com stated that Alan Grossman was an exceptional person and devoted to fairness in government. Mr. Warfield stated that he would have preferred that more information be provided on the agenda. Mr. Warfield stated Mr. Grossman was awarded the James Madison Citizen Award.

Anonymous stated that they were sure that Grossman was a great individual, however they questioned the appropriate use of public meetings as a time for memoriam.

No actions were taken.

6. **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.

Peter Warfield, Executive Director Library Users and can be reached at libraryusers2004@yahoo.com noted that he was very disappointed to see that there are only three hearings on this agenda and added that at last count he understood that there are some 140 complaints backlogged. Mr. Warfield stated that Administrative Code Section 67.21, the SOTF is supposed to render a decision within 45 days.

David Pilpel stated that he agreed with Mr. Warfield and regarding the backlog and alternatives or approaches. Mr. Pilpel stated that MTA Board Secretary Roberta Boomer retired and has been replaced. Mr. Pilpel congratulated SOTF Member Hinze's appointment to MTA Board.

Denta Tadesse stated that he feels as if we are in two different worlds. Mr. Tadesse stated that in his world transparency does not exist or follows the basic rules of the Sunshine Task Force. Mr. Tadesse provided his example, file no. 18011, which was against City Attorney's Office. Mr. Tadesse noted that his complaints were filed in February 2014 and other cases were heard before his and he feels that was done on purpose. Mr. Tadesse wants the SOTF to review all his files.

Robert Smith suggested that a process point that when setting the agenda give a time when the item may be called. Mr. Smith stated that having no time listed and forcing everyone on the calendar to wait seems to be less hospitable.

7. **File No. 20118: Discussion regarding The San Francisco League of Women Voters idea to create a one stop shop to post agendas and meeting announcements.**

Chair Wolfe stated that this item was in congruence with Supervisor Fewer's Resolution. Chair Wolfe stated that the idea was to suggest that the Board of Supervisors develop a citywide requirement or guideline to provide a standard one-stop-shop that has a commission or public meeting website in one place. Chair Wolfe noted that this matter was originally addressed by the League of Women Voters Member Leuwam Tesfai and should be transferred to the Board of Supervisors.

No public comment.

No actions taken.

8. **File No. 19080: Complaint filed by Paul A. Vander Waerdt against the Dept. of Homelessness and Supportive Housing for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, for failing to respond to an Immediate Disclosure Request in a timely manner.**

Petitioner did not appear for the hearing nor did they notify the Administrator that they would not be available.

Respondent was present for the hearing.

Action: Moved by Member Hinze, seconded by Member Wong to table and close the file due to non-appearance and lack of communication.

Public Comment.

Denta Tadesse stated that this decision was not afforded the same process of being tabled or put over to another meeting.

The motion PASSED by the following vote.

Ayes: 7 - Hinze, Wong, Schmidt, Yankee, LaHood, Hyland, Wolfe
Noes: 0 - None
Absent: 0 - None

9. File No. 19076: Reconsideration of SOTF findings based upon the Order of Determination.

Chair Wolfe stated that the Petitioner needs to present new information and the Respondent needs to reply regarding that new information and then SOTF will decide if it changes their decision. Chair Wolfe opined that if SOTF finds in favor of the Petitioner at that next meeting, they can take up before the vote from the determination was made. The case will then be reopened.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee reconsider their findings. Anonymous stated that during February 22, 2020, SOTF hearing respondent Ms. Alberto stated that it was during this alleged phone call that she provided an email address to her. Anonymous stated that at the end of hearing the SOTF asked Ms. Alberto if she could locate the record of call. Anonymous stated that the day after the hearing, the SOTF asked for phone call records. Ms. Alberto admitted that there was no record of this phone call.

Justine Alberto (Animal Care and Control) (Respondent), provided a summary of the department's position. Ms. Alberto stated that she learned that Deputy Director did send materials to a work email that was no longer available in July 2019. Ms. Alberto stated that the records request was sent via email and not a phone conversation. Ms. Alberto stated that after February SOTF meeting Anonymous' email was no longer valid. Ms. Alberto stated that the Deputy Director had notified Anonymous that there was correspondence.

Chair Wolfe opined that if new information exists, it may change the outcome of the complaint. Chair Wolfe noted that the discussion on a motion for reconsideration cannot take place without the attachment which was submitted by the Petitioner but not included in the Agenda packet. Chair Wolfe stated that he is however, compelled to grant reconsideration.

Action: Moved by Member Schmidt, seconded by Member LaHood, to approve the request for a reconsideration hearing.

Public Comment:

Denta Tadesse stated that he had a similar file against George Cothran for allowing closed session papers to be viewed and regarding the filing of his cable car revocation. Mr. Tadesse stated that he missed the hearing because he was not allowed access to City Hall by the Sheriff's Department. Mr. Tadesse stated that file was tabled by Chair Wolfe and he was not allowed to present for reconsideration.

Peter Warfield, Executive Director Library Users and can be reached at libraryusers2004@yahoo.com stated that he is leaning in favor of the Petitioner. Mr. Warfield stated that his own experience that might be relevant of the SOTF. Mr. Warfield requested from Board of Elections a change and as it turned out he did not make the request. Mr. Warfield opined if making a request via email and the respondent decides to email the response to the other email, the request should be to send the request to both the emails, new and old.

Anonymous stated they want to comment on the email regarding reconsideration. Anonymous stated that they think it is entirely inappropriate to assume that an email name is that person. Anonymous opined that if requested to be anonymous, it should be granted. Anonymous noted that people change their names and that it is easy to understand why someone might be confused and believe their information would be displayed. Anonymous stated that it makes sense to have a verification that states that your request was submitted successfully.

The motion FAILED by the following vote.

Ayes: 5 - Schmidt, LaHood, Wong, Yankee, Wolfe

Noes: 2 - Hyland, Hinze

Absent: 0 - None

10. **File No. 19058:** Complaint filed by Robert M. Smith against the Fine Arts Museum of San Francisco for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Deputy City Attorney Marc Price-Wolf stated that his associate was working on a memo for the SOTF regarding this issue and got far along with it but it is not near final form. Price-Wolf stated that though the memo is not in shape to distribute to SOTF as he would prefer, he was ready to answer questions. Price-Wolf stated that this matter is not an easy case to determine. Price-Wolf stated that the SOTF would benefit from reading the memo first before discussing the issues in a meeting.

Action: Moved by Member Hyland, second by Member Schmidt to continue the matter to the call of the chair pending written advice from Deputy City Attorney.

Public Comment.

Peter Warfield, Executive Director Library Users and can be reached at libraryusers2004@yahoo.com stated that he is not a party nor familiar with case. Mr. Warfield stated that the complaint was filed in 2019 and is at least one year old. Mr. Warfield questioned why there is not a City Attorney advice letter given the age of the matter? Mr. Warfield noted that the SOTF has a provision that they are supposed to have support from the City Attorney.

Denta Tadesse stated that SOTF members state explicitly to let the public know they have an opinion. Mr. Tadesse stated that City Attorney contacts were open and available to the public. Mr. Tadesse noted that memos were so important and now the memos will no longer be provided.

The motion PASSED by the following vote.

Ayes: 7 - Hyland, Schmidt, LaHood, Hinze, Wong, Yankee, Wolfe
Noes: 0 - None
Absent: 0 - None

11. Discussion regarding new Complaint Form. (attachment) (Discussion and Action)

Chair Wolfe stated that the current complaint form leaves the public unable to assist the SOTF and he is grateful that Anonymous provided a draft complaint form. Chair Wolfe stated that the SOTF deals with many of the same violations on a regular basis. Chair Wolfe noted that if the SOTF could provide the public with better guidance on how to prepare a complaint, it will allow for better assistance with crafting advice memos.

Member Hyland stated that Anonymous has lots of knowledge and suggested having a timeline section would be helpful to petitioners.

Chair Wolfe suggests that the form be referred to Complaint Committee to flush it out and enhance or expand and work within our needs. Chair Wolfe noted that a section to identify either a public records or public meetings issue be included.

Public Comment:

Peter Warfield, Executive Director Library Users and can be reached at libraryusers2004@yahoo.com opined that a form that lays out what to expect in a clear way is valuable. Mr. Warfield stated that a useful approach to informing people what they are entitled to and also to clarify what specifically the issue is and break it down in detail is important. Mr. Warfield noted that six pages and should be as easy as possible for someone to make a complaint and not have to be a legal expert.

Denta Tadesse stated that the form is a great tool for first timers and that he wanted something like this in 2017. Mr. Tadesse stated that Anonymous did a great job. Mr. Tadesse stated that he has no access to City Hall with his service animal. Mr. Tadesse stated that the Sheriff's Office has violated Administrative Code, Section 67.5 and so has City Hall Building Management. Mr. Tadesse opined that SOTF decisions have no weight.

Anonymous stated that it would be helpful if in addition the form could link records. Anonymous noted that complaints are now filed on a google form and that filing things online is the easiest path to choose. Anonymous speculated that members of the public might have concern that personal information could be revealed.

Chair Wolfe stated that there will be no action and referred the matter to the Complaint Committee.

12. **Chair's Report – Public meeting review; Discussion of Task Force members reviewing public meetings.**

Chair Wolfe stated that he has attended many remote meetings of commissions and there are serious issues taking place including public comment. Chair Wolfe stated that he recently attended a Planning Commission meeting where Webex was used and the Secretary of the Commission, who is not from the clerk's office, instructed all the members to turn off their video. Chair Wolfe noted that this error and the Committee lost quorum. Chair Wolfe opined that there is no way to know if anyone is present if video is off. Chair Wolfe suggested that everyone pick a meeting and follow it and itemize what is not done correctly and develop a set of pros and cons and best/recommended practices. Chair Wolfe asked if Education, Outreach and Training could create a guideline for best practices to be distributed city wide.

Public Comment.

Peter Warfield, Executive Director Library Users and can be reached at libraryusers2004@yahoo.com stated that he was very glad that this issue is on the agenda. Mr. Warfield has spoken about problems with meetings and having SOTF monitor them is valuable. Mr. Warfield noted that input is very helpful should schedule a hearing to invite the public to discuss problems they are having.

Anonymous stated that they liked the idea of having SOTF members observe meetings. Anonymous expressed concerned that members of the public are limited to observing meetings on sfgovtv or listening on the phone when meetings take place through Microsoft Teams or another platform. Anonymous stated that if a member of the public could join a Webex meeting, they may be concerned that they cannot see the comments the members of the boards may be writing to each other.

Chair Wolfe referred the matter to Education, Outreach and Training Committee. No action on this item.

13. **Administrator's Report, Complaints and Communications.**

The SOTF Administrator presented the October 27, 2020 Administrator's Report.

No public comment and no action taken.

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

Member Yankee stated that at the last SOTF meeting he talked about the Elections Commission. Member Yankee sent a memo requesting that the Elections Commission post their minutes and agendas and they still have not done so.

Chair Wolfe asked if this serves the public well? Chair Wolfe stated that with amount of observances he sees there may be other specific issues. Chair Wolfe opined that there should be a way for the SOTF, by a vote, provide answers to the complaint process. Chair Wolfe requested that the Complaint Committee address this issue.

Member Schmidt noted that this is almost like an alternative to someone bringing a complaint before SOTF or possibly send a cease and desist letter. Member Schmidt opined that this allows the public to send a letter the agency needs to take seriously. Member Schmidt stated that if a written letter is sent to the agency and the agency says they won't do it. However, if caught, the McKee Act can be enforced.

Member Yankee noted that this is a good topic for orientation.

Chair Wolfe noted that the previous public commentor spoke regarding attorney/client privilege.

Deputy City Attorney Marc Price-Wolf stated that SOTF can ask for advice privately and so can its individual members. Price-Wolf stated that this is the purpose of attorney/client privilege. Price-Wolf stated that if the SOTF had questions about an upcoming case, asking Deputy City Attorney would be appropriate. Price-Wolf also stated if SOTF is struggling with an issue and needed legal advice and wanted to not have it influence a possible outcome, it will be provided.

Public Comment:

Peter Warfield, Executive Director Library Users and can be reached at libraryusers2004@yahoo.com. Mr. Warfield is glad that the SOTF is discussing important issues and much of which has to do with your effectiveness as a group or lack of powers to do enforcement. Mr. Warfield noted that all issues deserve a public hearing.

Anonymous comment on the McKee Act, someone said the solution should be to forward to DA's office.

15. **ADJOURNMENT**

There being no further business the meeting was adjourned at 8:39 p.m.

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.