

disposiciones del artículo 5848 del Código de Bienestar Social e Instituciones (W&I, por sus siglas en inglés).

Envíe sus comentarios por correo electrónico a [MHSA@sfdph.org](mailto:MHSA@sfdph.org) o por correo postal a:

Mental Health Services Act  
San Francisco Department of Public Health  
1380 Howard Street, Room 210  
San Francisco, CA 94103

Haga clic en el vínculo de abajo para ver el BORRADOR de la actualización anual sobre el año fiscal 2022-2023 de la Ley de servicios de salud mental (MHSA) de San Francisco:

[MHSA-FY2022-23-Annual-Update-DRAFT.pdf \(sfdph.org\)](https://www.sfdph.org/mh/fy2022-23-Annual-Update-DRAFT.pdf).

Si desea ver otros recursos o información sobre la MHSA, visite el sitio web de MHSA de San Francisco: <http://www.sfdph.org/mh>.

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親愛的精神健康服務法案利害相關人：

美國公共衛生部行為健康服務 (BHS) 部門現正誠邀所有持份者，於 2022 年 6 月 17 日至 7 月 18 日期間，對三藩市精神健康服務法案 (MHSA) 2022-2023 財政年度的年度更新草案進行為期 30 天的檢討並提出意見。這一為期 30 天的檢討及意見期符合《福利與機構 (W&I) 法規》第 5848 條的規定。

請將您的意見電郵至 [MHSA@sfdph.org](mailto:MHSA@sfdph.org) 或郵寄至以下地址：

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San Francisco, CA 94103

點選下方連結，查閱三藩市精神健康服務法案 (MHSA) 2022-2023 財政年度的年度更新草案：  
<https://www.sfdph.org/dph/files/CBHSdocs/MHSAdocs/MHSA-FY2022-23-Annual-Update-DRAFT.pdf>

有關其他 MHSA 資源和資訊，請瀏覽三藩市 MHSA 網站：  
<http://www.sfdph.org/mh>.

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Kính gửi các bên liên quan đến Dịch vụ Y tế Tâm thần,

Đơn vị Dịch Vụ Sức Khỏe Hành Vi (BHS) thuộc Sở Y tế Công Cộng kính mời tất cả các bên liên quan tham gia đánh giá và cho ý kiến về **DỰ THẢO Cập Nhật Hàng Năm của Đạo Luật Dịch Vụ Sức Khỏe Tâm Thần San Francisco (MHSA) cho Năm Tài Khoá 2022-2023** trong thời gian 30 ngày kể từ **17 tháng 6 năm 2022 đến 18 tháng 7 năm 2022**. Thời gian đánh giá và nhận xét dành cho các bên liên

quan kéo dài trong 30 ngày và tuân theo quy định tại Mục 5848 thuộc Bộ Luật An Sinh và Định Chế (W&I).

Vui lòng gửi email nhận xét tới địa chỉ [MHSA@sfdph.org](mailto:MHSA@sfdph.org) hoặc qua đường bưu điện đến:

Mental Health Services Act  
San Francisco Department of Public Health  
1380 Howard Street, Room 210  
San Francisco, CA 94103

**Nhấp vào liên kết bên dưới để xem DỰ THẢO Cập Nhật Hàng Năm cho Năm Tài Khoá 2022-2023 của MHSA San Francisco:**

[MHSA-FY2022-23-Annual-Update-DRAFT.pdf \(sfdph.org\)](https://www.sfdph.org/mh/fy2022-23-annual-update-draft.pdf)

Để tìm hiểu thêm tài nguyên và thông tin khác của MHSA, vui lòng truy cập trang web MHSA của San Francisco tại:

<http://www.sfdph.org/mh>.

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Вниманию заинтересованных сторон Закона о психиатрических услугах!

Служба психического здоровья (BHS) Департамента здравоохранения Сан-Франциско предлагает всем заинтересованным сторонам в течение 30 дней с 17 июня 2022 г. по 18 июля 2022 г. рассмотреть и прокомментировать ПРОЕКТ ежегодного обновления Закона Сан-Франциско о психиатрических услугах (MHSA) на 2022–2023 финансовый год. Этот 30-дневный период рассмотрения и комментирования заинтересованными сторонами соответствует положениям раздела 5848 Кодекса о социальных службах и психиатрических учреждениях (W&I).

Направляйте ваши комментарии по электронной почте [MHSA@sfdph.org](mailto:MHSA@sfdph.org) или по почте на следующий адрес:

Mental Health Services Act  
San Francisco Department of Public Health  
1380 Howard Street, Room 210  
San Francisco, CA 94103

**Нажмите ссылку ниже, чтобы ознакомиться с ПРОЕКТОМ ежегодного обновления Закона Сан-Франциско о психиатрических услугах (MHSA) на 2022–2023 финансовый год:**

[MHSA-FY2022-23-Annual-Update-DRAFT.pdf \(sfdph.org\)](https://www.sfdph.org/mh/fy2022-23-annual-update-draft.pdf)

Другие ресурсы и информацию, относящиеся к MHSA, можно найти на веб-сайте MHSA Сан-Франциско:

<http://www.sfdph.org/mh>.

**Re: 30-Day Public Comment Period for MHSA FY 2022-2023 Annual Update DRAFT (6/17/22 - 7/20/22) -- with Announcement Translations in Spanish, Chinese, Vietnamese, & Russian**

Wynship Hillier <wynship@hotmail.com>

Fri 7/8/2022 12:28 PM

To: DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

P.S. Please also mention that the 30-day period concludes with a public hearing at the BHC meeting on July 20 at 6 p.m. -WH

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**From:** Wynship Hillier <wynship@hotmail.com>

**Sent:** Friday, July 8, 2022 12:22 PM

**To:** DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

**Subject:** Re: 30-Day Public Comment Period for MHSA FY 2022-2023 Annual Update DRAFT (6/17/22 - 7/20/22) -- with Announcement Translations in Spanish, Chinese, Vietnamese, & Russian

Thank you for this, Mr. Grier. Please post this on the website and distribute to the 54954.1 list, if any.  
-Wynship

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**From:** DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

**Sent:** Thursday, July 7, 2022 10:51 PM

**To:** Wynship Hillier <wynship@hotmail.com>

**Subject:** 30-Day Public Comment Period for MHSA FY 2022-2023 Annual Update DRAFT (6/17/22 - 7/20/22) -- with Announcement Translations in Spanish, Chinese, Vietnamese, & Russian

Mr Hillier -  
For your perusal  
Mr Grier

**To:** DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

**Subject:** Fw: 30-Day Public Comment Period for MHSA FY 2022-2023 Annual Update DRAFT (6/17/22 - 7/20/22) -- with Announcement Translations in Spanish, Chinese, Vietnamese, & Russian

**Subject:** Re: 30-Day Public Comment Period for MHSA FY 2022-2023 Annual Update DRAFT (6/17/22 - 7/20/22) -- with Announcement Translations in Spanish, Chinese, Vietnamese, & Russian

Dear Mental Health Services Act (MHSA) Stakeholders,

*This is a friendly reminder for the 30-day public comment period for the MHSA FY 2022-2023 Annual Update DRAFT, which is open from June 17, 2022 to July 20, 2022.*

The Behavioral Health Services (BHS) unit of the Department of Public Health is inviting all stakeholders to review and comment on the **San Francisco Mental Health Services Act (MHSA) Fiscal Year 2022-2023 Annual Update DRAFT** for a period of 30 days from **June 17, 2022 to July 20, 2022**. This 30-day stakeholder review and comment period is in fulfillment of the provisions of the Welfare and Institutions (W&I) Code Section 5848.

**Brown Act Warning of Criminal Penalties, etc.**

Wynship Hillier &lt;wynship@hotmail.com&gt;

Tue 7/12/2022 7:00 AM

To: DPH-San Francisco Behavioral Health Commission &lt;sfbhc@sfdph.org&gt;

Cc: DPH-San Francisco Behavioral Health Commission &lt;sfbhc@sfdph.org&gt;

[REDACTED]

Dear Administrator:

Please forward to all committee members and post on the BHC website, per S.F. Admin. Code § 67.9(a).

Dear Committee Member:

Staff and your co-chairs have let you down again, and, as a result, you may neither pass, reject, nor promise to either pass or reject (by voting down a secondary motion to \*Postpone Indefinitely\*) any items on the agendas for this afternoon's meetings. To do so will bring misdemeanor guilt upon every member of the specific committee at the specific meeting, regardless of whether they voted for or against the item or tried to dispose of it temporarily through a secondary motion. This is because any adoptions, rejections, or promises to adopt or reject will violate the Brown Act in the following ways:

- \* for failure of the Commission to pass a motion setting the date and location of the regular meetings of its standing committee, GC § 54954(a); and

- \* for failure to send notices of the meeting to the members of the public who requested them, GC § 54954.1.

Every member present will intend to deprive the public of information to which they knew the public to be entitled under the Brown Act by failing to prevent a final vote on the item or a "no" vote on a secondary motion to \*Postpone Indefinitely\* by raising a \*Point of Order\* on the basis of the above violations. You are expected to understand, know how to use, and actually use this parliamentary tool to protect yourselves and the public, such that misdemeanor guilt will result from the failure of any member to use it in the event that the committee chair fails to rule any action item out of order at today's meetings.

It will be futile to take any actions at these meetings anyway because of the above violations, as well as noncriminal violations of the Brown Act, such as GC § 54954.2(a)(1), for not putting the correct dates on the website, and violations of the S.F. Sunshine Ordinance. The website shows that the meetings are scheduled for July 17. Fixing the date at this time would not be sufficient because the public is entitled to notice correct in all particulars 72 hours in advance of the meeting. As a result of all of these violations, as well as violations of Bylaws and fundamental parliamentary principles that may occur at the meetings in the course of taking action, any actions taken at these meetings would also be null and void and may be reversed by any member of the Commission or the committee at any time that they remain in effect by raising a \*Point of Order\*. It is vain to spend time taking actions



that only a single committee member or Commissioner may strike down without even a vote, nor any debate!

These will be unlawful meetings. Even if no action is taken at them, any discussions thereat would be unlawful because of the failures to notice the meetings pursuant to the Brown Act. GC § 54952.2(b) (1). Members of the public who disturb these meetings will not be guilty of misdemeanors under Cal. Pen. Code § 403 and may have a Constitutional right to disturb these meetings under the First Amendment because these meetings will be unlawful assemblies.

There may be other violations not listed on this email. Actions taken without notice on the agenda generally violate GC § 54954.2(a)(1) and S.F. Admin. Code § 67.7(a) unless specific findings are made and passed by a requisite vote beforehand. Discussions without notice also violate this section unless a specific exemption applies and will generally violate the S.F. Sunshine Ordinance even if an exemption from the Brown Act applies. Items regarding which the agenda does not provide an opportunity for people to address the committee violate GC § 54954.3(a). Regular meetings for which the agenda does not provide an opportunity to address the committee on items not on the day's agenda also violate this section, and actions that violate a strict construction of these laws could be criminal if a judge determines that you intended to deprive the public of information to which you knew or should have known them to be entitled under the Brown Act, such as notice on the agenda of these opportunities to address the committee. GC § 54959. Even if the agenda contains such an opportunity, a civil violation of the Brown Act may still be found if the opportunity is not labeled such that a reasonable person would know what it was from looking at the agenda alone.

Willful noncompliance with the S.F. Sunshine Ordinance shall be deemed official misconduct. S.F. Admin. Code § 67.34. Such misconduct may result in removal from the Commission or any committee of any member thereof. It is going to be very hard for you to argue that you were ignorant of these violations when I have been sending you emails about them before every meeting for over a year and you have been going through with your meetings anyway. It is also going to be very hard for you to argue that your noncompliance was not willful and thus not official misconduct and deserving of your termination from the Commission, nor from any committee thereof.

You may neither discuss anything in this email with a majority of any committee, nor the Commission. These compliance issues are within the subject matter jurisdiction of each committee, as liberally construed, because they could affect the vote on an item within the strict subject matter jurisdiction of each committee.

Very truly yours,  
Wynship Hillier, M.S.  
(415) 505-3856



## SAN FRANCISCO BEHAVIORAL HEALTH COMMISSION



Mayor  
London N. Breed

1380 Howard Street, 2<sup>nd</sup> Floor  
San Francisco, CA 94103  
(415) 255-3474 fax: 255-3760  
[mhb@mhbsf.org](mailto:mhb@mhbsf.org)  
[www.mhbsf.org](http://www.mhbsf.org)  
[www.sfgov.org/mental\\_health](http://www.sfgov.org/mental_health)

Balham Javier Vigil, Co-Chair  
Stephen Banuelos, Co-Chair  
Genesis Vasconez, MS, PMHNP-BC, Vice-Chair  
Lisa Williams, Secretary  
Terezia Bohrer, RN, MSW, CLNC  
Judith Klain, MPH  
Carletta Jackson-Lane, JD  
Kescha S. Mason  
Liza Murawski  
Toni Parks  
Harriette Stallworth Stevens, EdD  
Lisa Wynn

### AGENDA

#### SITE VISIT COMMITTEE MEETING

Tuesday, July 12, 2022 3:00 pm to 4:00 pm

#### ZOOM REMOTE MEETING

<https://us06web.zoom.us/j/82958345027?pwd=Z2ZML3N5dGdyc2gzbnx0SnUyY3RZQT09>

Meeting ID: 829 5834 5027

Passcode: 313278

One tap mobile

+16694449171,,82958345027#,,, \*313278# US

+16699006833,,82958345027#,,, \*313278# US (San Jose)

**Chair:** Bahlam Javier Vigil

**Members:** Judith Klain, Terezia (Terry) Bohrer, Toni Parks, Kescha S. Mason (she, her), Liza Murawski (she, her)

**Call to Order**

**Roll Call**

**AGENDA CHANGES:**

**ITEM 1.0 Action Items** – Discussion on action items

**PUBLIC COMMENT**

- 1.1** The Co-Chairs will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 which empowers local policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below **[action item]**

**PUBLIC COMMENT**

- 1.2** Vote to adopt rewritten May 10, 2022 minutes; vote to adopt June 7, 2022 minutes **[action item]**

**PUBLIC COMMENT**

- 1.3** A short introductory presentation by Conard House **[action items]**

**PUBLIC COMMENT**

- 1.4** Strategic Planning Around Conard Housing and Mental Health Complaints **[action items]**

**ITEM 2.0 Chair's Report**

**Discussion:** Report on site visits and strategy

- 2.1** Opening comments by Chair, Bahlam Javier Vigil
- 2.2** Implementation of the strategy of every commissioner participating in site visits among the 140 agencies, that the Department of Public Health and Behavioral Health Services manage.
- 2.3** Discuss the importance of the Behavioral Health Commission legislative mandate: Review and evaluate the City and County's mental health needs, services, facilities, and special problems
- 2.4** Update on scheduling Site Visits with Edgewood Children's Home, Conard House and CityWide

**PUBLIC COMMENT**

**Adjournment**



## SAN FRANCISCO BEHAVIORAL HEALTH COMMISSION



**Mayor**  
**London N. Breed**

1380 Howard Street, 2<sup>nd</sup> Floor  
San Francisco, CA 94103  
(415) 255-3474 fax: 255-3760  
[mhb@mhbsf.org](mailto:mhb@mhbsf.org)  
[www.mhbsf.org](http://www.mhbsf.org)  
[www.sfgov.org/mental\\_health](http://www.sfgov.org/mental_health)

Balham Javier Vigil, Co-Chair  
Stephen Banuelos, Co-Chair  
Genesis Vasconez, MS, PMHNP-BC, Vice-Chair  
Lisa Williams, Secretary  
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Judith Klain, MPH  
Carletta Jackson-Lane, JD  
Kescha S. Mason  
Liza Murawski  
Toni Parks  
Harriette Stallworth Stevens, EdD  
Lisa Wynn

**AGENDA**  
**IMPLEMENTATION COMMITTEE MEETING**  
**BEHAVIORAL HEALTH COMMISSION**  
**Tuesday, July 12, 2022**  
**4:00PM to 5:00PM**

**REMOTE BHC MEETING ZOOM**

<https://us06web.zoom.us/j/81213167792?pwd=enowRONhV0xINjdqUGZFZ2wwSTJ3Zz09>

Meeting ID: 812 1316 7792      Passcode: 673132  
One tap mobile  
+16694449171,,81213167792#,,, \*673132# US  
+16699006833,,81213167792#,,, \*673132# US (San Jose)

**CALL TO ORDER**

**Chair:** Stephen Banuelos (he/him)

**Members:** Carletta Jackson-Lane (she/her), Toni Parks (she/her), Judith Klain (she/her), Keshca S. Mason (she/her)

**Roll Call**

The Chair will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 that empowers local policy



bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below **[action item]**

**Changes to the Agenda:**

**PUBLIC COMMENT**

**1.0 BUSINESS** – Discussion and possible action out of topics discussed

**PUBLIC COMMENT**

**1.1** – Vote to adopt rewritten May 10, 2022 minutes; vote to adopt June 7, 2022 minutes  
**[action item]**

**PUBLIC COMMENT**

**1.2** Review progress of the onetime bylaws non-public workgroup meeting

**PUBLIC COMMENT:**

**2.0 ITEMS FOR DISCUSSION AND POSSIBLE ACTIONS**

**2.1 Follow up on Grievance Procedures:** update on BHC strategy to improve Grievance Procedures

**2.2 Strategic Plan Status:** This is an ongoing item on the Implementation Committee agenda and will allow the committee/BHC to have an ongoing sense of our progress on meeting goals (updates if any)

**2.3 Review the 2022 Data Notebook:** Discussion on BHC participation in How to do the Data Notebook for 2022

**2.4 Establish Ad Hoc Committee for the Annual Report:** The BHC Annual Reports are due for 2021-2022 and the report for 2020-2021 is past due, vote to move on the Executive Committee

**2.5 Follow up on RFP:** Co-Chairs will discuss with Dr. Kunins on how commissioners can participate in the RFP process.

**2.6 Update on website:** follow up on transition to sf.gov; possible demo

**2.7 MHSA presentation to BHC:** discuss questions about the MHSA draft

**PUBLIC COMMENT**

### **3.0 COMMITTEE MEMBERS REPORTS**

For discussion and action

3.1 Members report on their research and actions

**PUBLIC COMMENT**

### **4.0 NEXT ACTION ITEMS FOR COMMITTEE MEMBERS**

**PUBLIC COMMENT**

For discussion and action

4.1 Discussion developing follow up research, presenters to the committee and action item

**Public Comment**

**FINAL PUBLIC COMMENT**

**ADJOURNMENT**

## **DISABILITY ACCESS**

The ADA is a civil rights law that protects people with different types of disabilities from discrimination in all aspects of social life. More specifically, Title II of the ADA requires that all programs offered through the state and local government such as the City and County of San Francisco must be accessible and usable to people with disabilities. The ADA and City policy require that people with disabilities have equal access to all City services, activities, and benefits. People with disabilities must have an equal opportunity to participate in the programs and services offered through the City and County of San Francisco. If you believe your rights under the ADA are violated, contact the ADA Coordinator.

Ordinance 90-10 added Section 2A.22.3 to the Administrative Code, which adopted a Citywide Americans with Disabilities Act Reasonable Modification Policy that requires City departments to: (1) provide notice to the public of the right to request reasonable modification; (2) respond promptly to such requests; (3) provide appropriate auxiliary aids and services to people with disabilities to ensure effective communication; and (4) train staff to respond to requests from the



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Kescha S. Mason  
Liza Murawski  
Toni Parks  
Harriette Stallworth Stevens, EdD  
Lisa Wynn

### AGENDA

Behavioral Health Commission Executive Committee Meeting  
Tuesday, July 12, 2022  
5:00 PM – 6:00 PM

### REMOTE ACCESS

<https://us06web.zoom.us/j/82346365185?pwd=em1raGdZZTQwUTVMTHVYSXhUajAyUT09>

Meeting ID: 823 4636 5185

Passcode: 057260

One tap mobile

+14086380968,,82346365185#,,,,\*057260# US (San Jose)

+16694449171,,82346365185#,,,,\*057260# US

### CALL TO ORDER

**COMMISSIONER'S:** Co-Chair Bahlam Javier Vigil (they/them/theirs), Co-Chair Stephen Banuelos, Vice-Chair Genesis Vasconez (she, her), Secretary Lisa Williams (she/her), Carletta Jackson-Lane (she/her/hers)

### Roll Call

The Co-Chair will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 which empowers local

policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below [action item]

**AGENDA CHANGES:**

**PUBLIC COMMENT:**

**ITEM 1.0 COMMISSIONER'S REPORTS**

Discuss the need for the Behavioral Health Commission (BHC) to be in on the decision-making process around the distribution of budget initiatives. Discuss commissioner input on How to do the Data Notebook for 2022

**Report from the Co-Chairs –**

- 1.1 Governor's Care Court Proposal update: Discussion and possible action.
- 1.2 New BHC sf.gov website update: Discussion and possible action
- 1.3 Discuss progress on the BHS complaint process
- 1.4 Covid testing being discontinued?
- 1.5 Length of time of full commission meetings. Is it more important to keep meetings to 2 hours or to cover everything on the agenda with plenty of time for discussion?

**PUBLIC COMMENT:**

**ITEM 2.0 ACTION ITEMS - Discussion on action items**

**PUBLIC COMMENT**

- 2.1 Vote to approve and adopt the rewritten unadopted minutes from May 10, 2022 Executive Committee meeting; Vote to adopt minutes from the June 7, 2022 Executive Committee meeting [action item]

**PUBLIC COMMENT**

- 2.2 Vote to formalize the presentation of the annual report by the Mental Health Service Act (MHSA) before the full commission on July 20, 2022 - [action item]

**PUBLIC COMMENT**

- 2.3 Vote to have Conard House placed on the July 20, 2022 full commission agenda and vote on whether or not to have them give a presentation during the September BHC meeting. This is an effort to address mental health support, supportive housing policies, protocols, etc. [action item]

**PUBLIC COMMENT**



**2.4 Data Notebook Update:** Discuss commissioner input on How to do the Data Notebook for 2022- [action item]

**PUBLIC COMMENT**

**2.5** Discuss questions for the MHSA presentation, vote if necessary [action item]

**PUBLIC COMMENT**

**2.6 Establishment of new Ad-Hoc Committee:** The creation of the BHC Oversight and Accountability Infrastructure Ad-Hoc Committee; proposed by Co-Chair Vigil [action item]

**PUBLIC COMMENT**

**2.7 Establish Ad Hoc Committee for the Annual Report:** The BHC Annual Reports are due for 2021-2022 and the report for 2020-2021 is past due [action item]

**PUBLIC COMMENT**

**2.8 BHOC Motion:** confirm content, wording and title of the BHOC Vigil/Murawski motion, for possible vote – see attached below [action item]

**PUBLIC COMMENT**

**ITEM 3.0 New BHC Business**

**3.1 Public Comment:**

**4.0 Final Public Comment:**

**Adjournment**

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**Resolution Urging the San Francisco City and County, Mayor, Board of Supervisors, The Departments of Public Health, and Homelessness and Supportive Housing to Invest Funds To Improve The Standard and Quality of Behavioral Health Services Provided by The City and County of San Francisco to Improve Equitable Access, Services Quality, Transparency, Facility and Staff Standard and Improve Departments Oversight and Quality Control Infrastructure.**

Whereas, Permanent supportive housing residences provide behavioral health services and case management to vulnerable populations; and

Whereas, The people residing in these buildings often have behavioral health issues, are very low income and rarely have other housing options; and

Whereas, Permanent housing buildings require that building owners and operators have contracts with property management services to collect rents and oversee building maintenance and repairs; and

Whereas, It is contractually necessary for property management services and City and County of San Francisco funded case management and behavioral health services provided in these buildings to maintain a separation of duties; and

Whereas, It has been reported that supportive service staff are violating the 1996 Health Insurance Portability and Accountability Act (HIPAA), which protects the privacy of their clients; and

Whereas, Facilities in San Francisco that provide behavioral health services are in much need of repairs due to constant building malfunctions, proper facility size, and the inequitable distribution of facility resources per district, showing a need for better oversight of the physical infrastructure where services are provided to ensure proper maintenance and health regulation; and

Whereas, Some of these residences are in varying states of neglect and disrepair with incidents of mold, structural damage, missing or broken fixtures and appliances, vermin infestation, and outdated and potentially hazardous plumbing, electrical, and mechanical systems with rusty pipes and brown water; and

Whereas, After seeking resolution with case management, some residents have escalated their concerns through the designated channels and still fear retaliation for voicing their concerns around building conditions and property management practices; and

Whereas, Males significantly outnumber females in the majority of the permanent housing residences, and many female residents have expressed feeling unsafe, and cite incidents of severe bullying and direct threats of harm; and

Whereas, It has been reported that HSH and DPH are slow to, and often fail, to respond to community and stakeholder requests and information; and

Whereas; While San Francisco currently has workforce housing programs for vital employees of San Francisco such as teachers and law Enforcement Employees, these programs do not cover employees of Behavioral Health Services and housing providers, which, if extended to those employees, could aid in incentivizing employment in City-funded Behavioral Health Services and housing services, rooted in the communities they live in and serve; and

Whereas, According to Dr. Marlo Simmons, based on data from 11/12/20 on the total current vacancies for Behavioral Health Services positions, there are a total of 113 Vacancies (90 prioritized and moving through the hiring process, 23 vacant and not yet prioritized), that is 17.38% of BHS Positions Vacant (of the 650 who report to BHS), of which vacant positions, 9 are in the Senior Psychiatric Physician (2242 / 2243) job class, 37 are in the Behavioral Health Clinician (2930) job class, and 6 are in the Senior Behavioral Health Clinician (2932) job class; now, therefore, be it

Resolved, That the BHCSF of San Francisco thanks the Mayor, Board of Supervisors, Department of Public Health (DPH), and Department of Homelessness and Supportive Housing (HSH) of the City and County of San Francisco for their consistent commitment to bringing funds into the fold in the City's struggle for behavioral health services that tackle the problems and issues everyday San Franciscans face in terms of their behavioral health, and key environmental factors impacting their behavioral health such as homelessness and access to housing; and, be it

Further Resolved, That residents of permanent supportive housing need an entity, agency, or City department where their grievances can be heard and addressed; and, be it

Further Resolved, That the Behavioral Health Commission of San Francisco urges the City and County of San Francisco, Mayor, Board of Supervisors, DPH, and HSH to find ways to improve their oversight and accountability infrastructure to better oversee and monitor all behavioral health programs offered by the City and County of San Francisco; and, be it

Further Resolved, That the Behavioral Health Commission of San Francisco (BHCSF) urges the City and County of San Francisco to develop a system of oversight and accountability for buildings providing permanent supportive housing to people with behavioral health challenges; and, be it

Further Resolved, That even with separate responsibilities and legal requirements between case management services and property management, it is essential that this mutual exclusivity does not result in unsafe or unnecessarily stressful conditions for residents; and, be it

Further Resolved, That the BHCSF of San Francisco urges the City and County of San Francisco, Mayor, Board of Supervisors, DPH, and HSH to expand the City's workforce housing programs to include Behavioral Health Services providers and other employees working under

HSH and DPH to incentivize employees to live in the communities they work for and improve the quality of services provided by HSH and DPH employees; and, be it

Further Resolved, That the BHCSF urges HSH and DPH to make information accessible to the public around behavioral health and housing services and improve community outreach and advertisement for behavioral health and housing services, and make information accessible to all who request it as seamlessly as possible; and, be it

Finally Resolved, That the BHCSF urges the city and county of San Francisco Mayor, Board of Supervisors, DPH, and HSH to allocate funds to improve staff standards and quality, hire more behavioral health services staff to meet the increasing demand for services, and ensure that those programs are being offered and operated with high-quality standards and quality of life.

**[Motion to Commit The Behavioral Health Commission of San Francisco (BHCSF) To Reach Out Respectfully and Responsibly With The Executive Director To Behavioral Health Organizations of San Francisco (BHOSF) to Create Working Relationships With Said Organizations and Allow BHCSF Commissioners To Reach In Their Capacity As Commissioners With BHCSF Executive Director In The Loop]**

#### **Supplemental Information**

As the BHCSF Commissioners it is pivotal that our committees and the whole commission are allowed to reach out to BHOSF in order to create working relationships with them and create stronger visibility in order to make progress on behavioral health related issues.

Doing so in the capacity as commissioners alongside the BHCSF Executive Director respectfully would not just help us create more allies and visibility, but allow BHOSF know that the commission is active and alive aiding in recruitment, progress on behavioral health issues and allow us to be taken far more seriously. Therefore creating a stronger BHCSF.

#### **Proposition**

The BHCSF commits itself to reaching out to BHOSF in their capacity as commissioners alongside the BHC executive director.

The BHC and its committees will do so respectfully and with intention to create working relationships with BHOSF that work for the betterment of San Franciscans facing behavioral health issues in order to spearhead issues together.



# San Francisco Department of Public Health

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## San Francisco Health Network

About DPH

Our Services

Our Programs

Healthy Living

Records, Permits &amp; Licensing

Knowledge Sharing &amp; Collaboration

Diseases &amp; Conditions

Training

We're moving to [sf.gov](http://sf.gov), a user-centered, services-first, accessible website.

Go to SF.gov

Environmental Health

CDC &amp; Prevention

CBHS

Health Education

Community Task Forces

Community Programs

Other

## Our Programs

### Mental Health Board

### Meetings - Agendas and Minutes

#### 2022 Agendas

July 17, 2022 - Site Visit Committee Meeting  
 July 17, 2022 - BHC Executive Committee  
 July 17, 2022 - BHC Implementation Committee  
 June 15, 2022  
 June 7, 2022 - Site Visit Committee Meeting  
 June 7, 2022 - BHC Executive Committee  
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 April 12, 2022 - Site Visit Committee Meeting  
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#### 2022 Minutes

June 07, 2022 - Site Visit Committee Meeting  
 June 07, 2022 - BHC Executive Committee  
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**Re: Voting**

Wynship Hillier <wynship@hotmail.com>

Wed 7/13/2022 10:23 AM

To: DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

Dear Ms. Gray:

I apologize for misspelling your name! Please see below.

Wynship Hillier

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**From:** Wynship Hillier

**Sent:** Wednesday, June 22, 2022 3:26 PM

**To:** DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

**Subject:** Voting

Dear Ms. Grey:

Would you please call votes according to rules? This is not an empty formality. The rules the Commission has adopted require you to call roll and, after each Commissioner answers "yes" or "no" or "present", state a) the name of the Commissioner just called; and b) their vote or "present". RONR (12th ed.) 45:49. This enables everyone at the meeting, but especially you, to make sure that the person whose name was called was the one who actually voted, and what their vote actually was. People's voices can be garbled, there can be background noise, people can mishear their names or the votes. All sorts of things can go wrong, and this procedure has been road tested to make sure that no errors of these kinds get through. Please use it.

Very truly yours,  
Wynship Hillier



## Re: Order of Business

Wynship Hillier <wynship@hotmail.com>

Wed 7/13/2022 10:56 AM

To: DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

Cc: DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

Dear Ms. Gray:

The below email is to be distributed to all Commissioners and is explanatory correspondence regarding an item anticipated to be discussed at the regular meeting of the BHC on July 20, 2022 (next week), specifically the item regarding "Length of time of full commission meetings. Is it more important to keep meetings at two hours or to cover everything on the agenda with plenty of time for discussion?", especially the last paragraph of the email. You are required to reference this correspondence in the meaningful description of the item on the agenda for the meeting, S.F. Admin. Code § 67.7(b), and to post it on the Commission website "to the extent possible," S.F. Admin. Code § 67.9(a). It is possible to post it on the Commission's website to the fullest extent because you publish the agenda there in pdf format and you could easily add this email to the pdf file. If you do not follow these instructions, I will report your failure to reference this email in the meaningful description of the item on the agenda and/or failure to post this email on the Commission's website to the Sunshine Ordinance Task Force in the papers for the hearing next month as evidence of willful failure to discharge duties imposed by the S.F. Sunshine Ordinance, which "shall be deemed official misconduct. ..." S.F. Admin. Code § 67.34.

Very truly yours,  
Wynship Hillier

**From:** Wynship Hillier

**Sent:** Wednesday, June 22, 2022 5:16 PM

**To:** DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

**Subject:** Order of Business

Dear Administrator:

Please forward to all Commissioners, and post on the Commission's website.

Dear Commissioners:

You may not discuss the following among a majority of the Commission or the Executive Committee outside of an agenda item devoted to the topic at a noticed meeting of the Commission or its Executive Committee. *Cal. Gov't Code § 54952.2(b)(1)*.

At the last meeting, Commissioner Parks rightly complained that some items on the agenda had not been reached for two meetings, now, and that they be placed at the top of the agenda for the next meeting. For your information, the rules of order require a particular order of

business. The Commission may not deviate from this without passing a special order of business. The standard order of business is as follows:

- 1) Reading and Approval of Minutes
- 2) Reports of Officers, Boards, and Standing Committees
- 3) Reports of Special (Select or Ad Hoc) Committees
- 4) Special Orders
- 5) Unfinished Business and General Orders
- 6) New Business

RONR (12<sup>th</sup> ed.) 41:5. This order of business is binding on the Commission because it has not formally adopted another order of business. *Id.* 41:6. I was present when the current order of business was finalized in 2019, and it went like this: The administrator at the time, not even, I think, during a meeting, said "You know, let's have the minutes read later on in the meeting." The Secretary then said, "Yeah, I like that." That's all it took. It is thus an informal custom at variance with written rules, which is subject to challenge by any Commissioner at any time, and the challenge should succeed. *Id.* 2:25.

(I have said that you cannot have "New Business" as an item on the agenda. I meant that you cannot have it *without more*. I.e., each item of new business must have specific notice and an opportunity for the public to address the Commission regarding it on the agenda.)

General Orders are anything placed on the agenda by a vote of the Commission (or, under current *Bylaws*, the Executive Committee, although I think this rule is invalid due to conflict with fundamental principles of parliamentary law) not designated as a special order and passed by a 2/3 majority. Anything that was on the agenda for the previous meeting as the result of a vote and was not reached goes here, in the order in which it appeared on the previous agenda, and before anything newly placed on the agenda by a vote (except for special orders). Generally, new things should go on the agenda here in the order in which they were placed on the agenda with a vote. RONR (12<sup>th</sup> ed.) 41:23. For items not placed on the agenda by a vote, i.e., things submitted by individual Commissioners, when the Executive Committee does not pass an agenda, go under "new business." Items reported by committees are noticed and moved during the associated committee reports.

A lot of fun was had at the May meeting during an item called "agenda changes." A Commissioner apparently thinks that the order of the items on the agenda does not matter, and that the chair may change the order at will during "agenda changes" or even later during the meeting. This is false. To hear an item ahead of its place on the agenda requires a 2/3 majority vote of the Commission (12 "yes"). *Id.* 41:37. To postpone an item to the following meeting may neither be done by the chair. Any member may insist that the agenda be followed by *Calling for the Orders of the Day*. *Id.* § 18. No vote is needed. To postpone an item until later on the agenda before it has been reached, or to postpone it until the next meeting before it has been reached, both require that notice and an opportunity for the public to speak to it appear on the agenda. The item may be postponed once the item has come up without notice, through a motion, debate, and majority vote. (See my other message regarding notice requirements – this would be the "secondary motion" method.) The exemptions created by *Cal. Gov't Code* § 54954.2(a)(3) and *S.F. Admin. Code* § 67.15(e) are not available to the Commission, because the Commission has not adopted a special rule of order that would allow the chair to



unilaterally postpone items not yet reached to the next meeting. *S.F. Admin. Code* § 67.15(e) does not allow any exemptions beyond those allowed by *Cal. Gov't Code* § 54954.2(a)(3). The Commission must abide by both sets of laws.

Very truly yours,  
Wynship Hillier



## Re: Noticing Motions under Open Meetings Laws in San Francisco

Wynship Hillier <wynship@hotmail.com>

Wed 7/13/2022 12:03 PM

To: DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

Dear Ms. Gray:

In my previous email, I asked that the email be referenced on the agenda and posted on the Commission's website because it was relevant to an item anticipated to be discussed at next week's meeting. The email made reference to "my other message regarding notice requirements . . ." This "other message" is included below. For completeness, it should be likewise referenced in the meaningful description of the agenda item and posted on the website, the same conditions applying.

Very truly yours,  
Wynship Hillier

**From:** Wynship Hillier

**Sent:** Wednesday, June 22, 2022 5:09 PM

**To:** DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

**Subject:** Noticing Motions under Open Meetings Laws in San Francisco

Dear Administrator:

Please forward this message to all Commissioners and post on the Commission's website.

Dear Commissioners:

You may not discuss this matter among a majority of the Commission outside of an agenda item devoted to the purpose at a noticed meeting of the Commission. *Cal. Gov't Code* § 54952.2(b)(1).

This is guidance I am providing to the Commission and its members about legal notice requirements for specific items on the agenda. It does not cover notice requirements for meetings in general. If you follow these instructions, I will not be able to complain that you are violating the law by failing to give adequate notice of specific items on the agenda.

### Discussion-Only Items

For discussion-only items, the notice requirements are roughly the same at state and local levels. Both the Brown Act, *Cal. Gov't Code* § 54954.2(a)(1) and the San Francisco Sunshine Ordinance, *S.F. Admin. Code* § 67.7(a) require "a brief general description . . . [which] generally need not exceed 20 words. . . ." (Brown Act, § 54954.2(a)(1)) appear on the agenda for regular meetings. The S.F. Sunshine Ordinance requires "a meaningful description" for discussion-only items, *S.F. Admin. Code* § 67.7(a), but this is almost the same thing. The Sunshine Ordinance additionally requires that discussion-only items contain the message "for discussion only." *Id.* The requirements for special meetings are similar. *Cal. Gov't Code* § 54956(a) for special meetings requires "the business to be transacted or discussed" to appear on the agenda. *S.F.*

*Admin. Code* § 67.6(f) for special meetings requires only "the business to be transacted" have notice on the agenda. Through the interpretive canon *noscitur sociis*, these words mean the same thing as they do in the requirement for regular meetings, in which they also appear.

The California Court of Appeal ruled that the "brief, general description" requirement of *Cal. Gov't Code* § 54954.2(a)(1) required enough information that a person whose interests may be affected by the item would know whether or not to attend the meeting. *Olson v. Hornbrook Community Services District*, 33 Cal. App. 5<sup>th</sup> 502, \*520-21 (2019). The Sunshine Ordinance similarly defines "a meaningful description" as follows:

sufficiently clear and specific to alert a person of average intelligence and education whose interests may be affected by the item that he or she may have reason to attend the meeting or seek more information on the item. The description should be brief, concise, and written in plain, easily understood English. . . .

*S.F. Admin. Code* § 67.7(b). This is a lot more words than the California Court of Appeal ruling. The law requires me to presume that the extra words are not idle speech, but I have a very hard time seeing what work the extra words do, and the Commission's violations being many and gross, I rarely have the occasion to scrutinize it. If the Sunshine Ordinance difference is more stringent than the Brown Act, I suspect the difference is razor-thin, and I have been willing to ignore it thus far, except for the local requirement that discussion-only items be labeled as such on the agenda.

## Action Items

Action items have very different requirements under state and local law. The Brown Act requirement is exactly the same as for discussion-only items, i.e., only a "brief, general description" is required. The Sunshine Ordinance requirement is much higher, and you must comply with both. The local requirement is that the "action proposed to be taken" appear on the agenda. *S.F. Admin. Code* § 67.7(a). This means the motion itself has to appear there. Amendments allowable at the meeting are limited to ones that reduce the scope or effect of the motion to something between zero and what appeared on the agenda (generally by striking out language), and changes in language that do not affect the scope or effect but may enhance clarity and understanding. For further guidance, see RONR (12<sup>th</sup> ed.) 57:11 (notice requirements for secondary amendments to Bylaws).

This does not mean that you cannot move to *Amend*, *Postpone*, *Commit*, or lay an item on the table (or make other secondary motions). These are called secondary motions and are not changes to the motion, except for motions to *Amend* (which must be within the boundaries of the notice, as just described). Secondary motion is a parliamentary distinction meaning motions that affect the procedural processing of a motion, rather than being acts of the Commission themselves. The way a secondary motion works is that, after the main motion is on the floor (stated by the chair), but before the main motion has been finally decided (voting has started), someone makes another motion that interrupts or otherwise affects the processing of the motion on the floor. Only secondary motions are allowed to be made while a main motion is on the floor. RONR (12<sup>th</sup> ed.) 5:4.

Moving to refer the main motion to a committee is a good example. If this secondary motion passes, the main motion is temporarily disposed and may not be further discussed until the committee to which it was referred reports back or a relevant motion to *Discharge a Committee* is passed. If the secondary motion does not pass, then proceedings return to the main motion as if nothing had occurred. Secondary motions may be nested or stacked one on top (or inside) of the other. E.g., someone may move to *Amend* the main motion on the floor. Before the vote on the motion to *Amend*, someone may move to *Refer* the entire thing to a committee, the motion to *Amend* still pending and subject to recommendation by the committee. Before the vote on the motion to *Refer* to a committee, someone else may move to *Amend* the motion to *Refer* to a committee, thereby to specify a different committee, or different instructions to the committee, etc. Before the second motion to *Amend* is voted on, someone could then move to *Postpone Definitely* the entire mess to the next meeting, the two motions to *Amend* and the motion to *Refer* to a committee "adhering" to the main motion and coming back before the Commission for further debate, secondary motions, and voting at that time, just as they are at the time the motion to *Postpone Definitely* was passed. Etc. (Other orderings of the above would not work, i.e., delaying the motion to *Amend* the main motion until after the motion to *Refer* it to a committee had been made but before it had been voted on would be out of order, because the motion to *Refer* was to refer the unamended motion, with no motion to *Amend* pending, either. This makes sense, if you think about it; what you are proposing to *Refer* has to remain stable while you consider the motion to *Refer*. The same goes for a motion to *Postpone Definitely*, etc.)

An assembly uses secondary motions to control how a main motion is procedurally handled. This is **not** up to the chair, but secondary motions generally need no notice on the agenda and require no opportunity for the public to address the Commission (or its committee). (There are exceptions, such as motions to *Amend* that make substantive changes to the main motion, and secondary motions to *Postpone Indefinitely*, both of which require notice on the agenda, etc., but there is *no exception* to the rule that every main motion (and every motion to bring business again before the assembly, which turn into main motions if passed) is "action taken" by the Commission or its committee and is therefore subject to notice requirements.)

### Secondary Motions Moved as Main Motions

To complicate matters considerably, most secondary motions may also be framed as main motions. RONR (12<sup>th</sup> ed.) 6:9, 6:13, and 6:23. For example, a motion to *Refer* to a committee may be stated either as a main motion or a secondary motion. If the motion to *Refer* was made while another motion was on the floor, it is assumed that the motion to *Refer* was proposing to refer the motion that was on the floor to the committee in question. It was then secondary, needed no notice on the agenda, and had to be disposed somehow before the main motion could have been decided.

But a motion to *Refer* may also be made while no motion is on the floor. This is done when the desire is to have a committee draft a main motion on a specific subject matter for the Commission to then consider. RONR (12<sup>th</sup> ed.) 51:34. The motion to *Refer* is then a main motion, must have notice on the agenda, the agenda must provide an opportunity for the public to address the Commission regarding it, the motion must be finally decided before the referral is made, and the motion is handled according to the parliamentary rules for main



motions. RONR (12<sup>th</sup> ed.) 13:6 and 36:11. Motions to *Amend* (i.e., *Amend Something Previously Adopted*), *Postpone Definitely*, etc., may also be moved as main motions. In general (though there are exceptions), when there is no motion on the floor, any motion that is made is a main motion and is subject to all legal and other requirements therefor. Exceptions include motions to *Adjourn* without more when there is no ending time for the meeting, all motions to *Suspend the Rules*, and possibly others. These are not main motions under parliamentary rules, even when made while no other motion is on the floor, and so may be made then (as well as other times) without the Commission "taking action", which would require that notice and the opportunity for the public to address the Commission appear on the agenda.

### **Public Comment**

*The agenda must provide an opportunity for the public to address the Commission on every item on the agenda to be transacted or discussed. Please be careful on the agenda and during the meeting to specify clearly to which item each period of public comment is to be directed. Intentional off-topic public comment is considered disruption of the meeting and is subject to criminal sanctions. White v. City of Norwalk, 900 F.2d 1421, \*1425 (1990). Cal. Pen. Code § 403. The agenda must provide that the public have an opportunity to address the Commission on the item before or during the Commission's consideration of the item.*

### **Exceptions to the Notice Requirements**

*Cal. Gov't Code § 54954.2(b) provides that items meeting certain requirements may be heard without notice. In particular, id. § 54954.2(b)(2) requires that the Commission make findings that the item is urgent and that that knowledge of the item did not occur until after the posting of the agenda be made and passed by vote. S.F. Admin. Code § 67.7(e)(2) raises the urgency requirement to a finding that either postponing the item until the next meeting would cause serious injury to the public interest or else that the item is purely commendatory (but still must be urgent). There are very few other things that may be done without notice on the agenda, listed in S.F. Admin. Code § 67.7(d).*

### **Penalties**

Penalties differ depending on whether the violation was of state or local law. State law has misdemeanor guilt that extends to each member of the Commission (or committee) present at the meeting if the violation was intentional, deprivation of information to which the public was due under the Brown Act was involved, and action was taken on the item (i.e., a main motion was finally decided) in violation of the Brown Act. *Cal. Gov't Code § 54959*. Local law labels willful failure to comply as official misconduct, which may lead to removal from the Commission. Both laws allow for equitable civil penalties (mandamus, injunction, and declaration). State law allows for reversal of actions taken in violation of the law by the Superior Court in limited cases. *Cal. Gov't Code § 54960.1*.

Very truly yours,  
Wynship Hillier





## Re: Chair's ability to hurry things along

Wynship Hillier <wynship@hotmail.com>

Wed 7/13/2022 12:37 PM

To: DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

Dear Ms. Gray:

The below email is also relevant to the same item anticipated to be discussed at the next meeting as my last two emails, in that it discloses the relevant rules and other ways that the Commission has of dealing with the problem of lack of time at meetings. Again, please reference this email in the meaningful description of the item and post the email on the Commission's website per local law, the same conditions applying.

Very truly yours,  
Wynship Hillier

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**From:** Wynship Hillier

**Sent:** Wednesday, June 22, 2022 4:54 PM

**To:** DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

**Subject:** Chair's ability to hurry things along

Dear Commissioners:

During Wednesday's meeting, the Chair repeatedly cut off debate or attempted to do so in the interests of time. The Chair has not this power.

Debate is sacred in parliamentary procedure. What else does the Commission do besides decide questions after debate? It has no administrative duties and is a solely deliberative assembly. This does not mean that members have an unlimited right to debate. It does mean that the Chair may not shorten debate beyond what the rules otherwise allow. In order to cut off debate and move to a final vote on an item, the Chair must make (12 or fewer present at the meeting) or another Commissioner must make (any number present) a motion for the *Previous Question*. This is a nondebatable, nonamendable motion that requires a 2/3 majority (12 "yes" under current rules) to pass. A vote is immediately taken and, if there are not 12 in favor, debate continues on the item. If the motion fails, it may be renewed once there has been material progress in the debate. If there are 12 in favor, then a vote is immediately taken on the item that was being debated (and maybe other pending motions, depending on how the motion for the *Previous Question* was worded). I heard Jackson-Lane make this motion at the May meeting and she was ignored. This motion may not be made in committees.

If a motion for the *Previous Question* is made and fails, or if the motion is not made, then the limits of debate are two speeches per member per question per day, ten minutes per speech. RONR (12th ed.)

43:12 and 43:8, resp. The chair should allow members who have not spoken on a question to speak before allowing any member to speak on it a second time. *Id.* 42:9(2).

The limits of debate may be changed for a specific item by a motion made while the item is pending. This motion requires a 2/3 majority and is not debatable, but is amendable. So the chair should ask for amendments, but not debate. RONR (12th ed.) 15:5(5)-(7). If the motion passes, then the rules are changed for that item. This motion may not be made in committees.

The rules may be changed for the remainder of a meeting through a motion to *Suspend the Rules* while there is no motion on the floor, without notice on the agenda. This too requires a 2/3 majority but is neither debatable nor amendable. *Id.* 25:2(5)-(7).

Different permanent rules may be adopted as special rules of order, *id.* 43:15, but the Commission would have to amend its new *Bylaws* to either allow it to pass special rules of order or put such a rule in its *Bylaws*.

Very truly yours,  
Wynship Hillier



## Brown Act Warning

Wynship Hillier <wynship@hotmail.com>

Sat 7/16/2022 4:54 PM

To: DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

Dear Ms. Gray:

Please forward to all Commissioners. This is explanatory correspondence relevant to all items anticipated to be discussed at the meeting. It must be posted on the Commission's website "to the extent possible." *S.F. Admin. Code* § 67.9(a).

Dear Commissioner:

If Wednesday's meeting proceeds as planned, each Commissioner present at the meeting will be guilty of a misdemeanor under *Cal. Gov't Code* § 54959.

Misdemeanor guilt follows upon action taken in violation of the Brown Act, with the intent to deprive the public of information to which the member knows or should know the public to be entitled under the Brown Act.

The public did not receive adequate notice of this meeting. Email was not sent out to the people who requested email notice of the meeting, required by the Brown Act. This notice was required to be sent at the time that notice of the meeting was sent to the Commissioners or posted on the website, whichever was earlier, by *Cal. Gov't Code* § 54954.1. As a result, each action or discussion item at the meeting should be ruled out of order by the chair. RONR (12<sup>th</sup> ed.) 10:26(1)-("[T]o the extent that procedural rules applicable to the organization or assembly are prescribed by federal, state, or local law, no main motion is in order that conflicts with such rules."). *Cal. Gov't Code* § 54952.2(b)(1) (nothing within the subject-matter jurisdiction of a local body may be transacted or discussed outside of a meeting noticed according to the Brown Act). If the chair fails to rule any item out of order, any member may raise a *Point of Order* at any time during the discussion or consideration of the motion. No vote is needed. If a motion is finally approved at the meeting, any member may challenge it any time that it remains in effect by raising a *Point of Order* against it. *Id.* 23:6(c):

The only exceptions to the requirement that a point of order must be made promptly at the time of the breach arise in connection with breaches that are of a continuing nature, whereby the action taken in violation of the rules is null and void. . . . Instances of this kind occur when:

- a) a main motion has been adopted that conflicts with the bylaws . . . of the organization or assembly, . . .
- ....
- c) any action has been taken in violation of applicable procedural rules prescribed by federal, state, or local law,
- ....
- ....
- ....

If the motion is *approved or rejected*, misdemeanor guilt will attach to every Commissioner present at the meeting at that time. *Cal. Gov't Code* § 54959. This cannot be cured, since any notice at this point

would be untimely. Furthermore, members of the public may disturb the proceedings of this meeting without incurring misdemeanor guilt under *Cal. Penal Code* § 403.

The Commission has also not passed a motion setting the times and locations of the regular meetings of itself and its standing committees, as required by *Cal. Gov't Code* § 54954(a). The Co-Chairs refuse to do this because they know that, if they do, it will take a 2/3 vote to change it. That means 12 "yes" votes under current rules, i.e. perfect attendance and a unanimous vote, which has historically been difficult to obtain. For the sake of flexibility, the Co-Chairs are exposing you all to criminal penalties if any action is taken at any meeting of the Commission or its committees (final disposition with a "yes" or "no" vote, or defeat of a secondary motion to *Postpone Definitely*) until the scheduling motion is passed by the Commission. The meeting chairs should rule each discussion-only or action item on the agenda for this meeting or those of any of the committees out of order as soon as they call it up, for this reason, until the scheduling motion is passed at a meeting of the Commission (which would require notice on the agenda). (Note, this does not affect the MHSA hearing, nor the Kunins presentation, but the Kunins presentation is out of order for another reason.) If they fail to do this for any item at any meeting, any member may raise a *Point of Order* about this at any time during any discussion-only or action item at any meeting of the group of which they are a member. Any action item that is approved at any Commission or committee meeting will also be subject to a *Point of Order* for the entire period in which it remains in effect, even after a scheduling motion is passed, because one was not in place when the item was passed. This problem cannot be cured at this meeting. Furthermore, members of the public may disturb the proceedings of any of these meeting without incurring misdemeanor guilt under *Cal. Penal Code* § 403.

The chair should rule the address by Dr. Kunins out of order when it comes up because it was not made an *Order of the Day* by any of the accepted methods. RONR (12<sup>th</sup> ed.) 41:42. If the chair fails to do so, any member may raise a *Point of Order* regarding this matter during the presentation. This cannot be cured during the meeting because the applicable method requires notice on the agenda.

Even if the global problems regarding notice of the meeting did not apply, approval of the minutes proposed to be adopted in item 3.1 without changes would be out of order and would be subject to reversal at any time through a *Point of Order* for civil violation of *Cal. Gov't Code* § 54953(c)(2). The minutes report that the AB 351 motion was passed at the June meeting. However, the motion itself does not appear in the minutes, nor is there even a reference to the agenda in which it does appear. This problem may be cured through amendment of the proposed minutes to include the motion or a reference to the agenda for the text of the motion. This is also a violation of a parliamentary rule. RONR (12<sup>th</sup> ed.) 48:4(6)(a). These minutes also violate the following other rules of order, which violations may also be cured through amendment at the meeting:

- Id.* 48:2, by reporting what was said by Commissioners and members of the public, as opposed to the actions they took;
- Id.* 48:4(1), by failing to include the type of meeting (regular or special);
- Id.* 48:4(4), by failing to state who was in the chair;
- Id.* 48:4(12), by failing to state the hour of adjournment in the last paragraph;
- Id.* 48:5(1), by including the seconds of motions when not ordered by the assembly;
- Id.* 48:5(6), by including summaries of the remarks of speakers; and
- Id.* 48:7, by failing to show the signature of the secretary or to indicate that the minutes were signed by her.

The minutes could also be abbreviated considerably by not reporting the vote of each member on a separate line, and by using only their last names to identify them.

Item 3.2 violates local procedural law. This seems like a discussion item labeled as an action item. If it is a discussion item, it was required to be labeled with a notation that it is for discussion only. If it is an action item, it does not include the action proposed to be taken, also required by local law. *S.F. Admin. Code* § 67.7(a). Therefore, this item should be ruled out of order by the chair. If they fail to do so, any



member may raise a *Point of Order* at any time during its consideration. If the motion is approved, it will be vulnerable to a *Point of Order* at any time that it remains in effect. If the description is far enough off the mark, criminal guilt may be assessed on every member of the Commission present at the meeting at the time that this item is finally decided, whether you vote for or against the item, and whether the item is approved or rejected. See Item 3.4, *infra*. This same criticism applies to Item No. 3.6. This problem cannot be cured at this meeting.

Item 3.3 also will violate local procedural law, if it is prosecuted correctly. Local law requires that the description include the action proposed to be taken. *S.F. Admin. Code* § 67.7(a). The "motion" that appears on the agenda is incomplete. How many people are proposed to be on this committee? How are its members to be appointed, or are they to be named directly in the motion? RONR (12<sup>th</sup> ed.) 13:8(c) ("Necessary Details of the Motion."):

If the main question is to go to a special (select, or ad hoc) committee (see 50), the motion should specify the number of committee members, and the method of their selection unless the method is prescribed by the bylaws or rules of the assembly; or, if preferred, the motion can name the members of the special committee. . . .

(Appointment of members includes designation of the committee chair.) Either the motion will have no effect or the necessary amendments will cause a violation of local law because the action proposed to be taken needed to appear on the agenda. The chair should rule such amendments out of order. If they fail to do so, any member may challenge the amendment by raising a *Point of Order*. If this does not occur or does not succeed, the existence of the resulting committee may be challenged at any time until the committee finally reports through any Commissioner raising a *Point of Order*. This motion is also out of order because it conflicts with a special rule of order in the *Bylaws* which requires that the Chair or Co-Chairs create *ad hoc* committees "with the concurrence of the Executive Committee. . . ." Art. VIII, § 1, ¶ 4. (Although the approval of the *Bylaws* was defective in many respects, they stand unless and until a Commissioner raises a *Point of Order* against them. This will make life increasingly precarious, as more and more actions of lasting effect are taken on the basis of the *Bylaws* whose approval was flawed.)

RONR (12<sup>th</sup> ed.) 10:26(4) ("[N]o main motion is in order that conflicts with a motion previously adopted at any time and still in force. . . ."). The adoption of the current *Bylaws*, with the special rules of order therein, was such a motion. Now that the Commission has delegated this power to the Executive Committee, it cannot take it back without amending the *Bylaws* or passing a motion to *Suspend the Rules* in a specific instance, requiring a 2/3 majority vote (12 "yes" votes, under current rules). The chair should rule this item out of order even without an amendment. Upon their failure to do so, any member may raise a *Point of Order* against its consideration. If the item passes, any Commission may raise a *Point of Order* against it at any time, at any meeting. *Id.* 23:6(a) (quoted above). To do otherwise also shows considerable contempt for the ExCom. This is not a matter about which the ExCom may act on behalf of the Commission, in which case the Commission could also act originally on the matter. It is a matter that has been delegated specifically to the ExCom. All of these criticisms also apply to Item Nos. 3.4 and 3.5. Item No. 3.4 is poorly labeled because it looks like only the appointment of the committee chair is up for approval. This is a civil violation of the notice requirement, *Cal. Gov't Code* § 54954.2(a) (1) and *S.F. Admin. Code* § 67.7(a). The chair should rule this item out of order on this basis alone, any member may raise a *Point of Order* during its consideration, or at any time after the item is approved and still in force. These problems cannot be cured by any actions at this meeting.

Item 4.0 violates local law in two different ways. If the items thereunder are discussion-only items, they need to be labeled "for discussion only." If they are action items, they need to contain the action proposed to be taken in their descriptions. *S.F. Admin. Code* § 67.7(a). The first two also violate local law because each report does not have a dedicated period for the public to address the Commission on the report. *Id.* § 67.15(a). The descriptions are pretty empty, and might violate *id.* § 67.7(a), the "meaningful description" requirement. The chair should rule them out of order when they come up. If they fail to do so, any member may raise a *Point of Order* during their discussion or consideration. This problem cannot be cured at this meeting.



Items 5.1, 5.2, and 6.0 all violate local law. These descriptions are "boilerplate", copied from one agenda to the next without thought, and reflect nothing about the specific matters to be introduced during them. The underlying reports and announcements, etc., might be exempt from the Brown Act, but, even if they are, they are not exempt from local law, which has much narrower exemptions from its notice requirement, *S.F. Admin. Code* § 67.7(d), which is more comprehensive. The chair should rule these "headings" out of order when they call them up, and not call for items under them. If they fail to do so, any member may raise a *Point of Order* any time during the discussion or consideration of items under them. Any motions with lasting effect, such as commendations, may be challenged at any time that they remain in effect by any Commissioner by raising a *Point of Order*. This problem cannot be cured at this meeting.

"Final public comment" civilly violates *Cal. Gov't Code* § 54954.3(a) because it does not make clear to the public that this is the opportunity for the public to address the Commission on matters within the subject matter jurisdiction of the Commission but not on the agenda for the particular meeting. However, I think it would make a criminal violation out of a civil one for the chair to rule the item out of order, or for a member to challenge it through a *Point of Order*. This problem cannot be cured at this meeting.

Other violations may occur at the meeting.

Very truly yours,

Wynship Hillier



## Re: Brown Act Warning

Wynship Hillier <wynship@hotmail.com>

Sat 7/16/2022 5:49 PM

To: DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

Cc: DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

P.S. Sorry, Amber did put who was in the chair, 48:4(4), and the hour of adjournment in the last para., 48:4(12). I apologize. -WH

---

**From:** Wynship Hillier

**Sent:** Saturday, July 16, 2022 4:54 PM

**To:** DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

**Subject:** Brown Act Warning

Dear Ms. Gray:

Please forward to all Commissioners. This is explanatory correspondence relevant to all items anticipated to be discussed at the meeting. It must be posted on the Commission's website "to the extent possible." *S.F. Admin. Code* § 67.9(a).

Dear Commissioner:

If Wednesday's meeting proceeds as planned, each Commissioner present at the meeting will be guilty of a misdemeanor under *Cal. Gov't Code* § 54959.

Misdemeanor guilt follows upon action taken in violation of the Brown Act, with the intent to deprive the public of information to which the member knows or should know the public to be entitled under the Brown Act.

The public did not receive adequate notice of this meeting. Email was not sent out to the people who requested email notice of the meeting, required by the Brown Act. This notice was required to be sent at the time that notice of the meeting was sent to the Commissioners or posted on the website, whichever was earlier, by *Cal. Gov't Code* § 54954.1. As a result, each action or discussion item at the meeting should be ruled out of order by the chair. RONR (12<sup>th</sup> ed.) 10:26(1) ("[T]o the extent that procedural rules applicable to the organization or assembly are prescribed by federal, state, or local law, no main motion is in order that conflicts with such rules."). *Cal. Gov't Code* § 54952.2(b)(1) (nothing within the subject-matter jurisdiction of a local body may be transacted or discussed outside of a meeting noticed according to the Brown Act). If the chair fails to rule any item out of order, any member may raise a *Point of Order* at any time during the discussion or consideration of the motion. No vote is needed. If a motion is finally approved at the meeting, any member may challenge it any time that it remains in effect by raising a *Point of Order* against it. *Id.* 23:6(c):

The only exceptions to the requirement that a point of order must be made promptly at the time of the breach arise in connection with breaches that are of a continuing nature, whereby the action taken in violation of the rules is null and void. . . . Instances of this kind occur when:



## Re: Brown Act Warning

Wynship Hillier <wynship@hotmail.com>

Wed 7/20/2022 9:11 AM

To: DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

Cc: DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

P.P.S. I found a mistake: In the seventh separated paragraph, there is a parenthetical phrase, "(final disposition with a "yes" or "no" vote, or defeat of a secondary motion to *Postpone Definitely*)" That should be a motion to "Postpone Indefinitely". To be perfectly correct, the words "approved or rejected" at the top of the sixth paragraph should also include this motion, which is all but named in GC § 54952.6. I apologize for any confusion. -WH

---

**From:** Wynship Hillier <wynship@hotmail.com>

**Sent:** Saturday, July 16, 2022 5:49 PM

**To:** DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

**Cc:** DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

**Subject:** Re: Brown Act Warning

P.S. Sorry, Amber did put who was in the chair, 48:4(4), and the hour of adjournment in the last para., 48:4(12). I apologize. -WH

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72

## SAN FRANCISCO BEHAVIORAL HEALTH COMMISSION



Mayor  
London N. Breed

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(415) 255-3474 fax: 255-3760  
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[www.sfgov.org/mental\\_health](http://www.sfgov.org/mental_health)

Bahlam Javier Vigil, Co-Chair  
Stephen Banuelos, Co-Chair  
Genesis Vasconez, MS, PMHNP-BC, Vice-Chair  
Lisa Williams, Secretary  
Terezia Bohrer, RN, MSW, CLNC  
Judith Klain, MPH  
Carletta Jackson-Lane, JD  
Kescha S. Mason  
Liza Murawski  
Toni Parks  
Harriette Stallworth Stevens, EdD  
Lisa Wynn

### AGENDA

Behavioral Health Commission Meeting  
Wednesday, July 20, 2022  
6:00 PM – 8:00 PM

#### REMOTE BHC MEETING ZOO

<https://us06web.zoom.us/j/86814231197?pwd=M2NobnBianhBSG9abXQ1c0ZndkxQZz09>

Meeting ID: 868 1423 1197      Passcode: bhc

Meeting ID: 868 1423 1197      Passcode: 458624

#### CALL TO ORDER

Roll Call

Agenda Changes

#### ITEM 1.0 COMMISSIONER'S REPORTS

##### 1.1 Report from the Commission Co-Chair and the Executive Committee

1.1 a) The Co-Chairs will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 which empowers local policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below [Action Item]

#### PUBLIC COMMENT

## **ITEM 2.0 REPORT FROM BEHAVIORAL HEALTH SERVICES DIRECTOR**

Presentation by the Behavioral Health Services Department Director Hillary Kunins: a report on the activities and operations of Behavioral Health Services (BHS), including information on the budget and the planning process, policy updates on the BHC and DPH decision-making process. Introduce the MHSA report presentation

### **PUBLIC COMMENT**

## **ITEM 3.0 ACTION ITEMS**

Presentation by Tracy Helton MPA, MHSA Program Manager/Acting Deputy Director JEDI of the MHSA Draft Report

### **PUBLIC COMMENT**

**3.1 Approve the minutes of the Behavioral Health Commission meeting of June 7, 2022 meeting [action item]**

### **PUBLIC COMMENT**

**3.2 Data Notebook 2022 – Discussion on input from the BHC [action item]**

### **PUBLIC COMMENT**

**3.3 Establish Ad Hoc Committee for the Annual Report:** The BHC Annual Reports are due for 2021-2022 in September [action item]

### **PUBLIC COMMENT**

**3.4 Appoint Chair to the Ad-Hoc ByLaw Committee:** establish the bylaw ad hoc committee – [action item]

### **PUBLIC COMMENT**

**3.5 The creation of the Oversight Ad-Hoc Committee:** to establish an Ad Hoc committee to review BHC mandates which include the Annual Report, specifically to **(1.) Identify 3-4 potential resolutions and have them ready to share at the July 2022 Commission meeting.** These resolutions would include key issues the Commissioners want to send to the Board of Supervisors, Health Commission, and Mayor's Office, **(2.) Identify 4-5 programs that the Commissioners want to review and prepare to share them at the July 2022 Commission meeting.** The Commissioners can conduct virtual site reviews or use the BHC COVID Survey form [action item]

### **PUBLIC COMMENT**

**3.6 BHC Commissioner Training:** notify the commissioners of the scheduled commissioner virtual training on August 17, 2022 from 5 – 7pm [action item]



#### **ITEM 4.0 REPORT FROM THE COMMITTEES**

Discussion regarding committee meetings, goals and accomplishments:

**Implementation Committee, Chair Stephen Banuelos**

Discuss focus of the Implementation Committee

**Site Visit Committee, Chair Vigil -**

Report on Site Visit strategy in completing selected site evaluations

**Strategic Planning Ad Hoc Committee, Commissioner Bohrer –**

Update on progress of the current draft of the Strategic Plan – **see attached below**

#### **PUBLIC COMMENT**

#### **ITEM 5.0 PEOPLE OR ISSUES HIGHLIGHTED BY BHC [Discussion only]**

**5.1** Suggestions of people, programs, or both, that Commissioners believe should be acknowledged or highlighted by the BHC.

**5.2** Report by members of the Commission on their activities on behalf of the Behavioral Health Commission as authorized

#### **ITEM 6.0 NEW BUSINESS [Discussion only]**

Suggestions for future agenda items to be referred to the Executive Committee and for future trainings and orientation of future Commissioners

#### **PUBLIC COMMENT**

#### **ITEM 7.0 Final Public Comment**

#### **Adjournment**



**You may not discuss ending time at this meeting**

Wynship Hillier <wynship@hotmail.com>

Wed 7/20/2022 6:28 PM

To: Grier, Geoffrey (DPH - Contractor) <geoffrey.grier@sfdph.org>; Gray Amber (DPH) <amber.gray@sfdph.org>; Stephen Banuelos <[REDACTED]>; Javier Vigil <[REDACTED]>

Cc: LIZA murawski <[REDACTED]>

"Agenda changes" is not an opportunity for you to add things to the agenda. GC § 54954.2(a)(1) and Admin. Code § 67.7(a) both prohibit you from discussing whether to end meetings at 8:00 p.m. at this meeting. Criminal penalties apply. I will report it to SOTF. -WH

**74**

**Re: You may not discuss ending time at this meeting**

Wynship Hillier <wynship@hotmail.com>

Thu 7/21/2022 8:03 AM

To: Grier, Geoffrey (DPH - Contractor) <geoffrey.grier@sfdph.org>; Gray Amber (DPH) <amber.gray@sfdph.org>; Stephen Banuelos <[REDACTED]>; Javier Vigil <[REDACTED]>

Cc: LIZA murawski <[REDACTED]>

BHC is a bunch of criminals because you think like criminals. All you care about are criminal penalties, nothing else. Working on Bylaws is just window-dressing and waste of time for you, because you ignore them once they are passed. You are lawless and brutal; all you understand is force.

---

**From:** Wynship Hillier

**Sent:** Wednesday, July 20, 2022 6:28 PM

**To:** Grier, Geoffrey (DPH - Contractor) <geoffrey.grier@sfdph.org>; Gray Amber (DPH) <amber.gray@sfdph.org>; Stephen Banuelos <[REDACTED]>

**Cc:** LIZA murawski <[REDACTED]>

**Subject:** You may not discuss ending time at this meeting

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**Re: You may not discuss ending time at this meeting**

Wynship Hillier <wynship@hotmail.com>

Thu 7/21/2022 1:54 PM

To: Grier, Geoffrey (DPH - Contractor) <geoffrey.grier@sfdph.org>; Gray Amber (DPH) <amber.gray@sfdph.org>; Stephen Banuelos <[REDACTED]>; Javier Vigil <[REDACTED]>

Cc: LIZA murawski <[REDACTED]>

For accuracy's sake, discussing ending time at the meeting would not have been a criminal violation, because no action would have been taken. It would have been a civil violation. Since you care such a great deal about the distinction.

---

**From:** Wynship Hillier <wynship@hotmail.com>

**Sent:** Thursday, July 21, 2022 8:03 AM

**To:** Grier, Geoffrey (DPH - Contractor) <geoffrey.grier@sfdph.org>; Gray Amber (DPH) <amber.gray@sfdph.org>; Stephen Banuelos <[REDACTED]>

**Cc:** LIZA murawski <[REDACTED]>

**Subject:** Re: You may not discuss ending time at this meeting

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---

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**Cc:** LIZA murawski <[REDACTED]>

**Subject:** You may not discuss ending time at this meeting

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## SAN FRANCISCO BEHAVIORAL HEALTH COMMISSION



**Mayor**  
**London N. Breed**

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San Francisco, CA 94103  
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[mhb@mhbsf.org](mailto:mhb@mhbsf.org)  
[www.mhbsf.org](http://www.mhbsf.org)  
[www.sfgov.org/mental\\_health](http://www.sfgov.org/mental_health)

Baham Javier Vigil, Co-Chair  
Stephen Banuelos, Co-Chair  
Genesis Vasquez, MS, PMHNP-BC, Vice-Chair  
Lisa Williams, Secretary  
Terezia Bohrer, RN, MSW, CLNC  
Judith Klain, MPH  
Carletta Jackson-Lane, JD  
Kesha S. Mason  
Liza Murawski  
Toni Parks  
Harriette Stallworth Stevens, EdD  
Lisa Wynn

### AGENDA

**Behavioral Health Commission Annual Report Ad-Hoc Committee Meeting**  
**Monday, August 1, 2022**  
**5:00 PM – 6:00 PM**

#### REMOTE BHC MEETING ZOOM

<https://us06web.zoom.us/j/84570319351?pwd=RU9DaDViblFtTzhwTXlzVVJmNkIwQT09>

**Meeting ID: 845 7031 9351**

**Passcode: bhc**

**One tap mobile**

+16699006833,,84570319351#,,,,\*981916# US (San  
Jose)+14086380968,,84570319351#,,,,\*981916# US (San Jose)

#### CALL TO ORDER

**Roll Call**

**Agenda Changes**

#### ITEM 1.0 COMMISSIONER'S REPORTS

##### 1.1 Report from the Commission Co-Chair and the Executive Committee

**1.1 a)** The Co-Chairs will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 which empowers local policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below **[Action Item]**



**PUBLIC COMMENT**

**ITEM 2.0 REVIEW ANNUAL REPORT REQUIREMENTS**

Co-Chairs will guide commissioners in work distribution regarding the 2021-2022 Annual Report

**PUBLIC COMMENT**

**ITEM 3.0 ACTION ITEMS**

Vote on time and frequency of meetings

**PUBLIC COMMENT**

**3.1 Establish Ad Hoc Committee for the Annual Report:** The BHC Annual Reports are due for 2021-2022 in September [action item]

**PUBLIC COMMENT**

**ITEM 4.0 NEW BUSINESS [Discussion only]**

Suggestions for future agenda items to be referred to the Executive Committee and for future trainings and orientation of future Commissioners

**PUBLIC COMMENT**

**ITEM 5.0 Final Public Comment**

**Adjournment**



## Re: Meeting of Ad Hoc Annual Report Committee

Harriette S. STEVENS EdD <[REDACTED]>

Mon 8/1/2022 5:50 PM

To: Wynship Hillier <wynship@hotmail.com>

Cc: Stephen Banuelos <[REDACTED]>; Grier, Geoffrey (DPH - Contractor) <geoffrey.grier@sfdph.org>; Gray, Amber (DPH) <amber.gray@sfdph.org>; Javier Vigil <[REDACTED]>; Terry Bohrer <[REDACTED]>

We will meet briefly only to reschedule this meeting.

Topic: Scheduling the 2021-2022 Annual Report Meeting

Time: Aug 1, 2022 05:30 PM Pacific Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/83742631926?pwd=MDIYcmQ4b2tDNVoxSWdzaHozNINjOT09>

Meeting ID: 837 4263 1926

Passcode: 036952

On Mon, Aug 1, 2022 at 5:31 PM Wynship Hillier <wynship@hotmail.com> wrote:

You should consider calling the meeting off, since whatever new number is impossible to announce to the public at this point.

---

**From:** Stephen Banuelos <[REDACTED]>

**Sent:** Monday, August 1, 2022 5:29 PM

**To:** Grier, Geoffrey (DPH - Contractor) <geoffrey.grier@sfdph.org>

**Cc:** Wynship Hillier <wynship@hotmail.com>; Harriette S. STEVENS EdD <[REDACTED]>; Gray, Amber (DPH) <amber.gray@sfdph.org>; Javier Vigil <[REDACTED]>; Terry Bohrer <[REDACTED]>

**Subject:** Re: Meeting of Ad Hoc Annual Report Committee

Amber,

Can you give us a number to call we can all be hooked to?

Stephen

On Mon, Aug 1, 2022 at 5:25 PM Grier, Geoffrey (DPH - Contractor) <geoffrey.grier@sfdph.org> wrote:

Zoom is sending the authorization somewhere Amber and I can't access, ie a new problem. I suggest you all group chat via phone. Amber can do that

Get [Outlook for iOS](#)

---

**From:** Wynship Hillier <wynship@hotmail.com>

**Sent:** Monday, August 1, 2022 8:15:46 PM

**To:** Harriette S. STEVENS EdD <[REDACTED]>; Grier, Geoffrey (DPH - Contractor) <geoffrey.grier@sfdph.org>

**Cc:** Gray, Amber (DPH) <[amber.gray@sfdph.org](mailto:amber.gray@sfdph.org)>; Javier Vigil <[REDACTED]>; Stephen Banuelos <[REDACTED]>; Terry Bohrer <[REDACTED]>  
**Subject:** Re: Meeting of Ad Hoc Annual Report Committee

Agenda says its 981916 for phone, but Grier says it's wrong.

---

**From:** Harriette S. STEVENS EdD <[REDACTED]>  
**Sent:** Monday, August 1, 2022 5:11 PM  
**To:** Grier, Geoffrey (DPH - Contractor) <[geoffrey.grier@sfdph.org](mailto:geoffrey.grier@sfdph.org)>  
**Cc:** Wynship Hillier <[wynship@hotmail.com](mailto:wynship@hotmail.com)>; Gray, Amber (DPH) <[amber.gray@sfdph.org](mailto:amber.gray@sfdph.org)>; Javier Vigil <[REDACTED]>; Stephen Banuelos <[REDACTED]>; Terry Bohrer <[REDACTED]>  
**Subject:** Re: Meeting of Ad Hoc Annual Report Committee

it's bhc

On Mon, Aug 1, 2022 at 5:09 PM Grier, Geoffrey (DPH - Contractor) <[geoffrey.grier@sfdph.org](mailto:geoffrey.grier@sfdph.org)> wrote:

Waiting for passcode

Get [Outlook for iOS](#)

---

**From:** Harriette S. STEVENS EdD <[REDACTED]>  
**Sent:** Monday, August 1, 2022 8:06:01 PM  
**To:** Wynship Hillier <[wynship@hotmail.com](mailto:wynship@hotmail.com)>  
**Cc:** Gray, Amber (DPH) <[amber.gray@sfdph.org](mailto:amber.gray@sfdph.org)>; Grier, Geoffrey (DPH - Contractor) <[geoffrey.grier@sfdph.org](mailto:geoffrey.grier@sfdph.org)>; Javier Vigil <[REDACTED]>; Stephen Banuelos <[REDACTED]>  
**Subject:** Re: Meeting of Ad Hoc Annual Report Committee

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

I'm waiting also. I'll check.

On Mon, Aug 1, 2022 at 5:04 PM Wynship Hillier <[wynship@hotmail.com](mailto:wynship@hotmail.com)> wrote:  
 | Where is the meeting? I logged in but no one there by 5:04. -WH

--  
 Harriette S. Stevens, Ed.D.  
 ph: [REDACTED]  
 email: [REDACTED]

--  
**Harriette S. Stevens, Ed.D., (she, her)**  
 Board President, San Francisco Mental Health Education Funds, Inc.

8/17/22, 5:56 PM

Mail - Wynship Hiller - Outlook

San Francisco Behavioral Health Commissioner

C: [REDACTED]

# SAN FRANCISCO BEHAVIORAL HEALTH COMMISSION



Mayor  
London N. Breed

1380 Howard Street, 2<sup>nd</sup> Floor  
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Carletta Jackson-Lane, JD  
Kescha S. Mason  
Liza Murawski  
Toni Parks  
Harriette Stallworth Stevens, EdD  
Lisa Wynn

## AGENDA

Behavioral Health Commission Annual Report Ad-Hoc Committee Meeting

Friday, August 5, 2022

3:00 PM – 4:00 PM

REMOTE BHC MEETING ZOOM

Join Zoom Meeting

<https://us06web.zoom.us/j/86253857989?pwd=QWorNGxrL1VYWWM1YUg4K3hnc3NKQT09>

Meeting ID: 862 5385 7989

Passcode: 041239

One tap mobile +16699006833,, 86253857989#,,,,\*041239# US (San Jose)

+14086380968,,86253857989#,,,,\*041239# US (San Jose) Dial by your location +1 669 900 6833 US (San Jose)

CALL TO ORDER

Roll Call

Agenda Changes

### ITEM 1.0 COMMISSIONER'S REPORTS

#### 1.1 Report from the Commission Co-Chair and the Executive Committee

**1.1 a)** The Co-Chairs will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 which empowers local policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below **[Action Item]**



**PUBLIC COMMENT**

**ITEM 2.0 REVIEW ANNUAL REPORT REQUIREMENTS**

Co-Chairs will guide commissioners in work distribution regarding the 2021-2022 Annual Report

**PUBLIC COMMENT**

**ITEM 3.0 ACTION ITEMS**

Vote on time and frequency of meetings

**PUBLIC COMMENT**

**3.1 Establish Ad Hoc Committee for the Annual Report:** The BHC Annual Reports are due for 2021-2022 in September [action item]

**PUBLIC COMMENT**

**ITEM 4.0 NEW BUSINESS [Discussion only]**

Suggestions for future agenda items to be referred to the Executive Committee and for future trainings and orientation of future Commissioners

**PUBLIC COMMENT**

**ITEM 5.0 Final Public Comment**

**Adjournment**



## SAN FRANCISCO BEHAVIORAL HEALTH COMMISSION

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Carletta Jackson-Lane, JD  
Kescha S. Mason  
Liza Murawski  
Toni Parks  
Harriette Stallworth Stevens, EdD  
Lisa Wynn

### AGENDA

#### Behavioral Health Commission By-Law Ad-Hoc Committee Meeting

Friday, August 5, 2022

4:00 PM – 5:00 PM

REMOTE BHC MEETING ZOOM

#### Join Zoom Meeting

<https://us06web.zoom.us/j/87950145362?pwd=aW4rVWVmVm1VQmQ4WW5zUW92bi90QT09>

Meeting ID: 879 5014 5362

Passcode: 778247

One tap mobile +16694449171,,87950145362#,,,,\*778247# US

+16699006833,,87950145362#,,,,\*778247# US (San Jose) Dial by your location

#### CALL TO ORDER

#### Roll Call

#### Agenda Changes

#### ITEM 1.0 COMMISSIONER'S REPORTS

##### 1.1 Report from the Commission Co-Chair and the Executive Committee

1.1 a) The Co-Chairs will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 which empowers local policy bodies to convene by teleconferencing

technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below **[Action Item]**

**PUBLIC COMMENT**

**ITEM 2.0 REVIEW RECENTLY PASSED BY-LAWS**

Chair will guide commissioners in reviewing the by-laws for changes, amendments and potential adoptions

**PUBLIC COMMENT**

**ITEM 3.0 ACTION ITEMS**

Vote on time and frequency of meetings

**PUBLIC COMMENT**

**3.1 Establish Ad Hoc Committee Work Groups:** Identify glaring changes that need to be made in the current by-law version and determine if special topic focused work groups are needed **[action item]**

**3.2 Review attached By-Laws and sample markups:** discussion and possible action item on shared items **[action item]**

**PUBLIC COMMENT**

**ITEM 4.0 NEW BUSINESS [Discussion only]**

Suggestions for future agenda items to be referred to the Executive Committee and for future trainings and orientation of future Commissioners

**PUBLIC COMMENT**

**ITEM 5.0 Final Public Comment**

**Adjournment**



## GIS posting for meetings

Wynship Hillier <wynship@hotmail.com>

Fri 8/5/2022 4:22 PM

To: Gray Amber (DPH) <amber.gray@sfdph.org>

see page two.



## Web posting

Wynship Hillier <wynship@hotmail.com>

Fri 8/5/2022 4:32 PM

To: Gray Amber (DPH) <amber.gray@sfdph.org>

Cc: DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

here it is



# San Francisco Department of Public Health

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#### 2022 Agendas

August 1, 2022 - BHC Annual Report Ad-Hoc Committee Meeting

July 20, 2022

July 12, 2022 - Site Visit Committee Meeting

July 12, 2022 - BHC Executive Committee

July 12, 2022 - BHC Implementation Committee

June 15, 2022

June 7, 2022 - Site Visit Committee Meeting

June 7, 2022 - BHC Executive Committee

June 7, 2022 - BHC Implementation Committee

May 18, 2022

May 10, 2022 - Site Visit Committee Meeting

May 10, 2022 - BHC Executive Committee

May 10, 2022 - BHC Implementation Committee

April 20, 2022

April 12, 2022 - Site Visit Committee Meeting

April 12, 2022 - BHC Executive Committee

April 12, 2022 - BHC Implementation Committee

March 16, 2022

March 9, 2022 - Site Visit Committee Meeting

March 9, 2022 - BHC Executive Committee

March 9, 2022 - BHC Implementation Committee

February 16, 2022

February 9, 2022 - Site Visit Committee Meeting

February 9, 2022 - BHC Executive Committee

February 9, 2022 - BHC Implementation Committee

January 19, 2022

January 12, 2022 - Site Visit Committee Meeting

January 12, 2022 - BHC Executive Committee

January 12, 2022 - BHC Implementation Committee

#### 2022 Minutes

June 15, 2022

June 07, 2022 - Site Visit Committee Meeting

June 07, 2022 - BHC Executive Committee

June 07, 2022 - BHC Implementation Committee

May 18, 2022

May 10, 2022 - Site Visit Committee Meeting

May 10, 2022 - BHC Executive Committee

May 10, 2022 - BHC Implementation Committee

April 20, 2022

April 12, 2022 - Site Visit Committee Meeting

April 12, 2022 - BHC Executive Committee

April 12, 2022 - BHC Implementation Committee

March 16, 2022

March 9, 2022 - Site Visit Committee Meeting

March 9, 2022 - BHC Executive Committee

March 9, 2022 - BHC Implementation Committee



## Training meeting

Wynship Hillier <wynship@hotmail.com>

Fri 8/5/2022 5:42 PM

To: Grier, Geoffrey (DPH - Contractor) <geoffrey.grier@sfdph.org>; DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

Cc: LIZA murawski [REDACTED]

I have to revise what I said at the meeting today. Sunshine Ordinance has requirements even tighter yet for use of communications media. Any use of communications media that \*could permit\* an exchange of views on an item of business between a majority of Commissioners counts as a "meeting" requiring public notice. \*S.F. Admin. Code\* § 67.3(b)(3). So, you are required to notice the training to the public and allow their attendance. Sorry for any confusion. -WH

**Notice failures for today's meetings**

Wynship Hillier &lt;wynship@hotmail.com&gt;

Fri 8/12/2022 2:36 PM

To: DPH-San Francisco Behavioral Health Commission &lt;sfbhc@sfdph.org&gt;

Cc: Gray Amber (DPH) &lt;amber.gray@sfdph.org&gt;; Grier, Geoffrey (DPH - Contractor) &lt;geoffrey.grier@sfdph.org&gt;

Bcc: LIZA murawski &lt;[REDACTED]&gt;; Javier Vigil &lt;[REDACTED]&gt;

Dear Ms. Gray:

Please note that the attached files show that physical notice of today's meetings was not posted until 71 hours before the first meeting, and 72 hours before the second (time is in lower-right hand corner). Web notice was not posted until 70 hours before the first meeting, and 71 hours before the second. Both GC § 54954.2(a)(1) and S.F. Admin. Code § 67.7(a) require 72 hours' notice both physically and on the internet of regular meetings of legislative and policy bodies, resp. Email notice was not received of either meeting by a member of the public who requested such, and this is required for both regular and special meetings of both legislative and policy bodies. GC § 54954.1 and S.F. Admin. Code § 67.5. A schedule of regular meetings has been established by the Commission for neither of these committees, required by GC § 54954(a).

Very truly yours,  
Wynship Hillier

## SAN FRANCISCO BEHAVIORAL HEALTH COMMISSION



Mayor  
London N. Breed

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Kesoha S. Mason  
Liza Murawski  
Toni Parks  
Harriette Stallworth Stevens, EdD  
Lisa Wynn

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### AGENDA

Behavioral Health Commission Annual Report Ad-Hoc Committee Meeting

Friday, August 12, 2022

3:00 PM – 4:00 PM

REMOTE BHC MEETING ZOOM

Join Zoom Meeting

<https://us06web.zoom.us/j/86253857989?pwd=QWorNGxrL1VYWWM1YUg4K3hnc3NKQT09>

Meeting ID: 862 5385 7989

Passcode: 041239

One tap mobile +16699006833,, 86253857989#,,,,\*041239# US (San Jose)

CALL TO ORDER

Roll Call

Agenda Changes

#### ITEM 1.0 COMMISSIONER'S REPORTS

##### 1.1 Report from the Commission Co-Chair and the Executive Committee

1.1 a) The Co-Chairs will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 which empowers local policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below [Action Item]

87

## SAN FRANCISCO BEHAVIORAL HEALTH COMMISSION



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Kesha S. Mason  
Liza Murawski  
Toni Parks  
Harriette Stallworth Stevens, EdD  
Lisa Wynn

### AGENDA

Behavioral Health Commission Annual Report Ad-Hoc Committee Meeting

Friday, August 26, 2022

3:00 PM – 4:00 PM

REMOTE BHC MEETING ZOOM

San Francisco BHC Ad Hoc Annual Report Zoom Meeting

<https://us06web.zoom.us/j/84577957063?pwd=cE15MVBidjJPRiszblZFWXZXL3cxZz09>

Meeting ID: 845 7795 7063

Passcode: 911309

+16699006833,,84577957063#,,,911309# US (San Jose)

Dial by your location +1 669 900 6833 US (San Jose)

CALL TO ORDER

Roll Call

Agenda Changes

#### ITEM 1.0 COMMISSIONER'S REPORTS

##### 1.1 Report from the Commission Co-Chair and the Executive Committee

**1.1 a)** The Co-Chairs will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 which empowers local policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below [Action Item]



**PUBLIC COMMENT**

**ITEM 2.0 REVIEW ANNUAL REPORT REQUIREMENTS**

Co-Chairs will guide commissioners in work distribution regarding the 2021-2022 Annual Report

**PUBLIC COMMENT**

**ITEM 3.0 ACTION ITEMS**

Vote on time and frequency of meetings [action item]

**PUBLIC COMMENT**

**3.1 Establish Ad Hoc Committee for the Annual Report:** The BHC Annual Reports are due for 2021-2022 in September [action item]

**3.2 Assignment of Section of Annual Report:** confirm which commissioners are responsible for what portions of the annual report – see attached [action item]

**3.3 Adopt the August 5, 2022 minutes** [action item]

**PUBLIC COMMENT**

**ITEM 4.0 NEW BUSINESS [Discussion only]**

Suggestions for future agenda items to be referred to the Executive Committee and for future trainings and orientation of future Commissioners

**PUBLIC COMMENT**

**ITEM 5.0 Final Public Comment**

**Adjournment**

# SAN FRANCISCO BEHAVIORAL HEALTH COMMISSION



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London N. Breed

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Kescha S. Mason  
Liza Murawski  
Toni Parks  
Harriette Stallworth Stevens, EdD  
Lisa Wynn

## AGENDA

**Behavioral Health Commission Annual Report Ad-Hoc Committee Meeting**

**Friday, September 9, 2022**

**3:00 PM – 4:00 PM**

**REMOTE BHC MEETING ZOOM**

**San Francisco BHC Ad Hoc Annual Report Zoom Meeting**

**<https://us06web.zoom.us/j/84577957063?pwd=cE15MVBidjJPRiszblZFWXZXL3cxZz09>**

**Meeting ID: 845 7795 7063**

**Passcode: 911309**

**+16699006833,,84577957063#,,,,\*911309# US (San Jose)**

**Dial by your location +1 669 900 6833 US (San Jose)**

**CALL TO ORDER**

**Roll Call**

**Agenda Changes**

### ITEM 1.0 COMMISSIONER'S REPORTS

#### 1.1 Report from the Commission Co-Chair and the Executive Committee

1.1 a) The Co-Chairs will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 which empowers local policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below **[Action Item]**

## **PUBLIC COMMENT**

### **ITEM 2.0 REVIEW ANNUAL REPORT REQUIREMENTS**

Annual Report Committee Co-Chair will guide commissioners in work distribution regarding the 2021-2022 Annual Report. This includes a review and update to Commission activities (site visits, resolutions, presentations, and individuals and/or organizations who should receive a tribute). Review draft portions of the report (e.g., write ups of site visit and resolution, list of commissioners and staff, and the outline for the chair's welcome letter, to make necessary revisions.

## **PUBLIC COMMENT**

### **ITEM 3.0 ACTION ITEMS**

Vote on time and frequency of meetings [action item]

## **PUBLIC COMMENT**

**3.1 Assignment of Section of Annual Report:** confirm which commissioners are responsible for what portions of the annual report – see attached [action item]

**3.2 Adopt the minutes from 8/26/22 at the 09/02/2022 meeting [action item]**

- **Site Visit Report**
- **Liza's Resolution**
- **Draft 2021-2022 Annual Report with List of BHC Commissioners and Staff (see attached draft)**

## **PUBLIC COMMENT**

### **ITEM 4.0 NEW ASSIGNMENTS [Discussion only]**

## **PUBLIC COMMENT**

### **ITEM 5.0 Final Public Comment**

## **Adjournment**



## SAN FRANCISCO BEHAVIORAL HEALTH COMMISSION



**Mayor**  
**London N. Breed**

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Judith Klain, MPH  
Carletta Jackson-Lane, JD  
Kescha S. Mason  
Liza Murawski  
Toni Parks  
Harriette Stallworth Stevens, EdD  
Lisa Wynn

### AGENDA

**Behavioral Health Commission Meeting**  
**Wednesday, September 21, 2022**  
**6:00 PM – 8:00 PM**

#### REMOTE BHC MEETING ZOO

<https://us06web.zoom.us/j/86814231197?pwd=M2NobnBjanhBSG9abXQ1c0ZndkxQZz09>

Meeting ID: 868 1423 1197      Passcode: bhc

Meeting ID: 868 1423 1197      Passcode: 458624

#### CALL TO ORDER

#### Roll Call

#### Agenda Changes

#### ITEM 1.0 COMMISSIONER'S REPORTS

##### 1.1 Report from the Commission Co-Chair and the Executive Committee

1.1 a) The Co-Chairs will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 which empowers local policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below [Action Item]

#### PUBLIC COMMENT

## **ITEM 2.0 REPORT FROM BEHAVIORAL HEALTH SERVICES DIRECTOR**

Presentation by the Behavioral Health Services Department Director Hillary Kunins: a report on the activities and operations of Behavioral Health Services (BHS), including information on the budget and the planning process, policy updates on the BHC and DPH decision-making process.

### **PUBLIC COMMENT**

## **ITEM 3.0 ACTION ITEMS**

Presentation by the Client Council formerly known as the Consumer Council with mission purpose expounded on by Commissioner Murawski

### **PUBLIC COMMENT**

**3.1 Approve the minutes of the Behavioral Health Commission meeting of July 20, 2022 meeting [action item]**

### **PUBLIC COMMENT**

**3.2 Data Notebook 2022 – Status report and solutions [action item]**

### **PUBLIC COMMENT**

**3.3 Annual Report Ad Hoc Committee: Status of the BHC Annual Report for the 2021 - 2022, due September 2022 [action item]**

### **PUBLIC COMMENT**

**3.4 Ad-Hoc By-Law Committee: status of the bylaw review – [action item]**

### **PUBLIC COMMENT**

**3.5 BHC Commissioner Training: discuss future commissioner training dates and results of the most recent training held in August [action item]**

## **ITEM 4.0 REPORT FROM THE COMMITTEES**

Discussion regarding committee meetings, goals and accomplishments:

**Implementation Committee, Chair Stephen Banuelos**

Discuss focus of the Implementation Committee

**Site Visit Committee, Chair Vigil -**

Report on Site Visit strategy in completing selected site evaluations

**Strategic Planning Ad Hoc Committee, Commissioner Bohrer –**

Update on progress of the current draft of the Strategic Plan – **see attached below**

### **PUBLIC COMMENT**



**ITEM 5.0 PEOPLE OR ISSUES HIGHLIGHTED BY BHC [Discussion only]**

**5.1** Suggestions of people, programs, or both, that Commissioners believe should be acknowledged or highlighted by the BHC.

**5.2** Report by members of the Commission on their activities on behalf of the Behavioral Health Commission as authorized

**ITEM 6.0 NEW BUSINESS [Discussion only]**

Suggestions for future agenda items to be referred to the Executive Committee and for future trainings and orientation of future Commissioners

**PUBLIC COMMENT**

**ITEM 7.0 Final Public Comment**

**Adjournment**



## SAN FRANCISCO BEHAVIORAL HEALTH COMMISSION



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Kescha S. Mason  
Liza Murawski  
Toni Parks  
Harriette Stallworth Stevens, EdD  
Lisa Wynn

### AGENDA

**Behavioral Health Commission Annual Report Ad-Hoc Committee Meeting**

**Friday, September 23, 2022**

**3:00 PM – 4:00 PM**

**REMOTE BHC MEETING ZOOM**

<https://us06web.zoom.us/j/85159669411?pwd=SFJEZVB0cFVpTEJDbDFHQlZ3WXJ1dz09>

Meeting ID: 851 5966 9411      Passcode: 016019

One tap mobile      +16699006833,,85159669411#,,,,\*016019# US (San Jose)

### CALL TO ORDER

### Roll Call

### Agenda Changes

### ITEM 1.0 COMMISSIONER'S REPORTS

#### 1.1 Report from the Commission Co-Chair and the Executive Committee

1.1 a) The Co-Chairs will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 which empowers local policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below [Action Item]

### PUBLIC COMMENT

## **ITEM 2.0 REVIEW ANNUAL REPORT REQUIREMENTS**

Annual Report Committee Co-Chair will guide commissioners in work distribution regarding the 2021-2022 Annual Report. This includes a review and update to Commission activities (site visits, resolutions, presentations, and individuals and/or organizations who should receive a tribute). Review draft portions of the report (e.g., write ups of site visit and resolution, list of commissioners and staff, and the outline for the chair's welcome letter, to make necessary revisions.

### **PUBLIC COMMENT**

## **ITEM 3.0 ACTION ITEMS**

Vote on time and frequency of meetings [action item]

### **PUBLIC COMMENT**

**3.1 Assignment of Sections of the Annual Report:** progress report on commissioners responsible for portions of the annual report they were assigned or volunteered to complete – see attached [action item]

**3.2** Adopt the minutes from 8/26/22, 9/02/22 and 9/9/22 at the 9/23/22 meeting [action item]

**3.3** Site Visit Report - update

**3.4** Liza's Resolution – update (see attached)

**3.5** Draft 2021-2022 Annual Report with List of BHC Commissioners and Staff (see attached draft)

### **PUBLIC COMMENT**

## **ITEM 4.0 NEW ASSIGNMENTS [Discussion only]**

### **PUBLIC COMMENT**

## **ITEM 5.0 Final Public Comment**

### **Adjournment**

# SAN FRANCISCO BEHAVIORAL HEALTH COMMISSION



Mayor  
London N. Breed

1380 Howard Street, 2<sup>nd</sup> Floor  
San Francisco, CA 94103  
(415) 255-3474 fax: 255-3760  
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[www.mhbsf.org](http://www.mhbsf.org)  
[www.sfgov.org/mental\\_health](http://www.sfgov.org/mental_health)

Bahlam Javier Vigil, Co-Chair  
Stephen Banuelos, Co-Chair  
Genesis Vasconez, MS, PMHNP-BC, Vice-Chair  
Lisa Williams, Secretary  
Terezia Bohrer, RN, MSW, CLNC  
Judith Klain, MPH  
Carletta Jackson-Lane, JD  
Kescha S. Mason  
Liza Murawski  
Toni Parks  
Harriette Stallworth Stevens, EdD  
Lisa Wynn

## AGENDA

Behavioral Health Commission Annual Report Ad-Hoc Committee Meeting

Friday, September 30, 2022

3:00 PM – 4:00 PM

REMOTE BHC MEETING ZOOM

<https://us06web.zoom.us/j/85159669411?pwd=SFJEZVB0cFVpTEJDbDFHQlZ3WXJldz09>

Meeting ID: 851 5966 9411 Passcode: 016019

One tap mobile +16699006833,,85159669411#,,,,\*016019# US (San Jose)

### CALL TO ORDER

### Roll Call

### Agenda Changes

### ITEM 1.0 COMMISSIONER'S REPORTS

#### 1.1 Report from the Commission Co-Chair and the Executive Committee

### PUBLIC COMMENT

1.1 a) The Co-Chairs will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 which empowers local policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below **[Action Item]**

### PUBLIC COMMENT

## **ITEM 2.0 REVIEW ANNUAL REPORT REQUIREMENTS**

Annual Report Committee Co-Chair will guide commissioners in work distribution regarding the 2021-2022 Annual Report. This includes a review and update to Commission activities (site visits, resolutions, presentations, and individuals and/or organizations who should receive a tribute). Review draft portions of the report (e.g., write ups of site visit and resolution, list of commissioners and staff, and the outline for the chair's welcome letter, to make necessary revisions.

### **PUBLIC COMMENT**

## **ITEM 3.0 ACTION ITEMS**

### **PUBLIC COMMENT**

**3.1 Assignment of Sections of the Annual Report:** progress report on commissioners responsible for portions of the annual report they were assigned or volunteered to complete – see attached **[action item]**

**3.2** Adopt the minutes from the 9/23/22 meeting **[action item]**

**3.3** Site Visit Report - update

**3.4** Inclusion of the 2020 – 2021 Annual Report

**3.5** Draft 2021-2022 Annual Report with List of BHC Commissioners and Staff **(see attached draft)**

### **PUBLIC COMMENT**

## **ITEM 4.0 NEW ASSIGNMENTS [Discussion only]**

### **PUBLIC COMMENT**

## **ITEM 5.0 Final Public Comment**

### **Adjournment**



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## SAN FRANCISCO BEHAVIORAL HEALTH COMMISSION



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Kescha S. Mason  
Liza Murawski  
Toni Parks  
Harriette Stallworth Stevens, EdD  
Lisa Wynn

### AGENDA

**Behavioral Health Commission Meeting**  
**Wednesday, October 19, 2022**  
**6:00 PM ~ 8:00 PM**

#### REMOTE BHC MEETING ZOOM

<https://us06web.zoom.us/j/86814231197?pwd=M2NobnBjanhBSG9abXQ1c0ZndkxQZz09>

Meeting ID: 868 1423 1197      Passcode: bhc

Meeting ID: 868 1423 1197      Passcode: 458624

#### CALL TO ORDER

#### Roll Call

#### Agenda Changes

#### ITEM 1.0 COMMISSIONER'S REPORTS

##### 1.1 Report from the Commission Co-Chair and the Executive Committee

1.1 a) The Co-Chairs will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 which empowers local policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below **[Action Item]**

#### PUBLIC COMMENT

## **ITEM 2.0 REPORT FROM BEHAVIORAL HEALTH SERVICES DIRECTOR**

Presentation by the Behavioral Health Services Department Director Hillary Kunins: a report on the activities and operations of Behavioral Health Services (BHS), including information on the budget and the planning process, policy updates on the BHC and DPH decision-making process.

### **PUBLIC COMMENT**

## **ITEM 3.0– PRESENTATION on the 2021-2022 BHC Annual Report by Commissioner Stevens**

### **PUBLIC COMMENT**

**3.1** Approve the minutes of the Behavioral Health Commission meeting of September 21, 2022 meeting [action Item]

### **PUBLIC COMMENT**

**3.2 Data Notebook 2022** – Status report and solutions [action item]

### **PUBLIC COMMENT**

**3.3 Ad Hoc Annual Report Committee:** Present the Annual Report for 2020 - 2021

### **PUBLIC COMMENT**

**3.4 Ad-Hoc By-Law Committee:** status of the bylaw review – [action item]

### **PUBLIC COMMENT**

**3.5 BHC Commissioner Training:** discuss future commissioner training dates and results of the most recent training held in August [action item]

## **ITEM 4.0 REPORT FROM THE COMMITTEES**

Discussion regarding committee meetings, goals and accomplishments:

**Implementation Committee, Chair Stephen Banuelos**

Discuss focus of the Implementation Committee

**Site Visit Committee, Chair Vigil -**

Report on Site Visit strategy in completing selected program reviews

**Strategic Planning Ad Hoc Committee, Commissioner Bohrer –**

Update on progress of the current draft of the Strategic Plan – see attached below

### **PUBLIC COMMENT**

## **ITEM 5.0 PEOPLE OR ISSUES HIGHLIGHTED BY BHC [Discussion only]**

**5.1** Suggestions of people, programs, or both, that Commissioners believe should be acknowledged or highlighted by the BHC.

**5.2** Report by members of the Commission on their activities on behalf of the Behavioral Health Commission as authorized

**ITEM 6.0 NEW BUSINESS [Discussion only]**

Suggestions for future agenda items to be referred to the Executive Committee and for future trainings and orientation of future Commissioners

**PUBLIC COMMENT**

**ITEM 7.0 Final Public Comment**

**Adjournment**

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## SAN FRANCISCO BEHAVIORAL HEALTH COMMISSION



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Toni Parks  
Harriette Stallworth Stevens, EdD  
Lisa Wynn

### AGENDA

Behavioral Health Commission By-Law Ad-Hoc Committee Meeting

Thursday, September 29, 2022

3:00 PM – 5:00 PM

REMOTE BHC MEETING ZOOM

<https://us06web.zoom.us/j/87203393059?pwd=ekxIV1Njd0g4L3VjaXpmMFdUTC9rdz09>

Meeting ID: 872 0339 3059

Passcode: 537961

One tap mobile +16699006833,,87203393059#,,, \*537961# US (San Jose)

CALL TO ORDER

Roll Call

Agenda Changes:

#### ITEM 1.0 COMMISSIONER'S REPORTS

##### 1.1 Report from the Commission Co-Chair and the Executive Committee

1.1 a) The Co-Chairs will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 which empowers local policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below **[Action Item]**

PUBLIC COMMENT

**ITEM 2.0 REVIEW RECENTLY PASSED BY-LAWS**

Chair will guide commissioners in continuing to review the by-laws for changes, amendments and potential adoptions

**PUBLIC COMMENT**

**ITEM 3.0 ACTION ITEMS**

Vote on time and frequency of meetings [action item]

**PUBLIC COMMENT**

**3.1 Continue to review attached By-Laws and sample markups:** discussion and possible action item on shared items [action item]

**PUBLIC COMMENT**

**3.2 Adopt August 12, 2022 minutes, August 19, 2022, August 26, 2022, September 1, 2022, September 8, 2022 and September 23, 2022** [action item]

**ITEM 4.0 NEW BUSINESS [Discussion only]**

Suggestions for future agenda items to be referred to the Executive Committee and for future trainings and orientation of future Commissioners

**PUBLIC COMMENT**

**ITEM 5.0 Final Public Comment**

**Adjournment**





## SAN FRANCISCO BEHAVIORAL HEALTH COMMISSION



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Toni Parks  
Harriette Stallworth Stevens, EdD  
Lisa Wynn

### AGENDA

#### Behavioral Health Commission By-Law Ad-Hoc Committee Meeting

Thursday, September 8, 2022

3:00 PM – 5:00 PM

REMOTE BHC MEETING ZOOM

#### Join Zoom Meeting

<https://us06web.zoom.us/j/87950145362?pwd=aW4rVWVmVm1VQmQ4WW5zUW92bi90QT09>

Meeting ID: 879 5014 5362

Passcode: 778247

One tap mobile +16694449171,,87950145362#,,,,\*778247# US

#### CALL TO ORDER

#### Roll Call

**Agenda Changes:** meeting form August 25, 2022 was postponed to September 1, 2022

#### ITEM 1.0 COMMISSIONER'S REPORTS

##### 1.1 Report from the Commission Co-Chair and the Executive Committee

1.1 a) The Co-Chairs will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 which empowers local policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below **[Action Item]**

#### PUBLIC COMMENT

**ITEM 2.0 REVIEW RECENTLY PASSED BY-LAWS**

Chair will guide commissioners in continuing to review the by-laws for changes, amendments and potential adoptions

**PUBLIC COMMENT**

**ITEM 3.0 ACTION ITEMS**

Vote on time and frequency of meetings [action item]

**PUBLIC COMMENT**

**3.1 Continue to review attached By-Laws and sample markups:** discussion and possible action item on shared items [action item]

**PUBLIC COMMENT**

**3.2 Adopt August 12, 2022 minutes, August 19, 2022, August 26, 2022, September 1, 2022 [action item]**

**ITEM 4.0 NEW BUSINESS [Discussion only]**

Suggestions for future agenda items to be referred to the Executive Committee and for future trainings and orientation of future Commissioners

**PUBLIC COMMENT**

**ITEM 5.0 Final Public Comment**

**Adjournment**

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##### 2022 Agendas

September 1, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
August 26, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
August 25, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
August 12, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
August 12, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
August 5, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
August 5, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
August 1, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
July 20, 2022  
July 12, 2022 - Site Visit Committee Meeting  
July 12, 2022 - BHC Executive Committee  
July 12, 2022 - BHC Implementation Committee  
June 15, 2022  
June 7, 2022 - Site Visit Committee Meeting  
June 7, 2022 - BHC Executive Committee  
June 7, 2022 - BHC Implementation Committee  
May 18, 2022  
May 10, 2022 - Site Visit Committee Meeting  
May 10, 2022 - BHC Executive Committee  
May 10, 2022 - BHC Implementation Committee  
April 20, 2022  
April 12, 2022 - Site Visit Committee Meeting  
April 12, 2022 - BHC Executive Committee  
April 12, 2022 - BHC Implementation Committee  
March 16, 2022  
March 9, 2022 - Site Visit Committee Meeting  
March 9, 2022 - BHC Executive Committee  
March 9, 2022 - BHC Implementation Committee  
February 18, 2022  
February 9, 2022 - Site Visit Committee Meeting  
February 9, 2022 - BHC Executive Committee  
February 9, 2022 - BHC Implementation Committee  
January 19, 2022  
January 12, 2022 - Site Visit Committee Meeting  
January 12, 2022 - BHC Executive Committee  
January 12, 2022 - BHC Implementation Committee

##### 2022 Minutes

August 25, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
August 12, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
August 12, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
August 5, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
August 5, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
June 15, 2022  
June 07, 2022 - Site Visit Committee Meeting  
June 07, 2022 - BHC Executive Committee  
June 07, 2022 - BHC Implementation Committee

**Fwd: BHC Ad Hoc Annual Report Postings 9.9.22 Ad Hoc By Laws Postings 9.8.22 (correction)**

Terezie S Bohrer &lt;[REDACTED]&gt;

Thu 9/8/2022 3:40 PM

To: Wynship Hillier &lt;wynship@hotmail.com&gt;

4 attachments (2 MB)

BHC BY-Law Ad-Hoc Committee Minutes 9.1.22 ag.pdf; BHC BY-Law Ad-Hoc Committee Agenda 9.8.22.pdf; BHC Annual Report AD-Hoc Committee Agenda 9.9.22 hs.pdf; BHC Annual Report Ad-Hoc Committee Minutes 9.2.22 ag.pdf;

Sent from my iPhone

Begin forwarded message:

**From:** Harriette Stevens <[REDACTED]>  
**Date:** September 8, 2022 at 3:37:12 PM PDT  
**To:** Stephen Banuelos <[REDACTED]>, genesis vasconez <[REDACTED]>, Terry Bohrer <[REDACTED]>, "Kescha S. Mason" <[REDACTED]>, Lisa Wynn <[REDACTED]>, Bahlam Javier Vigil <[REDACTED]>  
**Subject:** Fwd: BHC Ad Hoc Annual Report Postings 9.9.22 Ad Hoc By Laws Postings 9.8.22 (correction)

Another Link for Today's Meeting

Please use this link.

Topic: Bylaws emergency meeting

Time: Sep 8, 2022 04:00 PM Pacific Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/85701497010?pwd=ckd2VE9naGRaZjh3R0NwS0RoUElVdz09>

Meeting ID: 857 0149 7010

Passcode: 318898

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#### 2022 Agendas

September 23, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
 September 22, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
 September 21, 2022  
 September 13, 2022 - Site Visit Committee Meeting  
 September 13, 2022 - BHC Executive Committee  
 September 13, 2022 - BHC Implementation Committee  
 September 9, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
 September 8, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
 September 2, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
 September 1, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
 August 26, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
 August 25, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
 August 12, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
 August 12, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
 August 5, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
 August 5, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
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 July 12, 2022 - BHC Executive Committee  
 July 12, 2022 - BHC Implementation Committee  
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 June 7, 2022 - BHC Executive Committee  
 June 7, 2022 - BHC Implementation Committee  
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 May 10, 2022 - BHC Implementation Committee  
 April 20, 2022  
 April 12, 2022 - Site Visit Committee Meeting  
 April 12, 2022 - BHC Executive Committee  
 April 12, 2022 - BHC Implementation Committee  
 March 16, 2022  
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 March 9, 2022 - BHC Implementation Committee  
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 February 9, 2022 - Site Visit Committee Meeting  
 February 9, 2022 - BHC Executive Committee  
 February 9, 2022 - BHC Implementation Committee  
 January 19, 2022  
 January 12, 2022 - Site Visit Committee Meeting  
 January 12, 2022 - BHC Executive Committee  
 January 12, 2022 - BHC Implementation Committee

#### 2022 Minutes



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Kescha S. Mason  
Liza Murawski  
Toni Parks  
Harriette Stallworth Stevens, EdD  
Lisa Wynn

### AGENDA

**Behavioral Health Commission Executive Committee Meeting  
Tuesday, September 13, 2022  
5:00 PM – 6:00 PM**

### REMOTE ACCESS

<https://us06web.zoom.us/j/82346365185?pwd=em1raGdZZTQwUTVMTHVYSXhUajAyUT09>

Meeting ID: 823 4636 5185

Passcode: 057260

One tap mobile

+14086380968,,82346365185#,,,,\*057260# US (San Jose)

+16694449171,,82346365185#,,,,\*057260# US

### CALL TO ORDER

**CHAIR:** Vice-Chair Genesis Vasquez (she, her)

**COMMISSIONER'S:** Co-Chair Bahlam Javier Vigil (they/them/theirs), Co-Chair Stephen Banuelos, Vice-Chair Genesis Vasquez (she, her), Secretary Lisa Williams (she/her), Carletta Jackson-Lane (she/her/hers)

### Roll Call

The Co-Chair will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 which empowers local

policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below **[action item]**

**AGENDA CHANGES:** Vice-Chair Genesis Vasconez (she, her) will Chair the Executive Committee to the absence of both Co-Chair Bahlam Javier Vigil (they/them/theirs), Co-Chair Stephen Banuelos

**PUBLIC COMMENT:**

**ITEM 1.0 COMMISSIONER'S REPORTS**

Discuss the need for the Behavioral Health Commission (BHC) to be in on the decision-making process around the distribution of budget initiatives. Discuss commissioner input on How to do the Data Notebook for 2022

**Report from the Co-Chairs –**

- 1.1 New BHC sf.gov website update: Discussion and possible action
- 1.2 Discuss progress on the BHS complaint process
- 1.3 Dates for future Commissioner Training
- 1.4 Annual Report 2021-2022 progress report
- 1.5 Progress on Oversight and Accountability resolution authored by Commissioner Murawski submitted to the Board of Supervisors – **see attached**

**PUBLIC COMMENT:**

**ITEM 2.0 ACTION ITEMS - Discussion on action items**

**PUBLIC COMMENT**

- 2.1 Vote to adopt minutes from the July 12, 2022 Executive Committee meeting **[action item]**

**PUBLIC COMMENT**

- 2.2 Vote to formalize the presentation of the Client Council by Mike Wise and Heather McDonnell Haney, BHS Liaison (Rams, Inc), before the full commission on July 20, 2022 - **[action item]**

**PUBLIC COMMENT**

- 2.3 What is the status of Conard House doing a presentation to the BHC?

**PUBLIC COMMENT**

**ITEM 3.0 New BHC Business**

**3.1 Public Comment:**

**4.0 Final Public Comment:**

**Adjournment**

100

## SAN FRANCISCO BEHAVIORAL HEALTH COMMISSION



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### AGENDA

Behavioral Health Commission By-Law Ad-Hoc Committee Meeting

Thursday, September 29, 2022

3:00 PM - 5:00 PM

REMOTE BHC MEETING ZOOM

<https://us06web.zoom.us/j/87203393059?pwd=ekxhV1Njd0g4L3VjaXpmMFdUTC9rdz09>

Meeting ID: 872 0339 3059

Passcode: 537961

One tap mobile +16699006833,,87203393059#,,, \*537961# US (San Jose)

CALL TO ORDER

Roll Call

Agenda Changes:

#### ITEM 1.0 COMMISSIONER'S REPORTS

##### 1.1 Report from the Commission Co-Chair and the Executive Committee

1.1 a) The Co-Chairs will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 which empowers local policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below [Action Item]

#### PUBLIC COMMENT

**Fw: Language in § 9 of Art. IV of proposed Bylaws**

Wynship Hillier <wynship@hotmail.com>

Thu 9/1/2022 5:20 PM

To: DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

Cc: wynship@hotmail.com <wynship@hotmail.com>

Bcc: LIZA murawski <[REDACTED]>

Dear Ms. Gray:

The below was sent out before the two Commissioners present at today's meeting of the Bylaws committee were Commissioners. It responds to the questions they had today and is anticipated to be discussed at next week's meeting. Please forward it to the \*ad hoc\* committee to revise the Bylaws, reference it in the Bylaws item on the agenda for next week's meeting thereof pursuant to S.F. Admin. Code § 67.7(b), and post it on the BHC website pursuant to S.F. Admin. Code § 67.9(a).

Very truly yours,  
Wynship Hillier

---

**From:** Wynship Hillier

**Sent:** Monday, April 18, 2022 8:39 AM

**To:** DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

**Cc:** DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

**Subject:** Language in § 9 of Art. IV of proposed Bylaws

Dear Madam, Mx., or Sir:

Please forward to all Commissioners.

Dear Commissioner:

The attached is a letter I had been holding back for over a month. Since it concerns the proposed \*Bylaws\*, I thought I'd better send it now. Pursuant to S.F. Admin. Code § 67.9(a), you are required to put it (and this email) on your website "to the extent possible," as it is provided in connection with item 4.0, anticipated to be discussed at Wednesday's meeting.

Very truly yours,  
Wynship Hillier



**Wynship W. Hillier, M.S.**  
Post Office Box 427214  
San Francisco, California 94142-7214  
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April 17, 2022

Co-Chairs Stephen Banuelos and Bahlam J. Vigil  
San Francisco Behavioral Health Commission  
1380 Howard Street, Suite 240  
San Francisco, California 94103

*Sent via email to [sfbhc@sfdph.org](mailto:sfbhc@sfdph.org)*

**RE: REQUIREMENTS FOR QUORUM AND VOTING**

Dear Co-Chairs Stephen Banuelos and Bahlam Vigil:

In November 2002, Deputy City Attorney Paul Zarefsky spoke to the Behavioral Health Commission (then the Mental Health Board) at their regular meeting. He told you that your quorum for meetings was nine members, no matter how many members were currently appointed, and this appeared in the Office of the City Attorney's *Good Government Guide*.

Nine members isn't always easy to achieve. Many meetings have not been able to go forward because of the lack of attendance. Nine members for quorum goes along with some other requirements, like nine "yes" votes to constitute a majority, no matter how few Commissioners are in attendance, and twelve "yes" votes to constitute a 2/3 majority, necessary for some parliamentary motions and for amending the *Bylaws*.

These requirements are hard to meet. The purpose of this letter is to explain the rationale behind them so that they aren't so alienating, and to disclose some things that the Commission can do to get out of them, if it doesn't feel they are worth the cost.

**The Sources of These Requirements and Their Purposes**

These requirements originate in the *San Francisco Charter* and in the Commission's *Bylaws*. The *Bylaws* at least can be changed, but only with special notice and a 2/3 vote. The *San Francisco Charter* is a special document. Every word in it required the approval of the voters at a previous election. It has the power to override contrary state law. At the time that Paul Zarefsky gave his talk, Section 4.104, the part that affects quorum and voting, didn't apply to the Commission. Prop. B in 2006 changed that. The newly-divided Section 4.104(b) required that votes taken by majority or 2/3 majority obtain for a majority or 2/3 majority of the entire

membership, and that quorum be a majority of the entire membership. The quorum requirement, at least, is not unusual. The voting requirements, however, are. Normally, only a majority or 2/3 majority of those present at a meeting are needed to pass a motion or resolution. The reason for this provision is that the usual rule makes a positive vote dependent on who shows up at the particular meeting. If it is known that certain people won't be present at a particular meeting, an item can be maneuvered to come up at that meeting and thus obtain a majority or 2/3 majority of those present, who are not a 2/3 majority overall. If the majority or 2/3 vote is a proportion of the entire membership, a successful majority or 2/3 vote will not be obtained as a result of a smaller minority who happened to show up at the meeting. It will always mean a majority or a 2/3 majority of the entire membership. However, by the same token, such a vote might fail when it otherwise would have succeeded, because of this high requirement. There will be what scientists call "false negatives." What it prevents are "false positives."

#### **The Good Government Guide's Version of Charter § 4.104**

In 2002, *Charter* § 4.104 didn't apply to the Commission, but the Commission voluntarily subjected itself to this section. This was done by referencing *Charter* § 4.104 in the *Bylaws*. But the Commission did more than just voluntarily subject itself to the requirements of § 4.104. It subscribed to a very peculiar interpretation of § 4.104, an interpretation promoted by the Office of the City Attorney's *Good Government Guide*.

If you thought that *Charter* § 4.104 required a majority of members for quorum and a majority of members—not just a majority of those attending the meeting at which it is taken—to pass a majority vote (and 2/3 of the members for a 2/3 vote, etc.), you would be right. Moreover, you would be in agreement with other lawmakers. The language "majority of the members" in *Charter* § 4.104 is the same as that in the *Ralph M. Brown Act* (state open meetings law) and the *S.F. Sunshine Ordinance*, the local open meetings law. These have to be the same, because, in open meetings law, it defines when the law applies, and the law should apply to all meetings at which business is transacted, and nothing more. If the open meetings law requirement is the same as the quorum requirement, everything works perfectly.

The *Good Government Guide* says that this is not what the law says. The *Good Government Guide* says that the words "majority of the members" don't mean a majority of the members. They mean a majority of *the maximum possible number of members*. So, if there are "empty seats" on the Commission, these are to be counted as "members." The quorum requirement and the requirement for voting just got higher: Now, a majority is fixed at nine, and a 2/3 majority is fixed at 12, because there are 17 seats on the Commission, regardless of how many Commissioners have been appointed.

This is bad law. With a few exceptions not applicable here, words always take on their plain meanings in law. Moreover, there is other evidence: the Bronzan-McCorquodale Act, which regulates mental health boards statewide, contains a provision requiring that bylaws of every mental health board (except for San Francisco's, because our *Charter* preempts conflicting state

law) contain a provision setting quorum at a majority of the *appointed* members. *Cal. Welf. & Inst. Code* § 5604.5(c). The word *appointed* gives an extra degree of certainty that the legislature does not mean to include empty seats in this calculation. This is legally required to jive with the Brown Act, for the reasons just mentioned. Therefore, “majority of members” in the *Charter* has to mean a majority of the appointed members, too. Saying that it means a higher number is just bad law, because then the Brown Act would mean it, and then the Brown Act would not apply to the meetings of many of the mental health boards across the state. The Bronzan-McCorquodale Act specifically cites the Brown Act as applicable to meetings of mental health boards. *Cal. Welf. & Inst. Code* § 5604.1. The *Good Government Guide* is bad law.

### **The Purpose of the *Good Government Guide***

Just as with the requirement of a majority of members overall to pass a majority vote, this requirement has a purpose, bad law or no. This, instead of addressing the danger being that a motion not favored by the majority of the members might pass muster, addresses the danger that a motion that would not be favored by the majority if the Commission were fully appointed might pass muster. In other words, if the requirement to pass a motion is a majority of the number of seats on the Commission, then the motion won’t pass if the local legislature is trying to “stack” the Commission, by, say, only appointing family members of consumers to it, or only appointing consumers to it, etc. If they try to do this, there will be too few members to pass anything, under the majority-of-the-maximum-number-of-members requirement. Again, “false positives” are eliminated at the cost of maybe incurring a lot of “false negatives”.

There are other advantages, too. Not insignificantly, the requirements are fixed. The Commission doesn’t need to recalculate the number of members or “yes” votes needed for a majority or a 2/3 majority each time the number of Commissioners changes. And there are other calculations that depend on the first, that also don’t need to change. There is the requirement that a “majority of the members of the parent body” participate only as observers if they attend a meeting of one of their committees to which the Brown Act otherwise applies. *Cal. Gov’t Code* § 54952.2(c)(6). More obscure is the allowance that *ad hoc* advisory committees created by the Commission and consisting solely of members of the Commission not be directly subject to Brown Act requirements if they have fewer than a majority of the members of the parent body as their own members, *Cal. Gov’t Code* § 54952(b). The effect of this second difference is highly mitigated by the fact that meetings of all *ad hoc* advisory committees created by the Commission are indirectly subject to the Brown Act, regardless of how many members of the parent body they have or whether all of their members are members of the parent body, because they are subject to the Sunshine Ordinance. *San Francisco Administrative Code* §§ 67.3(d)(4) and 67.5 (first sentence).

The number of appointed Commissioners can also be vague, at times, contributing to uncertainty as to whether quorum or the correct majority for voting was attained. “Holdover service,” whereby Commissioners can serve beyond the ends of their terms, is frequently exercised, but it can lead to ambiguity as to the number of members. So-and-so’s term ran out, and now they are



not at the meeting. Did they quit the Commission, or are they intending to attend the Commission but are not here for just this meeting? Perhaps they didn't say. This might make a difference as to whether a quorum is present, or a majority or 2/3 vote is attained, if the correct formula for "majority of the members" is used. The effects of all or some votes taken at such meetings would have to be held in suspense until such uncertainties are resolved.

#### **A Way Out—Path No. 1**

The Commission has bought into the *Good Government Guide* definition of "majority of members". It has incorporated it into its *Bylaws* with the phrase "members designated by law, rather than the number of seats actually filled." Art. IV, § 3.d. (The latest version of the proposed *Bylaws* also includes this telltale language, though no longer with reference to *Charter* § 4.104, in Art. IV, § 9.) By the same token, the Commission may take this requirement out of its *Bylaws* by taking out the language from the *Good Government Guide*. (Taking out the reference to *Charter* § 4.104 won't do anything, because the voters amended *Charter* § 4.104 in 2006 to apply it to the Commission.) But the Commission can only change its *Bylaws* if it follows the rules in its current *Bylaws*.

#### **A Way Out—Path No. 2**

Another thing the Commission can do to lower the requirements it must meet in order to do business is to take advantage of a partial "escape hatch" put into *Charter* § 4.104(b) ("[T]he rules and regulation of the body may provide that, with respect to matters of procedure the body may act by the affirmative vote of a majority of the members present, so long as the members present constitute a quorum. . ."). This "escape hatch" allows the Commission to base procedural votes on the basis of the number of members *present at a meeting*. By this, they mean "secondary motions" under parliamentary rules. All that is needed is for the Commission to adopt a rule to this effect. To do this, however, it needs to amend its *Bylaws* according to the current interpretation of a 2/3 vote. The *Bylaws* might be amended in either of two ways. The first way would be to simply put the required rule in the *Bylaws*. This is not recommended because the rule is a special rule of order, RONR (12<sup>th</sup> ed.) 2:20, although the Commission's *Bylaws* already contain several rules of order. Special rules of order can be overridden in a specific instance by a 2/3 vote. *Id.* 25:14. True bylaws, on the other hand, cannot be overridden unless they provide for their own overriding. Having special rules of order in the *Bylaws* makes them harder to tell apart from the "true bylaws." It also makes them harder to change, because changing them requires a *Bylaws* amendment.

The other way to amend the *Bylaws* to take advantage of *Charter* § 4.104(b) is to amend the *Bylaws* to allow the Commission to pass special rules of order without amending them into its *Bylaws*. See, RONR (12<sup>th</sup> ed.) 56:49 (example language). After that, the rule in question must be passed as a special rule of order, which still takes a 2/3 vote, as does a *Bylaws* amendment. Either way, the *Bylaws* must be amended, and this must be done according to the current rules.

### **A Way Out—Path No. 3**

Of course, both path nos. 1 and 2 could be taken together.

### **A Fourth Alternative**

Another alternative is to do nothing. If the Commission has too few members to do anything, at least you aren't doing anything bad, like passing resolutions that would not succeed if the Commission were fully appointed, etc.

### **Conclusion**

This problem has the peculiar quality that the capacity to do anything about it varies inversely with the problems it causes. Now, during a dearth of appointments, you are feeling the pain of these rules without the capacity to change them. Supposing that a slew of new appointments arrives tomorrow, you will have the capacity to change these rules, but will simultaneously lose the motivation for doing so. This situation calls you to rise above the present moment and ask yourselves whether the dangers averted by the current rules are worth the price paid. If so, you might remember the difficulty you are experiencing now when, later, you may have the capacity to correct it. Conversely, you might anticipate now the freedom that you may later have, and that "you" means the Commission, independent of its current membership.

Very truly yours,

/s/  
Wynship Hillier

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## Why Terry and Liza are Wrong

Wynship Hillier <wynship@hotmail.com>

Sun 9/11/2022 4:34 PM

To: DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

Bcc: LIZA murawski <[REDACTED]>; Terry Bohrer

[REDACTED]  
<[REDACTED]> <[REDACTED]>

Dear Ms. Gray:

Please forward the following to the *ad hoc* committee to revise the *Bylaws*. It is relevant to an item anticipated to be discussed at their next meeting, so please reference it in the *Bylaws* item on the agenda pursuant to *S.F. Admin. Code* s. 67.7(b). Please also post it on the BHC website pursuant to *id.* s. 67.9(a).

Dear *ad hoc* committee:

At the last meeting, Terry and Liza contended that Art. IV, § 1, of the current *Bylaws* should remain as-is because *S.F. Admin. Code* § 67.6(b) allows remote meetings. Terry and Liza are wrong. Art. IV, § 1, relevantly states as follows: "Meetings may be held . . . virtually via teleconference, as permitted by Cal. Government Code § 54953." *S.F. Admin. Code* § 67.6(b) prevents this, however. *Id.* states as follows: "Unless otherwise required by state or federal law . . . all meetings of its policy bodies shall be held *within the City and County of San Francisco*." Emph. added. Contrary to what Terry and Liza said at the meeting, this subdivision requires that meetings be held in person.

What I said at the meeting holds true: "[W]ithin the City and County of San Francisco" implies that meetings must be held *at a physical location*. In support of this, *S.F. Charter* § 4.104(b) allows certain people to attend meetings remotely only under certain circumstances:

(b) The presence of a majority of the members of an appointive board, commission or other unit of government shall constitute a quorum for the transaction of business by such body. The term "presence" shall include participation by teleconferencing or other electronic means as authorized by Government Code Section 54953(b) or any successor legislation after the Board of Supervisors has adopted an ordinance pursuant to subsection (c) allowing such participation when the member is physically unable to attend in person, as certified by a health care provider, due to the member's pregnancy, childbirth, or related condition. The Board of Supervisors may also, as part of a parental leave policy adopted pursuant to subsection (c), authorize a member of a board or commission to participate in meetings by teleconferencing or other electronic means when the member is absent to care for his or her child after birth of the child, or after placement of the child with the member or the member's immediate family for adoption or foster care. . . .



(c) Notwithstanding the provisions of Charter Section 10.101, the Board of Supervisors shall provide by ordinance for parental leave policies for members of appointive boards, commissions or other units of government, including, but not limited to, authorization to participate in meetings by teleconferencing or other electronic means pursuant to subsection (b) and subject to the restrictions listed in that subsection.

*S.F. Charter § 4.104(b)* takes precedence over *S.F. Admin. Code § 67.6(b)*. *Cal. Gov't Code § 28714* ("A charter accepted and filed by the Secretary of State shall be the charter of such county . . . and shall supersede all laws inconsistent with such charter relative to the matters provided in such charter."). If *S.F. Admin. Code § 67.6(b)*, passed by the Board of Supervisors in 1993, did not say that meetings of policy bodies must be held in person, then *S.F. Charter § 4.104(b)*, passed by the voters in 2006, would have been unnecessary. If entire bodies were allowed to meet virtually, there would have been no need for a law to allow specific people to meet virtually. Therefore, *S.F. Admin. Code § 67.6(b)* must mean that policy bodies must meet in person, except for people who meet the criteria of *S.F. Charter § 4.104(b)*.

Liza's counterarguments don't hold up. Liza thinks that rolling blackouts she attributes to climate change require a reinterpretation of the law. This is to misunderstand the nature of law. Exigencies never justify reinterpretations of the law. It is not for the Commission to interpret this ordinance of the Board of Supervisors. It is for others, such as the courts, the Board itself, or the voters. The voters have spoken and remote meetings are disallowed in San Francisco except for people meeting the specific conditions of *S.F. Charter § 4.104(b)*.

Liza thinks that Terry's requirements require an interpretation of the law that allows her to meet remotely. Again, the law does not bow to personal preferences or needs. Clearly, *S.F. Charter § 4.104(b)* only allows for remote participation "due to the member's pregnancy, childbirth, or related condition" and, to the extent allowed by the Board of Supervisors, "when the member is absent to care for his or her child after birth of the child, or after placement of the child with the member or the member's immediate family for adoption or foster care. . . ." Terry does not currently meet these criteria, and so she would be required to attend meetings in person, notwithstanding meeting the conditions of *Cal. Gov't Code § 54953(b)*, if it were not for the Mayor's emergency Coronavirus orders nullifying *S.F. Admin. Code s. 67.6(b)*.

The Forty-Fifth Supplement to the Mayor's proclamation of emergency, [https://sfmayor.org/sites/default/files/45thSupplement\\_CityPolicyBodies\\_02102022.pdf](https://sfmayor.org/sites/default/files/45thSupplement_CityPolicyBodies_02102022.pdf) Section (1)(b), dictates that the Commission shall continue to meet remotely. This supersedes contrary provisions in the *Admin. Code* and is the only thing that allows the Commission to meet remotely, at this time, in congruence with the Brown Act. Once the Mayor revokes the Forty-Fifth Supplement without replacing it, *S.F. Admin. Code § 67.6(b)* will go back into full effect, and remote meetings will once more be *prohibited* in San Francisco, except for the specific classes of people listed in *S.F. Charter § 4.104(b)*. At that time, the current *Bylaws* will be inconsistent with the law, and it could be impossible to amend them at that time. The *Bylaws* should be written with the future in mind, and not be contorted by the specific conditions under which they were written, such as emergency orders issued by the Mayor, which are temporary

measures, bound to expire sooner or later.

The Brown Act would allow Terry to continue to meet remotely, but this exemption has been filled by local law. *Cal. Gov't Code* § 54953(e)(1) states as follows:

A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) . . . in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

....

We are currently in the condition listed under provision (A), and the motions passed by the Commission should list only provision (A). Provision (B), which would apply when state or local officials have not imposed or recommended measures to promote social distancing, has been superseded by local law. Because these conditions are not included in *S.F. Charter* s. 4.104(b), the Commission passing a motion pursuant to subpara. (B) would have no effect. A finding pursuant to (B) would only exempt the Commission from Brown Act requirements regarding remote meetings, not local law.

Very truly yours,

Wynship W. Hillier, M.S.

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**Mandatory Reporting by Advisory Committees in the Bylaws**

Wynship Hillier &lt;wynship@hotmail.com&gt;

Sun 9/11/2022 4:41 PM

To: DPH-San Francisco Behavioral Health Commission &lt;sfbhc@sfdph.org&gt;

Bcc: Terry Bohrer [REDACTED]; LIZA murawski

&lt;[REDACTED]&gt;

&lt;[REDACTED]&gt;

Dear Ms. Gray:

Please forward this message to the *ad hoc* committee to revise the *Bylaws*. It is explanatory correspondence relevant to an item anticipated to be discussed at the next meeting of the committee, so you are required to reference it in the *Bylaws* item on the agenda for the meeting by *S.F. Admin. Code* s. 67.7(b). You are also required to post it on the Commission website pursuant to *id.* s. 67.9(a).

Dear Committee Members:

Reports of advisory committees seem like a quotidian affair, of little importance. However, they are likely the reason that BHC is not able to make better progress.

In a normal deliberative assembly, reporting from advisory committees is handled significantly differently. Committees may not report at all without a prior majority vote at a meeting of the committee with quorum approving the specific text of the report. RONR (12<sup>th</sup> ed.) 51:2. Even then, with very few and narrowly-drawn exceptions, the committee must report with either a recommendation that a motion pass (possibly with further procedural process), that a motion that was referred to the committee not pass, or that the assembly take no action on a subject matter that was referred to the committee. *Id.* 51:30 through 51:52.

This has consequences for the procedures of the assembly. Until a committee reports on an item referred to them, the item may not be further discussed or deliberated by the assembly, unless and until the assembly passes a motion to *Discharge a Committee*. RONR (12<sup>th</sup> ed.) 36:2. Furthermore, reporting is the terminating action for *ad hoc* committees. They may report only once. When they do so, they cease to exist. *Id.* 50:30. Having *ad hoc* committees report mandatorily at every Commission and Executive Committee meeting badly confuses the issue of their ongoing existence and termination.

**Mandatory Reporting by Committees is Pathological.**

The Commission's current and previous *Bylaws* throw an huge wrench in this process by requiring all committees to report to both the Executive Committee and the Commission at every meeting. Art. VIII, § 1, ¶ 3.f. Unwritten rules further obscure this process by allowing committees to refer items to one another! These are absurd practices that hobble the Commission and make work in committees, the only place where much work can proceed, futile.

Requiring mandatory reports at any level destroys the requirement that committees approve the specific language of their reports with a majority vote at a meeting with quorum. Obviously, if a committee must report, regardless of whether they previously passed a motion or not, then the report becomes just a lot of babble from the reporting member, i.e., their own point of view, and not the



voice of the committee. The committee, then, becomes voiceless. It no longer matters whether they even pass any motions or not, because the committee report is just the reporting member ad-libbing anyway. Motions passed in a committee may be ignored in the report of the committee, and just this happened at BHC just last year. Advisory committee practice is pointless under such conditions.

Motions may be put on the agenda in two ways: Either an individual member asks that it be put on, RONR (12<sup>th</sup> ed.) 10:51, or else a committee does the same, *id.* 51:4-5. The whole point of advisory committee practice is the report (i.e., almost always a motion) that comes out of the committee. Without the report, the committee might as well not have met, and might as well not exist. The *difference* between a motion from a committee and one from an individual is that the motion from the committee has the approval of a majority of the committee which originated it or to whom it was assigned for in-depth and careful consideration. It is for this reason that committee reports come before even special orders in the standard order of business. *Id.* 41:5. They are *important*, and the motions of which they consist should almost always be adopted as the will of the assembly. Advisory committees have no other purpose, and to take away from them their reports is to take away their *raison d'être*. Without committees, the Commission may not consider anything in any depth. This is why the Commission is currently hidebound and unable to proceed with much meaningful work—its committee practice is broken.

### **Mandatory Reporting to the Executive Committee and the Commission is Pathological.**

Normal committee practice consists of the parent body *referring* a matter—either a motion or a subject matter—to a committee. RONR (12<sup>th</sup> ed.) 13:1. In the case of *ad hoc* committees, this also creates the committee. The committee later reports *back to the parent body* with either a recommendation that a referred motion pass, that it not pass, or that the Commission take no action on a subject matter referred to them. The committee may also recommend a motion on a subject-matter referred to them, or, in the case of a standing committee, recommend a motion on their own initiative. The committee should always get back to the parent body on every motion or subject matter referred to them, and do so before any members of the Commission end their terms at the end of the year.

Mandatory reporting to specific bodies is pathological. What is the Executive Committee supposed to do with a motion that is being reported to them? In all but the most rare cases, the Executive Committee can take no action on a motion on behalf of the Commission. Why is every committee required to report to the Executive Committee when the Executive Committee is powerless to act on the report? It makes no sense! It doesn't even make sense as a rehearsal, because the entire text of the report should be approved by the committee in advance. There should neither be any occasion for deviation in reporting, nor should the Executive Committee act as a gatekeeper, approving or rejecting committee reports before the Commission. The Executive Committee could prevent a committee from reporting on a matter referred to it, in this way, preventing the committee from keeping its promises and preventing the Commission from further deliberating any item! Committees are made up of adults. They should be allowed to report back to the Commission when they are created by the Commission or matters are referred to them by the Commission, without interference or pointless over-reporting to the Executive Committee.

The only committees that should report to the Executive Committee are committees created by the Executive Committee and referred matters by the Executive Committee. For these committees, it is pointless for them to report to the Commission, who didn't create them, didn't refer any matter to them, and cannot take action on the report. Why, then, is such reporting required?

What about committees created by committees other than the Executive Committee? Never mind the irrational procedures required by *Bylaws* to create committees, if such committees could be created, they would be required to report to the Executive Committee and the Commission. This makes no sense whatsoever, when they owe no responsibility to either of them.

**What Must Be Done**

All of the unnecessary reporting is required by the *Bylaws*. Art. VIII, § 1, ¶ 3.f. This passage needs only to be struck out in order for the sane, rational parliamentary rule to prevail. Agendas will have to be formulated with more care, omitting committee reports when there are none to be given from any particular committee. Then, and only then, the reports that are given will have meaning and significance.

Very truly yours,

Wynship Hillier, M.S.



## Laws in the Bylaws

Wynship Hillier <wynship@hotmail.com>

Thu 9/22/2022 4:30 PM

To: DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

Cc: wynship@hotmail.com <wynship@hotmail.com>

Bcc: Terry Bohrer <[REDACTED]>; LIZA murawski <[REDACTED]>; Lisa Wynn <[REDACTED]>; Kescha Mason <[REDACTED]>

Dear Administrator:

Please forward this message to the \*ad hoc\* committee to revise the Bylaws. This is explanatory correspondence to be distributed to the committee that is relevant to an item anticipated to be discussed at the next meeting of the committee, namely the revised Bylaws to be recommended. Therefore, you are required to reference this email in the Bylaws item on the agenda for the next meeting by \*S.F. Admin. Code\* § 67.7(b), and to post it on the Commission's website by \*id.\* § 67.9(a).

Dear Committee Members:

The Commission's current Bylaws, one motivating factor for the adoption of which had been the passage of AB 1352 in 2019, had not been approved for four months before the state legislature again changed the laws applying to the Commission. AB 738 was approved by the Governor and chaptered last Saturday, and it changes the membership requirements for the Commission in \*Cal. Welf. & Inst. Code\* § 5604 yet again!

At the most recent meeting, you agreed to rid the proposed Bylaws of citations to code sections because, as I pointed out, these sections may change. (Note, in this context, \*S.F. Charter\* § 4.104(b) references "Government Code Section 54953(b) \*or any successor legislation\* . . ." (emph. added) -- this is one way of dealing with the problem.) Something I didn't mention about section references is that they incorporate the law by reference as it was when this portion of the Bylaws was adopted; it does not incorporate future changes to the law. Changes to the content of the law, rather than changes to section numbers, are actually much more common. Therefore, it makes no sense to scrupulously remove section references to the law in the Bylaws while retaining provisions that do nothing but repeat the content of federal, state, or local law.

What happened last Saturday is bound to happen again, and again, and again, and again. Please do not doom future Commissions to have to choose between either continuing with Bylaws that contradict governing law or revising them to conform with the latest changes in the law, which they might well not be in a position to do. Please strike all provisions in the Bylaws that merely repeat governing law. Your successors will thank you for it. \*Cal. Welf. & Inst. Code\* § 5604.5(a) and (b) do not require you to define the size and composition of the Commission, because it also requires the Board of Supervisors to approve your Bylaws, and they have foreclosed the approval process by passing \*S.F. Admin. Code\* §§ 15.12 through 15.14. Anyway, where would the process you have started logically have an end? Why not include the entire Brown Act? The S.F. Sunshine Ordinance? The California Public Records Act? Other relevant portions of the \*S.F. Admin. Code\* and \*S.F. Charter\*?



You may not contradict governing law in the Bylaws anyway, so why ask for trouble by stating it there? The most that you can do is state how you are implementing a law, such as stating that the Executive Committee will act on behalf of the Commission in approving the legally-required annual report, \*S.F. Admin. Code\* § 15.14(a)(6), or stating that the ExCom may approve absences on behalf of the Commission, a legal power granted the Commission by local law, \*Id.\* § 15.13(d). Even Article II is suspect; the only reason that the old Bylaws contained it was that motions falling outside of the objects of the society stated in the Bylaws are required to pass a 2/3 vote before they may even be considered. RONR (12th ed.) 10:26(2). Even then, the old Article II was not even in conformity with law when it was passed -- stating law in Bylaws seems to induce an irresistible urge to tinker with governing law and think that, by doing so, you are doing anything other than creating traps for the unwary.

Very truly yours,  
Wynship W. Hillier, M.S.  
(415) 505-3856



## Article II

Wynship Hillier <wynship@hotmail.com>

Fri 9/23/2022 11:20 AM

To: DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

Cc: wynship@hotmail.com <wynship@hotmail.com>; Theresa Comstock

<[REDACTED]>; Harriette S. STEVENS EdD <[REDACTED]>

Bcc: LIZA murawski <[REDACTED]>; Lisa Wynn <[REDACTED]>; Terry Bohrer

<[REDACTED]>; Kescha Mason <[REDACTED]>

Dear Administrator:

Please distribute to the \*ad hoc\* committee to revise the bylaws. This is explanatory correspondence relevant to an item anticipated to be discussed at the next meeting thereof, namely, the recommended revised bylaws. Therefore, this email is required to be referenced in the bylaws item on the agenda for the next meeting by \*S.F. Admin. Code\* § 67.7(b). It is furthermore required to be posted on the Commission website by \*id.\* § 67.9(a).

Dear \*ad hoc\* committee to revise the bylaws:

Although the committee has proceeded beyond Article II, after it reaches the end of the document, it should reopen the entire document to consideration before making its report. RONR (12th ed.) 28:6. I have a bold proposal for that point: Strike Article II except for the title, and replace the rest with the following sentence: "The objects of the Behavioral Health Commission are as defined by state and local law."

"State and local law" is what is called a "general reference" to law. General references, unlike specific references which contain a citation to a specific section or name of a law (e.g., "the Bronzan-McCorquodale Act," or "\*Cal. Welf. & Inst. Code\* § 5604.2(a)"), do not have the function of incorporating the law as it was on the books at the time that the Bylaws section was approved by the Commission. General references incorporate the law as it changes over time. \*Palermo v. Stockton Theatres, Inc.\*, 32 Cal. 2d 53, \*58-59 (1948) (Justice Schauer). With a general reference, when either the state or local legislature changes the law, then the Bylaws will automatically refer to the new law, and at least this section of the Bylaws will need no updating. (I hope it will also quell the Commission's evident urge to tamper or monkey around with, or add to, state and local law.)

I realize that this is not what is recommended by CALBHB/C. Although much of the material available on the CALBHB/C website is good advice, things have also gotten to the point that, whenever I have had a problem with what the Commission is doing, I have been able to trace it to materials available on the CALBHB/C website. CALBHB/C is a private organization of relatively recent viability. It has no authority over the Commission. As may be implied from my email of yesterday, with respect to the membership provisions in the bylaws, its one-size-fits-all approach is not feasible with respect to matters that are subject to conditions that may vary from one county to another. (For more on membership, please see my email to the previous \*ad hoc\* bylaws committee of Oct. 21, 2021.)

I urge you to think independently, use logic, and keep it simple. I repeat: All repetition of state or

local law in the Bylaws is asking for trouble. The Bylaws should be useful for governance, not information. If the Commission wants to produce an informational document to help members find relevant state and local laws at a given time, then it should keep such document separate from the Bylaws. The bylaws ought to be a model of brevity and concision, short, easy to read and understand, and without pointless and useless repetition of information that is ephemeral and published elsewhere, by other entities, and in other contexts. RONR (12th ed.) 56:8 and 56:11.

Very truly yours,  
Wynship W. Hillier, M.S.  
(415) 505-3856

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## SAN FRANCISCO BEHAVIORAL HEALTH COMMISSION



Mayor  
London N. Breed

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[mhb@mhbsf.org](mailto:mhb@mhbsf.org)  
[www.mhbsf.org](http://www.mhbsf.org)  
[www.sfgov.org/mental\\_health](http://www.sfgov.org/mental_health)

Balham Javier Vigil, Co-Chair  
Stephen Banuelos, Co-Chair  
Genesis Vasconez, MS, PMHNP-BC, Vice-Chair  
Lisa Williams, Secretary  
Terezia Bohrer, RN, MSW, CLNC  
Judith Klain, MPH  
Carletta Jackson-Lane, JD  
Kescha S. Mason  
Liza Murawski  
Toni Parks  
Harriette Stallworth Stevens, EdD  
Lisa Wynn

### AGENDA

Behavioral Health Commission By-Law Ad-Hoc Committee Meeting

Thursday, September 22, 2022

3:00 PM – 5:00 PM

REMOTE BHC MEETING ZOOM

<https://us06web.zoom.us/j/84177041617?pwd=cjRXaXgwd2p1am41KzBoRktQUl03Zz09>

Meeting ID: 841 7704 1617

Passcode: 611763

One tap mobile +16699006833,,84177041617#,,,,\*611763# US (San Jose)

+14086380968,,84177041617#,,,,\*611763# US (San Jose)

CALL TO ORDER

Roll Call

Agenda Changes:

#### ITEM 1.0 COMMISSIONER'S REPORTS

##### 1.1 Report from the Commission Co-Chair and the Executive Committee

1.1 a) The Co-Chairs will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 which empowers local policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below **[Action Item]**

**PUBLIC COMMENT**

**ITEM 2.0 REVIEW RECENTLY PASSED BY-LAWS**

Chair will guide commissioners in continuing to review the by-laws for changes, amendments and potential adoptions

**PUBLIC COMMENT**

**ITEM 3.0 ACTION ITEMS**

Vote on time and frequency of meetings [action item]

**PUBLIC COMMENT**

**3.1 Continue to review attached By-Laws and sample markups:** discussion and possible action item on shared items [action item]

**PUBLIC COMMENT**

**3.2 Adopt August 12, 2022 minutes, August 19, 2022, August 26, 2022, September 1, 2022, September 8, 2022** [action item]

**ITEM 4.0 NEW BUSINESS [Discussion only]**

Suggestions for future agenda items to be referred to the Executive Committee and for future trainings and orientation of future Commissioners

**PUBLIC COMMENT**

**ITEM 5.0 Final Public Comment**

**Adjournment**

**107****Minutes for June 15 and May 18 amendment to Feb. 16 minutes**

Wynship Hillier &lt;wynship@hotmail.com&gt;

Thu 9/22/2022 9:34 AM

To: DPH-San Francisco Behavioral Health Commission &lt;sfbhc@sfdph.org&gt;

Cc: wynship@hotmail.com &lt;wynship@hotmail.com&gt;

Bcc: Judith Klain <[REDACTED]>; Terry Bohrer <[REDACTED]>; Carletta Jackson-Lane <[REDACTED]>; Toni Parks <[REDACTED]>; Harriette S. STEVENS EdD <[REDACTED]>; Stephen Banuelos <[REDACTED]>; Javier Vigil <[REDACTED]>; Kescha Mason <[REDACTED]>; Genesis Vasconez <[REDACTED]>; Lisa L. Williams <[REDACTED]>; LIZA murawski <[REDACTED]>; Lisa Wynn <[REDACTED]>

Dear Administrator:

The following is explanatory correspondence for distribution to the Commission and relevant to an item anticipated to be discussed at the next meeting of the Commission on Oct. 19, specifically, the approval of the minutes for June 20. It must be referenced in the corresponding item on the agenda pursuant to \*S.F. Admin. Code\* § 67.7(b) and posted on the Commission's website pursuant to \*id.\* § 67.9(a). Your failure to do both of these things will be reported to the Sunshine Ordinance Task Force as grounds for a requested finding of willful noncompliance.

Also, you have still not posted the amended minutes of the Feb. 16 meeting that were approved at the May 18 meeting. These were approved with the amendment that Commissioner Klain be marked as absent for the votes on the minutes and the elections of officers. Commissioner Klain was only present for roll call and the vote on the AB 361 motion on Feb. 16, but the unamended minutes imply that she was present for all votes at the meeting and voted "yes" at each of them. The amended minutes of the Feb. 16 meeting were required to be posted on the website within 48 hours of their approval, or May 20, over four months ago, \*S.F. Admin. Code\* § 67.29-1, and a paper copy was required to be sent to the Government Information Center within five working days of their approval, or May 25, \*id.\* § 8.16.

Dear Commissioner:

At the meeting of the Commission on July 20, the minutes for the meeting of June 15 were up for approval. These minutes were not approved and it was stated that they would be postponed until the next meeting, i.e., Sept. 21. A vote should have been taken on this postponement, but, as usual, the Commission accepted the action of its staff and chair; no vote was taken, and no one insisted on one. However, the minutes for June 15 were not on the agenda for approval at the Sept. 21 meeting. Consequently, they should now be placed on the agenda for the Oct. 19 meeting.

Very truly yours,  
Wynship W. Hillier, M.S.  
(415) 505-3856





## Reporting "Unanimous" for votes on minutes

Wynship Hillier <wynship@hotmail.com>

Sat 10/1/2022 9:25 AM

To: Harriette S. STEVENS EdD <[REDACTED]>; Grier, Geoffrey (DPH - Contractor)  
<geoffrey.grier@sfdph.org>; Gray Amber (DPH) <amber.gray@sfdph.org>

Do I need to remind you that the reason that this is insufficient as regards \*Cal. Gov't Code\* § 54953(c)(2) is that BHC, unlike probably every other local mental health board in the state, does not use a standard order of business, and, as a result, does not approve any minutes until often over an hour into the meeting, after members who were present during roll call may have left, and other members entered, and this happened at the February and April meetings of the Commission this year?

for agenda for next week's Exec. Com. meeting



Wynship Hillier <wynship@hotmail.com>

Fri 10/7/2022 9:52 AM

To: DPH-San Francisco Behavioral Health Commission <sfbhc@sfdph.org>

Cc: Terry Bohrer <[REDACTED]>

Bcc: LIZA murawski <[REDACTED]>; Javier Vigil <[REDACTED]>; Stephen Banuelos <[REDACTED]>; Carletta Jackson-Lane <[REDACTED]>; Genesis Vasconez <[REDACTED]>

Dear Ms. Gray:

Please regard this message as explanatory correspondence sent, and intended for distribution, to the Executive Committee, relevant to an item anticipated to be discussed at the next meeting thereof, namely, the proper creation of the \*ad hoc\* committee on bylaws. You are required to reference this email in the item regarding the creation of this committee on the agenda by \*S.F. Admin. Code § 67.7(b)\*. If it is one page in length, you are required to post it adjacent to the agenda. \*Id.\* If it is more than one page, you are required to post it on the Commission's website, whether adjacent to the agenda or not. \*Id.\* § 67.9(a).

Dear Executive Committee:

I have been reading a notice at meetings of the \*ad hoc\* committee to revise the bylaws to the effect that the committee was not created according to bylaws. Art. VIII, § 1, ¶ 4, says, "Ad hoc committees may be established or eliminated . . . by the Chair or Co-Chairs, with the concurrence of the Executive Committee. . . ." Nowhere on the record is the required concurrence manifest, and in fact it was not given at a public meeting.

Terry Bohrer, chair of the \*ad hoc\* committee, wants her committee to be fully created. Therefore, \*an item needs to appear on the agenda for next week's meeting of the Executive Committee\* to manifest the required concurrence. The motion must contain substantially the following language (except you may omit or change the final report date and/or change the membership and/or chair), which must appear on the agenda for the meeting, \*S.F. Admin. Code\* § 67.7(a):

"\*Resolved,\* that the Executive Committee concurs with Co-Chairs on the creation of an \*ad hoc\* committee to revise the bylaws, consisting of Bohrer (chair), Mason, Murawski, and Wynn, to finally report at the November meeting of the Commission."

Alternatively, you may substitute "of size four, to be appointed by the Co-Chairs," or language manifesting any of the other appointment methods listed in RONR (12th ed.) 50:13, for "consisting of . . . Wynn." Appointment by the Co-Chairs allows the Co-Chairs to change the appointments, but not the size, of the committee at will. If the members are named in the motion, as above, changing the membership (or, in any event, the size) requires a meeting of the Executive Committee to amend the motion after adoption.

Unfortunately, \*Cal. Gov't Code\* § 54954(a), which requires that a schedule of regular meetings be established for this \*ad hoc\* committee by motion and vote, requires this motion and vote to occur

at the Commission level; it cannot be passed by the Executive Committee and cannot be combined with this motion. I will send out a separate notice in advance of the agenda posting for the October Commission meeting (assuming the above motion is passed next week).

Very truly yours,  
Wynship Hillier  
(415) 505-3856



## SAN FRANCISCO BEHAVIORAL HEALTH COMMISSION

Mayor  
London N. Breed

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Bahlam Javier Vigil, Co-Chair  
Stephen Banuelos, Co-Chair  
Genesis Vasquez, MS, PMHNP-BC, Vice-Chair  
Lisa Williams, Secretary  
Terezia Bohrer, RN, MSW, CLNC  
Judith Klain, MPH  
Carletta Jackson-Lane, JD  
Kescha S. Mason  
Liza Murawski  
Toni Parks  
Harriette Stallworth Stevens, EdD  
Lisa Wynn

### AGENDA

Behavioral Health Commission Executive Committee Meeting  
Tuesday, October 11, 2022  
5:00 PM – 6:00 PM

### REMOTE ACCESS

<https://us06web.zoom.us/j/82346365185?pwd=em1raGdZZTQwUTVMTHVYSXhUajAyUT09>

Meeting ID: 823 4636 5185

Passcode: 057260

One tap mobile

+14086380968,,82346365185#,,, \*057260# US (San Jose)

+16694449171,,82346365185#,,, \*057260# US

### CALL TO ORDER

**CHAIR:** Co-Chair Bahlam Javier Vigil (they/them/theirs), Co-Chair Stephen Banuelos

**COMMISSIONER'S:** Co-Chair Bahlam Javier Vigil (they/them/theirs), Co-Chair Stephen Banuelos, Vice-Chair Genesis Vasquez (she, her), Secretary Lisa Williams (she/her), Carletta Jackson-Lane (she/her/hers)

### Roll Call

The Co-Chair will have the BHC Staff call attention to the updated remote meeting resolution California Government Code Section 54953(e) also known as AB361 which empowers local

policy bodies to convene by teleconferencing technology during a proclaimed state of emergency under the State Emergency Services Act – see attached below **[action item]**

**AGENDA CHANGES:**

**PUBLIC COMMENT:**

**ITEM 1.0 COMMISSIONER'S REPORTS**

Discuss the need for the Behavioral Health Commission (BHC) to be in on the decision-making process around the distribution of budget initiatives. Discuss commissioner input on How to do the Data Notebook for 2022

**Report from the Co-Chairs –**

- 1.1 New BHC sf.gov website update: Discussion and possible action
- 1.2 Request funding for retreat in December: food, venue, printed materials, etc.
- 1.3 Distribution to all Commissioners: Hard copy of Site Visit Manual and latest copy of Robert's Rules
- 1.4 Annual Report 2021-2022 progress report
- 1.5 Request funding for retreat in December: food, venue, printed materials, etc.
- 1.6 Request BHS report from Hillary and when we get it: review and submit BHC comments
- 1.7 Review and comment to BOS on proposed 'SF Recovers' legislation

**PUBLIC COMMENT:**

**ITEM 2.0 ACTION ITEMS - Discussion on action items**

**PUBLIC COMMENT**

- 2.1 Vote to adopt minutes from the July 12, 2022 Executive Committee meeting **[action item]**

**PUBLIC COMMENT**

- 2.2 Vote to formalize the presentation of the Annual Report before the full commission on October 19, 2022 (see attached) - **[action item]**

**PUBLIC COMMENT**

- 2.3 The status of Conard House doing a presentation to the BHC **[action item]**

**PUBLIC COMMENT**

**2.4 The status of the BY Law Ad Hoc Committee, i.e should it continue? [action item]**

**PUBLIC COMMENT**

**ITEM 3.0 New BHC Business**

**3.1 Public Comment:**

**4.0 Final Public Comment:**

**Adjournment**



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##### 2022 Agendas

September 23, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
September 22, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
September 21, 2022  
September 13, 2022 - Site Visit Committee Meeting  
September 13, 2022 - BHC Executive Committee  
September 13, 2022 - BHC Implementation Committee  
September 9, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
September 8, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
September 2, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
September 1, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
August 26, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
August 25, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
August 12, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
August 12, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
August 5, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
August 5, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
August 1, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
July 20, 2022  
July 12, 2022 - Site Visit Committee Meeting  
July 12, 2022 - BHC Executive Committee  
July 12, 2022 - BHC Implementation Committee  
June 15, 2022  
June 7, 2022 - Site Visit Committee Meeting  
June 7, 2022 - BHC Executive Committee  
June 7, 2022 - BHC Implementation Committee  
May 18, 2022  
May 10, 2022 - Site Visit Committee Meeting  
May 10, 2022 - BHC Executive Committee  
May 10, 2022 - BHC Implementation Committee  
April 20, 2022  
April 12, 2022 - Site Visit Committee Meeting  
April 12, 2022 - BHC Executive Committee  
April 12, 2022 - BHC Implementation Committee  
March 16, 2022  
March 9, 2022 - Site Visit Committee Meeting  
March 9, 2022 - BHC Executive Committee  
March 9, 2022 - BHC Implementation Committee  
February 16, 2022  
February 9, 2022 - Site Visit Committee Meeting  
February 9, 2022 - BHC Executive Committee  
February 9, 2022 - BHC Implementation Committee  
January 19, 2022  
January 12, 2022 - Site Visit Committee Meeting  
January 12, 2022 - BHC Executive Committee  
January 12, 2022 - BHC Implementation Committee

##### 2022 Minutes

September 9, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
 September 1, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
 August 26, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
 August 25, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
 August 12, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
 August 12, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
 August 5, 2022 - BHC Annual Report Ad-Hoc Committee Meeting  
 August 5, 2022 - BHC By-Law Ad-Hoc Committee Meeting  
 July 20, 2022  
 June 15, 2022  
 June 07, 2022 - Site Visit Committee Meeting  
 June 07, 2022 - BHC Executive Committee  
 June 07, 2022 - BHC Implementation Committee  
 May 18, 2022  
 May 10, 2022 - Site Visit Committee Meeting  
 May 10, 2022 - BHC Executive Committee  
 May 10, 2022 - BHC Implementation Committee  
 April 20, 2022  
 April 12, 2022 - Site Visit Committee Meeting  
 April 12, 2022 - BHC Executive Committee  
 April 12, 2022 - BHC Implementation Committee  
 March 16, 2022  
 March 9, 2022 - Site Visit Committee Meeting  
 March 9, 2022 - BHC Executive Committee  
 March 9, 2022 - BHC Implementation Committee  
 February 16, 2022  
 February 9, 2022 - Site Visit Committee Meeting  
 February 9, 2022 - BHC Executive Committee  
 February 9, 2022 - BHC Implementation Committee  
 January 19, 2022  
 January 12, 2022 - Site Visit Committee Meeting  
 January 12, 2022 - BHC Executive Committee  
 January 12, 2022 - BHC Implementation Committee

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2021 Agendas

December 4, 2022 - BHC Retreat  
 November 17, 2021  
 November 10, 2021 - BHC Recruitment Committee  
 November 10, 2021 - BHC Executive Committee  
 November 10, 2021 - BHC Implementation Committee  
 November 3, 2021 - ByLaws Committee  
 November 3, 2021 - Site Visit Committee Meeting  
 October 20, 2021  
 October 13, 2021 - BHC Executive Committee  
 October 13, 2021 - BHC Implementation Committee  
 October 6, 2021 - ByLaws Committee  
 October 6, 2021 - Site Visit Committee Meeting  
 September 22, 2021  
 September 15, 2021 - BHC Executive Committee  
 September 15, 2021 - BHC Implementation Committee  
 September 7, 2021 - Site Visit Committee Meeting  
 September 7, 2021 - ByLaws Committee  
 July 21, 2021  
 July 13, 2021 - BHC Executive Committee  
 July 13, 2021 - BHC Implementation Committee  
 July 6, 2021 - ByLaws Revision and Parliamentary Committee Meeting  
 July 6, 2021 - Site Visit Committee Meeting  
 June 16, 2021  
 June 8, 2021 - BHC Executive Committee  
 June 8, 2021 - BHC Implementation Committee  
 June 2, 2021 - ByLaws Committee  
 June 2, 2021 - BHC Site Visit Committee  
 May 19, 2021  
 May 12, 2021 - BHC Executive Committee  
 May 12, 2021 - BHC Implementation Committee  
 May 11, 2021 - BHC Retreat  
 April 21, 2021  
 April 13, 2021 - BHC Executive Committee  
 April 13, 2021 - BHC Implementation Committee

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**Annual reports, Item No. 1.4 on ExCom agenda**

Wynship Hillier &lt;wynship@hotmail.com&gt;

Sun 10/9/2022 12:05 PM

To: DPH-San Francisco Behavioral Health Commission &lt;sfbhc@sfdph.org&gt;

Cc: wynship@hotmail.com &lt;wynship@hotmail.com&gt;

Bcc: Harriette S. STEVENS EdD &lt;[REDACTED]&gt;; Stephen Banuelos

&lt;[REDACTED]&gt;; Javier Vigil &lt;[REDACTED]&gt;; Genesis Vasconez

&lt;[REDACTED]&gt;; Lisa L. Williams &lt;[REDACTED]&gt;; Carletta Jackson-Lane

&lt;[REDACTED]&gt;; LIZA murawski &lt;[REDACTED]&gt;

Dear Administrator:

Please regard this email as explanatory correspondence for distribution to the Executive Committee, relevant to an item intended to be discussed at the next meeting of the Executive Committee, namely, item no. 1.4, "Annual Report 2021-2022 progress report." You are required to post it on the Commission's website by S.F. Admin. Code § 67.9(a).

Dear Executive Committee:

This item is very poorly agendized. First of all, from the reports in the agenda packet (which are also required to be posted on the website by \*id.\*), this appears to be the final report of the \*ad hoc\* committee to compose the 2021-2022 annual report, etc. The Executive Committee has the responsibility of approving all annual reports on behalf of the Commission. Bylaws, Art. VIII, § 2, ¶ 1.b. Therefore, the agenda item should be, and was required by law to be, to approve the annual report, if that is what you intended to do. \*S.F. Admin. Code\* § 67.7(a) (agenda item must include the proposed action).

The Commission may not approve annual reports. The bylaws do not say, "The Executive Committee shall prepare the annual report for submission to the Commission for its approval." (\*See\*, RONR (12th ed.) 56:65, Art. VII (model language).) The bylaws say, "The duties of the Executive Committee shall be to: . . . Prepare the Annual Report as specified in Article II, Section 7 of these Bylaws." Art. II, § 7, says, in turn, "Submit, in June, an Annual Report to the Director of BHS and MHSF and BOS on the needs and performance of the City's behavioral health system." So, "prepare" includes "submit to the Director . . ." The ExCom submits annual reports on behalf of the Commission; the Commission does not submit them. (Even if you were going to submit it to the Commission for approval, this would require a vote and would need to be clearly stated on the agenda.)

Furthermore, the agenda item lists only the 2021-2022 annual report, but there are two reports in the packet, also a 2020-2021 annual report. Approval of the 2020-2021 report also needed to be on the agenda. You may neither approve nor even discuss the 2020-2021 annual report at this meeting because there is no notice of it whatsoever on the agenda. \*S.F. Admin. Code\* § 67.7(a) (agenda must include each item to be transacted \*or discussed\*).

This item should also be ruled out of order by the committee chair because the agenda fails to provide an opportunity for members on the public to directly address the Executive Committee on

it before or during the Executive Committee's consideration of the item. \*Cal. Gov't Code\* § 54954.3(a), \*S.F. Admin. Code\* § 67.15(a).

All of these directly and detrimentally impact the public's ability to participate in the meeting.

Very truly yours,  
Wynship Hillier

**Executive Committee meeting on Tuesday****114**

Wynship Hillier &lt;wynship@hotmail.com&gt;

Mon 10/10/2022 9:59 AM

To: DPH-San Francisco Behavioral Health Commission &lt;sfbhc@sfdph.org&gt;

Cc: wynship@hotmail.com &lt;wynship@hotmail.com&gt;

Bcc: Stephen Banuelos &lt;[REDACTED]&gt;; Javier Vigil &lt;[REDACTED]&gt;; Genesis Vasquez &lt;[REDACTED]&gt;; Lisa L. Williams &lt;[REDACTED]&gt;; Carletta Jackson-Lane &lt;[REDACTED]&gt;; LIZA murawski &lt;[REDACTED]&gt;

Dear Ms. Gray,

Please regard this email as explanatory correspondence sent for distribution to the Executive Committee in reference to several items anticipated to be discussed at the next meeting thereof, namely Item Nos. 1.1, 1.2, 1.3, 1.5, and 1.6. Consequently you are required to post it on the Commission's website by \*S.F. Admin. Code\* § 67.9(a).

Dear Executive Committee:

I am forced to send you this email rather than address you during the meeting because the agenda provides no opportunity for members of the public to directly address the Committee before or during the Committee's consideration of any of these items.

This failure of the agenda is itself a violation of both the Sunshine Ordinance, \*S.F. Admin. Code\* § 67.15(a), and the Brown Act, \*Cal. Gov't Code\* § 54954.3(a). This is a notice requirement, and it cannot be cured by giving the public a chance to address the Committee on these items during the meeting. Giving the public such an opportunity without written notice on the agenda does not count. At all. Furthermore, if you take action on any one of these items, it will bring misdemeanor guilt down on every member of the Committee present at the meeting because of this omission. \*Cal. Gov't Code\* § 54959. "Taking action" includes voting the item down, and the guilt extends to every member, regardless of whether they voted for or against the item. Approving any of these items would be useless anyway, because to do so would be null, void, and subject to reversal at any time that the action remains in effect by any member raising a \*Point of Order\* against the action on the basis of either of these two violations.

It would be a violation of the law to \*even discuss\* any of these items, however. Neither of the two sections cited above makes any distinction between proposed action and discussion-only items. To even discuss any of these items will violate both of these laws.

Therefore, each of these items must be ruled out of order by the Committee chair immediately after calling it up. The rules of order support this. RONR (12th ed.) 10:26(1) ("[T]o the extent that procedural rules applicable to the organization or assembly are prescribed by federal, state, or local law, no main motion is in order that conflicts with such rules.") Although the discussion-only items are not "main motions," it may be presumed that this rule extends to them because discussion-only items are disfavored by the rules of order, and therefore receive scant attention.

If the chair fails to rule any of these items out of order, it is the duty of every member of the



Committee present at the meeting to immediately raise a \*Point of Order\* against the further consideration of the item on the basis of either of these two violations. As mentioned earlier, on items for which action is taken, this may further be done at any time that the action remains in effect, but such reversals will do nothing to prevent criminal or civil penalties other than reversal under \*Cal. Gov't Code\* § 54960.1 (civil penalty for action items).

This is in addition to any violation that applies to every item on the agenda. I will announce any such violations at the meeting.

It bears noting in this context that Item Nos. 1.2 and 1.5 are exact duplicates one another and 1.5 should be ruled out of order on this basis alone. RONR (12th ed.) 10:26(5).

In addition to the above violations, Item Nos. 1.3 and 1.4 also violate \*S.F. Admin. Code\* § 67.7(a) because neither of them contain either a proposed action or a statement that the item is for discussion only.

If action is taken on Item Nos. 1.1, 1.2, and/or 1.5, each will bring misdemeanor guilt upon every member of the Committee present at the meeting, but if these items or no. 1.4 are called up without making a motion, then each of them will additionally violate \*S.F. Admin. Code\* § 67.7(a) because the item did not contain a message that the item was for discussion only. The only way to avoid any violations is to rule each one of these items out of order as soon as it is called up.

Item 1.6 also violates \*Cal. Gov't Code\* § 54954.2(a)(1) and \*S.F. Admin. Code\* § 67.7(a) because it does not include enough information for a person whose interests may be affected by the item to know whether or not to attend the meeting. Just how is the public supposed to know to what "BHS report" refers? Taking action on this item will incur misdemeanor guilt upon every member of the Committee present at the meeting, regardless of whether the Committee approves or rejects the item and regardless whether each individual member of the Committee voted for or against it. Not immediately ruling it out of order will violate the law, and discussing it without a vote will additionally violate \*S.F. Admin. Code\* § 67.7(a) because the item does not contain a statement that it is for discussion only.

All of the violations of the Sunshine Ordinance mentioned in this email are the subject of rulings against the Commission by the Sunshine Ordinance Task Force, which is currently conducting ongoing monitoring of the Commission's compliance with the Ordinance. If any of these items are not ruled out of order immediately after they are called up, the resultant violations could result in findings of willful noncompliance with the Sunshine Ordinance by the Task Force, which could result in removal of Committee Members from the Commission by the Board of Supervisors or individual Supervisors, as appropriate.

Violations of the law by other items on the agenda will be announced during the respective periods for public comment appearing on the agenda.

Why are you even holding this meeting? Last week, besides a lot of yak and "updates," the only thing on the agenda was to put a presentation on the agenda for the meeting of the Commission the following week. When the ExCom meeting was called off under mysterious circumstances, you went ahead and put the presentation on the agenda for the Commission meeting anyway, thereby demonstrating that these meetings are an utterly meaningless exercise, a strange pantomime, and



a total waste of time for all involved, including, especially, me! There are things you could do to make your meetings lawful, to say nothing of meaningful, and you won't do them. When will you admit that the true objects of this Commission are obstruction and obfuscation?

Very truly yours,  
Wynship Hillier

**Public comment on item no. 3.0**

Wynship Hillier &lt;wynship@hotmail.com&gt;

Wed 10/19/2022 12:42 PM

To: DPH-San Francisco Behavioral Health Commission &lt;sfbhc@sfdph.org&gt;

Cc: wynship@hotmail.com &lt;wynship@hotmail.com&gt;

Bcc: Javier Vigil <[REDACTED]>; Stephen Banuelos <[REDACTED]>; Genesis Vasconez <[REDACTED]>; Lisa L. Williams <[REDACTED]>; Carletta Jackson-Lane <[REDACTED]>; Dr. Harriette Stallworth Stevens EdD. <[REDACTED]>; Toni Parks <[REDACTED]>; Judith Klain <[REDACTED]>; Terry Bohrer <[REDACTED]>; Kescha Mason <[REDACTED]>; Lisa Wynn <[REDACTED]>; LIZA murawski <[REDACTED]>

Dear Administrator:

Please regard this communication as an other document on file with the clerk of the Commission intended for distribution to the members of the Commission in connection with an item anticipated to be discussed at tonight's regular meeting of the Commission, namely, Item No. 3.0, **"\*PRESENTATION\* on the 2021-2022 BHC Annual Report by Commissioner Stevens."** You are required by **\*S.F. Admin. Code\* § 67.9(a)** to post this email on the Commission's website.

Dear Commissioners:

I am forced to send you this email because the agenda provides no opportunity for the public to address the Commission regarding item no. 3.0 on tonight's agenda. While I have said that the Commission is not required to allow the public an opportunity to address them regarding presentations, this is because presentations **\*by non-members of the Commission\*** are not "item[s] to be transacted or discussed" subject to the notice requirement of **\*Cal. Gov't Code\* § 54954.2(a)(1)**. Presentations **\*by members of the Commission,\*** however, definitely are "item[s] to be transacted or discussed" subject to this section. Specifically, **\*Cal. Gov't Code\* § 54954.2(a)(3)** exempts from the notice requirement "a brief report on his or her own activities . . ." by a Commissioner. If such a report given by a Commissioner would be expressly exempt from the notice requirement, this can only be because it would otherwise be covered by this requirement. Consequently, it would be included in the term "item to be . . . discussed . . ." though exempt from the requirement in which this term appears. And if "a brief report on his or her own activities" is included among "items to be . . . discussed," how much more so are reports by Commissioners that are not brief, and/or not "on his or her own activities."

Regardless of whether this item is exempt from the requirement, notice of this item meeting the requirement of **\*Cal. Gov't Code\* § 54954.2(a)(2)** appears on the agenda, which is not to say that all requirements for notice of this item have been met. Specifically, and among others, **\*Cal. Gov't Code\* § 54954.3(a)** requires that the agenda provide an opportunity for members of the public to directly address the Commission on each item required to be noticed by **\*Cal. Gov't Code\* § 54954.2(a)(1)**, as well as certain other items. The agenda shows no opportunity for the public to address the Commission regarding item no. 3.0.

Item 3.0 is neither expected to be brief, nor is it a report "on his or her own activities . . ."

Consequently, it is exempt from neither \*Cal. Gov't Code\* §§ 54954.2(a)(1) nor 54954.3(a). Therefore, this item violates the latter section.

In addition, The San Francisco Sunshine Ordinance, Chapter 67 of the San Francisco Administrative Code, is \*in pari materia\* with the Brown Act. This means that the terms of the Act may be used to interpret the meaning of the same terms in the Ordinance. Along with the Brown Act, the Ordinance also requires that notice of each item to be transacted or discussed appear on the agenda. \*S.F. Admin. Code\* § 67.7(a). This section, however, does not include exemptions corresponding to all of the exemptions in \*Cal. Gov't Code\* § 54954.2(a)(3). \*See\*, \*S.F. Admin. Code\* § 67.7(d) for the exemptions it does include. The exemption quoted above is not among those included. Therefore, \*even if this item were exempt from the notice requirement of Cal. Gov't Code\* § 54954.2(a)(1), which it is not, it would still be subject to the notice requirement of \*S.F. Admin. Code\* § 67.7(a). This requirement requires that each item subject to notice on the agenda include "the proposed action or a statement that the item is for discussion only." The agenda includes neither for this item. Therefore, this item violates \*S.F. Admin. Code\* § 67.7(a), in addition to \*Cal. Gov't Code\* § 54954.3(a).

That is not all. The Sunshine Ordinance includes its own public comment requirement, \*S.F. Admin. Code\* § 67.15(a), which applies to each item for which notice is required under \*S.F. Admin. Code\* § 67.7(a). Therefore, even if item no. 3.0 was exempt from \*Cal. Gov't Code\* § 54954.2(a)(1), which it is not, the agenda would still be required to provide an opportunity for the public to address the Commission regarding it. It does not, and so the item additionally violates \*S.F. Admin. Code\* § 67.15(a).

In addition to these violations, I will announce at the meeting two violations regarding the entire meeting, which apply just as well to item no. 3.0, and these items will be impossible to cure at the meeting.

\*Cal. Gov't Code\* § 54954.3(a) and \*S.F. Admin. Code\* §§ 67.7(a) and 67.15(a) are all requirements for written notice on the agenda. Therefore, these defects may be cured during the meeting by neither, for instance, making any announcement, nor by actually allowing members of the public to address the Commission regarding item no. 3.0 before or during the Commission's consideration of the item. The only alternative is to rule this item out of order.

The Commission's Rule of Order allow and require this to be done. RONR (12th ed.) 10:26(1) (speak with Mr. Grier if you lack a copy) states as follows, "to the extent that procedural rules applicable to the organization or assembly are prescribed by state, federal, or local law, no main motion is in order that conflicts with such rules." This is not a "main motion," but this rule may plausibly be extended to discussion-only items such as this, because discussion-only items are disfavored by the rules of order, RONR (12th ed.) 4:7-8, and there would be no other way to prevent a violation regarding a discussion-only item. There can be no question that the Brown Act and Sunshine Ordinance are procedural rules prescribed by state and local law.

Even if it were not for the above five violations of state and local law, this item would still be out of order for violation of a fundamental parliamentary principle. RONR (12th ed) 23:6(d) contemplates any Commissioner raising a \*Point of Order\* against any action at any time that it remains in effect, on this basis, which action was the result of a motion to \*Suspend the Rules\* and the rule protects a fundamental parliamentary principle, and states that such actions are null and void therefor. Item

no. 3.0 violates the fundamental parliamentary principle that "a deliberative body is a free agent-- free to do what it wants to do with the greatest measure of protection to itself and of consideration of the rights of its members," RONR (12th ed.) p. I, because Commissioners cannot do anything during a presentation, which takes up a significant amount of time, and item no. 3.0 was not placed on the agenda through a vote of the Commission. Such a vote cannot be taken at the meeting because it would be a proposed action, notice of which does not appear on the agenda, in violation of \*S.F. Admin. Code\* § 67.7(a). Commissioners being forced to sit passively through a presentation to which a majority of them might not have consented is a serious constraint on the liberty of the Commission, one which they may not allow anyone to take away from them through, for instance, a provision in the bylaws. There are certain rights you cannot give away. You cannot, for instance, give another the right to bind you to contracts for employment, housing, to dispose of your property, to make medical decisions on your behalf, etc., and this is of the same sort. Even if you reject this, item 3.0 was not placed on the agenda by action of the Executive Committee. I do not know how it got on there. Agendas are prepared by staff and co-chairs. If you are unwilling to defend the freedom of the Commission and the rights of its members, it may well be asked what you think you are doing here in the first place.

If the chair fails to rule item no. 3.0 out of order as soon as it comes up, any member of the Commission may raise a \*Point of Order\* against the item at any time before or during the presentation on any of the six grounds mentioned above, and the \*Point of Order\* should be well taken.

Very truly yours,  
Wynship W. Hillier, M.S.  
(415) 505-3856



**Leger, Cheryl (BOS)**

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**From:** Wynship Hillier <wynship@hotmail.com>  
**Sent:** Thursday, October 20, 2022 7:39 PM  
**To:** SOTF, (BOS)  
**Cc:** DPH-San Francisco Behavioral Health Commission; Grier, Geoffrey (DPH - Contractor); Gray, Amber (DPH); Young, Victor (BOS); Somera, Alisa (BOS)  
**Subject:** Re: SOTF - Notice of Appearance - Compliance and Amendments Committee; October 25, 2022 4:30 p.m.  
**Attachments:** Oct. 25, 2022, Compliance and Monitoring hearing.pdf; exhibits(0).pdf

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Attached, our submissions. Per Victor Young's email earlier today, our deadline was extended to 8:00 pm. - WH

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**From:** SOTF, (BOS) <sotf@sfgov.org>  
**Sent:** Friday, October 14, 2022 3:09 PM  
**To:** Marc Norton <nortonsf@protonmail.com>; Tran, Sophie (DPH) <sophie.tran@sfdph.org>; Pojman, Natalie (DPH) <natalie.pojman@sfdph.org>; Reilly, Lynn (POL) <Lynn.Reilly@sfgov.org>; Sergei Severinov <serolga@yahoo.com>; sf.texts.research@pm.me <sf.texts.research@pm.me>; Colfax, Grant (DPH) <grant.colfax@sfdph.org>; Anonymous <arecordsrequestor@protonmail.com>; Feitelberg, Brittany (PUC) <BFeitelberg@sfgwater.org>; Ruski Augusto Sa, Mayara (PUC) <MRuskiAugustoSa@sfgwater.org>; Grier, Geoffrey (DPH - Contractor) <geoffrey.grier@sfdph.org>; Wynship Hillier <wynship@hotmail.com>; Gray, Amber (DPH) <amber.gray@sfdph.org>  
**Cc:** Young, Victor (BOS) <victor.young@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>  
**Subject:** SOTF - Notice of Appearance - Compliance and Amendments Committee; October 25, 2022 4:30 p.m.

Good Afternoon:

You are receiving this notice because you are named as a Complainant or Respondent in one of the following complaints scheduled before the Compliance and Amendments Committee to: 1) hear the merits of the complaint; 2) issue a determination; and/or 3) consider referrals from a Task Force Committee. ***To all parties, please confirm your attendance for this hearing.***

**Date:** **October 25, 2022**

**Location:** Remote meeting; participant information to be included on the Agenda cover page.

**Time:** 4:30 p.m.

**Complainants:** Your attendance is required for this meeting/hearing.

**Respondents/Departments:** Pursuant to Section 67.21 (e) of the Ordinance, the custodian of records or a representative of your department, who can speak to the matter, is required at the meeting/hearing.

**Complaints:**

**File No. 21124:** Complaint filed by Marc Norton against the Department of Public Health (DPH) for violating Administrative Code (Sunshine Ordinance), Section(s) 67.21 by failing to provide guidance on locating records; 67.25 by failing to respond to an Immediate Disclosure Request in a timely manner; 67.26 by failing to keep withholding to a minimum and 67.27 by failing to provide justification for withholding.

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



**File No. 22012:** Complaint filed by Anonymous (SFT) against Director Greg Colfax and the Department of Public Health 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.

**File No. 21153:** Complaint filed by Anonymous (ARE) against Dennis Herrera 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.

**File No. 22092:** Hearing to review the Behavioral Health Commission's compliance with the sunshine Ordinance (Sections listed below) for meetings that occurred after April 13, 2021.

On April 6, 2022, the SOTF referred the matter to the Compliance and Amendments Committee to monitor future Behavioral Health Commission's meetings for compliance with the following sections of the sunshine Ordinance:

- 67.7(a) providing an adequate description of the agenda items;
- 67.7(a) posting Agenda 72 hours in advance of the meeting;
- 67.7(b) providing a clear description of the agenda matters;
- 67.7(b) posting supporting documents on-line or making them available as soon as they are available;
- 67.7(g) including notices of rights under the Sunshine Ordinance on the agenda;
- 67.9(a) posting supplementary documents for the meeting on the internet;
- 67.15(a) allowing public comment for each item on the agenda.

In addition, the SOTF requests that the Behavioral Health Commission provide their manual or description of their procedure/practices implemented to address the code sections listed. In an effort to document compliances with posting requirements of the Sunshine Ordinance, the SOTF requests that the Behavioral Health Commission maintain a log of when agendas and supporting documents are posted along with any other relevant data.


**File No. 22120:** The members of the Compliance and Amendments Committee are inviting members of the public who wish to propose amendments to the Sunshine Ordinance to present their proposals at this meeting. Each person who makes a presentation will be given equal speaking time of five minutes. We will take public comment once all of the presentations are complete. Each person who makes a presentation will be given an equal amount of speaking time. Each presenter will have at least five minutes to speak. *(Discussion and No Action)*

***For inclusion into the agenda packet, supplemental/supporting documents must be received by 5:00 pm, October 20, 2022.***

Cheryl Leger

Assistant Clerk, Board of Supervisors

Tel: 415-554-7724

 Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The Legislative Research Center provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

*Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral*

*communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.*

**Wynship W. Hillier, M.S.**  
3562 20<sup>th</sup> Street, Apartment 22  
San Francisco, California 94110  
(415) 505-3856  
[wynship@hotmail.com](mailto:wynship@hotmail.com)

October 10, 2022

Lila LaHood, Chair  
Compliance and Amendments Committee  
Sunshine Ordinance Task Force  
City Hall  
1 Dr. Carlton B. Goodlett Place, Suite 244  
San Francisco, California 94102-4689

*Sent via email to [sotf@sfgov.org](mailto:sotf@sfgov.org)*

Dear Committee Chair LaHood:

In response to your email of July 10, 2022, announcing an hearing before the Compliance and Amendments Committee ("CAC") of the Sunshine Ordinance Task Force ("SOTF") on Aug. 23, 2022, on the topic of the Behavioral Health Commission's ("BHC's") compliance with the Task Force's order of Apr. 6, 2022, I have compiled the following summary of violations thereof occurring since that date.

**Summary of Recent SOTF Actions Regarding BHC**

On Oct. 6, 2021, The SOTF ruled against the Behavioral Health Commission on file nos. 20100 and 20143, combined into 20100.

On Feb. 2, 2022, the SOTF reaffirmed its Oct. 6, 2021, decision in all respects.

On Apr. 6, 2022, the SOTF ruled against the Behavioral Health Commission on file nos. 21021, 21036, 21087, 21095, 21099, 21103, and 21118.

On Apr. 8, 2022, SOTF Administrator Cheryl Leger sent an email to me and the BHC with subject line "SOTF – Motion on Item 8, Consent Agenda; SOTF April 6, 2022" to the BHC (emph. in orig.):

Mr. Hillier and Mr. Grier: Below is the motion from Wednesday night's Sunshine Task Force hearing:

Member Hyland moved approve [sic] the consent agenda for file [sic] 21021, 21036, 21087, 21095, 21099, 21103, 21118 as presented for violations each noted and Order of Determination for each item, second, Vice-Chair Yankee.

Vice-Chair Yankee provided amendments to the motion.

Moved by Vice-Chair Yankee to include the motion from the March 8, 2022, Education, Outreach and Training Committee hearing and put it into the Order of Determination. The EOTC [sic] is ordered to provide a manual of their practices and procedures as listed above. [sic]

Moved by Chair Hyland, seconded by Member Yankee, to recommend that the SOTF, via Consent Agenda, find that the BHC and its Committees, at various meetings that occurred from period [sic] September 8, 2020, through April 13, 2021, violated one or more of the following Sunshine Ordinance Sections:

- 67.7(a) by failing to provide an adequate description of the agenda items;
- 67.7(a) by failing to post their Agenda 72 hours in advance of the meeting;
- 67.7(b) by failing to provide a clear description of the matters;
- 67.7(b) by failing to post supporting documents on-line or make them available as soon as they are available;
- 67.7(g) by failing to include notices of rights under the Sunshine Ordinance on the agenda;
- 67.9(a) by failing to post supplementary documents for the meeting on the internet;
- 67.15(a) by failing to allow public comment for each item on the agenda.

The EOTC further requests that the SOTF refer the matter to the Compliance and Amendments Committee to review future agendas/meetings of the BHC, no earlier than the issue date of the Order of Determination, and not to extend beyond three months, regarding compliance with the Sunshine Ordinance Sections listed above or related violations.

The EOTC further requests that the BHC provide their manual or description of their procedures/practices implemented to address the violations listed above. In an effort to document compliances [sic] with posting requirements of the Sunshine Ordinance, the EOTC requests that

the BHC maintain a log of when agendas and supporting documents are posted along with any other relevant data.

On Apr. 19, 2022, Ms. Leger sent a second email to me and the BHC, this time with “Subject” line “SOTF – April 6, 2022 Sunshine Task Force actions”, as follows:

Mr. Hillier and Mr Grier: Per the Sunshine Task Force [*sic*], the actions from the April 6, 2022 Sunshine Task Force [*sic*] regarding the [*sic*] Item 8, the Consent Agenda hearing [*sic*] are below.

Action: Moved by Member Hyland, seconded by Vice Chair Yankee to approve the consent agenda for File Nos. 21021, 21036, 21087, 21095, 21099, 21103, 21118, as presented for violations each noted and that and that an Order of Determination is drafted for each item for the following violations against the Behavioral Health Commission for meetings that occurred for the period of September 8, 2020, through Apr. 13, 2021, for violations of one or more of the following Sunshine Ordinance Sections (with the Respondent plea of “No Contest”):

- 67.7(a) by failing to provide an adequate description of the agenda items;
- 67.7(a) by failing to post their Agenda 72 hours in advance of the meeting;
- 67.7(b) by failing to provide a clear description of the matters;
- 67.7(b) by failing to post supporting documents on-line or make them available as soon as they are available;
- 67.7(g) by failing to include notices of rights under the Sunshine Ordinance on the agenda;
- 67.9(a) by failing to post supplementary documents for the meeting on the internet;
- 67.15(a) by failing to allow public comment for each item on the agenda.

The SOTF further requests that the matter is referred to the Compliance and Amendments Committee no earlier than the issue date of the Order of Determination. The SOTF further requests that the BHC provide their manual or description of their procedure/practices implemented to address the violations listed. In an effort to document compliance with posting requirements of the Sunshine Ordinance, the SOTF requests that the BHC maintain a log of when agendas and supporting documentation are posted along with any other relevant data.

The minutes for the meeting on Apr. 6, 2022, had additionally reported the following information:

The motion PASSED by the following vote:



Ayes: 7 – Hyland, Yankee, Wolfe, Padmanabhan, Schmidt, Stein,  
Neighbors

Noes: 0 – None

Absent: 2 – Wong, LaHood

On July 6, 2022, I appeared before the SOTF at their regular meeting and requested that the referenced Order of Determination and another, regarding file no. 20100, issue, citing continuing desultory compliance and continuing violations by BHC. I was told at the meeting that the above emails were orders of determination, that staff was to have provided an email regarding file no. 20100, and that you were to schedule an hearing in CAC for monitoring and compliance.

On July 11, 2022, I received email from you, cc'd to the BHC and SOTF, relevantly stating the following (emph. in orig.):

Dear Mr. Hillier,

When the Sunshine Ordinance Task Force finds a violation and orders compliance, that **order of determination is effective immediately**. We expected that the Behavioral Health Commission would be taking steps to comply with our order right after it was issued in April.

I will ask Ms. Leger to **schedule a hearing on this matter for our next Compliance and Amendments Committee meeting in August**.

I would recommend that a representative from the **Behavioral Health Commission follow up with Ms. Leger and let her know what they have been doing to comply with our order of determination** in advance of that meeting.

Best regards,

Lila

At the time, the next meeting of the Compliance and Amendments Committee was scheduled for Aug. 23, 2022.

On July 15, 2022, Ms. Leger sent the following email to myself, the Behavioral Health Commission, and Mr. Grier, with the subject line, "SOTF – Matter No. 20100 per Mr. Hillier's request" (ellipses added):

Mr. Hillier, Behavioral Health Commission and Mr. Grier: Per Mr. Hillier's request, below is the October 6, 2021 Sunshine Task Force [*sic*] motion on matter 20100.

**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 failing 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 [*sic*]; 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 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:

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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.

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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 [*sic*], 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:

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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 [*sic*].

Public Comment:

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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 to 8:37 PM.

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(h) failing to include notices of rights under the Sunshine Ordinance on the agenda; 67.7(i) 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.

**BHC'S COMPLIANCE WITH THE SAN FRANCISCO SUNSHINE ORDINANCE  
SINCE THE SOTF'S ORDER OF APR. 6, 2022, HAS BEEN POOR.**

BHC has shown improvement in only two of the seven areas in which SOTF found violations on Apr. 6, 2022. In one area, they have been including SOTF messages in all of their meeting notices, even in notices for meetings of committees new since the Apr. 6, 2022, order. In the one other area in which they showed improvement, their performance in the area had previously been so bad that, even with improvement, their compliance in this one area is still poor. We ask for findings of willful noncompliance in several areas because, not only did BHC have a ruling from the SOTF citing these very violations in front of them at the time that they were repeating them, but, in many instances (noted below), BHC proceeded with violations despite advance email warnings from me that the violations were apparent from the notice or the circumstances surrounding its posting and were either way incurable. Yet, they proceeded with the noticed meetings and actions anyway, knowing that they could not fail to commit violations of the law thereby. This is "willful noncompliance."

**Item No. 1: “67.7(a) by failing to provide an adequate description of the agenda items;”**



S.F. Admin. Code § 67.7(a) states as follows, in relevant part (sq. brackets, ellipsis added): “[A] policy body shall post an agenda containing a meaningful description of each item of business to be transacted or discussed at the [regular] meeting. Agendas shall specify for each item of business the proposed action or a statement that the item is for discussion only. . . .” (Note: S.F. Admin. Code § 67.7(b) states as follows, in pertinent part (ellipsis added): “A description is meaningful if it is sufficiently clear to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item. . . .”) (Note: Cal. Gov’t Code § 54952.6, part of the Brown Act, in pari materia with the Sunshine Ordinance, states in full: “As used in this chapter, ‘action taken’ means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.”) (Note: S.F. Admin. Code § 67.6(f) specifies that (sq. brackets, ellipses added), “[t]he notice [of a special meeting] shall specify . . . the business to be transacted. No other business shall be considered at such meetings. . . .”)

Failure to Include “a Meaningful Description”

S.F. Admin. Code § 67.7(a) requires, as part of the descriptions of items on the agenda for a regular meeting, that each item on the agenda include a “meaningful description” of the item to be transacted or discussed. The description must be detailed enough that a member of the public whose interests may be affected by the item would be able to tell from the description of it whether or not to attend the meeting. *Id.* § 67.7(b).

- The agenda for the May 10, 2022, regular meeting of the Implementation Committee, attached hereto as EXHIBIT 15, contained a meaningless description. Item No. 2.4 was “**Follow up on RFP:** Dr. Kunins update on MHSF for 5/18/22. What about the RFP?” was insufficient to inform someone whose interests were affected of whether they should attend the meeting. During the discussion of this item, it was revealed that this item was actually about a proposal to have a member of BHC sit on an extant BHS panel to evaluate proposals by new programs seeking funding from BHS, and maybe visit their sites. This information should have appeared on the agenda. We complained about this in an email, attached hereto as EXHIBIT 11. They went ahead with the meeting anyway. We ask for a finding of willful noncompliance.
- The agenda for the May 10, 2022, regular meeting of the Executive Committee, attached hereto as EXHIBIT 16, did not contain any entry for two discussions listed on it. The item called was “**ITEM 1.0 COMMISSIONER’S [sic] REPORTS [¶]** Discuss the need for the Behavioral Health Commission (BHC) to be in on the decision-making process around the distribution of budget initiatives”. It is ambiguous, what “in on” and “the distribution of budget initiatives” mean, but, in any event, it is clear that this item is the new place for the *Bylaws*-required reports of committees to the Executive Committee.

(These used to have at least a marker on the agenda, as they do during the reporting period at the Commission level.) Nothing whatsoever to do with “the distribution of budget initiatives,” whatever that was supposed to mean, was discussed here. Instead, a “report” of the Implementation Committee was given here. This was a seven-minute discussion between committee members and non-committee Commissioners on grievance processes at BHC sites and what to do about them. Furthermore, it was proposed to put this on the meeting of the Commission the following week, apparently as a discussion item, “just to get it heard by the administration.” As mentioned elsewhere, it is ambiguous whether this item (at this meeting) was for discussion only or action was taken, because any member may put discussion items on the agenda for the Commission and no vote was taken. Either way, there was not even ambiguously any notice whatsoever on the agenda for this item, nor did the proposed action, which was to *recommend that the Commission discuss the item at its meeting the following week*, appear on the agenda. Item 2.5 was dismissed by staff as “overkill” (apparently, they are over-noticing in order to avoid violations) and skipped by the committee chair, but the description for this item, “MSA to be on June 15, 2022 agenda for presentation, vote if necessary [action item]” was an inadequate description because it did not state the topic of the presentation. I had complained via email about this item in advance of the meeting, attached hereto as EXHIBIT 12. While no violation occurred, for purposes of compliance and monitoring, the reason for skipping the item appears to have been other than the violation it would have entailed. Had the facts been otherwise, a violation may have occurred.

- The agenda for the regular meeting of the Commission held on May 18, 2022, attached hereto as EXHIBIT 32, contains no notice whatsoever of an item introduced immediately after roll call; Commissioners Wynn and Murawski, both newly added to the Commission, were asked to introduce themselves, and they did. It also contained no notice whatsoever of a motion to create an *ad hoc* committee to revise the *Bylaws*, which motion was introduced concurrently with the motion to approve the *Bylaws* under Item No. 3.4. Please make no mistake; this was not a secondary motion to *Commit or Refer* that would have temporarily disposed of the approval of the revised *Bylaws* and prevented final action on them by referring it to a committee; such a secondary motion to *Commit or Refer* would have required no notice on the agenda. This was a *main motion* to *Commit or Refer* the *newly approved Bylaws* to an *ad hoc* committee. Thus, it needed notice on the agenda. “Action taken” in *Cal. Gov’t Code* § 54952.6 includes *all main motions*, even secondary motions that are moved as main motions because they are moved when no other business is pending. See, RONR (12<sup>th</sup> ed.) 6:9 and 13:6 (incidental main motion to *Commit or Refer*) To reiterate, on this day, the Commission took action on a compound motion to: a) adopt revised *Bylaws* and b) form an *ad hoc* committee to revise them yet again. Only the motion to adopt the revised *Bylaws* was on the agenda; the committee to revise them still further was added because the motion to revise the *Bylaws* did not pass, the first time, and so they added it on (but staff announced the added

motion at the beginning of the meeting during “agenda changed,” as if this had all been choreographed in advance, hmmm.) This agenda also lacks a meaningful description of Item No. 3.3, “BHC to review, discuss, and vote on the motion put forth by Co-Chair Vigil – see pasted below [action item]” “Motion” is just about paradigmatic of an inadequate description. The direction to “see . . . below” was neither helpful because there were two motions pasted below that lacked reference on the agenda. We informed them of this defect via email in advance of the meeting, email attached hereto as EXHIBIT 27, and they proceeded to discuss it without ruling it out of order. Consequently, we request a finding of willful noncompliance.

- The agenda for the June 7, 2022, regular meeting of the Implementation Committee, attached hereto as EXHIBIT 40, contains meaningless descriptions of items. Specifically, “1.3 Vote to appoint a Chair for the onetime bylaws non-public workgroup meeting – [action item]” This entry on the agenda would make no sense whatsoever to someone of average intelligence and education who took the time to read the *Bylaws* and rules of the Commission. First of all, such a person would know that appointment of the members of an *ad hoc* committee (incl. designation of the committee chair) is never distinct from the creation of the committee. *Id.* 13:15 (“**Naming Members to a Special Committee.**” “When a motion to refer to a special committee had been adopted, no business except privileged matters can intervene until selection of the committee members is completed.”). Secondly, they would know that the designation of a committee chair is never distinct from the appointment of members to the committee except when the motion to refer specifies an appointing power other than the chair of the assembly. RONR (12<sup>th</sup> ed.) 13:18 (“**Designating the Committee Chairman.**” “If the chair appoints or nominates the committee, he has the duty to select its chairman . . . The chair should specifically mention as chairman the first committee member he names, but if he neglects to state this fact, the designation nevertheless is automatic . . .”). Even when the appointing power is other than the assembly chair and it fails to specify the committee chair, then is it the responsibility of the committee to elect its chair. *Id.* 13:18 (“If a chairman is not designated when the committee is appointed, the committee has the right to elect its own chairman. . . .”). Thirdly, they would know that no referral to any committee of a motion to refer to an *ad hoc* had occurred, nor could any committee effectively recommend such a motion, since the Commission had defectively referred the matter of *Bylaws* revision to an *ad hoc* committee at its May 18, 2022, meeting. Thereby, it precluded other motions the topic except *Rescind or Amend Something Previously Adopted*, until a motion to *Discharge a Committee* had been passed. Finally, they would know that the *Bylaws*, Art. VIII, § I, ¶ 4, requires that all *ad hoc* committees be created by the Co-Chair, with the approval of the Executive Committee. The Implementation Committee is not involved and cannot be involved. Whoever wrote this agenda item was deeply confused as to the difference between creating a committee and appointing its members, and the identity of appointing its members and appointing the committee chair. Discussion under this item disclosed that it had been placed on the agenda “by staff”



(then both Grier and Gray). Staff are not members of the Implementation Committee. They are members of the public with respect to the Implementation Committee and have no right to place things on its agenda. The committee agenda is for committee members *only* to put items on, and the committee must protect itself from attempts by staff to abuse their responsibilities for posting committee agendas online and at the Government Information Center by usurping this privilege. Item No. 2.4, "**Follow up on RFP: Dr. Kunins update on MHSF for 5/18/22. What about the RFP?**" also violated this section of the Ordinance because it is unintelligible. In fact, nothing was discussed under this item at this meeting. It was a "cud-chewer," thrown in for the committee equivalent of rumination, without any real purpose, in case something might come up, in order to violate the Ordinance if it did, and so no violation may be said to have actually occurred. (This meeting proceeded without a quorum, so no actual violations occurred at it, but the committee mistakenly thought it had quorum, and so, for compliance monitoring purposes, the proceedings are an example of what the committee thought it could legally do if it had quorum.)

- The agenda for the regular meeting of the Executive Committee held on June 7, 2022, attached hereto as EXHIBIT 41, contains meaningless descriptions. The description of Item No. 1.0 was "Discuss the need for the Behavioral Health Commission (BHC) to be in on the decision-making process around the distribution of budget initiatives. . . ." Under this item, Commissioner Murawski, not a member of the committee, introduced the issue of practitioner/client ratios. This discussion was taken up by others, including the chair of the committee. A person whose interests would be affected by the item would not have known to attend the meeting from the notice on the agenda. Item No. 2.3 was a "complete consolidated resolution," referring to, actually, two resolutions, the larger one of which had previously been passed early this year. This was not a meaningful description because what was actually discussed under this item was a transmittal letter, not yet written, to send this resolution to the Board of Supervisors, to be drafted by the authors of the resolution. Furthermore, at the end of Item No. 2.5 but before 3.0 (no period for public comment is listed on the agenda between these two items), Commissioner Murawski, not a member of the Executive Committee, called upon a member of the public who "had his hand up for a long time" to speak. This member of the public asked two questions of the committee and made a statement, and received responses to each, one at a time. The questions were relevant to Item No. 2.2 on the agenda. The answers consisted of where SFMHEF had given presentations, how they had promoted them, and additional details about their promotional activities. All of the questions were answered by a member of the Executive Committee who was also a member of SFMHEF. Staff (Grier), who was also Executive Director of SFMHEF at the time, added to the last response. Other members of the public were not given an opportunity to speak. Neither the description for Item No. 2.5, "MHSA to be on June 15, 2022 agenda for presentation, vote if necessary [**action item**]" nor that for Item No. 3.0, "**New BHC Business,**" was adequate for this exchange. Finally, during Item No. 3.0

“**New BHC Business**”, a member of the Commission but not of the Executive Committee spoke about the activities of her nonprofit regarding COVID-19 testing. Another non-member of the Executive Committee Commissioner asked her a question, and she answered it. The notice on the agenda was not sufficient to notify someone whose interests would be affected of whether they should attend the meeting. Finally, after final public comment (in which I mentioned this committee’s responsibility for granting excusals), it was alleged that the meeting was adjourned without a declaration to this effect by the chair, and then excusal for Commissioner Klain was discussed between several Commissioners. (Klain was not a member of this committee, but the Commission has delegated the granting of excusals from meetings of the Commission to this committee through its *Bylaws*, Art. III, § 14.) The chair sadly said that he had not even seen her letter requesting excusal, while staff continued to bellow at every meeting that she was excused, from then to the time of the submission of this report. This did not have any notice on the agenda.

- The agenda for the June 15, 2022, regular meeting of the Commission, attached hereto as EXHIBIT 43, suffers from a special problem. Item No. 3.0(a) under “**ITEM 3.0 ACTION ITEMS**,” is listed as “Presentation by the San Francisco Mental Health Education Funds (SFMHEF)” No further detail is given. Normally, this would be sufficient. The notice and public address requirements apply only to “items to be transacted or discussed,” and a presentation is neither of these. However, SFMHEF has a special relationship with the Commission. From the previous century until 2020, SFMHEF provided staff to the Commission. A recent ordinance severed this link, moving the staff responsibility to DPH/BHS effective only this year. However, SFMHEF still has other ties to the Commission. Previously, a certain number of SFMHEF board members were required to be Commissioners. As far as I know, this is still the case. In any event, several members of the Commission are also currently on the SFMHEF board, and one is a former member of the SFMHEF board. Furthermore, the presenter on behalf of SFMHEF was also a member of the Commission at the time of the meeting. Consequently, question-and-answer was an exchange between Commissioners, and, also for other reasons, this really *was* a discussion item, requiring better notice of the topic. Discussion ranged far beyond the specific activities of SFMHEF and reached the activities of the Commission. Another Commissioner than the presenter, which Commissioner was also on the board of SFMHEF, frequently answered questions by Commissioners to the presenter. Commissioner Bohrer, formerly on the SFMHEF board, announced as “question” for the “presenter” that the Commission currently lacks representation by the Asian community. As “a brief announcement” by a Commissioner, exempt from the notice requirement of the Brown Act through *Cal. Gov’t Code* § 54954.2(a)(3) but no analogous exemption from the Sunshine Ordinance applying, *see*, *S.F. Admin. Code* § 67.7(d), this announcement, which was followed by a response by a Commissioner who was also a member of SFMHEF, required its own notice on the agenda, and violated the Ordinance. In response to a question from a member of the



public to the “presenter,” the member of the public was partly directed to Commission staff (Gray) for an answer, and partly answered directly. The referral to Gray was no longer appropriate, as Gray was new as of March and never employed by SFMHEF. However, if it had been appropriate, it would have fallen under one of the exemptions from the notice requirement under *S.F. Admin. Code* § 67.7(d). The direct address to the member of the public was legal to the extent that the Commissioner/SFMHEF member was speaking on behalf of SFMHEF, but not legal to the extent that they were speaking on behalf of the Commission. Normally, the requirement that remarks by the public be relevant to the item being discussed makes any sort of response by the policy body to a public comment appropriate, because it is just more discussion of an item already adequately noticed. As just mentioned, this item was not adequately noticed for discussion, and so the Commission’s responses to the commentator violated the notice requirement to the extent that the exemptions of *S.F. Admin. Code* § 67.7(d) did not cover them. Things got still more complicated after that, as Commissioner Murawski, not on the board of SFMHEF, questioned SFMHEF about a flyer apparently distributed by SFMHEF that allegedly listed the Commission on it. Reference was made to a “contract” and an “order,” apparently regulating the relationship between the two organizations. Even the meeting chair was confused by this and asked that it be brought up as an item at a future meeting. At any event, it concerned BHC enough to be more than a “question” to the “presenter,” and the chair did not move fast enough to prevent a response from Commissioner Jackson-Lane, also on the SFMHEF board, and further dialogue by Murawski. There was not adequate notice on the agenda for this, and a violation occurred.

- The agenda for the July 12, 2022, regular meeting of the Site Visit Committee, attached hereto as EXHIBIT 61, contains meaningless descriptions. Specifically, Item No. 1.4 says as follows, “Strategic planning around Conard Housing [*sic*] and mental health complaints [**action items**]”. “Strategic planning” is meaningless administrative doublespeak. What was actually discussed under this item was a Site Visit to Conard House (the second in three years), and the agenda should have stated this (as well as the actions proposed to be taken, whatever they were (none were in fact taken or even moved at the meeting)). Nothing was mentioned about “mental health complaints” other than that Conard House had pulled out of giving a presentation at this meeting because of them, but the presentation too was on the agenda (Item 1.3)! (This meeting proceeded without a quorum, so no actual violations occurred, but the committee mistakenly thought it had quorum, and so, for compliance monitoring purposes, the proceedings are an example of what the committee thought it could legally do if it had quorum.)
- The agenda for the July 12, 2022, regular meeting of the Implementation Committee, attached hereto as EXHIBIT 62, contains meaningless descriptions of items. Specifically, Item No. 1.2, “Review progress of the onetime bylaws non-public workgroup meeting,” is not a meaningful description, as evidenced by the fact that even the chair of the committee present at the meeting did not know what it was. It appears to

refer to a single meeting, but then it purports to “review the progress” of this meeting, as if the meeting were ongoing, during the meeting of the Implementation Committee! Also, the fact that the meeting is characterized as “non-public” is cause for concern. A minority of the members of a policy body are allowed to meet privately and discuss matters within the subject-matter jurisdiction of the policy body. However, such meetings can have no official recognition by the parent body (nor any of its “official” committees), or else it becomes a committee of the parent body, regardless of the use of words such as “non-public workgroup” to describe it. As a committee, it is then subject to open meeting requirements, and a majority of its members may not meet outside of a meeting noticed to the public. It cannot report to the parent body. Only a member thereof can introduce its results as a motion and speech in debate. Furthermore, no instruction had been given to this committee to report to the Implementation Committee, nor had it done so of its own accord. In order for a description to be “meaningful”, it must make some kind of sense with respect to the rules of order of the Commission and its *Bylaws* and other rules. Finally, even as a committee, this “non-public workgroup” had not been created according to *Bylaws*, which led to confusion among the members of the Implementation Committee as to what this item was supposed to be about. The confusion of a member of the public could only have been greater. Item No. 2.4, “Establish Ad Hoc Committee for the Annual Report” also fails to make sense in terms of the rules of the Commission. Specifically, its *Bylaws*, Art. VIII, § 1, ¶ 4, requires that *ad hoc* committees be created “by the Chair or Co-Chairs, with concurrence of the Executive Committee . . .” The Implementation Committee has no part in it, nor can they have any part in it, and a member of the public familiar with the *Bylaws* would be utterly confused by this item. Anyone familiar with the rules of order of the Commission would be additionally confused by it, because it does not include specifics as to the size and method of appointment of the members of the committee, nor its membership directly, nor any special instructions, such as the schedule for regular meetings, required to be established by the Commission under *Cal. Gov’t Code* § 54954(a). RONR (12<sup>th</sup> ed.) 13:8 describes these as “necessary details for the motion”. (Without them it is impossible to determine quorum.) A member of the public might want to attend on the basis of who was named to be on this committee, or who was to make the appointments thereto, and this shades into “the proposed action”, addressed below. Finally, Item No. 2.5, “**Follow up on RFP:** Co-Chairs will discuss with Dr. Kunins on how commissioners can participate in the RFP process,” is ambiguous. It would appear that Dr. Kunins would be present for a discussion with the Co-Chairs that would occur at the meeting. Actually, what was meant was an announcement that the Co-Chairs would be having a private discussion with Dr. Kunins “offline” as part of their liaison responsibilities, *see, Cal. Welf. & Inst. Code* § 5604.5(d) (“The local mental health board shall develop bylaws to be approved by the governing body which shall do all of the following: [¶¶] (d) Establish that the chairperson of the mental health board be in consultation with the local mental health director.”), about how the Commission could be involved with RFP’s, and thus

learn about and be involved with new programs “on the ground floor,” as had been announced at previous meetings. But even this was not in fact the subject of the report or announcement that actually occurred under this item. When this item came up, it was announced or reported that there was a specific RFP “for the tenderloin,” and that, somehow (it was not clear), BHC involvement with this RFP would get it “a new Commissioner.” This information, and not what appeared there, was required to be included under Item No. 2.5.

- At the July 12, 2022, meeting of the Executive Committee, agenda attached as EXHIBIT 63, members thereof brazenly added discussion items to the agenda. During item no. 1.2, members of the committee proposed a new agenda item 1.6, which was a 10-minute discussion regarding an anticipated special meeting for training, and a new item no. 1.7, which was a 15-minute discussion regarding annual reports. Both discussions were in fact held later during the meeting. The Executive Committee does not seem to understand that nothing within the subject-matter jurisdiction of the Executive Committee may be discussed at a meeting among a quorum of its members without notice on the agenda. For discussion-only items, there are no exceptions. Under the Commission’s new *Bylaws*, attached hereto as EXHIBIT 29, § 2, ¶ 1.b, as well as the old, annual reports are within the express subject-matter jurisdiction of the Executive Committee. Neither the special meeting, nor the training proposed thereat, were within the subject-matter jurisdiction of the Executive Committee, but it is certainly within the subject-matter jurisdiction of the Commission, liberally construed. As discussed under Item No. 2, below, this supposed meeting of the Executive Committee was really a meeting of the Commission because a quorum of the Commission was in attendance, etc. The description of the first part of item no. 2.3 is so vague that it does not meet the standard of a meaningful description. “Vote to have Conard House placed on the July 20, 2022, full Commission agenda. . . .” It cannot be a presentation, because the same item proposes that Conard House give a presentation at the September meeting of the Commission (really, this is two items). It can neither be the question of whether Conard House should present in September, because any Commissioner could put that on the agenda. All the public is told is that the (first part of the) item has something to do with Conard House and the July 20 meeting. “Placed” is vague and hides the substance of the action. What action was to be placed on the agenda for the July 20 meeting? This would not be sufficient to inform someone whose interests may be affected of whether they should attend the meeting.
- At the July 20, 2022, meeting of the Commission, the agenda for which is attached hereto as EXHIBIT 71, Co-Chair Banuelos, who was not the chair for this particular meeting, added an item during “Agenda Changes” to the agenda. In fact, staff (Grier) said that the item would be called up later on, as if they had this authority. In fact, they could not pass the necessary finding that the item was unknown to the Commission at the time of the posting of the agenda, required by *Cal. Gov’t Code* § 54954.2(b)(2), because they had discussed it in committees the previous week. In fact, the reason why it was not on the

agenda was that I had anticipated that it would be on the agenda and had sent the Commission correspondence about the item well in advance of the posting of the agenda, and insisted that the agenda include a reference to this correspondence, per local law. See Item No. 3, *infra*. The same thing had happened last year, as well: I sent correspondence in advance of the posting of the agenda, demanding reference to the correspondence in the agenda; the item was omitted from the agenda altogether; at the meeting, the item was illegally added back in. As a matter of fact, the item was never called, but only after much argument by the Co-Chair, who thought that, since they would only be discussing the matter, and not taking action, that it would not violate the law. No actual violation occurred, but, for compliance and monitoring purposes, Co-Chair Banuelos was in ignorance of the law, and tried rather hard to violate it. He even said, "but you let me do it at the Executive Committee!" (see previous bullet point.)

- + At the meeting of the ~~ad hoc~~ committee on the creation of an annual report held at 3:00 p.m. on ~~August 10, 2022~~ ~~August 11, 2022~~ ~~August 12, 2022~~ ~~August 13, 2022~~ ~~August 14, 2022~~ ~~August 15, 2022~~ ~~August 16, 2022~~ ~~August 17, 2022~~ ~~August 18, 2022~~ ~~August 19, 2022~~ ~~August 20, 2022~~ ~~August 21, 2022~~ ~~August 22, 2022~~ ~~August 23, 2022~~ ~~August 24, 2022~~ ~~August 25, 2022~~ ~~August 26, 2022~~ ~~August 27, 2022~~ ~~August 28, 2022~~ ~~August 29, 2022~~ ~~August 30, 2022~~ ~~August 31, 2022~~ ~~September 1, 2022~~ ~~September 2, 2022~~ ~~September 3, 2022~~ ~~September 4, 2022~~ ~~September 5, 2022~~ ~~September 6, 2022~~ ~~September 7, 2022~~ ~~September 8, 2022~~ ~~September 9, 2022~~ ~~September 10, 2022~~ ~~September 11, 2022~~ ~~September 12, 2022~~ ~~September 13, 2022~~ ~~September 14, 2022~~ ~~September 15, 2022~~ ~~September 16, 2022~~ ~~September 17, 2022~~ ~~September 18, 2022~~ ~~September 19, 2022~~ ~~September 20, 2022~~ 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1. Journal of the American Statistical Association - This journal is a leading source of statistical research and theory. It includes a variety of articles, including empirical studies, theoretical work, and methodological papers.



[illegible]

The temptation to create an agenda by first copying all of the items from the previous agenda must be irresistible. However, it has to stop. Not only does it lead to desultory meetings that proceed by way of the chair calling out discussion topics that are the same from one meeting to the next (“Any discussion on Topic A this month? No? How about topic B? Topic C?”), but the anticipation of doing so leads committee and Commission chairs to formulate agenda topics

in a bland and general way. The practice is insidiously self-perpetuating, because then members refrain from submitting their specific discussion-only items to the secretary or chair, in anticipation that the agenda will include everything from the previous month, and they will be able to cram it under one of the general topics previously announced. Finally, it contributes to a whimsical air in discussion material, an attitude of, "Well, it is questionable whether this is on topic. I wouldn't want to submit this as an item for the written agenda, but since I can just spontaneously blurt it out during General Topic C without going on paper, I'll wait until that comes up at the meeting and see how I feel about it then!" The results are agenda items that inform no one of whether anything will be discussed that affects their interests, because their interests are *specific* and the agenda topics are *general*.

This problem has actually gotten worse during the reporting period, rather than better. Once any item or topic of discussion is conceived, it appears on every agenda of two committees, as well as the Commission, for ongoing "updates." I.e., the conversation continues forever, and in triplicate. Even if no one has anything meaningful to report about a topic, the topic stays on the agenda forever, as if the Commission were a therapy group and the point were to air everyone's ongoing feelings about a subject. This is as bad as no notice of an item, because the public is required to attend every meeting of a body and each of two of its committees because a vaguely-worded and perpetually-included item might, at any given meeting, have material under it, which might include something in which they have an interest. In this sense, it is worse than no notice at all.

Some of these topics are so broad that they were not even inspired by a specific topic in the beginning. Rather, they have been engineered to exploit perceived gaps in open meetings laws to nearly the maximum possible extent. All of these perceived gaps are, however, illusory. Item 5.1 on all Commission agendas during the reporting period, "Suggestions of people, programs, or both that Commissioners believe should be acknowledged or highlighted by BHC" is intended to exploit the exemption from the notice requirement of the Sunshine Ordinance for "purely commendatory" actions, but the Commission always neglects the requirement that these items must still pass a complicated supermajority vote as to whether the Commission learned of them after the agenda had been posted, *S.F. Admin. Code* § 67.7(e)(2)(B), to say nothing of the Brown Act requirement for a finding of urgency, *Cal. Gov't Code* § 54954.2(b)(2), presumably because these conditions typically do not obtain, and these items would need no notice at all if they did. Violation is also avoided by Commissioners simply not voting on these items. If a Commissioner names a program during 5.1, staff issues a commendation on behalf of the Commission, as if the Commission itself had spoken. (Site Visits are handled the same way—if a Commissioner names one, correspondence goes to the site stating that "the Commission" has chosen their site for a visit, when no vote was taken, even at the committee level!) Item 5.2 on these agendas, "Report by members of the Commission on their activities on behalf of the Behavioral Health Commission as authorized" is nonsense—authorization has never once been given!—and is intended to exploit the exemption from notice requirement of the Brown Act for "a brief report on his or her own activities . . ." *Cal. Gov't Code* § 54954.2(a)(3), which would

also require no notice at all on the agenda. However, there is no analogous exemption from the Sunshine Ordinance for such reports, *see, S.F. Admin. Code* § 67.7(d), and so each report must have specific notice on the agenda. Item 6.0, “Suggestions for future agenda items to be referred to the Executive Committee and for future trainings and orientation of future Commissioners” is intended to exploit the exemption from the notice requirement of the Brown Act for “take action to direct staff to place a matter of business on a future agenda,” *id.*, only it is unsuccessful even at this because a) BHC has adopted no special rule of order allowing for automatic referrals, b) the exemption is obviously for *postponing* matters to future meetings of the same body, not *referring* them to other bodies, and c) again, even if the exemption applied, there is no analogous exemption from the Sunshine Ordinance. BHC has continued their inclusion of these items on agendas going back to 2006, despite our complaining about it in file no. 20100 regarding their meeting on July 15, 2020, now over two years ago. \_\_\_\_ BHC’s continued inclusion of these items on their agendas is an open invitation to their membership to violate the Sunshine Ordinance by spontaneously giving brief reports, making automatic referrals, or making “purely commendatory” requests under them. Certain committee agendas carry similar “boilerplate” items.

The problem is exacerbated still further by the fact that discussion items outnumber *true* action items by an order of magnitude at Commission and committee meetings, and discussion items are inherently more ambiguous as to the relevancy of any discussion to the item. When an action item is before a policy body, relevance of discussion is generally not a problem, because each speech must be for or against the proposed action. Discussion items are another story, and their equivalency in *S.F. Admin. Code* § 67.7(a) is deceptive. RONR (12<sup>th</sup> ed.) 4:8n6 (“It was found in the House of Lords of England that, when there was no definite motion pending, it was not possible to tell whether debate was germane . . .”). Although *S.F. Admin. Code* § 67.7(a) pretends to restrict discussion to a specified topic, the distinction between relevance and irrelevance is much less clear than with respect to a concrete proposal, and the agenda requirement only half-solves the problem. We favor a strict interpretation, as discussion-only items are supposed to be *disfavored* by policy bodies. RONR (12<sup>th</sup> ed.) 4:7 (“Under parliamentary procedure, strictly speaking, discussion of any subject is permitted only with reference to a pending motion. . . .”) and 4:8 (“For a member to begin to discuss a matter while no question is pending . . . implies an unusual circumstance and requires permission of the assembly . . . in addition to obtaining the floor. . . .”). While this rule is relaxed in meetings of fewer than 13 people (the Commission had at most 12 during the reporting period), “[t]he general rule against discussion without a motion is one of parliamentary procedure’s powerful tools for keeping business ‘on track,’ and *an observance of its spirit* can be an important factor in making *even a very small meeting* rapidly moving and interesting.” *Id.* (emph. added). Otherwise, the Commission stands to be renamed “The San Francisco Taxpayer-Supported Behavioral Health Chit-Chat Society,” because this is substantially all it does.

For all that, we stop short of eliminating all repetitious items. If a Commissioner wishes to discuss the same issue month after month, and they are at least willing to obtain the floor and



give more or less the same address each month, they must be allowed to do so, and a repeated agenda item would be in order. After all, an action item might be postponed from one meeting to the next unchanged, and debate under it might be range widely. The touchstone is always whether someone whose interests would be affected would know whether to attend the meeting. We note regarding this standard that there is no question of whether someone's interests would be affected by the item. It is, for instance, impossible to imagine that anyone's interests would be affected by the go-live date for the Commission's new website changing from July to September. However, the language of the law states the standard as, *assuming that someone's interests were affected*, the notice must be sufficient. And so the notice must summarize the specific content of the address, i.e., "The go-live date for the Commission's new website has changed from end of July to end of September," or "the Commission's new website will allow staff to post material directly, without an intermediary," not "Commission websites, old and new." If the meeting is made superfluous by the agenda in some respects and members of the public forego attendance therefor, nothing is lost. It is not the purpose of the agenda to incite curiosity or draw spectators! Furthermore, many items contain a level of subject specificity that should be included on the agenda but was not. For example, "progress on RFP's" versus a specific RFP; a member of the public might not be interested in RFP's in general but might very well be interested in an RFP specific to their neighborhood, and so the detail is required to be included.

For this reason, BHC practices need to change. BHC needs to start each agenda with a blank sheet of paper, not the agenda for the previous month's meeting. If staff wants to put an item on the agenda, they must find a member of the body who is willing to sponsor the item by asking the chair or secretary for its inclusion on the agenda on behalf of staff, and make the announcement themselves, on behalf of staff. Anything not so sponsored should be ruled out of order when it comes up. If it is not known that there is *a Commissioner or committee member who themselves wants to speak on an item* at that particular meeting, an agenda item must not be listed for it, and if there is new material, the item must be specific to the new material. Demands for "ongoing discussions" must therefore be suppressed; a new request must be made every month. Members must not be asked to discuss matters on which none of them have anything they want to say. Members will have to get into the habit of, if they find out about or think of something during the month that they would like to discuss at a meeting, asking the chair or secretary to commit their specific matter or issue to the written agenda, rather than waiting during a meeting for a call-out on a general topic that will hopefully be on the agenda and maybe speaking at that time, maybe not. They must also get into the habit of, if they want to speak with the voice of the Commission or the committee, whether it is for a commendation or a site visit, putting their matter on the agenda in the form of a resolution, substantially in final form. If it is out of order for any reason, such as a doubt about its relevancy to the powers and duties of the Commission, then it should go on the agenda and be ruled out of order when it comes up, so that Commissioners or committee members will have the opportunity to challenge the ruling of the chair at that time.

The Commission's underlying rules of order allow any member of a policy body to get on the agenda for any regular meeting thereof.

[A] notice [of a motion] can . . . be sent to every member with the call of the meeting at which the matter is to come up for action, in cases where there is a duty . . . of issuing such a call. In such cases, the member desiring to give the notice writes to the secretary alone, requesting that the notice be sent with the call of the next meeting, and the secretary then does this at the expense of the society.

RONR (12<sup>th</sup> ed.) 10:51 (sq. brackets added). In the context of open meetings laws, which prohibit anything from being transacted *or discussed* without written notice on the agenda, this rule embodies a fundamental principle of parliamentary law, that “[e]ach individual or subgroup has the right to make the maximum effort to have his, her, or its position declared the will of the assembly to the extent that can be tolerated in the interests of the entire body.” *Id.* p. xlix. Thus, this rule cannot be suspended, even by a unanimous vote of the assembly. *Id.* 25:9 (“Rules which embody *fundamental principles of parliamentary law* . . . cannot be suspended, even by a unanimous vote. . . .” *emph. in orig.*). Members should get used to exercising it. (Nevertheless, the Commission has not only suspended this rule, but, in a frenzy of authoritarian feeling, has adopted a contrary rule that violates this fundamental principle. *Bylaws* Art. VIII, § 2, ¶ 1.a. (allowing ExCom to approve agendas for regular meetings of the Commission). This provision also violates another fundamental parliamentary principle that “a deliberative body is a free agent—free to do what it wants to do with the greatest measure of protection to itself and of consideration for the rights of its members,” RONR (12<sup>th</sup> ed.) p. 1, because it allows the Executive Committee, a minority of the Commission, to bind the larger remainder of the membership to sit through presentations that the Executive Committee alone may choose.) This may lead to drastically shorter agendas, which would not be saying much.

This characteristic type of violation of the meaningful description requirement occurred on the following dates, in the following ways:

- The agenda for the regular meeting of the Commission held on Apr. 20, 2022, attached hereto as EXHIBIT 4, contained three “boilerplate” items that actually had nothing under them or the Co-Chair allowed no parliamentary procedure on these so-called “[**action items**]”. The first item under Item No. 3.2, “Approve the minutes of the Behavioral Health Commission meeting of February 16, 2022 . . .” and 3.3, “BHC to review, discuss and vote on the motion put forth by Co-Chair Vigil – **see posted below [action item]**” were carryovers from previous agendas. Both items in total were skipped by the Co-Chair, after I had orally commented on the minutes in addition to my written comments on them. They were otherwise not even discussed and should have been left off the agenda entirely. The Commission lacked the necessary supermajority to pass Item No. 3.5 at this meeting. However, it was neither postponed with a motion and vote nor downgraded to “for discussion only” status. It, too, was simply not called up, and no Commissioner objected.



- The agenda for the regular meeting of the Site Visit Committee held on May 10, 2022, attached hereto as EXHIBIT 14, contained “boilerplate” items, specifically Item No. 2.1, “Opening comments by the Chair, Bahlam Javier Vigil.” This agenda item contained substantially no useful information, and should have been dropped from the agenda. Possibly because I sent email complaining of this fact in advance of the meeting, attached hereto as EXHIBIT 9, this item was not called up.
- The agenda for the regular meeting of the Implementation Committee held on May 10, 2022, attached hereto as EXHIBIT 15, contained “boilerplate” items. Specifically, Item Nos. 3.1, “Members report on their research and actions” and 4.1 “Discussion developing follow-up research, presenters to the committee and action item [sic]”. These are analogous to Item Nos. 5.2 and 6.0 on agendas for the Commission (discussed above). We warned the committee in writing in advance of the meeting that these items were inadequate. EXHIBIT 11. Nothing was brought up under these items at the meeting, and so no violations occurred (but they remain on the agenda as an open invitation to violations, despite my repeated admonishments over email and “in person”, including at this meeting, during “**FINAL PUBLIC COMMENT**”).
- The agenda for the regular meeting of the Executive Committee held on May 10, 2022, attached hereto as EXHIBIT 16, contained several “boilerplate” items. Specifically, Item Nos. 1.2, “BHS/BHC Websites, Old & New: Discussion and possible action”, 2.2, “Vote to approve unadopted minutes from March 9, 2022 Executive Committee meeting [action item],” and 2.4, “Vote to move the newly revised By Laws [sic] on to the full BHC for review and potential adoption [action item]” had all been copied from the agenda for the Apr. 12 meeting of this committee, at which Items 2.2 and 2.4 had been approved. At this particular meeting, under Item No. 1.2, it was related that the website included the ability to post “live” media streams, and also would allow staff to post agendas directly (thus to correct errors in the posting of documents, such as had occurred in the posting of the Implementation Committee meeting earlier that day), and was scheduled to go live in June. This is what needed to appear in the description for this item. We informed them of this defect via email in advance of the meeting, attached hereto as EXHIBIT 12, and we ask for a finding of willful noncompliance. As for the other items, Item 2.2 was quickly discussed and 2.4 skipped. Both should have been left off of the agenda entirely.
- The agenda for the Commission’s regular meeting on May 18, 2022, attached hereto as EXHIBIT 32, included meaningful descriptions of neither Item Nos. 5.1, 5.2, nor 6.0 (described *supra*). BHC adjourned the meeting before reaching these items, and so no violation occurred.
- The agenda for the regular meeting of the Site Visit Committee on June 7, 2022, attached hereto as EXHIBIT 39, included a “boilerplate” description for item no. 2.1, “**ITEM 2.0 Chair’s Report / Discussion:** Report on site visits and strategy / **2.1** Opening comments by Chair, Bahlam Javier Vigil” The report included (in addition to an item present elsewhere on the agenda) the proposed addition of Commissioner Murawski to the committee, and this should have appeared on the agenda (though Edgewood was listed

with one other site under item 2.4). We complained of this in an email sent to the committee prior to the meeting, and our complaint was ignored. We ask for a finding of willful violation. Item No. 2.2, "Implementation of the strategy of every commissioner participating in site visits among the 140 agencies, that the Department of Public Health and Behavioral Health Services manage," contained no information; it was skipped, and should have been dropped from the agenda. Item No. 2.3, "Discuss the importance of the Behavioral Health Commission legislative mandate: Review and evaluate the City and County's mental health needs, services, facilities, and special problems" contained only an announcement by staff of the importance of contacting staff when planning a site visit. This had nothing to do with *the importance of* BHC's legislative mandate, and should have had specific notice on the agenda, except that staff are not members of the committee and have no right to get on the agenda with their own items. It should have been dropped from the agenda.

- The agenda for the regular meeting of the Implementation Committee on June 7, 2022, attached hereto as EXHIBIT 40, included several "boilerplate" items. Item No. 1.2, "BHS/BHC Websites, Old & New: Discussion and possible action" is repeated from one agenda to the next, even across meetings on the same day. At this particular meeting was to be given a demonstration of the new website. However, this was unsuccessful. Nevertheless, it should have been on the agenda. Item No. 2.3 "**2.3 Review the 2022 Data Notebook:** Discussion on BHC participation on How to do the Data Notebook for 2022" was one. Commissioner Murawski, not even a member of the committee and who should thus have been prevented from speaking until public comment, *id.* 50:27, characterizing her address as "on all the items under 2.0," returned to the topic of grievance procedures, Item No. 2.1 on the day's agenda, which had already been closed. The committee chair did not even discourage this. To the contrary, he and another member of the Commission nonmember of the committee joined in the discussion! Anyone interested only in Item No. 2.1 would have hung up after it had been closed the first time, and would not have been notified by the agenda of this significant additional discussion, actually longer than the one that had been correctly noticed, under a different item. Item No. 3.1 "**3.0 COMMITTEE MEMBERS [sic] REPORTS [¶¶] 3.1** Members report on their research and actions" essentially mirrors Item No. 5.2 on agendas for Commission meetings (see above). Item No. 4.1, "**4.0 NEXT ACTION ITEMS FOR COMMITTEE MEMBERS [¶¶] 4.1** Discussion developing follow up research, presenters to the committee, and action item [sic]" mirrors Item No. 6.0 on agendas for Commission meetings (see above). Because the computer automatically ended this meeting at 5:00 p.m., these items were not reached at this meeting, and so no material was introduced under them and no violations occurred, but they appear on every agenda of this committee. (This meeting also proceeded without a quorum, so no violations could have occurred if the meeting had reached these items, but the committee mistakenly thought it had quorum, and so, for compliance monitoring purposes, the

proceedings are an example of what the committee thought it could legally do if it had quorum.)

- The agenda for the regular meeting of the Executive Committee on June 7, 2022, agenda attached hereto as EXHIBIT 41, included several “boilerplate” items. **“ITEM 3.0 New BHC Business”** was intended to exploit the exemption from the notice requirement of the Brown Act for directing staff to place an item of business on a future agenda. *Cal. Gov’t Code* § 54954.2(a)(3). However, there is no analogous exemption from the Sunshine Ordinance, *see, S.F. Admin. Code* § 67.7(d), and so items of new business must be submitted in advance and included on the agenda individually (with periods for the public to address the committee). They had planned to discuss the data notebook during this item because they apparently forgot that they had already agendized it under Item No. 1.0 (second sentence). During this item, Commissioner Wynn advertised her nonprofit’s involvement in COVID testing in her neighborhood. We ask for a finding of willful noncompliance because we had told them during public comment on Item No. 2.2 because they had been talking about using Item No. 3.0 as a dumping ground for motions that were not on the agenda (such as recommendation to the Executive Committee from the Implementation Committee in “assembly-line” fashion), and they did not rule Commissioner Wynn’s “motion” out of order. Item No. 1.2 on this agenda also lacked a meaningful description.). During Item No. 1.2, “BHS/BHC Websites, Old & New: Discussion and possible action,” Staff (Grier) announced that the new BHC website would be “very basic,” but would allow the Commission to implement “things such as grievances.” This is what should have appeared on the agenda, because the description that did appear is copied from one agenda to the next without thinking, while the actual content changes. The public should be able to tell which meeting to attend based on the content specific to that meeting. Item No. 2.3, “Vote to move complete consolidated resolution, authored by Co-Chair Vigil and Commissioner Murawski previously viewed and voted on. A carry over from the April 20, 2022 meeting [action item]” is not a meaningful description because there were three motions attached to the agenda, and only two items on the agenda referring to them. We complained to the committee about this in advance of the meeting, EXHIBIT 37. However, they ignored our email, and so we ask for a finding of willful violation.
- The agenda for the Commission’s regular meeting on June 15, 2022, attached hereto as EXHIBIT 43, included meaningful descriptions of neither Item Nos. 5.1, 5.2, 6.0, nor any of the items under **“ITEM 4.0 REPORT FROM THE COMMITTEES [sic].”** The items under 4.0 are copied from one agenda to the next and are insufficient to alert someone whose interests may be affected by the item, no matter what is actually transacted or discussed under them. **“Implementation Committee, Chair Stephen Banuelos / Discuss focus of Implementation Committee”** is a placeholder for discussing whatever was brought up at that committee that month which specific content needs to appear on the agenda. Same for **“Site Visit Committee, Chair Vigil / Report on Site Visit Strategy in completing selected site evaluations,”** and for **“Strategic Planning Ad**



**Hoc Committee, Commissioner Bohrer** – / Update on the progress of the current draft of the strategic plan – **See attached below**” (Note: The “Strategic Planning Ad Hoc Committee has not met since Oct. 7, 2020!) Item Nos. 5.1, 5.2, and 6.0 were as described in the header for this section. The chair unilaterally adjourned the meeting before reaching these items at this meeting, and so nothing was discussed or transacted under them. Consequently, no violations occurred due to these items.

- The agenda for the regular meeting of the Site Visit Committee on July 12, 2022, attached hereto as EXHIBIT 61, included the following “boilerplate”, recyclable item descriptions: Item 2.1, “Opening Comments by Chair,” 2.2, “Implementation of the strategy of every commissioner participating in site visits among the 140 agencies, that the Department of Public Health and Behavioral Health Services manage,” and 2.3, “Discuss the importance of the Behavioral Health Commission legislative mandate: Review and evaluate the City and County’s mental health needs, services, facilities, and special problems.” These are the same items that have appeared on every agenda since this committee was formed in Oct. 2020. These descriptions did not adequately describe the matters discussed under them. Item 2.1 was a vapid and contentless description. What was actually announced under it were site visits to Citywide and Edgewood, which at least had notice elsewhere on the agenda, under Item 2.4. Under Item No. 2.2, they actually discussed sending out emails asking for Commissioners to pick three sites to visit, but then settled on the idea of, instead, announcing the request at the meeting the following week and sending out an email in advance of the meeting (both of which any Commissioner has the power to do, the former with notice on the agenda). No votes were taken. Although these fit under the general rubric described on the agenda, the agenda should have described the specific proposals being “discussed” and an order to staff is an action item. RONR (12<sup>th</sup> ed.) 10:24 (“**Orders (Instructions to Employees)**” “In organizations with employees, the assembly or the board can give instructions to an employee in the form of an *order*, which is written just as a resolution except that the word ‘*Ordered*’ is used in place of the word ‘*Resolved*.’ . . .” emph’s in orig.). Under Item No. 2.3, what was actually discussed was one of the Co-Chairs’ (not even on the Committee) proposals to “piggyback” BHC site visits on BHS site visits, a proposal which has been discussed on and off since 2021. The agenda should have contained this specific information, which was not, in fact, anything whatsoever to do with *the importance of* BHC’s very broad legislative mandate. (This meeting proceeded without a quorum, so no actual violations occurred, but the committee mistakenly thought it had quorum, and so, for compliance monitoring purposes, the proceedings are an example of what the committee thought it could legally do if it had quorum.)
- The agenda for the meeting of the Implementation Committee on July 12, 2022, attached hereto as EXHIBIT 62, included meaningful descriptions of neither Item Nos. 1.2, “Review progress of the onetime bylaws non-public workgroup meeting,” 2.1, “**Follow up on Grievance Procedures.** Update on BHC strategy to improve Grievance Procedures,” 2.2, “**Strategic Plan Status.** This is an ongoing item on the

Implementation Committee agenda and will allow the committee/BHC to have an ongoing sense of our progress on meeting goals (updates if any),” 2.3, “**Review the 2022 Data Notebook**: Discussion on BHC participation in How to do the Data Notebook for 2022,” 2.7, “**MHSA Presentation to BHC**: discuss questions about the MHSA draft.” 3.1, “Members report on their research and actions,” nor 4.1, “Discussion developing follow-up research, presenters to the committee and action item [sic]”. These are “cud-chewing” items. It is now known whether there is anything to discuss under any of them, but there once was, at least, and this is enough for the committee to endlessly regurgitate and “chew the cud” regarding them, then swallow, repeat. It also makes the committee look terribly busy to endlessly cycle through them, which is the ultimate objective to be achieved. Where there is something new, it does not appear on the agenda. Regarding item 1.2, also discussed in the previous section, “reviewing progress” of anything is hardly specific enough for an agenda item. The specific progress to be reviewed must appear on the agenda. When this item was called, it was revealed that the committee in question had never even met. Item 2.1 is noticed using the words “follow up” and “update”. These are words used by the Commission when it doesn’t have anything to say and is putting something on the agenda for the sake of reserving a space in time during which something specific, not included in the agenda, might be discussed, if any. Under this item, Commissioner Bohrer announced that she was on a committee on homeless shelters, that they had recognized that something needed to be done about the discharge process, and had asked BHS Director Dr. Kunins to do something about it, were waiting to hear back, and suggested that the Commission ask Kunins to report on it at the Commission meeting the following week (which should have required a motion). It is questionable what or whether this had anything to do with “the grievance process,” as advertised, it should have been its own item, and should have been introduced at the Commission level. Also under this item, Co-Chair Banuelos announced the results of his conference with Kunins on the item and that she was aware that there was no BHS Ombudsman currently. Banuelos announced an idea to get peer-to-peer services involved in “maneuvering” complaints that he planned to bring up with Kunins, as well as asking for reinstatement of an Ombudsman position. Certainly, the advisements to Kunins should have been an action item on its own and introduced at a meeting of the Commission. Otherwise, Co-Chair Banuelos is using his position to bring his own personal peeves and ideas before the BHS Director. None of this was on the agenda, but all of it clearly would make a difference as to whether a member of the public would attend the meeting. Item 2.2 actually announces that it is a “boilerplate” agenda item. The strategic plan covers everything that the Commission does. Consequently, “updates” to the strategic plan is simply too vague to be of any use to a member of the public trying to decide whether to attend the meeting. Moreover, anything under this item is likely to be redundant to other activity at a meeting. At the very least, an effort needs to be made on someone’s part to find out in advance of the meeting whether anything will be introduced under this item, and, if so, the specifics of whatever new material needs to be



placed on the agenda. In fact, under this item, it was announced that information was needed for the plan about the next item on the agenda! Item 2.3 was this item. What was actually discussed hurriedly under this item was that the data notebook was the responsibility of staff, and that Commission Bohrer would be the “go to” person for this item (and she would go to staff). This should have been on the agenda. Item 2.7 was in fact an “empty” item; nothing was announced or discussed under it. It should have been left off of the agenda. Item 3.1 is analogous to Item 5.2 on agendas for Commission meetings (see above). Item 4.1 is analogous to Item 6.0 on agendas for Commission meetings (see above). No one volunteered announcements or reports under items 3.1 or 4.1 at this meeting, so it cannot be said that material was introduced under these items without adequate notice. On the other hand, these items are fairly meaningless and would not have been adequate for anything announced or reported under them. They clutter up the agenda, and over-noticing of this sort can serve to obscure agenda items that are actually meaningful, as well as give the appearance of business when the committee is actually doing very little, which is, I suspect, their true purpose.

- The agenda for the meeting of the Executive Committee on July 12, 2022, attached hereto as EXHIBIT 63, included meaningful descriptions of item nos. 1.0, “Discuss the need for the Behavioral Health Commission (BHC) to be in on the decision-making process around the distribution of budget initiatives. Discuss commissioner input on how to do the Data Notebook for 2022,” 1.1, “Governor’s Care Court Proposal update,” 1.3, “Discuss progress of BHC complaint process,” 1.4, “Covid testing being discontinued,” and 3.0, “New BHC Business,” i.e., many of the very same items also considered by the Implementation Committee during the previous hour, making the committee process into a pointless subterfuge. Under Item No. 1.0, specific proposals for intervening in the budget process were discussed, i.e., that staff attend Board of Supervisors meetings. This was not “discussion of the need,” but a proposal to meet that need and an order to staff. It should have been an action item. RONR (12<sup>th</sup> ed.) 10:24 (*supra*). They also discussed the MHSa hearing they were required to hold the following week as a way to meet this need. It was these that should have been put on the agenda. The Data Notebook was not in fact discussed, and should have been left off the agenda. Under item 1.1, the update that was given was strictly on state action regarding the bill. The agenda was not specific enough, as it implied that the Commission, as opposed to the State Legislature, may be taking some action regarding the care court proposal. This committee had previously discussed taking action under the same agenda item at earlier meetings. Under item 1.3, it was only announced that the director of BHS had been made aware that the position of Ombudsman for complaints was unfilled, and the agenda should have contained this. Under Item 1.4, Discontinued funding for testing specifically for the African-American community in Bayview/Hunter’s Point was discussed, and this should have appeared on the agenda. Under Item No. 3.0, “New BHC Business,” the committee chair stated that all such business should be sent via email in advance of the meeting for specific inclusion on the agenda, but this committee chair is currently prevented by law from continuing to

serve on the Commission, and it remains to be seen whether this practice will continue. This was the first time such an announcement had been made.

- The agenda for the July 20, 2022, meeting of the Commission, attached hereto as EXHIBIT 72, includes a number of “boilerplate” agenda items. Specifically, all of the items under “**ITEM 4.0 REPORT [sic] FROM THE COMMITTEES**” are carried over from one meeting to the next, and say absolutely nothing about what will be discussed at this particular meeting. The first of them, “**Implementation Committee, Chair Stephen Banuelos / Discuss focus of the Implementation Committee,**” says nothing except the name of the committee and the name of the reporting member. In fact, no report was even given under this heading, and so it should have been left off of the agenda. The second report, “**Site Visit Committee, Chair Vigil / Report on Site Visit strategy in completing selected site evaluations,**” also says nothing except the names of the committee and its reporting member. The report under this heading was a regurgitation of what had been discussed at the meeting of this committee the previous week, i.e., how hard it is to set these up, the efforts that staff were making, and the provisional assignments to site visit teams. The assignments were creations of committees and therefore action items. If they were premature because staff had not been successful in actually contacting the sites, then this item should have been dropped from the agenda. Unfortunately, the Commission’s *Bylaws*, attached hereto as EXHIBIT \_\_, require that each committee report at every meeting of the Commission and its Executive Committee, Art. VIII, § 1, ¶ 3.f, so desultory reports are required. The agenda should have specified the actual contents of the report, i.e., what the provisional teams and sites selected were. (The sites selected should also have been an action item, since no instruction was ever given to this committee to select sites on behalf of the Commission, and this should have occurred before staff attempted first contact. Staff actually sends out correspondence beginning with a statement that the Commission has selected them for a site visit as the first contact.). The third report, “**Strategic Planning Ad Hoc Committee, Commissioner Bohrer – / Update on progress of the current draft of the Strategic Plan – see attached,**” is similarly uninformative and repeated from one agenda to the next. Again, no report was actually given under this heading, and the item should have been dropped. As usual, this agenda included the reports discussed at the beginning of this section, under the usual Item Nos. 5.1, 5.2, and 6.0, all of which are repeated from one agenda to the next without alteration. Under Item 5.1, Co-Chair Banuelos attempted to bring his unagendized discussion topic on ending the meeting regularly at 8:00 p.m. (really an action item, since it requires a vote) and was shut down by staff and another Commissioner. As noted in the previous section, notice needed to appear on the agenda. Under this item, Commissioner Bohrer “highlighted” Lieutenant Mario Molina of the Crisis Intervention Team of the SFPD. This needed to be on the agenda. Even if it was “purely commendatory” action (there was no vote), it would still need findings of urgency and that no one on the Commission learned of it until after the agenda had been posted, adopted by specific supermajorities. *Cal. Gov’t Code* § 54954.2(b)(2). Under

Item No. 5.2, nothing was proposed and the item should have been dropped from the agenda. Under Item No. 6.0, Co-Chair Banuelos reported that Dr. Kunins had reported no ideas on how to get the Board of Supervisors to appoint a Sitting Supervisor to the Commission. This was "a brief report on his or her own activities," exempt from the notice requirement of the Brown Act, but not that of the Sunshine Ordinance, and it should have had notice on the agenda and an opportunity for the public to address the Commission. Also under this item was a discussion between Commissioner Parks and the others regarding her proposed attendance at MHSF Working Group meetings. This could have been formalized as a motion to commit to Commissioner Parks, or else it was a discussion. Either way, it needed notice on the agenda. Public comment was called at this point, but in fact Commissioners were not through with the item. Commissioner Murawski asked to put a presentation on the agenda for the following meeting. This should have been on the agenda for a vote and an opportunity for the public to speak. Murawski then proposed to have the Controller present to the Commission regarding patient/staff ratios. This too should have been on the agenda for an opportunity for the public to speak and a vote. Finally, Murawski proposed a "roundtable" with the Office of Police Accountability, which also should have been agendaized with an opportunity for public input and a vote. We complained to the Commission via email sent in advance of the meeting of these violations apparent from the agenda, email attached as EXHIBITS 66 and 67, and the chair failed to rule them out of order at the meeting. Consequently, we ask for a finding of willful noncompliance.

The agenda for the *ad hoc* committee to propose an annual report, in their agendas for Aug. 1 and 5, 2022, attached hereto as EXHIBITS 76 and 78, contained a "boilerplate" **"ITEM NO. 4.0 NEW BUSINESS [Discussion only]"** This item further specified, "Suggestions for further agenda items to be referred to the Executive Committee and for future trainings and orientations of future Commissioners." This was not adequate to inform someone whose interests would be affected by the item of whether they should attend the meeting, and thus violated *S.F. Admin. Code* § 67.7(a). This item was not called at the meeting on Aug. 1.

[illegible]



this agenda, which mentioned the 2021-2022 agenda as a priority. As a member of the committee, I attended. Also, under item 2.3.3, "Implementation Committee, Chair Stephen Banuelos, Discuss focus: Implementation Committee." During this report, a discussion was held as to whether the agenda for the December retreat should be taken up by this committee, and also as to whether the 2021-2022 had listed a number of issues as ongoing issues to be taken up by the committee moving forward. Also under this item was "Strategic Planning Ad Hoc Committee, Commissioner Bohrer, Update on progress of the current draft of the Strategic Plan." (see attached below). Under this report, Commissioner Bohrer said that her committee hadn't met, that she had no members, and a discussion was held on future plans and relationship to the Implementation Committee, and whether the informal work group of using the release of the strategic plan is usually a topic of the committee's work. During Item No. 6.0, labeled as "ITEM 6.0 NEW BUSINESS (Discussion only)" authorization for future agenda items to be referred to the Executive Committee, and for future transition and orientation of future Commissioners. At this time, I announced that a persistent problem he had noticed during the meeting was the committee's difficulty in getting a budget and how many items both a period of time, and during this time, committee members would be able to make decisions on the agenda for the December retreat.

#### Failure to Include "the Proposed Action"

S.F. Admin. Code § 67.7(a) requires, as part of the descriptions of items on the agenda, that items on which action is proposed to be taken by the policy body include the proposed action. BHC and its committees violated this requirement on the following dates, in the following ways:

- At the regular meeting of the Implementation Committee held on May 10, 2022, the agenda for which is attached hereto as EXHIBIT 15, action probably was taken on Item No. 2.3, "**Review of the Care Court Proposal:** Discussion on State Care Court Proposal; what shall BHC do?" but no action was listed on the agenda. A decision may have been made to "take" the issue to the Executive Committee for presentation to the Commission (however, the item was already on the agenda for this meeting). No vote was taken, but the definition of "action taken" in *Cal. Gov't Code* § 54952.6 encompasses informal agreements. Action may similarly have been taken on Item No. 2.4, "**Follow up on RFP:** Dr. Kunins update on MHSF for 5/18/22. What about the RFP?" During this item, Co-Chair Banuelos agreed to "bring it up at exec" (as a non-agendized item during the meeting immediately following – but this did not in fact occur, perhaps due to my objections during public comment) for presentation to the full commission. (It should be noted that the committee also would have been reticent to take action at this meeting in order to avoid criminal penalties from violation of the Brown Act, *Cal. Gov't Code* § 54959 (action knowingly taken in violation of the Brown Act incurs misdemeanor guilt), but they consider this to mean only a formal vote. See, Item



No. 2, under which the failure to post the agenda physically is described, and also EXHIBIT 11, warning them of this fact.) Whether decisions were made is not clear, because any member of the ExCom, which included the chair of this committee, may place items on the ExCom agenda, and this agenda is posted in advance of the meeting of the Implementation Committee anyway. Furthermore, regular reports of the Implementation Committee to the ExCom are mandatory under both old and new *Bylaws*, regardless of whether the Implementation Committee authorizes them or not. (This is a very questionable practice. It turns committee reports into spontaneous observations of the committee on the part of the reporting member. The reporting member is thus put in the position of a scientific observer of the committee, which is reduced to an object, instead of the reporting member being its faithful servant. It destroys the distinction between taking action and not taking action at the committee level, since the committee is advisory and the report may be the same whether action is taken on any item or not, nor whether the action is yes or no. All that matters is what the committee chair *qua* reporting member thinks. By destroying the distinction, and taking reporting—the only function of an advisory committee—out of the control of the committee, it deprives advisory committees of taking action. Consequently, an advisory committee at the Commission is just a group of people that is forced to meet regularly and yak on pre-assigned topics, to spit up and reveal what they know, like slaves or laboratory specimens with no power of self-determination. Even the power to put business on the agenda of the committee meeting becomes only the power to speak, perhaps in vain, and hope for favor from the committee chair (also a Co-Chair) like medieval courtiers. If the all-powerful Co-Chair does not look favorably upon one's speech at the committee and report it to the Commission, then one speaks into a void, action taken or no, action yes or action no. Even if the committee chair does report it, committee reports are second-to-last on agendas of Commission meetings. One can get on the agenda by oneself (hopefully) and earlier on the agenda than the reports anyway. Furthermore, because the committee reports are only the reports of individuals, not authorized by their committees, they mean no more than other items submitted by individuals. The reason for having committees is thus destroyed, beyond better informing the Co-Chairs (who are also the committee chairs). They are effectively Co-Chair enslavements. Consequently, the experience of them is degrading. It contributes to similar feelings at the Commission level, and possibly explains the ready acceptance and even enthusiastic adoption of other authoritarian practices at the Commission. I would not want to serve on a BHC committee for this reason, and other members of the public may be similarly disgusted.) Enforcing the distinction between proposed-action vs. discussion-only items highlights the nonsensical and authoritarian nature of how committees are organized at the Commission, which in turn explains the Commission's poor observance of the distinction. If the items complained-of here were not action to advise the parent body (or some other body), then they were for discussion only, and should have included the required statements to this effect (see following section). In addition, the proposed action

on Item No. 1.1 was not included on the agenda. Although these were minutes, and there was a posting on the website of minutes for the meeting of this committee on "April 10" (the April meeting was on Apr. 12), the file actually contained the minutes for the March meeting of the committee, which had already been approved at the April meeting, the minutes for which were needed. We gave advance written notice of the inadequacy of Item Nos. 2.3 and 2.4, attached as EXHIBIT 11 and the committee ignored our warnings and discussed or acted upon these items regardless. Therefore, we ask for a finding of willful noncompliance.

- At the regular meeting of the Executive Committee on May 10, 2022, the agenda of which is attached hereto as EXHIBIT 16, Item No. 1.1, "Governor's Care Court Proposal: Discussion and possible action" was taken up. This discussion was clearly in regard to whether this item should be included on the agenda for the meeting of the Commission during the following week. No vote was taken, and there was even disagreement among members of the committee as to whether it should be included in the agenda for the meeting of the Commission, but, because any member may place an item on the agenda for a meeting of the Commission, there must have been a sense of futility about the decision. A decision was made *by staff* to put it on the agenda for the meeting of the Commission the following week, apparently because at least one member wanted it. This member, also a Co-Chair, wanted it on the agenda "even if we ignore it, *to throw out some comment* before it becomes a dead issue in Sac." As questionable as this motive was with respect to the perceived methods of the Commission, it needed to be on the agenda that this was *a proposed action to put this item on the agenda for the next meeting of the Commission* for discussion only, i.e., as reported by the Executive Committee. A vote should have been taken. The individual proponent could have put it on just the same if they lost the vote, but the noncommittal "Discussion and possible action" is unlawful and should not have been used.
- At its regular meeting on May 18, 2022, the Commission took action on an item not on the agenda for the meeting, attached hereto as EXHIBIT 32. After the Commission took a final vote on its proposed revised *Bylaws*, which vote they failed to pass, a member spontaneously made a motion to pass the *Bylaws* as before, but combined this with another motion to create an *ad hoc* committee to further revise them. This motion eventually passed. No notice of this second motion appeared on the agenda, and the action violated *S.F. Admin. Code* § 67.7(a), in just the way that the SOTF had previously noted.
- On June 7, 2022, at the regular meeting of the Implementation Committee, the agenda for which is attached hereto as EXHIBIT 40, Item No. 1.1, "Vote to adopt May 10, 2022 minutes [action item]" was not the action which was not only proposed but approved at the meeting. The action that was both proposed and approved was an order to staff to rewrite the minutes and resubmit them for passage at the next meeting. RONR (12<sup>th</sup> ed.) 10:24 (*supra*). Again, the committee had plenty of time to review the minutes and put this motion on the agenda in advance of the meeting, because *S.F. Admin. Code* § 8.16

- required that staff post draft minutes of a meeting within 10 days of the meeting to which they pertained. Item No. 2.3, “**Review the 2022 Data Notebook:** Discussion on BHC participation on How to do the Data Notebook for 2022” also violated this section. It began with an order to staff to print out and distribute relevant pages from *surveymonkey.com*, which should have been an action item, RONR (12<sup>th</sup> ed.) 10:24 *infra*). (This meeting also proceeded without a quorum, so no violations could have occurred if the meeting had reached these items, but the committee mistakenly thought it had quorum, and so, for compliance monitoring purposes, the proceedings are an example of what the committee thought it could legally do if it had quorum.)
- Item 2.3 on the agenda for the regular meeting of the Executive Committee held on June 7, 2022, attached hereto as EXHIBIT 41, made reference to “complete consolidated resolution, authored by Co-Chair Vigil and Commissioner Murawski, previously viewed and voted on. A carry-over from the April 20, 2022 meeting. [*sic*]” However, there were three resolutions attached to the agenda, and none of them identified themselves by their co-authors, nor made mention of the April 20, 2022, meeting. Only one of the resolutions could be attributed to one of the other agenda items, and, in fact, only the larger of the two remaining resolutions was intended by this agenda item. Item 1.1 on the same agenda, “Governor’s Care Court Proposal: Discussion and possible action,” was also insufficiently descriptive because it didn’t include the proposed action, which was to recommend that the Executive Committee approve creation an *ad hoc* committee to address this issue. In fact, we complained about this item in advance of the meeting, correspondence attached hereto as EXHIBIT 37. The chair should have ruled it out of order. We ask for a finding of willful violation therefor.
  - On June 15, 2022, the Commission took action on an item without the proposed action being on the agenda. Under Item No. 3.5, “**Review Complaint from BHS client** – commissioners to review letter submitted by Mary Savannah and determine how BHC can support the grievance – see attached [**possible action item**],” it was moved to invite Conard House to give a presentation at the July meeting of the Commission. The motion had a dispositive vote, which is “action taken” as defined in *Cal. Gov’t Code* § 54952.6, even though the vote was to reject the proposed presentation. The motion did not appear on the agenda.
  - On July 12, 2022, the Implementation Committee, agenda attached hereto as EXHIBIT 62, violated this rule in two ways: Item No. 1.1 specified that minutes were up for approval. This was not the action taken. Instead, the Chair complained that the minutes were not in the correct form, and wanted staff to compose a new document. Instead of voting the minutes down, as they should, they ordered staff to redo them, and characterized this still further wrongly as a postponement to the next meeting, which would have been in order under the notice on the agenda (but would not have been adequate for their needs, as it would have resulted only in the very same draft minutes being proposed for adoption at the next meeting). An order to staff to redraft the minutes, on the other hand, is a distinct motion which needed to be on the agenda. RONR (12<sup>th</sup>



ed.) 10:24 (*supra*). They had time to review the minutes and get such a motion on the agenda because staff are responsible for publishing proposed minutes for a meeting within ten days after it occurs, *S.F. Admin. Code* § 8.16, and this meeting, at which they were to be approved, was a month later. They also failed to include the proposed action by not including the necessary details of the motion to “Establish Ad Hoc Committee for the Annual Report,” Item no. 2.4 on the agenda (we also complained of this two sections back). Specifically, either the number of members and the method of their appointment or the names of the initial members are required to be included. RONR (12<sup>th</sup> ed.) 13:8(d). (The reference does not say it, but, without this information, whether a quorum was present at a meeting of this committee cannot be determined.) Because we are entitled to a presumption that the Implementation Committee would follow its binding rules, *Cal. Evid. Code* § 664, the proposed action does not appear on the agenda. Only a truncated version of it does. (In fact, no action was taken on this item at this meeting because the Implementation Committee has nothing to do with the creation of committees, nor did they “push it forward” to Exec., because no vote was taken, nor was any motion made, etc. Any such “pushing forward” would have been dilatory anyway because the ExCom met immediately after this committee was to adjourn and was required to post its agenda in advance of the meeting of the Implementation Committee. It had the right to put this motion on its agenda itself because it is required by the *Bylaws* to approve the creation of *ad hoc* committees and was required to do so in order to determine it.)

- On July 12, 2022, the Executive Committee of the Commission violated this rule by failing to specify an proposed action for items that clearly proposed action. Specifically, item nos. 2.3 through 2.8 on the agenda for the meeting, attached hereto as EXHIBIT 63, did not include the proposed action. Item 2.3 does not even meet the standard for a reasonable description (see above). Item 2.4 says only, “Discuss commissioner input on How to do the Data Notebook for 2022- [*sic*] **[action item]**” (first square brackets added). It is obvious that this item fails to state the proposed action. Item 2.5 says, “Discuss questions for MHSA presentation, vote if necessary **[action item]**” This item makes implicit reference (for those who know) to *Cal. Welf. & Inst. Code* § 5848(b), which requires as follows:

The mental health board shall review the adopted [Mental Health Services Act or MHSA] plan or update and make recommendations to the local mental health agency or local behavioral health agency, as applicable, for revisions. The local . . . behavioral health agency . . . shall provide an annual report of written explanations to the local governing body and the State Department of Health Care Services for any substantive recommendations by the local mental health board that are not included in the annual plan or update.

Subd. (f) states as follows, “For purposes of this section, ‘substantive recommendations made by the local mental health board’ means any recommendation that is brought before

the board and approved by a majority vote of the membership present at a public hearing of the local mental health board that has established its quorum.” This item reveals that, in fact, at the time of posting, the Commission had *no proposals* for recommendations to Behavioral Health Services regarding the proposed MHSA update. Consequently, the item should have been dropped from the agenda, because any proposal introduced at the meeting would have been a substantive amendment. (In any event, like many BHC committee actions, this one was dilatory, as any member could put a motion to make a recommendation to BHS regarding the MHSA plan on the agenda for the meeting of the Commission, such recommendations are not even within the subject-matter jurisdiction of the Executive Committee, and the Commission would have to vote on any recommendation anyway.) Items 2.6 and 2.7 proposed the creation of *ad hoc* committees. However, the specifications of these committees include little more than a name for one and the tasks which the other was to perform (n.b., *ad hoc* committees are not to be given names, they are simply referred to by their tasks). A minimally viable specification for a committee must include either the names of the members of which it shall consist (including its chair) or the number of members and the method by which they are to be determined. RONR (12<sup>th</sup> ed.) 13:8(c) (“**Necessary Details of the Motion**”). To add these at the meeting would be a substantive amendment to the motion, not allowable under this section. Item 2.8 made reference to a motion attached to the agenda. However, there were not one but two motions that were not attributable to other items on the agenda. They differed substantially, and this section is to be interpreted liberally in favor of public disclosure. The public has a right to a reference to a specific motion, not an hodgepodge of motions through which to sort and guess at. It would be bad enough that members of the public would have to match all of the motions attached to the agenda to their respective agenda items. In fact, it is worse, because the agenda item references a “BHOC” motion, but that acronym appears nowhere in either of the *two* motions attached to the agenda that are not attributable to any other agenda item.

- At the July 20, 2022, meeting of the Commission, agenda attached as EXHIBIT 72, Item Nos. 3.2 through 3.6 did not include “the proposed action.” We complain in the next section that Item Nos. 3.2, 3.4, and 3.6 were “downgraded” to “discussion only” status at the meeting because no vote was taken on them. The remaining Item Nos. 3.3 and 3.5 were approved on July 20, 2022. However, the measures approved substantially did not appear on the agenda. Item No. 3.3 appeared on the agenda as “**Establish Ad Hoc Committee for the Annual Report:** The BHC Annual Reports are due for 2021-2022 in September [action item]” The motion passed at the meeting was never stated by the chair, but appears to have been to form an *ad hoc* committee to propose an Annual Report for 2021-2022, identify 3-4 potential resolutions and have them ready to share at the July 2022 Commission meeting, and identify 4-5 programs that the Commissioners want to review and prepare to share, consisting of four people named in the motion (as stated by Banuelos): Vigil (committee chair), Bohrer, Stevens, and Banuelos. The two “identify” clauses were modified from Item No. 3.5 by Word document on-screen by



staff at the meeting without anyone even moving for an amendment. This is what needed to be on the agenda for Item No. 3.3 and was not. Item no 3.5 appeared on the agenda as **“The creation of the Oversight Ad-Hoc Committee:** to establish an Ad Hoc committee to review BHC mandates which include the Annual Report, specifically to **(1.) Identify 3-4 potential resolutions and have them ready to share at the July 2022 Commission meeting [sic].** These resolutions would include key issues the Commissioners want to send to the Board of Supervisors, Health Commission, and Mayor’s Office [sic], **(2.) Identify 4-5 programs that the Commissioners want to review and prepare to share them at the July 2022 Commission meeting [sic].** The Commissioners can conduct virtual site reviews or use the BHC COVID Survey form.” What was passed was never stated by the chair, but appears to have been: create an ad hoc committee to review grievances, complaints, and BHC mandates, which include the Annual Report, consisting of Vigil (Chair), Wynn, and Murawski. This is, of course, what needed to be on the agenda, and was not. We complained about items 3.3 and 3.5 via email, attached hereto as EXHIBITS 66 and 67, in advance of the meeting and our complaints were ignored. Therefore, we ask for a finding of willful noncompliance on these items.

- The agenda for the meeting of the *ad hoc* committee to revise the *Bylaws*, held at 4:00 p.m. on Aug. 5, 2022, agenda attached hereto as EXHIBIT 79, failed to contain the proposed actions. Item No. 2.0 was labeled, **“REVIEW RECENTLY PASSED BY-LAWS”** “The chair will guide Commissioners in reviewing the by-laws for changes, amendments and potential adoptions.” One might conclude that this was the motion to recommend revised *Bylaws* to the parent body. However, what, then, would item 3.2 be? **“ITEM 3.0 ACTION ITEMS” “3.2 Review attached By-Laws and sample markups:** discussion and possible action item on shared items [action item].” Shared items? Potential adoptions? Sounds like an orphanage! One of these items, and only one, should have been a motion to recommend revised *Bylaws* to the parent body. At the meeting, 2.0 was treated as the motion to recommend, and *seriatim* consideration proceeded under it. Item 3.2 was not reached.

The agenda for the meeting of the *ad hoc* committee to revise the *Bylaws*, held at 4:00 p.m. on Aug. 12, 2022, agenda attached hereto as EXHIBIT 85, failed to contain the proposed actions. Item No. 2.0 was labeled, **“REVIEW RECENTLY PASSED BY-LAWS”** “The chair will guide Commissioners in reviewing the by-laws for changes, amendments and potential adoptions.” One might conclude that this was the motion to recommend revised *Bylaws* to the parent body. However, what, then, would item 3.2 be? **“ITEM 3.0 ACTION ITEMS” “3.2 Review attached By-Laws and sample markups:** discussion and possible action item on shared items [action item].” This actually threw me for quite a loop. I had prepared a lengthy public comment for the *Bylaws* revision item, and I thought it would be 3.2. Consequently, I neglected to comment on Item No. 2.0 at all. This ended up being the item under which they proceeded *seriatim* through their recently-adopted *Bylaws*. They spent an hour on Item No. 2.0. I didn’t get to deliver my prepared comment until near the end of the meeting, at which point I

proceeded to tell them that they were breaking state law in three different ways, local law in two different ways, and were violating a special rule of order in the very *Bylaws* they were setting about to revise, by proceeding at all. The value of my comment was significantly degraded by the confusion and resultant delay in delivering it. Although the same activity occurred at the meeting of this same body on the previous week, the previous meeting was chaired by a different and less experienced member.

Failure to Label Discussion-Only Items With a Statement That They Are For Discussion Only

S.F. Admin. Code § 67.7(a) requires, as part of the descriptions of items on the agenda, that that discussion items (for which no action is proposed to be taken) be labeled with a statement that the item is for discussion only. This is a rule for the violation of which BHC implicitly takes solace in the fact that items on agendas of the Sunshine Ordinance Task Force have included the ambiguous statement “for discussion and possible action” which the Commission often copies onto its own agendas. It is important to appreciate that “for discussion and possible action” is ambiguous, defeats the purpose of the rule, and is in fact unnecessary. *It is always possible to determine in advance of the meeting whether or not action is proposed to be taken on each item on the agenda.* It not that no prediction can be made as to whether action will *in fact* be taken, as “action taken” is defined in Cal. Gov’t Code § 54952.6, *in pari materia* with the Sunshine Ordinance, that gives rise to the perceived need to violate this section with ambiguous labels. A *proposed* action may fail to be taken for any number of reasons, such as the action being out of order, a temporary disposition of the proposal occurring before action is taken, such as laying the item on the table, postponing it to the next meeting, or referring it to a committee, staff, or counsel, or the item being subject to a successful motion to avoid its determination, such as a

motion to *Postpone Indefinitely* or *Object to the Consideration of the Item*. For all this, it is no less an item for which action was proposed to be taken. Proposing an item for action sets into motion the parliamentary machinery that finally or temporarily determines every proposal for action one way or another. By contrast, a discussion-only item has no determination.

"Discussion" merely occurs, continues until it peters out, and is without consequence. It fills up time. This notation tells the public whether the parliamentary machinery will be used on a concrete proposal (which must itself appear on the agenda), or whether they can instead expect a desultory exchange of views on a topic. For better or for worse, the local requirement that items be segregated into action items and discussion-only items prevent meetings from being used as "brainstorming sessions" at which a brilliant idea may be hatched and acted upon at the same meeting. At best, a discussion at one meeting may lead to a proposal for action later being placed on the agenda for the following meeting, and the effort to cheat this process through ambiguously labeling items as "for discussion and possible action" defeats the purpose of the rule. This requirement protects the public from surprises resulting from specific action being taken on an item that would normally be a boring and inconsequential discussion, so that the public may focus their scarce time and attention on items that count, at the cost of less room for spontaneity at meetings on the part of the local agency. To this end, it works in tandem with the rule that proposed action appear itself on the agenda. Each item must be either one or the other.

In some cases, BHC "downgrades" items labeled on the agenda with the proposed action to "discussion only" status at a meeting. They do this for a single very inauspicious reason: If no action is taken on an item, it cannot be the basis for a criminal violation of the Brown Act under § 54959. Often such a violation is thought to extend to an entire meeting. "Downgrading" then allows *all* of the action items to be addressed in serial discussions. Often, this has the same result as actually deciding the items. The discussion is pronounced to have veered in a particular direction, for or against, and the members get by without having to disclose their real positions by a vote. Nor do they need to suffer the pressure of a final determination. Action is presumed to have been taken without the legal consequences thereof. The alternative to "downgrading" in the face of legal violations would be to rule the items out of order for specific violations of the Brown Act and not address them at the meeting. This has the significant disadvantages of admitting that the violation in fact occurred and providing for significantly less hot-air-blowing to prop up the egos of the participants, who are already insecure about whether they are accomplishing anything at all at these meetings. By contrast, "Downgrading" to "discussion-only mode" makes it appear that the body is continuing to do significant work while neither admitting to faults nor failing to hedge against violations that are only vaguely suggested. It allows uncertainty about applicable law to thrive, prevail, and even be wielded as a cudgel. (There is in fact no rule of order adopted by the BHC for "downgrading" items to "discussion only" status once they are proposed for action, nor would the Sunshine Ordinance generally allow such a rule.) BHC and its committees violated this requirement on the following dates, in the following ways:



- On Apr. 20, 2022, at the BHC regular meeting, Item No. 3.4 on the agenda for this meeting, attached hereto as EXHIBIT \_\_, was not labeled with a statement that it was for discussion only, as the law requires. This item was not introduced by the chair as a "proposed action," despite the moniker to this effect appearing on the agenda. It was introduced as an item for discussion only, upon which the chair would allow BHC to take no action. Staff said that a supermajority was necessary to pass the item. However, rather than moving and voting to postpone it to the next meeting, the item was "stepped down" to a "discussion-only" item. A member of the public whose interests would be affected by the item might have been enticed to attend the meeting by the promise of action being proposed (which adds considerable pressure to debate), only to be disappointed. In this case, had the item been labeled correctly, such a member of the public would have known that they could safely forego attendance at the meeting.
- The agenda for the regular meeting of the Implementation Committee on May 10, 2022, attached hereto as EXHIBIT 15, showed Items Nos. 1.2 and 2.1 through 2.5 as "for discussion and possible action[s], and 3.1 and 4.1 as "for discussion and action." None of them included a proposed action, and no action was taken under any of them except maybe 2.3 and 2.4, described in the previous section. When Item No. 1.3 was called, committee chair Banuelos asked staff what it was about (apparently, it had been placed there by staff). Grier said it was a duplicate and to "move on," but it did not duplicate anything on the agenda. Banuelos moved on to the next item. If this was "discussion," then this item needed a statement that it was for discussion only. Instead, it was labeled as an "[action item]". Item 2.2 was a "cud-chewer" item placed on the agenda for ongoing regurgitation, chewing, and re-swallowing. No action was taken on it. During the item, staff (Gray) asked if this was the approval of minutes from March 9 (Item. No. 2.2 on the agenda of the meeting of the Executive committee immediately following, but also the minutes mistakenly placed in the file mislabeled as the minutes for the "April 10" meeting of this committee (the previous meeting was on Apr. 12).). Staff (Grier) answered "not there yet" and the committee chair called the next item. This item needed a statement that it was for discussion only. Item 2.5 contained only a discussion by staff about the new website's promised capabilities, i.e., possible inclusion of "live links," and a possible go-live in June. It was for discussion only and needed a statement to this effect. We warned the committee of the inadequacy of the description of Item No. 2.2 in writing, attached as EXHIBIT 11.
- The agenda for the regular meeting of the Executive Committee on May 10, 2022, attached hereto as EXHIBIT 16, marked Item Nos. 1.1 and 1.2 with "Discussion and possible action," and 2.1, 2.2, 2.3, and 2.5 as "[action item]", under the heading "**ITEM 2.0 ACTION ITEMS – Discussion on action items,**" but no action was taken on any of these items at the meeting. Consequently, each of them should have included a statement that the item was for discussion only. (If action really was planned to be taken on each of these items, then they needed to be labeled with the proposed action, and each of them should have had either a final vote or another (voted) disposition at the meeting.) As

mentioned under the previous section and the Implementation Committee meeting for this date, this distinction is causing problems for the Commission, and for a very good reason, but this committee differs to some extent. At this point in time, this committee had no power to put *Orders of the Day*, including, mainly, lengthy presentations, on the agenda for the Commission, but this did not stop it from usurping such power anyway, and it formally gained this power later in the month. For this reason, the mentioned comments regarding the Implementation Committee require some modification – the Executive Committee has the power to force the Commission to sit through long presentations. This makes its actions not gratuitous, but only in this one area.

- The agenda for the regular meeting of the Site Visit Committee on June 7, 2022, attached hereto as EXHIBIT 39, Items 2.1 through 2.4 are all substantially the same as on the July 12, 2022, agenda, with the subtraction of “Conard House” from Item No. 2.4, and the same comments apply thereto (*see, infra*).
- On the agenda for the regular meeting of the Implementation Committee held on June 7, 2022, attached hereto as EXHIBIT 40, use of the illegal and noncommittal “for discussion and possible action” label was extensively made, and no actions were taken on the items. This label appeared on Item Nos. 1.0, 1.2, 2.0, 3.0, and 4.0. Item Nos. 1.2, 1.3, 2.1-2.5, 3.1, and 4.1 all should have included statements that they were for discussion only, because no actions were proposed to be taken under any of them (3.1 and 4.1 were not reached). Item No. 2.3, which said that it was a “discussion”, is inadequate. It must say discussion only, as discussion may, should, and usually does occur with proposed action. (This meeting proceeded without a quorum, so no actual violations occurred, but the committee mistakenly thought it had quorum, and so, for compliance monitoring purposes, the proceedings are an example of what the committee thought it could legally do if it had quorum.)
- On the agenda for the regular meeting of the Executive Committee held on June 7, 2022, attached hereto as EXHIBIT 41, Item Nos. 2.3, 2.4, and 2.5 were all “downgraded” to discussion-only items at the meeting, and no votes were taken on them. This was for various reasons: Item No. 2.3 had already been passed earlier in the year; Item No. 2.4 was simply not put up for a vote; Item No. 2.5 was realized to have been put on the agenda by mistake – the MHSA hearing was not ready to present, and would not be ready until July. “1.1 Governor’s Care Court Proposal: Discussion and possible action” also lacked a statement that this item was for discussion only. Although an action was proposed to create an *ad hoc* committee (which did not appear on the agenda), I suppose to recommend to the Executive Committee, it wasn’t *really* proposed. It was only discussed. Consequently, the item should have been so labeled. “1.2 BHS/BHC websites, Old & New: Discussion and possible action,” also lacked a proposal for action (which also did not appear on the agenda). On June 15, 2022, the Commission met, agenda attached as EXHIBIT 43. At this meeting, they failed to take action on Item Nos. 3.2, 3.3, and 3.4 on the agenda, which should therefore have been labeled with a statement that they were for discussion only. All of these items were under the heading



for Item 3.0 on the agenda, **"ITEM 3.0 ACTION ITEMS."** The first of them was Item No. 3.2, **"Data Notebook 2022 – Discussion on input from the BHC [action item]"** Although this description contains the word "Discussion," it also contains indicia that action was proposed to be taken. It is ambiguous. Furthermore, discussion is normally included in action items. It is called "debate." This is why that law requires "a statement that the item is for discussion only." The word only is missing and cannot be inferred. No vote was taken on this item, and, even if a vote had been taken on it, the proposed action was not on the agenda, as the law requires. Item 3.3 on the agenda, **"Resolution for BHOCC – BHC to review, discuss, and vote on the BHOCC motion put forth by Co-Chair Vigil – see attached below [action item],"** did not get a dispositive vote. A post-vote discussion revealed that Commissioners were unsure of what they were voting on because of lax parliamentary practices by the chair, but my notes show clearly that a secondary motion to postpone to the next meeting had been made. It was not stated by the chair, but nothing is ever stated by the chair. It was neither seconded, but a second is not necessary in a meeting of this size. The motion to postpone failed. Debate should have returned to the main motion. However, after the post-vote discussion on why some Commissioners had voted "no" or (illegally) "abstain," the item was not pursued further; no dispositive vote was taken. Therefore, it was effectively "downgraded" to an item for discussion only, the vote to postpone notwithstanding, and should have been labeled as such on the agenda. Item 3.4, **"Appoint Chair to the Ad Hoc Bylaw Committee – establish the bylaw oversight ad hoc committee [action item],"** was called, and comments from Commissioners and the public were called, but no Commissioners had any comments, and it was passed over without a vote. It was for discussion only, and should have been labeled so on the agenda.

- With respect to the agenda for the regular meeting of the Site Visit Committee on July 12, 2022, notice of which is attached hereto as EXHIBIT 39, Item Nos. 2.1 through 2.4 all appear under the heading, **"Discussion: Report on site visits and strategy"** It is not clear what "reporting" on "strategy" would entail. In any event, Item No. 2.2, "Implementation of the strategy . . ." seems to go beyond mere "reporting," and so it is unclear what significance the heading has at all. Although Item No. 2.3 directs to "Discuss the Importance . . ." and the remaining items have lesser statements, none state explicitly that they are for discussion *only*, which is what was required. (This meeting proceeded without a quorum, so no actual violations occurred, but the committee mistakenly thought it had quorum, and so, for compliance monitoring purposes, the proceedings are an example of what the committee thought it could legally do if it had quorum.)
- With respect to the agenda of the regular meeting of the Implementation Committee on July 12, 2022, notice of which is attached hereto as EXHIBIT 62, Item No. 1.2 appears under the heading **"1.0 BUSINESS – Discussion and possible action out of the topics discussed."** Item Nos. 2.1 through 2.7 all appear under the blanket label, **"2.0 ITEMS FOR DISCUSSION AND POSSIBLE ACTIONS"**. Of these, only item 2.4 even

includes a defective action of some kind. Presumably, the rest are “for discussion only.” None of them contains a statement to this effect, though item no. 2.3 does say that it is a “discussion.” The law requires more.

- With respect to the regular meeting of their Executive Committee on July 12, 2022, the notice of which is attached hereto as EXHIBIT 63, BHC again “downgraded” Item Nos. 2.2, 2.4, 2.5, 2.6, 2.7, and 2.8, advertised on the agenda as “action items,” to “discussion-only items” during the meeting, again in order to avoid criminal penalties from violation of the Brown Act, though not the ones I had alleged in my warning to them of the various violations of open meetings laws apparent from the agenda. Other items on the agenda for this meeting were not “downgraded” from “action item” status, but were not labeled with “for discussion only” either, as the law requires. Specifically, all seven of the items appearing under the heading “Item 1.0 Commissioner’s [sic] Reports” contained neither the proposed action nor a message that the items were for discussion only. Some of them were ambiguously labeled by “Discussion and possible action.” As related above, this defeats the purpose of the law. Action was in fact taken on none of these items, possibly due to the circumstances of the meeting involving imagined violations of the Brown Act.
- At the regular meeting of the Commission on July 20, 2022, the agenda attached hereto as EXHIBIT 72, a number of items on the agenda were “downgraded” from proposed actions to items “for discussion only” at the meeting. Item No. 3.2, “**Data Notebook 2022 – Discussion on input from the BHC [action item]**” neither lists the proposed action nor a statement that the item is for discussion only. The word “discussion” without more is not enough, because action items commonly also include debate, which may also be termed discussion. From the label “[action item],” and the placement of this item under “**ITEM 3.0 ACTION ITEMS**,” I suppose that action was contemplated. None, however, occurred at the meeting, and this item should have contained a statement that it was for discussion only. Item No. 3.4, “**Appoint Chair to the Ad-Hoc [sic] ByLaw [sic] Committee: establish the bylaw ad hoc committee [action item]**” appears to be an action item. However, this item had no disposition. It was not postponed, laid on the table, committed, nor finally disposed. Therefore, it was, in fact, a discussion-only item. It was required to have been labeled on the agenda as such. Item No. 3.6, “**BHC Commissioner Training: notify the commissioners of the scheduled commissioner virtual training on August 17, 2022 from 5 – 7 pm [action item]**” is similarly ambiguous. Nevertheless, no action was taken on this item at the meeting. It should have included a statement that it was for discussion only. We complained to the Commission via email sent in advance of the meeting, attached hereto as EXHIBITS 66 and 67, about these violations and the chair did not rule them out of order. Therefore, we ask for a finding of willful noncompliance.

permanent disposition by the committee by voting by the committee chair, but neither did any of them include a statement that the item was for discussion only, as was required by law.

- At the meeting of the *ad hoc* committee on Sept. 21, 2022, attached hereto as EXHIBIT 89, Item Nos. 3.1 through 3.5 were labeled as "action items", but in fact no action was proposed to be taken at the meeting on any of them. This was not due to a decision not to take action at this meeting, but was apparently due to mislabeling of these items on the agenda. All of them should have been labeled "for discussion only."
- At the meeting of the *ad hoc* committee to prepare an annual report on Sept. 23, 2022, agenda attached hereto as EXHIBIT 90, Item No. 2.0, 3.0, 3.1, 3.3, 3.4, and 3.5 included neither a proposed action nor a statement that the item was for discussion only. In fact, no motion was made, nor any called up, during Item No. 2.0, and so it should have been labeled "for discussion only."
- The agenda for the Sept. 29, 2022, meeting of the *ad hoc* committee for the revision of bylaws attached hereto as EXHIBIT 91, Item No. 1.1, as being an action item. However, no vote was called on this item. A final amendment regarding it was made by staff and the chair neither ruled it out of order nor did the committee dispose of it in any way. Therefore, it was not in the agenda for 2022, and it was required to include a statement to this effect.
- The agenda for the Sept. 30, 2022, meeting of the *ad hoc* committee to prepare an annual report attached hereto as EXHIBIT 92, Item Nos. 3.1 through 3.5, if the chair did not rule any of these items out of order, motions were made, not disposed under these items. Therefore, the agenda for discussion only, and lacked the required statement on the agenda.
- The agenda for the Oct. 12, 2022, meeting of the *ad hoc* committee to prepare an annual report attached hereto as EXHIBIT 93, Item Nos. 3.1 through 3.5, if the chair did not rule any of these items out of order, motions were made, not disposed under these items. Therefore, the agenda for discussion only, and lacked the required statement on the agenda.

**Item No. 2: "67.7(a) by failing to post their Agenda 72 hours in advance of the meeting;"**

S.F. Admin. Code § 67.7(a) states, in relevant part (ellipsis, square brackets added): **"At least 72 hours before a regular meeting, a policy body shall post an agenda . . . In addition, a policy body shall post a current agenda on its Internet [sic] site at least 72 hours before a regular meeting."** (Note: There are no physical or internet posting requirements in the S.F. Sunshine Ordinance for special meetings. Agendas thereof are required to be sent to the members of the policy body and media who have made written requests for notice 72 hours before the meeting. S.F. Admin. Code § 67.6(f). This is still relevant to notice to the public beyond media because Cal. Gov't Code § 54954.1, in pari materia with the Sunshine Ordinance, requires that agenda packets or notices of meetings be sent to each member of the public who requests such in writing

*at the time that the notice is posted to the public or sent to members of the legislative body, whichever is earlier. We in fact made such a request on Jan. 2 of this year for meetings of the Commission and all of its committees.)* § 16-100m, Article 2 of the Connecticut Constitution: "A meeting shall occur only after the Commission, or any of its committees, upon which fewer than a majority of a public body, to hear, discuss or deliberate upon any item that is within its subject matter jurisdiction of the Commission, or any committee, has become involved in such proceedings; or (4) (5) Any other use of personal, intermediaries or communications media that would reveal a majority of the members of a public body, become aware of or item of business and of the views or positions of other members with respect thereto, and to require, upon such information."

**Failure to Post on the Commission Website at Least 72 Hours in Advance of the Meeting**

This section requires that notices of meetings of the Commission and its committees be posted on the Commission website 72 hours in advance of the meeting. The Commission and/or its committees violated this requirement on the following dates:

- With respect to their June 15, 2022, regular meeting, BHC originally posted their notice with a date of June 7, 2022. See EXHIBITS 43, attached. Only after I complained via email the following Monday, June 13, attached as EXHIBIT 44, did they then revise their notice to state the correct date. The public had no notice whatsoever of the correct date of the meeting until BHC revised their notice, less than 52 hours before the meeting. EXHIBIT 45.
- With respect to the regular meetings of their Site Visit Committee, Implementation Committee, and Executive Committee on July 12, 2022, BHC formulated the notices with the correct date on them, but each was posted on the BHC website under a link labeled prominently "July 17, 2022". See EXHIBIT 64, attached hereto. BHC contends that IT staff not under its control formulates the link, but this is no excuse. No matter who was at fault, the meetings were not properly noticed. A member of the public checking the website would think that BHC had scheduled a weekend meeting and may have forgone downloading it until later, or ignored the date on the notice. The notice requirement must be interpreted liberally. \_\_\_\_\_. In the current context, this means that *all* meeting dates related to the notice must be correct. Again, I warned BHC of the problem via email eight hours in advance of the meeting, advising them that all agenda items would be out of order therefor. Two hours later (to my chagrin, since this reflected BHC's will to hold the meetings in violation of the law), I saw that the dates had been repaired. All three meetings were held on schedule, with no items being ruled out of order, when all of them in fact were out of order. We ask for a finding of willful noncompliance because BHC was informed of the violations, which were incurable, and they proceeded to hold the meetings regardless. (The meeting of the Site Visit Committee proceeded without a quorum, so no actual violations occurred, but the committee mistakenly thought it had quorum, and so, for compliance monitoring



purposes, the proceedings are an example of what the committee thought it could legally do if it had quorum.)

- On Aug. 1, 2022, the Commission's *ad hoc* committee to propose annual reports met without a notice stating the time and place of the meeting. The meeting ZOOM on the notice that was posted, attached hereto as EXHIBIT 76, was unusable, and no meeting occurred there. As shown by the email chain attached as EXHIBIT 77, an alternative location had to be set for the meeting. The same email chain shows that I warned them not to hold this meeting. Even if the purpose of the meeting at the new location had been limited to setting a date for a future meeting, as advertised, it was nevertheless a meeting under the Sunshine Ordinance, if not also the Brown Act, liberally construed, and was held without notice to the public. (It was not in fact so limited in subject matter.) We ask for a finding of willful noncompliance because we warned them not to hold the meeting.
- On August 5, 2022, at 3:00 p.m., the Commission's *ad hoc* committee to propose an annual report met, but the notice had not been posted on the Commission website 72 hours in advance of the meeting. Specifically, the website did not show posting of the notice of this meeting on the evening of Tuesday, August 2, 2022, printout attached as EXHIBIT 81. Posting occurred sometime in the afternoon of August 3, 2022, well within the 72-hour window and in violation of the law.
- On August 5, 2022, at 4:00 p.m., the Commission's *ad hoc* committee to propose revised *Bylaws* met, but notice of the meeting, attached hereto as EXHIBIT 79, had not been posted on the Commission's website 72 hours in advance of the meeting. Specifically, the website did not show posting of the notice for this meeting at 5:00 p.m. on Tuesday, August 2, 2022, printout attached to EXHIBIT 81. Posting occurred sometime in the afternoon of August 3, 2022, well within the 72-hour window and in violation of the law. Furthermore, I spoke during the first opportunity for the public to address the committee, which came early during the meeting, and informed them of the fact. Staff countered that they had sent the item on July 30, but that posting had failed due to matters beyond their control. I mentioned that it would have been impossible for them to have sent the notice on July 30, because the acting committee chair had announced at a meeting of another committee on Aug. 1, 2022, that the meeting for this committee would be held on Aug. 4, 2022, at 4:00 p.m., i.e., the previous day. At the request of the committee chair, I sent evidence of the late posting on the Commission's website to staff, attached hereto as EXHIBIT 81 and staff claimed to display some evidence of their having sent their request to IT staff within the required time. The acting committee chair said that the committee could not be held responsible for failures arising beyond the Commission's own staff, and ruled that the meeting should continue. We ask for a finding of willful violation because the meeting proceeded despite my informing them through verbal address and through evidence submitted via email at their request during the meeting, while they stated that "a matter of hours" (even 20 of them!) made no difference and that their work was too important to delay on account of failures beyond their control, and the SOTF had ruled against them on this very issue last year. I told them that it was the position of the SOTF



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The Executive Committee scheduled a regular meeting on Sept. 13, 2022, as indicated herein as LNRBHC. However, no meeting occurred at the meeting ZOOM link in the agenda. Staff announced to the chair of the Committee that day stating that all meetings that day had been cancelled and that the ZOOM link would not access the meeting at 5:41pm. When the meeting was not conducted, staff said and was told that the meeting had not started. On Oct. 11, during the normal discussion that occurred, the regular meeting had been scheduled on that date. The regular meeting was cancelled and the chair's response that it had been cancelled was not correct. The meeting was cancelled on Sept. 13, 2022, and the meeting was not held on Oct. 11, 2022.

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the meeting would not begin until that member was added, while they were in the process of logging in. They continued with the meeting anyway, simply continuing to vote on one amendment in order to avoid criminal penalties under Cal. Gov. Code § 54959.

Commissioner LaHood asked the court to find that the committee and the chair, Lasker, were in non-compliance because they continued with their meeting after I told them about the violation of the notice requirement, and they even acknowledged that this violation had occurred.

- The ad hoc committee to compose an annual report posted a notice to meet on Sept. 30, 2022, at 5:00 pm, attached hereto as EXHIBIT 91. A screenshot of the website at approximately 4:00 am on Sept. 27, 2022, 30 hours before the meeting, attached hereto as EXHIBIT 98, shows that the notice had not been posted. I announced this during an unadvertised period of public comment at the start of the meeting, and that every item on the agenda would violate this section of the Statutory Ordinance, that the chair should rule the next item, annulment of the 2021 election, out of order as well as the other items on the agenda. There was a question with respect to this time. The chair went through the agenda without ruling anything out of order and the meeting lasted for over two hours. Lasker, the chair, did not make amends because the committee continued with their agenda. The committee did not have a public hearing and they did not open and acknowledge what I said.
- The ad hoc committee also posted an annual report notice to meet on Oct. 7, 2022, on the website. At their meeting, starting on Sept. 30, they did not approve the final report and made changes. I notified the committee that there was a problem with the notice, and when a member contacted me, I told them that the notice was not posted. The committee did not have a public hearing and they did not open and acknowledge what I said.

#### Failure to Post Physically at the Government Information Center 72 Hours in Advance of the Meeting

This section requires physical posting of the agenda and notice of meeting in a place accessible to the public with 72 hours advance notice of the meeting. BHC violated this requirement on the following dates, in the following ways:

- With respect to the regular meeting of their Implementation Committee on May 10, 2022, agenda attached hereto as EXHIBIT 15, the Commission failed to post notice at the Government Information Center 72 hours before the meeting. Specifically, the notice that they sent had the date "April 12, 2022" as the date of the meeting, as shown in the exhibit. The Government Information Center does not post notices of meetings that occurred in the past, and so this meeting was not noticed physically. I warned the members of the committee in advance of the meeting by email of the lack of physical

posting, the email attached hereto as EXHIBIT 11. They proceeded to hold the meeting anyway, and did not rule each item on the agenda out of order. We ask for a finding of willful noncompliance.

- With respect to their June 15, 2022, regular meeting, BHC originally posted their notice with a date of June 7, 2022. See EXHIBIT 43, attached. Only after I complained via email the following Monday, June 13, attached as EXHIBIT 44, did they then revise their notice to state the correct date. As may be seen from EXHIBIT 45, the notice was not received by the Government Information Center until less than 52 hours before the meeting. The printout shows that the notice was received at 2:07 pm on June 13. Staff had in fact timely sent Library staff the notice for this meeting, but, because the notice advertised a date that had already passed, Library staff did not post it, nor could they have known where to post it, as notices are posted in order by the date and time of the meeting. Despite my email warning sent to all BHC members, attached as EXHIBIT 44, BHC proceeded to revise their notice inside the 72 hour window to include the correct date, and to actually hold the meeting in violation of the law. We ask for a finding of willful noncompliance for this violation because we warned BHC of the violation in advance of the meeting, making clear that the violation could not be cured, and they proceeded to hold their meeting regardless of our warning.
- On Aug. 1, 2022, the Commission's *ad hoc* committee to propose annual reports met with neither 72 hours' notice, nor a notice stating the time and place of the meeting. As shown by the email chain in EXHIBIT 77, the meeting ZOOM on the notice, attached hereto as EXHIBIT 76, was unusable, and no meeting occurred there. As shown by the email chain, an alternative location had to be set for the meeting. An earlier email in the chain shows that I warned them not to hold this meeting. That they met at a new location, regardless of my advice. Even if the purpose of the meeting at the new location had been limited to setting a date for a future meeting, as advertised, it was nevertheless a meeting under the Sunshine Ordinance, if not also the Brown Act, liberally construed. (It was not in fact so limited.) Since they met after our warning, we ask for a finding of willful noncompliance.
- On August 5, 2022, at 3:00 p.m., the Commission's *ad hoc* committee to propose an annual report met, but the notice had not been posted on the Commission website 72 hours in advance of the meeting. Specifically, the posting at the Government Information Center did not show posting of the notice of this meeting on the evening of Tuesday, August 2, 2022, printout attached as EXHIBIT 80. Posting occurred sometime in the afternoon of August 3, 2022, well within the 72-hour window and in violation of the law. However, because they did not allow the public to address them at any time during the meeting, I was not able to inform them of this fact.
- On August 5, 2022, at 4:00 p.m., the Commission's *ad hoc* committee to propose a revision of its *Bylaws* met, but the notice had not been posted at the Government Information Center 72 hours in advance of the meeting. Specifically, the Government Information Center's document had a stamp indicating that it has been received at 2:00



p.m. on Aug. 3, 2022, printout attached as EXHIBIT 80. This was well within the 72-hour window and in violation of the law. I informed them of this fact at the first opportunity for the public to address the committee, at which point the staff claimed that they had sent timely notice to the public library. The committee chair asked for evidence from both sides, and I sent the printout attached as EXHIBIT 80 via email also attached, directing them to the second page of the file. This was allegedly displayed at the meeting, at which point the acting committee chair took issue with the crossed-out date, which showed the date that staff claimed that they had sent the document. However, as discussed above, staff could not have noticed the public library on July 30 as claimed, because the acting committee chair had, at a meeting of another committee on Aug. 1, 2022, announced that the *Bylaws* committee was to meet on Thurs., Aug. 4, 2022, at 4:00 p.m. So, if notice had been given on July 30, it had been for the Aug. 4, 2022, meeting date, and not the current date.

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final report on Litton courage remained to be made. There was then a motion to rise, and when a member explained about this, another member said that they should just meet as a work group and not hold a noticed meeting, as if they were not required to do so by law. Apparently this actually occurred. Because a final report was up for approval at the Oct. 11 meeting of the Executive Committee, required by bylaws to give their final approval on the item.

### Serial Meetings

The Commission met serially on the following dates by exchanging views via telephone or email. These were special meetings of the Commission or its committees of which we received no notice via email, as required by the Sunshine Ordinance in conjunction with the Brown Act, in place of regular meeting.

- Prior to the May 18, 2022, regular meeting of the Commission, staff (Grier) called up Commissioners to ensure their attendance because the *Bylaws* were agendized for approval and needed 12 "yes" votes to pass under the Commission's "interpretation" (encouraged by the *Good Government Guide*) of *S.F. Charter* § 4.104(b), and the Commission had only 12 members at the time. While making these calls, Grier asked how the Commissioners were planning to vote. A Commissioner who was planning to vote "no" was told that they would be the sole dissenting voice. This was a violation of the Sunshine Ordinance, which involves less than a meeting, of a public body, and was done in defiance upon an item that is within the subject matter jurisdiction of the body. The serial meetings of such members become included in such action.

- The Commission, on May 18, 2022, held a meeting to discuss the proposed Bylaws, which were agendized for approval. The Commission had only 12 members at the time. While making these calls, Grier asked how the Commissioners were planning to vote. A Commissioner who was planning to vote "no" was told that they would be the sole dissenting voice. This was a violation of the Sunshine Ordinance, which involves less than a meeting, of a public body, and was done in defiance upon an item that is within the subject matter jurisdiction of the body. The serial meetings of such members become included in such action.

- At the Aug. 12, 2022, regular meeting of the *ad hoc* committee to revise *Bylaws*, Commissioner Wynn mentioned exchanging notes via email with the other members of the committee in advance of their regular meeting on the following week regarding paragraphs of the *Bylaws* forthcoming to be decided. Even if no violation actually occurred, for compliance and monitoring purposes, the speech revealed an intent to violate the Ordinance.

#### Failure to Notice Meetings as Meetings of the Correct Policy Body

This section requires that each policy body post notices of each of its meetings as a meeting of the policy body (and not some other policy body). It repeats a similar requirement in the Brown Act that applies to legislative bodies (and policy bodies through *S.F. Admin. Code* § 67.5 (first sentence)). See, *Cal. Gov't Code* §§ 54954.2(a)(1) and 54956(a). This requirement has been interpreted to mean that a committee of a legislative body may not hold a meeting attended by a majority of the members of its parent. An opinion of the California Attorney General, 79 *Ops. Cal. Atty. Gen.* 69, \*69, \*74 (6-10-1996), held that a majority of the members of a parent body may not attend a meeting of their committee, even as (partially) members of the public, because, if they did, the meeting would be a meeting of the parent body. We ask that the analogous requirement in the Sunshine Ordinance be interpreted as this requirement in the Brown Act is. This is because the two laws are *in pari materia*, which is to say that they deal with the same subject matter, and each should be interpreted with implicit reference to the other. The amendment to the Brown Act was only affirming a reasonable interpretation of the notice requirement, which is the same in both laws, with respect to the coverage of each law. If anything, the Sunshine Ordinance, lacking the allowance of attendance “as observers” prohibits even attendance of a majority of the members of the parent body at a meeting of a committee.

- On July 12, 2022, at 5:00 p.m., the Executive Committee of the BHC held a regular meeting. By 5:23 pm, attendance included the following ten people:

Bahlam Javier Vigil (*Commissioner and Committee Chair*)

Stephen Banuelos (*Commissioner and Committee Member*)  
Genesis Vasconez (*Commissioner and Committee Member*)  
Carletta Jackson-Lane (*Commissioner and Committee Member*)  
Lisa Williams (*Commissioner and Committee Member*)  
Lisa Wynn (*Commissioner*)  
Terezie Bohrer (*Commissioner*)  
Toni Parks (*Commissioner*)  
Kescha S. Mason (*Commissioner*)  
Harriette Stallworth Stevens (*Commissioner*)

Even by the dubious standard of the *Good Government Guide*, this was a “majority of the members” of the Behavioral Health Commission, which has 17 members “designated by law, rather than the number of seats actually filled.” Members of the Commission who were not members of the Executive Committee participated in the discussion, both during “public comment” and otherwise. It was therefore a meeting of the Commission. No notice was ever posted of a meeting of the Commission at this date and time. Therefore, this meeting was held without notice. We ask for a finding of willful noncompliance because we sent the Commission an email regarding the similar Brown Act limitation (which we have repeated on numerous occasions) shortly before the meeting, attached hereto as EXHIBIT 60, and they violated that, too.

*Failure to Issue Any Notice of a Meeting Inferred From Actions Taken at a Noticed Meeting*

This section also requires that each policy body post notices of all of its meetings. BHC and its committee in fact make decisions over email and at meetings without notice to the public. *S.F. Admin. Code* § 67.3(b)(3) defines “meeting” as including “Any . . . use of . . . communications media that could permit a majority of the members of a policy body to become aware of an item of business and the views or positions of other members with respect thereto, and to negotiate consensus thereupon.” The Commission and its committees violated this rule on the following dates in the following ways:

- At the May 10, 2022, regular meeting of the Implementation Committee, the agenda for which is attached hereto as EXHIBIT 15, the meeting proceeded despite the presence of only three members: Banuelos (committee chair), Mason, and Jackson-Lane. Co-Chair Vigil, though not a member of this committee, was present, and, according to the *Bylaws* that were in force at the time, attached as EXHIBIT \_\_, Art. VII, § 1, was an ex-officio voting member of all committees. However, the Commission’s parliamentary authority states that ex-officio voting members are counted towards neither quorum nor the quorum requirement. RONR (12<sup>th</sup> ed.) 50:16 (“When the bylaws provide that the president shall be ex officio member of all committees . . . the president . . . is not counted in determining the number required for a quorum or whether a quorum is present at a meeting.”). This committee was created in January of 2019 with six named members. I



informed them of the lack of quorum during public comment at the meeting immediately before Item No. 1.3, and they ignored me. (This was the first opportunity to give public comment at this meeting as Item Nos. 1.1 and 1.2 were “crossed out” during the meeting, 1.1 because the minutes had not been posted, 1.3 because it duplicated Item No. 2.5.)

The *Bylaws* then in force required standing committees (of which this was one) be established “after hearing the advice of the Executive Committee . . .” Art. IX, § 1.a.

Therefore, modification must require it, and none was given at an open and public meeting. Consequently, we presume that the Executive Committee advised the Chair regarding revising the size of the Implementation Committee down from six to five (quorum of four to quorum of three) at a meeting never announced to the public. *Cal. Evid. Code* § 664 (presumption that official duties are regularly carried out).

- At the May 10, 2022, regular meeting of the Executive Committee, the agenda of which is attached hereto as EXHIBIT 16, it was revealed that Commissioner Jackson-Lane had been added to the committee (see “COMMISSIONER’S [sic]:”). She was required by the *Bylaws* to have been “named by the Chair, following consultation with the Executive Committee. . . .” Art. VIII, § 1, but this consultation did not occur at any public meeting. Consequently, she must have been added at a meeting illegally not noticed to the public, in violation of this section.
- At the June 15, 2022, regular meeting of the Commission, Commissioner Klain was reported as an “Excused” absence. However, pursuant to *Bylaws*, Art. III, §§ 14 and 16, such excusal may be granted only by the BHC or its Executive Committee. Neither granted such excusal at any public meeting. *Cal. Evid. Code* § 664 entitles us to a presumption “that official duty has been regularly performed. . . .” and that the required excusal was in fact given. Consequently, it could only have been granted at a meeting which was never announced to the public, in violation of this section.
- At the July 12, 2022, meeting of the Implementation Committee, agenda attached hereto as EXHIBIT 62, Commissioner Bohrer gave a report on the status of the *ad hoc* Bylaws revision committee, under item 1.2, “Review the progress of the onetime bylaws non-public workgroup meeting.” The approval of the Executive Committee was required in order to create this *ad hoc* committee. *Bylaws*, Art. VIII, § 1, ¶ 4, attached hereto as EXHIBIT 29. Such approval did not appear on the agenda for any meeting of the Executive Committee and in fact did not occur at any public meeting. *Cal. Evid. Code* § 664 entitles us to a presumption “that official duty has been regularly performed. . . .” and that the required approval was in fact given. Consequently, it could only have occurred at a meeting which was never announced to the public, in violation of this section.
- The *ad hoc* committee to revise Bylaws met on Aug. 5, 2022, agenda attached as EXHIBIT 79. This agenda and meeting are cumulative evidence of the existence of this committee, which had never been created or approved at any meeting of the Commission, nor its other committees. Presumably, then, approval of its creation by the Co-Chair was given at an illegal secret meeting of the Executive Committee. *Bylaws* Art. VIII, § 1, ¶ 4 (requiring such). *Cal. Evid. Code* § 664 (official acts presumed regularly carried out).



However, other circumstances around the referral of *Bylaws* revision suggest that another violation also took place. The Commission had passed a defective motion at its May 18, 2022, meeting to refer the revision of its newly-adopted *Bylaws* top to bottom to an *ad hoc* committee, since it had naïvely passed them with *seriatim* consideration at neither at the committee nor the plenary levels. RONR (12<sup>th</sup> ed.) 57:6 (“**Procedure of Consideration.** A revision of bylaws . . . should be considered seriatim . . .”). This, the Commission had not the authority to do, since only the Co-Chairs have the power to create these, but the chair did not rule the motion out of order, and it stands until challenged by a member. Since this motion failed to create the committee to which the referral was to refer, the question may be asked what effect, if any, did it have? Since the motion at least specified a subject matter for referral, we think that the preclusive effects of the referral are the only effects it may have, i.e., no further discussion, nor any action regarding that matter may thenceforth proceed. RONR (12<sup>th</sup> ed.) 36:2 (“So long as a question is in the hands of a committee, the assembly cannot consider another motion involving practically the same question.”). The Commission never passed a complete motion to create this committee, nor had it passed a motion to *Rescind or Amend Something Previously Adopted*, nor had it passed a motion to *Discharge a Committee*. Consequently, we are justified in assuming that an action to *Rescind* or *Discharge a Committee*, or else a *Point of Order* raised against the referral, occurred at an illegal, secret meeting of the Commission, in order to clear the way for creation of the committee by the Co-Chair, for approval by the Executive Committee, also at an illegal, secret meeting, as previously described.

- At the Aug. 5, 2022, meeting of the *ad hoc* committee to propose an annual report, the agenda thereof attached as EXHIBIT 78, the meeting was set to end at 4:00 p.m., an hour after it started. This was not specified in the motion that created the committee, and the meeting in fact ended at this time, regardless of the fact that the agenda was not even close to having been exhausted, and without a motion or a vote. Consequently, an instruction to this committee to end at 4:00 p.m. must have been passed by the Commission (which actually created this committee, in violation of *Bylaws*), or its executive committee, which, by *Bylaws*, was supposed to have given approval to the creation of this committee. However, no such instruction had been given at any open and public meetings thereof. Consequently, it must have been given at a closed and secret meeting.
- At the Aug. 12 meeting of the *ad hoc* committee to revise the *Bylaws*, agenda attached hereto as EXHIBIT 85, it was disclosed by staff that Commissioner Wynn had been added to the committee. This addition changed the size of the committee from three to four. It is presumed that this change in size had been approved by the Executive Committee. *Bylaws* Art. VIII, § 1, ¶ 4 (requiring ExCom approval of creation of *ad hoc* committees). *Cal. Evid. Code* § 664 (official duties presumed to be regularly carried out). Of course, approval of a committee of size three would be pointless if one could then change the size to four later on without approval, so the ExCom must have approved

the change. RONR (12<sup>th</sup> ed.) 13:8(c) (“**Necessary Details of the Motion.**” “the motion [to *Commit or Refer* to an *ad hoc* committee] should specify the number of committee members, and the method of their selection . . . or, if preferred, the motion can name the members of the special committee. . .”). However, this did not occur at any public meeting of the ExCom, because I attended all of them. It had to have occurred at a secret meeting held during the week prior to Aug. 12, 2022. (It is also questionable whether this committee was created with the power of the chair to make appointments to it—all committees created on the public record since May 2018 had their members named in the acts creating them, but this must be assumed or else the secret meeting also determined appointments.) It had been announced by Vigil at the July 20 meeting of the Commission, Item 3.4, that the members were Bohrer, Murawski, Wynn, but Vigil he was not sure and referred to an email he said he had sent out. However, at the Aug. 5 and 12 meetings of this *ad hoc* committee, Mason was treated as a member. At the Aug. 5 meeting, this committee was said to have consisted of: Bohrer, Muawski and Mason, i.e., three members, with a quorum of two. At the Aug. 12 meeting: Bohrer, Murawski, Mason, and Wynn, i.e., four members, with a quorum of three.

- \* At the Aug. 12 regular meeting of the *ad hoc* committee to revise *Bylaws*, it was moved and approved that the committee would meet further on Thurs., Aug. 18 and Thurs., Aug. 25. However out of order these motions may have been, they stood until challenged, and they were not challenged at this or any other meeting open to the public. However, as of this letter no notice has been posted of the Aug. 18 meeting on the website. Either a secret meeting, closed to the public, was held and the Aug. 12 motion rescinded or challenged there, or else the Aug. 18 meeting will be held without the required notice. If the Aug. 18 meeting is noticed very late and held, the committee will still not have broken the law if the committee chair immediately rules everything on the agenda for the meeting out of order for violation of the notice requirements. However, we think this is unlikely. We opt for the secret meeting explanation. The Commission typically does its business in this fundamentally dishonest way. Doing their real business behind closed doors in this fashion gives them an out whereby they never have to account for what they do there. They will never have to account for why they didn’t hold the Aug. 18 meeting as planned. They may give some explanation during debate or a “Chair’s report” during some other meeting, but it will be *obiter dicta* and deniable. The public is due an act performed at the meeting which is to be cancelled. The chair needs to open the meeting and then *rule everything on the agenda out of order*, giving a *reason* for doing so, which must be accurately recorded in the minutes. “[T]he inability to transact business [at a regular or properly called meeting] does not detract from the fact that the society’s rules requiring the meeting to be held were complied with and the meeting was convened—even though it had to adjourn immediately.” RONR (12<sup>th</sup> ed.) 40:6 (sq. brackets added). The pain of immediate adjournment will also cement the importance of meeting all legal requirements before posting an agenda, without the necessity of enforcement. If the reason for immediate adjournment is because the meeting is being held in violation of

[illegible]

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scheduled for Sept. 13 was not discussed or referred in any other public meeting. The item was neither introduced nor put on the agenda for this meeting at any previous meeting of the Commission. It is to be presumed that a motion to put this item on the agenda was made and carried somewhere, because to do otherwise would contradict a fundamental principle of parliamentary law, that the commission "is a free agent - free to do what it wants to do with the greatest measure of protection to itself and of the consideration for the rights of its members." RONR (12<sup>th</sup> ed.) p. 1. Putting a presentation on the agenda without a motion violates the rights of its members, who then are required to sit through it. Absences from meetings are carefully monitored and punishable by removal from the Commission. S.F. Admin. Code § 13.13(d). Commissioners may raise a *Point of Order* which should be well-taken against such an usurpation. Indeed, one raised against the Executive Committee scheduling a presentation on their behalf should be well-taken, because their delegation of this power to them violates the fundamental principle mentioned. Anyway, the fact that neither the Executive Committee nor the Commission raised this issue at any public meeting means that it must have been conducted behind the public's back in violation of this section.

- At the Oct. 11 meeting of the Executive Committee without quorum, members Jackson-Lund, Munger, and Vial all declared to have been excused for their absences. However, bylaws require such excuses to be granted by the Executive Committee or the Commission (it is not clear which). None were granted by either body at any public meeting. These excuses were either given in a meeting private, in violation of this section.
- At the Oct. 19, 2022, meeting, the 2022 annual report was discussed and both Jackson-Lund and Vial were granted excused absences. Jackson-Lund previously requested and had been granted, and had a policy excuse granted for absence allowed by bylaws. Therefore, this was a clear violation of the bylaws required and the annual report was not discussed at the meeting. Both grants must have occurred at a meeting of one of these bodies if, in fact, valid, in violation of this section.

### **Item No. 3: "67.7(b) by failing to provide a clear description of the matters;"**

S.F. Admin. Code § 67.7(b) provides as follows, in relevant part (ellipses added): "*The description . . . shall refer to any explanatory documents that have been provided to the policy body in connection with an agenda item, such as correspondence or reports . . .*"

### **Failure to Reference Correspondence or Reports Distributed to a Majority of the Members of the Policy Body on the Agenda for the Meeting at Which They Are to Be Discussed or Acted Upon**

I commonly send email correspondence to the Commission in advance of the notice for the meeting. When I do so, I usually request that they reference the correspondence in the



meaningful description of the item in the notice for the meeting. As of yet, after years of this practice, they continue to refuse to do so, giving no explanation for their refusal. Even material provided by other people is not so referenced.

- At the regular meetings of the Site Visit and Implementation Committees on May 10, 2022, agendas attached hereto as EXHIBITS 14 and 15, it was anticipated that the minutes for the Apr. 12 meetings of these committees would be discussed. Consequently, I sent correspondence to the Commission regarding these items, attached hereto as EXHIBITS 5 and 6, in advance of their posting of the agendas for these meetings. The Commission subsequently posted the agendas for these meetings, attached hereto as EXHIBIT 40 and 41 without referencing this correspondence. Item No. 1.2 on the Site Visit Committee agenda. Item No. 1.1 on the Implementation Committee agenda. It is to be remarked that, though a file labeled “April 12, 2022 – Site Visit Committee Meeting” appeared on the website under “2022 Minutes,” when I downloaded this file on May 6, 2022, it contained minutes for the March 9 meeting of this committee. Consequently, approval of these minutes had to be delayed until the June meeting, upon the agenda for which, attached hereto as EXHIBIT 39, it also appears as Item No. 1.2.
- At the regular meetings of the Executive Committee on May 10, 2022, agenda attached hereto as EXHIBIT 16, it was anticipated that the minutes for the Apr. 12 meetings of this committee would be discussed. Consequently, I sent correspondence to the Commission regarding this item, attached hereto as EXHIBIT 7, in advance of their posting of the agenda for this meeting. As a result, the Commission left an item for approval of the minutes of the Apr. 12 meeting of this committee of of their May 10 agenda, attached hereto as EXHIBIT 16. We note that failing to post a draft agenda violates *S.F. Admin. Code* § 8.16, which is outside of the SOTF’s jurisdiction, but failing to reference correspondence related to it on an agenda for an upcoming meeting is not. Action to cover up evidence of an illegality is admissible as evidence that the illegality occurred. The agenda for the June 7 meeting of this committee, attached hereto as EXHIBIT 42 includes an item, Item No. 2.1, for approval of these minutes without referencing this attachment, in violation of this section. This is “temporization,” i.e., the delaying of commitment of a violation in the hope that the delay will prevent notice of thereof.
- At the regular meeting of the Executive Committee on May 10, 2022, the agenda for which attached hereto as EXHIBIT 16, a motion was passed during Item No. 2.3, “Vote to move complete consolidated resolution, authored by Co-Chair Vigil and Liza Murawski (a member of the public) previously viewed and voted on. A carry over from the April 20, 2022 meeting [action item]” This item made no reference to a document that was included with the agenda, containing the text of the motion. Moreover, there were three other such documents appended to the agenda, only two of which were traceable to other items thereon. The text of this

item was not sufficient to identify to which of the remaining two resolutions it related. Furthermore, the inclusion of the word “consolidated” suggested that both such items were intended. In fact, only the second one was. We ask for a finding of willful noncompliance, because I informed them of this problem via email in advance of the meeting, attached hereto as EXHIBIT 12, and they proceeded to act on it anyway. Consequently, those on the committee knew what was happening, but the public did not. They could have handled the situation by amending the “compound” resolution by deleting the first part.

- In the agenda for the regular meeting of the Commission on May 18, 2022, attached hereto as EXHIBIT 32, under Item 3.1, the Commission failed to reference correspondence I had sent to them for distribution to all Commissioners in reference to this item, attached hereto as EXHIBITS 19 and 20. They also failed to reference correspondence I had submitted in reference to Item No. 3.4, attached hereto as EXHIBITS 21, 22, 23, 24, 25, and 26. In EXHIBITS 23, 24, 25, and 26, I asked expressly for such reference, citing this section in support. Consequently, we request a finding of willful noncompliance. The Commission also failed to reference correspondence I had submitted into both of the above items, Item Nos. 3.3, 5.1, 5.2, and 6.0, as well as all of the items on the agenda, attached hereto as EXHIBIT 27.
- The agenda for the regular meeting of the Implementation Committee held on June 7, 2022, attached hereto as EXHIBIT 15, makes mention of approval of the minutes of the previous meeting under item no. 1.1. During the discussion of this item, it was disclosed that staff (Grier) had “distributed a template” of how the minutes should be written. This item was required to reference the template in the agenda. (This meeting proceeded without a quorum, so no actual violation occurred, but the committee mistakenly thought it had quorum, and so, for compliance monitoring purposes, the proceedings are an example of what the committee thought it could legally do if it had quorum.)
- The regular meeting of the Commission to be held on June 15, agenda attached hereto as EXHIBIT 43, contains no reference to our correspondence attached hereto as EXHIBIT 50, which was relevant to Item No. 3.1, approval of minutes, despite our requesting the reference and citing this section in the first paragraph. We therefore request a finding of willful noncompliance.
- The regular meeting of the Executive Committee to be held on July 12, agenda attached hereto as EXHIBIT 41, Item No. 2.3, contains no reference to our correspondence of July 2, attached hereto as EXHIBIT 56, nor our postscript sent the same date, attached hereto as EXHIBIT 57, despite our request for such a reference in the first paragraph of the letter, and our citation of this section. Consequently, we request a finding of willful noncompliance. The regular meeting of the Executive Committee to be held on July 12, agenda attached hereto as EXHIBIT 63, Item No. 2.5, contains no reference to our correspondence of June 17, attached hereto as EXHIBIT 47, nor our correspondence and postscript of July 8, attached hereto as EXHIBITS 59 and 60, in violation of this section.

- The regular meeting of the Executive Committee to be held on July 12, agenda attached hereto as EXHIBIT 63, Item No. 2.8, contains a reference to neither our correspondence of June 30, attached hereto as EXHIBIT 54, nor our postscript of July 1, attached hereto as EXHIBIT 55, despite our request for such a reference in the first paragraph of the letter, citing this section. We therefore request a finding of willful noncompliance.
- Well in advance of the posting of the agenda for the regular meeting of the Commission on July 20, 2022, attached hereto as EXHIBIT 72, I sent the Commission correspondence relevant to one of the items anticipated to be transacted at the meeting, i.e. a motion to end meetings of the Commission at 8:00 p.m., attached hereto as EXHIBITS 66-68. The issue of time-limiting the meetings of the Commission had been discussed at the meeting of the Executive Committee the previous week as Item No. 1.5. No formal motion had been made to put it on the Commission agenda, but this was true of everything on the ExCom agenda (all action items were “downgraded” to “for discussion only” in order to escape criminal Brown Act violations, see Item No. 1, *supra*), many of which ended up on the agenda for the Commission meeting. E.g., Item No. 2.6 on the ExCom agenda became Item No. 3.5 on the Commission agenda; Item No. 2.7 on the ExCom agenda, also Item No. 2.4 on the Impl. Com. agenda, became Item No. 3.3 on the Commission agenda; Item No. 2.4 on the ExCom agenda, also Item No. 2.3 on the Impl. Com. agenda, became Item No. 3.2 on the Commission agenda; Item No. 1.2 on the Impl. Com. agenda became Item No. 3.4 on the Commission agenda. The discussion had been favorable and I expected to see it on the Commission agenda. The item was dropped from the agenda because of the need to reference my correspondence, as evidenced by the Co-Chair Banuelos’s attempt to add it back in during “agenda changes.” See Item No. 1, *supra*. No actual violation occurred, but, for compliance and monitoring purposes, it shows law-avoiding activity involving an attempt to discuss a matter without notice on the agenda, which matter did not meet any of the exemptions therefrom.
- At the Aug. 5, 2022, meeting of the *ad hoc* committee to compose an annual report, agenda attached as EXHIBIT 78, Commissioner Stevens disclosed she had created a markup copy of one of the annual reports. Commissioner Murawski objected that it should have been attached to the agenda. Commissioner Stevens stated that she did not want it to be made public. It should have been referenced on the agenda.  
At the meeting of the *ad hoc* committee to revise the *Bylaws* held on Aug. 5, 2022, it was announced that a copy of the *Bylaws* marked up by counsel had been distributed among the members. The *ad hoc* committee for the revision of *Bylaws* was originally formed at the May 2022 meeting of the Commission. (This action was null and void, but so are absolutely all of the acts of the Commission, many times over, due to the Commission’s very lax compliance with open meetings requirements, other governing laws, rules of order, and even their own *Bylaws*, of which only the very few violations addressed by the SOTF are described here. This particular action was also defective because it failed to name the initial members of the committee, nor state its size and how the members would be appointed, such that it would be impossible to determine a quorum or whether the

committee had even met! The rules of order state that no other action can take place until these details are filled in, RONR (12<sup>th</sup> ed.) 13:11, but Commissioners heartily scoff at these, to say nothing of all other laws, and hardly feel that it is worth their time to even glance at them. The status of this committee, and whether it even needs to be discharged, is very much in doubt.) At this time, it was announced that the purpose of the committee was to go over a copy of the *Bylaws* that the author of this report had marked up. Agenda item 3.2, "**Review attached By-Laws [sic] and sample markups: . . .**" did not make reference to either of these documents in distinction to the other one. The public needs to know that there are multiple documents, if there are, and how many, and what each document is, so that they can know that they have copies of all of them, one way or another. The situation is exacerbated by the inclusion of unmarked bylaws with the agenda for the meeting, and a lot of other extraneous material, such as the objectives of the Commission, the strategic plan, and a draft meeting schedule for the Commission and its standing committees.

- Prior to the posting of the agenda for the Sept. 11, 2022, meeting of the ad hoc committee for the reformulation of *Bylaws*, attached hereto as EXHIBIT 1, I sent the clerk an email for distribution to the committee, relating to an item anticipated to be transacted or discussed at its next meeting, citing this section and asking that it be referenced on the agenda. As I requested from the author, I did not request a finding of noncompliance because I cited the section and specifically asked for compliance, and was refused.
- On Sept. 11, 2022, at 5:20 p.m., well in advance of the posting of the agenda for the Sept. 11, 2022, meeting, I sent the clerk an email for distribution to the committee, EXHIBIT 1, citing this section and requesting that the relevant item on the agenda be amended to make reference to this item. I requested a finding of noncompliance because I cited this section and asked for specific compliance, and was refused.
- On Sept. 11, 2022, at 4:34 and 4:41 p.m., and on Sept. 12, 2022, at 11:24 a.m. and Sept. 13, 2022, well in advance of the deadline for posting the notice for the Sept. 13, 2022, meeting, I sent the ad hoc committee to revise the agenda. I requested a finding of noncompliance, attached hereto as EXHIBITS 192, 193, 194, and 195, relating to each of the items anticipated to be discussed at the following meeting, but not included on the agenda. I requested a finding of noncompliance because I cited the relevant section of the RONR (12<sup>th</sup> ed.) and specifically asked for compliance, and was refused. I also requested a finding of noncompliance because I cited the relevant section of the RONR (12<sup>th</sup> ed.) and specifically asked for compliance, and was refused.



- On Sept. 22, 2022, well in advance of the deadline for posting the minutes for the Oct. 19, 2022, meeting of the Commission, I sent an email to the Commission, attached hereto as EXHIBIT 107, relevant to an item anticipated to be discussed at the Oct. 19 meeting, namely, the minutes for the June meeting of the Commission, which had not yet been approved, and the approval of which had been postponed from the July meeting but not even agendaized, far less approved, at the September meeting. The item for approval of the June minutes on the agenda for the Oct. 19, meeting, attached hereto as EXHIBIT 92, made no reference to this email correspondence, in violation of this canon. We request a finding of willful noncompliance, because the email cited this section and specifically described and requested this compliance.
- On Oct. 1, 2022, well in advance of the deadline for posting the agenda for the Oct. 7, 2022, meeting of the *ad hoc* committee to compose an annual report, I sent an email relevant to an item anticipated to be discussed at the next meeting of the committee, attached hereto as EXHIBIT 108, re: the approval of the minutes of the Sept. 23, 2022, meeting of the committee, which had been discussed at the Sept. 20, 2022, meeting of the committee but no action had been proposed to be taken, because of a question as to whether it was necessary to report the votes of each member of the committee present for the approval of those minutes. At the Sept. 23, 2022, meeting, I also sent the email to staff and to the chair of the committee, but they did not refer to it in any way to the committee. Nevertheless, it was, in some sense, "provided to the public" by being e-mailed, well in advance, and referenced that it had been approved in the agenda for the next meeting of the committee, attached hereto as EXHIBIT 109. Such reference appears to be a violation of this section.
- On Oct. 7, 2022, at 9:31 a.m., well in advance of the posting deadline for the agenda for the Oct. 19, 2022, meeting of the Commission, I sent an email to the Commission, attached hereto as EXHIBIT 110, relevant to the agenda item for the Oct. 19, 2022, meeting of the Commission, attached hereto as EXHIBIT 111, re: the status of the Board of the Ad Hoc Committee, attached hereto as EXHIBIT 112 (action item). This email was sent to the Commission, attached hereto as EXHIBIT 113, and was not posted to the agenda for the Oct. 19, 2022, meeting of the Commission, attached hereto as EXHIBIT 114, in violation of this section.

**Item No. 4: "67.7(b) by failing to post supporting documents on-line or make them available as soon as they are available;"**

*In relevant part, S.F. Admin. Code § 67.7(b) states as follows (sq. brackets added):*  
***"[Explanatory] documents shall be posted adjacent to the agenda or, if such documents are of more than one page in length, made available for public inspection and copying at a location indicated on the agenda during normal office hours."***



The provision of this section requiring posting of documents deals only with documents of one page in length. These are to be posted "adjacent to" the agenda. The language strongly suggests that these documents are to be posted physically next to the agenda on a bulletin board. Here in San Francisco, with over 150 local government boards and commissions, we have too many local bodies to post their notices of meetings on a bulletin board. They are instead kept in a binder at the Government Information Center of the Public Library. By contrast, posting on the Commission's web page is addressed by section 67.9(a). While some of the documents we have submitted relevant to items on agendas for the PUC may have been one page in length, and we often check to make sure that physical notices of meetings are posted at the Public Library, we have not checked these postings to see whether they have included the one-page correspondence sent relevant to items on the agenda. While we are inclined to think that they are not because BPL sends the notices to the Public Library via email, they send the same document that they post on the website and send out to the Commissioners, and they have not included any correspondence in the notices that they post on the website, we are inclined

to think that this provision of the Act was for documents of one page in length.

It is rare that I have correspondence for distribution that is longer than one page in length, in which case it may be posted adjacent to the agenda, but it has happened on a few occasions.

- On October 18, 2022, I sent an email to the PUC staff with a document titled "PUC Staff Meeting Agenda for October 18, 2022" which included a one-page document titled "PUC Staff Meeting Agenda for October 18, 2022" which included a one-page document titled "PUC Staff Meeting Agenda for October 18, 2022".
- On October 18, 2022, I sent an email to the PUC staff with a document titled "PUC Staff Meeting Agenda for October 18, 2022" which included a one-page document titled "PUC Staff Meeting Agenda for October 18, 2022" which included a one-page document titled "PUC Staff Meeting Agenda for October 18, 2022".
- On October 18, 2022, I sent an email to the PUC staff with a document titled "PUC Staff Meeting Agenda for October 18, 2022" which included a one-page document titled "PUC Staff Meeting Agenda for October 18, 2022" which included a one-page document titled "PUC Staff Meeting Agenda for October 18, 2022".

**Item No. 5: "67.7(g) by failing to include notices of rights under the Sunshine Ordinance on the agenda;"**

BHC has complied with this provision.

**Item No. 6: "67.9(a) by failing to post supplementary documents for the meeting on the internet;"**

S.F. Admin. Code § 67.9(a) states as follows, in full (sq. brackets added): *"Agendas of meetings and any other documents on file with the clerk of the policy body, when intended for distribution to all, or a majority of all, of the members of a policy body in connection with a matter anticipated for discussion or consideration at a public meeting shall be made available to the public. To the extent possible, such documents shall be made available through the policy body's Internet site [sic]. However, this disclosure need not include any material exempt from public disclosure under this ordinance."*

We frequently send email correspondence to BHC regarding items anticipated to be discussed or actually appearing on a published agenda before a meeting, and they have never once posted any of it on their website, whether with their meeting notices (when timely received) or otherwise.

- On Apr. 16 and 20, 2022, we sent correspondence relevant to Item Nos. 3.5 and 4.0, anticipated to be discussed the Apr. 20, 2022, regular meeting of the Commission, both attached hereto as EXHIBIT 3, and they were never posted on the Commission's website.
- On Apr. 20, we sent correspondence relevant to both of the items shown under Item No. 3.2 on the agenda for the Apr. 20, 2022, meeting of the Commission, attached hereto as EXHIBIT 4, and these were never posted on the Commission's website.
- On May 6, we sent correspondence relevant to items anticipated to be discussed on the agendas of the Site Visit and Implementation Committees on May 12, 2022, attached hereto as EXHIBITS 5 and 6, and the Commission never posted them on their website.



- Also on May 6, we sent correspondence related to an item anticipated to be discussed at the May 12 meeting of the Executive Committee, attached hereto as EXHIBIT 7, and the Commission never posted it on their website.
- On May 9, we sent correspondence relevant to items anticipated to be discussed at the Executive Committee on May 10, 2022, attached hereto as EXHIBIT 8, and the Commission never posted it on their website.
- Also on May 9, we sent correspondence relevant to items anticipated to be discussed at the meeting of the Site Visit Committee on May 10, 2022, attached hereto as EXHIBIT 9, and the Commission never posted it on their website.
- Also on May 9, we sent correspondence relevant to an item anticipated to be discussed at the same meeting as the last item, attached hereto as EXHIBIT 10, and the Commission never posted it on their website.
- Also on May 9, we sent correspondence relevant to items anticipated to be discussed at the meeting of the Implementation Committee on May 10, 2022, attached hereto as EXHIBIT 11, and the Commission never posted it on their website. In the second sentence of this email, we referenced this section and informed them of the requirement that they post it on their website "to the extent possible." Consequently, we ask for a finding of willful noncompliance.
- Also on May 9, we sent correspondence relevant to items anticipated to be discussed at the meeting of the Executive Committee on May 10, attached hereto as EXHIBIT 12, and the Commission never posted it on their website. In the first sentence of this email, we referenced this section and informed them of the requirement that they post it on their website. They subsequently failed to do so, and they did not rule the items we had referenced out of order, and so we ask for a finding of willful noncompliance.
- Also on May 9, we sent correspondence relevant to all items anticipated to be discussed at the meeting of the Implementation Committee on May 10, attached hereto as EXHIBIT 13, and the Commission never posted it on their website.
- After the committee meetings on May 10, we sent out correspondence relevant to all action items at future meetings, attached hereto as EXHIBIT 17, and the Commission never posted it on their website.
- Also on May 10, we sent out correspondence relevant to the all action items at future meetings, attached hereto as EXHIBIT 18, and the Commission never posted it on their website.
- On May 11, we sent out correspondence relevant to the minutes anticipated to be discussed at the May 18 meeting of the Commission, attached hereto as EXHIBIT 19, and the Commission never posted it on their website, despite our request that they do so.
- Also on May 11, we sent out correspondence relevant to the proposed *Bylaws* anticipated to be discussed at the May 18 meeting of the Commission, attached

- hereto as EXHIBITS 20 and 21, and the Commission never posted them on their website, in violation of this section.
- On May 12, we sent out correspondence relevant to the proposed *Bylaws* anticipated to be discussed at the May 18 meeting of the Commission, attached hereto as EXHIBITS 23, 24, and 25, and the Commission never posted it on their website, in violation of this section. All three pieces cited this section and requested posting in the first paragraph, and we request a finding of willful violation.
  - On May 13, we sent out correspondence relevant to the proposed *Bylaws* anticipated to be discussed at the May 18 meeting of the Commission, attached hereto as EXHIBIT 26, and the Commission never posted it on their website, in violation of this section. This correspondence cited this section and requested posting in the first paragraph, and we request a finding of willful violation.
  - On May 15, we sent two pieces of correspondence relevant to various items and the proposed April minutes anticipated to be discussed under Item No. 3.1 at the May 18 meeting of the Commission, attached hereto as EXHIBITS 27 and 28, and the Commission never posted it on their website, in violation of this section. The latter correspondence cited this section and requested posting in the first paragraph, and we request a finding of willful violation.
  - On May 16, we sent correspondence relevant to the proposed *Bylaws* anticipated to be discussed at the May 18 meeting of the Commission under Item No. 3.4, attached hereto as EXHIBIT 29, and the Commission never posted it on their website, in violation of this section.
  - On May 17, we sent correspondence relevant to the proposed *Bylaws* anticipated to be discussed under Item No. 3.4 at the May 18 meeting of the Commission, attached hereto as EXHIBITS 30 and 31, and the Commission never posted them on their website, in violation of this section. In the first paragraph of the first of these correspondences, we requested such posting, citing this section, and request a finding of willful violation.
  - On May 18, we sent correspondence relevant to all action items at all meetings, attached hereto as EXHIBIT 33, and the Commission never posted it on their website, in violation of this section.
  - On May 19, we sent two pieces of correspondence, both relevant to all action items at all meetings, attached hereto as EXHIBITS 34 and 35, and the Commission never posted them on their website, in violation of this section.
  - On May 31, we sent correspondence relevant to the formation of an *ad hoc* committee to revise *Bylaws*, anticipated to be discussed at the subsequent meeting of the Executive Committee, attached hereto as EXHIBIT 36, and the Commission never posted it on their website, in violation of this section.
  - On June 7, we sent correspondence regarding various matters anticipated to be discussed at all three of the committee meetings scheduled for this day, attached



hereto as EXHIBIT 37, and the committee never posted it to the Commission website, in violation of this section.

- Also on June 7, we sent correspondence regarding the minutes, Item No. 1.2 on the agenda for the Site Visit Committee to be approved that day, attached hereto as EXHIBIT 38, and the committee never posted it to the Commission website, in violation of this section.
- On June 9, we received fulfillment of a public records request by the Commission regarding an email from Commissioner Murawski that was relevant to an item distributed to the members of the Commission and anticipated to be discussed at the June 7 meeting of the Implementation Committee, Item No. 1.3, attached hereto, with my reply, as EXHIBIT 42, and the committee never posted it to the Commission website, in violation of this section.
- On June 15, we sent correspondence to the Commission regarding all action items anticipated to be discussed by any body, as well as adjournments, attached hereto as EXHIBIT 46, and the Commission never posted it on their website, in violation of this section.
- On June 17, we sent correspondence to the Commission regarding the MHSA public hearing anticipated to be discussed at the July 12 meeting of the Executive Committee and the July 20 meeting of the Commission, attached hereto as EXHIBIT 47, and the Commission never posted it on their website, in violation of this section.
- On June 22, we sent correspondence to the Commission regarding all anticipated action items of any body, a copy of which is attached hereto as EXHIBITS 46 and 47, and the Commission never posted them on their website, in violation of this section.
- On the same day, we sent correspondence to the Commission regarding the minutes to be passed by the Commission at its July meeting, a copy of which is attached hereto as EXHIBIT 50, and the Commission never posted it on their website, in violation of this section. We asked for it to be posted and cited this section in the first paragraph, and so we request a finding of willful violation.
- On the same day, we sent correspondence to the Commission regarding all items at all meetings of any policy body of the Commission, including itself, a copy of which is attached hereto as EXHIBIT 51. The Commission never posted it to their website, despite our request that they do in the first paragraph, and in violation of the law.
- On the same day, we sent correspondence to the Commission regarding all items of business at all meetings of any policy body of the Commission, including itself, a copy of which is attached hereto as EXHIBIT 52. The Commission never posted it to their website, despite our request that they do in the first paragraph, and in violation of the law.

- On June 27, we sent correspondence to the Commission regarding all items of business at all meetings of any policy body of the Commission, including itself, a copy of which is attached hereto as EXHIBIT 53. The Commission never posted it to their website, in violation of the law.
- On June 30, we sent correspondence to the Commission regarding a motion anticipated to be discussed by the Executive Committee and the Commission, attached hereto as EXHIBIT 54. The Commission never posted it to their website, despite our request that they do so and our citation of this section in the first paragraph, in violation of the law. We request a finding of willful noncompliance, therefor.
- On July 1, we sent a postscript to the previous letter, attached hereto as EXHIBIT 55. The Commission never posted it to their website, in violation of the law.
- On July 2, we sent correspondence and a postscript to the Commission regarding a matter anticipated to be discussed by the Executive Committee, attached hereto as EXHIBITS 54 and 55. The Commission never posted them on their website, despite our request that they do so and our citation of the law in the first paragraph of the letter. We request a finding of willful noncompliance therefor.
- On July 8, we sent correspondence and a postscript to the Commission regarding a matter anticipated to be discussed by the Executive Committee, attached hereto as EXHIBITS 59 and 60. The Commission never posted them on their website, in violation of this section.
- On July 12, we sent correspondence to the Commission regarding all matters anticipated to be discussed at the three committee meetings that day, attached hereto as EXHIBIT 60. The Commission never posted it on its website, in violation of this section.
- On July 13, we sent correspondence to the Commission, one item regarding all matters anticipated to be discussed at any meeting of any body of the Commission and three others regarding a specific matter anticipated to be discussed at the July 20 regular meeting of the Commission, attached hereto as EXHIBITS 66, 67, 68 and 69, resp. The Commission never posted these on its website, in violation of this section.
- On July 16, we sent correspondence and a postscript to the Commission regarding various matters anticipated to be discussed at the regular meeting of the Commission at the regular meeting on July 20, attached hereto as EXHIBITS 70 and 71. The Commission never posted these on its website, in violation of this section.
- On July 20, we sent another postscript to the messages described in the previous paragraph and a message regarding a matter anticipated to be discussed at all meetings of the Commission and its committees, attached hereto as EXHIBITS 72 and 74. The Commission never posted these on its website, in violation of this section.

- On July 21, we sent two additional postscripts to the second of the two messages described in the previous paragraph, attached hereto as EXHIBITS 75 and 76. The Commission never posted these on its website, in violation of this section.
- On Aug. 1, we sent correspondence regarding everything anticipated to be transacted or discussed at the meeting to be held that day, attached hereto as EXHIBIT 77. The Commission never posted these on its website, in violation of this section.
- On Aug. 5, during the meeting of this committee and at the acting committee chair's request, we sent two pieces of correspondence regarding all items to be transacted or discussed at the 4:00 pm meeting of the *ad hoc* committee on the revision of *Bylaws*. The Commission never posted these on its website, in violation of this section.
- On Aug. 12, we sent correspondence regarding all items to be transacted or discussed at the committee meetings to be held that day. The Commission never posted these on its website, in violation of this section.
- The *ad hoc* committee for the revision of *Bylaws* was originally formed at the May 18, 2022, meeting of the Commission. (Although the action was null and void for a plethora of reasons, it stands until discharged or revised by the Commission or challenged by a member. See comments on Aug. 5 meeting under Item No. 3 for further discussion.) At this time, it was announced during debate that the purpose of the committee was to go over a copy of the *Bylaws* that the author of this report had marked up. This copy was not included in the agenda or otherwise posted on the Commission website in advance of the first meeting of the committee on Aug. 5, 2022, at 4:00 p.m., in violation of this section.
- At the regular meeting of the Implementation Committee on June 7, 2022, agenda attached hereto as EXHIBIT 40, during the discussion of Item No. 1.1, "Vote to adopt May 10, 2022 minutes [action item]," it was disclosed that staff had "distributed a template" regarding how the minutes should be written. This was required to be posted on the BHC website "to the extent possible," was not. Also, during Item No. 1.3, "Vote to appoint a Chair for the onetime bylaws non-public workgroup meeting – [action item]," it was disclosed that Commissioner Murawski, not then a member of the committee, had sent email for distribution to the members of this committee regarding this matter anticipated to be discussed by the committee under this item. This email, attached hereto as EXHIBIT 42, was neither posted on the Commission's website. (This meeting proceeded without a quorum, so no actual violations occurred, but the committee mistakenly thought it had quorum, and so, for compliance monitoring purposes, the proceedings are an example of what the committee thought it could legally do if it had quorum.)
- At the July 20, 2022, meeting of the Commission, agenda attached hereto as EXHIBIT 72, they failed to post on the website correspondence I sent them

- At the Aug. 5, 2022, meeting of the *ad hoc* committee to compose an annual report, agenda attached as EXHIBIT 78, Commissioner Stevens disclosed that she had created a markup copy of one of the annual reports. Commissioner Murawski objected that it should have been attached to the agenda. Commissioner Stevens stated that she did not want it to be made public. It should have been attached to the agenda of otherwise posted on the Commission website.
- At the meeting of the *ad hoc* committee for the revision of *Bylaws* held on Aug. 5, 2022, at 4:00 p.m., it was revealed that a copy of the *Bylaws* that had been marked up by Commission counsel had been circulated among the members, but none was included in the agenda for the meeting or otherwise posted on the Commission website in advance of the meeting.

\* In advance of the meeting of the *Public Committee* in the revision of *History 12* to be held on Sept. 1st, 1909, I sent correspondence to the clerk for distribution to the Committee, & to the *Board* and to be discussed at the meeting, and she did not post them in their proper place, & I left a finding of fault & noncompliance because I stated that I had been told that I had changed this section and they had not done so.

[illegible]

\* *Chrysomelidae*: 20445 = 100% (100%); 20000 = 98% (98%); 19995 = 97% (97%); 19990 = 96% (96%); 19985 = 95% (95%); 19980 = 94% (94%); 19975 = 93% (93%); 19970 = 92% (92%); 19965 = 91% (91%); 19960 = 90% (90%); 19955 = 89% (89%); 19950 = 88% (88%); 19945 = 87% (87%); 19940 = 86% (86%); 19935 = 85% (85%); 19930 = 84% (84%); 19925 = 83% (83%); 19920 = 82% (82%); 19915 = 81% (81%); 19910 = 80% (80%); 19905 = 79% (79%); 19900 = 78% (78%); 19895 = 77% (77%); 19890 = 76% (76%); 19885 = 75% (75%); 19880 = 74% (74%); 19875 = 73% (73%); 19870 = 72% (72%); 19865 = 71% (71%); 19860 = 70% (70%); 19855 = 69% (69%); 19850 = 68% (68%); 19845 = 67% (67%); 19840 = 66% (66%); 19835 = 65% (65%); 19830 = 64% (64%); 19825 = 63% (63%); 19820 = 62% (62%); 19815 = 61% (61%); 19810 = 60% (60%); 19805 = 59% (59%); 19800 = 58% (58%); 19795 = 57% (57%); 19790 = 56% (56%); 19785 = 55% (55%); 19780 = 54% (54%); 19775 = 53% (53%); 19770 = 52% (52%); 19765 = 51% (51%); 19760 = 50% (50%); 19755 = 49% (49%); 19750 = 48% (48%); 19745 = 47% (47%); 19740 = 46% (46%); 19735 = 45% (45%); 19730 = 44% (44%); 19725 = 43% (43%); 19720 = 42% (42%); 19715 = 41% (41%); 19710 = 40% (40%); 19705 = 39% (39%); 19700 = 38% (38%); 19695 = 37% (37%); 19690 = 36% (36%); 19685 = 35% (35%); 19680 = 34% (34%); 19675 = 33% (33%); 19670 = 32% (32%); 19665 = 31% (31%); 19660 = 30% (30%); 19655 = 29% (29%); 19650 = 28% (28%); 19645 = 27% (27%); 19640 = 26% (26%); 19635 = 25% (25%); 19630 = 24% (24%); 19625 = 23% (23%); 19620 = 22% (22%); 19615 = 21% (21%); 19610 = 20% (20%); 19605 = 19% (19%); 19600 = 18% (18%); 19595 = 17% (17%); 19590 = 16% (16%); 19585 = 15% (15%); 19580 = 14% (14%); 19575 = 13% (13%); 19570 = 12% (12%); 19565 = 11% (11%); 19560 = 10% (10%); 19555 = 9% (9%); 19550 = 8% (8%); 19545 = 7% (7%); 19540 = 6% (6%); 19535 = 5% (5%); 19530 = 4% (4%); 19525 = 3% (3%); 19520 = 2% (2%); 19515 = 1% (1%); 19510 = 0% (0%); 19505 = 0% (0%); 19500 = 0% (0%); 19495 = 0% (0%); 19490 = 0% (0%); 19485 = 0% (0%); 19480 = 0% (0%); 19475 = 0% (0%); 19470 = 0% (0%); 19465 = 0% (0%); 19460 = 0% (0%); 19455 = 0% (0%); 19450 = 0% (0%); 19445 = 0% (0%); 19440 = 0% (0%); 19435 = 0% (0%); 19430 = 0% (0%); 19425 = 0% (0%); 19420 = 0% (0%); 19415 = 0% (0%); 19410 = 0% (0%); 19405 = 0% (0%); 19400 = 0% (0%); 19395 = 0% (0%); 19390 = 0% (0%); 19385 = 0% (0%); 19380 = 0% (0%); 19375 = 0% (0%); 19370 = 0% (0%); 19365 = 0% (0%); 19360 = 0% (0%); 19355 = 0% (0%); 19350 = 0% (0%); 19345 = 0% (0%); 19340 = 0% (0%); 19335 = 0% (0%); 19330 = 0% (0%); 19325 = 0% (0%); 19320 = 0% (0%); 19315 = 0% (0%); 19310 = 0% (0%); 19305 = 0% (0%); 19300 = 0% (0%); 19295 = 0% (0%); 19290 = 0% (0%); 19285 = 0% (0%); 19280 = 0% (0%); 19275 = 0% (0%); 19270 = 0% (0%); 19265 = 0% (0%); 19260 = 0% (0%); 19255 = 0% (0%); 19250 = 0% (0%); 19245 = 0% (0%); 19240 = 0% (0%); 19235 = 0% (0%); 19230 = 0% (0%); 19225 = 0% (0%); 19220 = 0% (0%); 19215 = 0% (0%); 19210 = 0% (0%); 19205 = 0% (0%); 19200 = 0% (0%); 19195 = 0% (0%); 19190 = 0% (0%); 19185 = 0% (0%); 19180 = 0% (0%); 19175 = 0% (0%); 19170 = 0% (0%); 19165 = 0% (0%); 19160 = 0% (0%); 19155 = 0% (0%); 19150 = 0% (0%); 19145 = 0% (0%); 19140 = 0% (0%); 19135 = 0% (0%); 19130 = 0% (0%); 19125 = 0% (0%); 19120 = 0% (0%); 19115 = 0% (0%); 19110 = 0% (0%); 19105 = 0% (0%); 19100 = 0% (0%); 19095 = 0% (0%); 19090 = 0% (0%); 19085 = 0% (0%); 19080 = 0% (0%); 19075 = 0% (0%); 19070 = 0% (0%); 19065 = 0% (0%); 19060 = 0% (0%); 19055 = 0% (0%); 19050 = 0% (0%); 19045 = 0% (0%); 19040 = 0% (0%); 19035 = 0% (0%); 19030 = 0% (0%); 19025 = 0% (0%); 19020 = 0% (0%); 19015 = 0% (0%); 19010 = 0% (0%); 19005 = 0% (0%); 19000 = 0% (0%); 18995 = 0% (0%); 18990 = 0% (0%); 18985 = 0% (0%); 18980 = 0% (0%); 18975 = 0% (0%); 18970 = 0% (0%); 18965 = 0% (0%); 18960 = 0% (0%); 18955 = 0% (0%); 18950 = 0% (0%); 18945 = 0% (0%); 18940 = 0% (0%); 18935 = 0% (0%); 18930 = 0% (0%); 18925 = 0% (0%); 18920 = 0% (0%); 18915 = 0% (0%); 18910 = 0% (0%); 18905 = 0% (0%); 18900 = 0% (0%); 18895 = 0% (0%); 18890 = 0% (0%); 18885 = 0% (0%); 18880 = 0% (0%); 18875 = 0% (0%); 18870 = 0% (0%); 18865 = 0% (0%); 18860 = 0% (0%); 18855 = 0% (0%); 18850 = 0% (0%); 18845 = 0% (0%); 18840 = 0% (0%); 18835 = 0% (0%); 18830 = 0% (0%); 18825 = 0% (0%); 18820 = 0% (0%); 18815 = 0% (0%); 18810 = 0% (0%); 18805 = 0% (0%); 18800 = 0% (0%); 18795 = 0% (0%); 18790 = 0% (0%); 18785 = 0% (0%); 18780 = 0% (0%); 18775 = 0% (0%); 18770 = 0% (0%); 18765 = 0% (0%); 18760 = 0% (0%); 18755 = 0% (0%); 18750 = 0% (0%); 18745 = 0% (0%); 18740 = 0% (0%); 18735 = 0% (0%); 18730 = 0% (0%); 18725 = 0% (0%); 18720 = 0% (0%); 18715 = 0% (0%); 18710 = 0% (0%); 18705 = 0% (0%); 18700 = 0% (0%); 18695 = 0% (0%); 18690 = 0% (0%); 18685 = 0% (0%); 18680 = 0% (0%); 18675 = 0% (0%); 18670 = 0% (0%); 18665 = 0% (0%); 18660 = 0% (0%); 18655 = 0% (0%); 18650 = 0% (0%); 18645 = 0% (0%); 18640 = 0% (0%); 18635 = 0% (0%); 18630 = 0% (0%); 18625 = 0% (0%); 18620 = 0% (0%); 18615 = 0



- Commission's website. During this meeting showed, attached as EXHIBIT 112, no minutes for this meeting had been posted to the public, nor were any attached to the agenda.
- On Oct. 7, 2022, at 9:21 a.m., I sent email relevant to an item anticipated to be discussed at the meeting of the Legislative Committee attached hereto as EXHIBIT 113, re: the proper creation of the ad hoc committee to revise the delays. In fact, the agenda for this meeting attached hereto as EXHIBIT 111, showed item 2.4.9a. The status of the BY Law 1563, Ad Hoc Committee, (a) (3) should it continue? (action item). The agenda whether the ad hoc committee should continue assumes that it had been properly created, which creation was the subject of my email. Consequently, the email was required to be posted on the Commission's website. It was not, in violation of this section. We ask for a finding of willful non-compliance because we specifically requested compliance during this section.
  - On Oct. 9 and 10, I sent email relevant to an item anticipated to be discussed at the next meeting of the Legislative Committee attached hereto as EXHIBITS 118 and 119, re: Item No. 14, annual reports, at the agenda attached hereto as EXHIBIT 117. This email was required to be posted on the Commission's website by this section. We ask for a finding of willful non-compliance because we specifically requested compliance during this section.
  - A second email, re: Item No. 14, annual reports, an item anticipated to be discussed at the meeting of the Legislative Committee attached hereto as EXHIBIT 117. The email was required to be posted on the Commission's website by this section. We ask for a finding of willful non-compliance because we specifically requested compliance during this section.

**Item No. 7: "67.15(a) by failing to allow public comment for each item on the agenda."**

S.F. Admin. Code § 67.15(a) relevantly states as follows (sq. brackets added): ***"Every agenda for regular meetings shall provide an opportunity for members of the public to directly address a policy body on items of interest to the public that are within policy body's [sic] subject matter jurisdiction, provided that no action shall be taken of any item not appearing on the agenda unless the action is otherwise authorized by Section 67.7(e) of this article. . . ."*** (Note, S.F. Admin. Code § 67.15(b) states as follows, in full: ***"Every agenda for special meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item prior to action thereupon."*** This latter is an example of "Sunshine Ordinance underhang," as the analogous Brown Act requirement, Cal. Gov't Code § 54954.3(a), requires this opportunity regarding each item on the agenda of a special meeting, action items not distinguished.) (Note also, as an additional instance of "Sunshine Ordinance underhang," the analogous Brown Act requirement, cited above, requires that the opportunity occur "before or during the legislative body's consideration of the item" at



regular meetings, and “before or during consideration of that item” at special meetings. We think this language should be read into the Sunshine Ordinance because it would be absurd to require an opportunity for the public to address the legislative body on an action item after the final vote had been taken on the item, or on a discussion item after the policy body had moved on to other matters. In support, we note that the exclusion for the Board of Supervisors further on in S.F. Admin. Code § 67.15(a) requires, as a condition, that the public be given an opportunity to address a committee of the Board of Supervisors “before or during the committee’s consideration of the item,” as well as other conditions not specified generally in id., such as “at a public meeting wherein all interested members of the public were allowed the opportunity to address the committee on the item . . .” Subd. (e) of id. requires that each policy body adopt a rule allowing each member of the public who wishes to address the policy body on an item be allowed to do so for up to three minutes at a regular or special meeting, so this language in (a) would appear to be redundant, and contributes to a reading in which “before or during the committee’s consideration of the item” is impliedly redundant.)

Failure of the Agenda to Provide for Opportunities for Members of the Public to Address the Commission Regarding Each Item on the Agenda

The law requires that the agenda provide that each item to be transacted or discussed, notice of which appears on the agenda, include an opportunity for members of the public to address the Commission on the particular item. Very often, agendas of meetings of the Commission or its committees fail to provide such opportunities.

- On Apr. 20, 2022, the agenda for this regular meeting of the BHC, attached hereto as EXHIBIT 4, BHC did not provide an opportunity for the public to address them on items 3.3, 3.4, and 3.5. It neither provided an opportunity for the public to address the Commission regarding the first four reports listed under Item No. 4.0. Item No. 3.1 actually consisted of two distinct items—the minutes of the February and March meetings—and the agenda provided no opportunity for the public to address the Commission before or during their consideration of the March minutes. I complained to them about the items under Item No. 3.0 in an email sent in advance of the meeting, attached hereto as EXHIBIT 3. According to the rules of order adopted by BHC, they should have ruled these items out of order when they came up, for violation of local and state procedural laws. RONR (12<sup>th</sup> ed.) 10:26(1). Instead, they “downgraded” Item No. 3.4 to a “discussion only” item without notice on the agenda (see Item No. 1, above) in order to evade criminal penalties for an imagined violation of the Brown Act. However, the law extends further than the criminal penalties under *Cal. Gov’t Code* § 54959. If criminal penalties were the sole measure of open meetings laws, then the Sunshine Ordinance would be a nullity except to the extent that it applied Brown Act requirements to policy bodies through *S.F. Admin. Code* § 67.5 (first sentence). The agenda is required to provide an opportunity for members of the public to address the Commission on “any item of interest to the public . . .” “Item” in *S.F. Admin. Code* § 67.15(a) means the same

as “item to be transacted or discussed” in *id.* § 67.7(a) through the application of the interpretive canon *noscitur a sociis*. Therefore, “downgrading” this item to “discussion only” status, regardless of its illegality otherwise, does not absolve BHC in the least from the requirement that the agenda provide an opportunity for the public to participate in the discussion of each item to be transacted or discussed that is listed on the agenda.

Because I had warned BHC about these violations apparent on the agenda, but too late for them to cure the violations, and BHC proceeded with the meeting, calling up Item No. 3.4 without ruling it out of order, a finding of willful violation of the Sunshine Ordinance is in order.

- The agenda for the regular meeting of the Site Visit Committee to be held on May 10, 2022, attached hereto as EXHIBIT 14, included no opportunities for the public to address the committee on Item Nos. 1.2 and 2.1 through 2.4. I sent email correspondence to the committee in advance of the meeting disclosing this failure and the items were called up without the chair ruling them out of order, we ask for a finding of willful noncompliance.
- The agenda for the regular meeting of the Implementation Committee to be held on May 10, 2022, attached hereto as EXHIBIT 15, included no opportunities for the public to address the committee on Item Nos. 2.2, 2.3, and 2.4.
- The agenda for the regular meeting of the Executive Committee to be held on May 10, 2022, attached hereto as EXHIBIT 16, included no opportunity for the public to address the Commission on Item No. 1.1. While the agenda appeared to provide an opportunity to comment on Item No. 1.0, it was worthless because, as discussed under Item No. 1 *supra*, the description did not even remotely represent what was actually discussed under this item, and the opportunity was before the item. It is ambiguous whether there is an opportunity to comment on Item No. 1.2 because it is ambiguous whether this item is for discussion only, in which case an opportunity to address the committee after the item would be acceptable, or it is an action item, in which case the opportunity shown on the agenda would not be a real opportunity because the item had already been decided. I informed the committee of both of these defects via email in advance of the meeting, attached hereto as EXHIBIT 12, discussion occurred under both of these items, and they did not rule these items out of order. Consequently, we request a finding of willful noncompliance.
- The agenda for the regular meeting of the Commission to be held on May 18, 2022, the agenda for which is attached hereto as EXHIBIT 32, did not provide an opportunity for members of the public to address the Commission on Item Nos. 3.4, 5.1, nor 5.2 even after the consideration of the items. It also failed to provide any opportunities at all for the public to address the Commission regarding “**Implementation Committee, Chair Stephen Banuelos, JD [sic]** / Discuss focus of the Implementation Committee”, “**Site Visit Committee, Chair Vigil** – / Report on Site Visit strategy to aggressively enroll commissioners in completing selected site evaluations; update on presentation by Tipping Point”, and “**Strategic Planning Ad Hoc Committee, Commissioner Bohrer** – / Update on progress of the current draft of the Strategic Plan – **see attached below**”, all under

**"ITEM 4.0 REPORT [sic] FROM THE COMMITTEES"**. This meeting adjourned before Item Nos. 5.1, 5.2, or any of the items under 4.0 were reached, so no violations occurred regarding these items. However, I warned the Commission about the lack of opportunity to comment on Item No. 3.4 via email in advance of the meeting, email attached hereto as EXHIBIT 29. They proceeded to call up and discuss the item anyway, and so we ask for a finding of willful noncompliance with respect to this item.

- The agenda for the regular meeting of the Site Visit Committee on June 7, 2022, attached hereto as EXHIBIT 39, did not provide an opportunity for members of the public to address the committee on the latter two of the three sets of minutes to be approved at that meeting. Item No. 1.2 is described on the agenda as "Vote to adopt March 9, 2022, minutes, previously postponed from April 12, 2022 meeting; Vote to adopt April 12, 2022 minutes; Vote to adopt May 10, 2022 minutes [action item]" Only one period for the public to address the committee on all three of these items (each of which was voted on separately) appeared on the agenda. Effectively, the second two of the three items lacked an opportunity for the public to address the committee regarding them provided on the agenda. These items were "skipped," and no discussion of them took place at this meeting, so no violations occurred. For compliance and monitoring purposes, however, it is instructive of what the committee believes to be acceptable practice. The agenda also provided no opportunities for the public to address the committee regarding Item Nos. 2.2 and 2.3. We complained about these items in an email to the committee in advance of the meeting, attached hereto as EXHIBIT 37. The committee ignored this warning and proceeded to discuss them anyway. We ask for a finding of willful noncompliance.
- The agenda for the regular meeting of the Implementation Committee to be held on June 7, 2022, attached hereto as EXHIBIT 40, did not provide an opportunity for members of the public to address the committee on Item Nos. 2.2 through 2.4. (This meeting proceeded without a quorum, so no actual violations occurred, but the committee mistakenly thought it had quorum, and so, for compliance monitoring purposes, the proceedings are an example of what the committee thought it could legally do if it had quorum.)
- The agenda for the regular meeting of the Executive Committee on June 7, 2022, attached hereto as EXHIBIT 41, provided no opportunity for the public to address the committee on the second item directly under Item No. 1.0 **"ITEM 1.0 COMMISSIONER'S [sic] REPORTS"** "Discuss how to do the data notebook for 2022". I complained to the committee about this in an email sent before the meeting, attached hereto as EXHIBIT 37, and the committee ignored it. Consequently, we request a finding of willful violation. There was neither any such opportunity regarding Item No. 1.1, "Governor's Care Court Proposal: Discussion and possible action." Nor did the agenda provide an opportunity for the public to address the Executive Committee regarding the second sentence of Item No. 2.1, "Vote to approve unadopted minutes for May 10, 2022 Executive Committee meeting," which was actually a separate item.



- The agenda for the regular meeting of the BHC on June 15, 2022, attached hereto as EXHIBIT 43, did not provide an opportunity for the public to address them on the discussion topic listed immediately below Item 3.0. Although this was a presentation, which has not been regarded as an “item” by the SOTF in the past (presumably because it is neither to be transacted nor discussed), the representative of SFMHEF in item 3.1.a was a member of the Commission. Therefore, this too was a discussion without an opportunity for members of the public to participate. Nor did the agenda provide opportunities for the public to address the Commission regarding the first two committee reports under Item 4.0. Even if the two committee reports could be cognized as “a brief report on his or her activities”, *Cal. Gov’t Code* § 54954.2(a)(3), they are thereby “items” that would otherwise be subject to the requirement for notice under the Brown Act. The Sunshine Ordinance being *in pari materia* with the Brown Act, the word “item” means the same thing. The Sunshine Ordinance contains no analogous exemption from its notice requirement, and thus these reports are “items” with respect to which the agenda must provide opportunities for the public to address the Commission.
- The agenda of the regular meeting of the Site Visit Committee on July 12, 2022, attached hereto as EXHIBIT 61, contains numerous items without any opportunity for the public to address the committee regarding them. Item no. 1.2, “Vote to adopt rewritten May 10, 2022 minutes; vote to adopt June 7, 2022 minutes [action item]” was actually two items, called and voted on separately, and the agenda provided no opportunity for the public to address the committee regarding the second item. The agenda also provided no opportunity for the public to address the committee regarding Item Nos. 2.2 through 2.4. (This meeting proceeded without a quorum, so no actual violations occurred, but the committee mistakenly thought it had quorum, and so, for compliance monitoring purposes, the proceedings are an example of what the committee thought it could legally do if it had quorum.)
- The agenda for the regular meeting of the Implementation Committee on July 12, 2022, attached hereto as EXHIBIT 62, contains numerous items to be transacted or discussed for which no opportunity for members of the public to address the committee appears on the agenda. Item 1.1 has an opportunity for public address, but it actually contains two items which were in fact handled separately at the meeting. Consequently, only the first of them, “Vote to adopt rewritten May 10, 2022 minutes . . .” had an opportunity for the public to address the committee. This section requires that the agenda provide a period for the public to address the committee on each item. It did not provide an opportunity for the public to address the committee on “Vote to adopt the June 7, 2022 minutes [action item].” The agenda also shows one opportunity for members of the public to address the committee regarding Item 2.0, but Item 2.0 is really an heading under which item nos. 2.1 through 2.7 appear. All of them lack meaningful opportunities for public address, because they are labeled “for discussion and possible action” and the one period for public address is at the end.

- The agenda for the regular meeting of the Executive Committee on July 12, 2022, attached hereto as EXHIBIT 63, contains numerous items to be transacted or discussed for which the agenda provides no opportunity for members of the public to address the committee. The agenda shows one opportunity for the public to address the committee regarding Item 1.0, but Item 1.0 is really an heading under which seven different items appear. Two items appear in the paragraph immediately following the heading. "Discuss the need for the Behavioral Health Commission to be in on the decision-making process around the distribution of budget initiatives. . . ." is separate from "Discuss Commissioner Input on How to do the Data Notebook for 2022" and the law requires that the agenda provide an opportunity for the public to address the committee on each of them. But there is no such opportunity for either of them. The remaining five items are enumerated 1.1 through 1.5. As the agenda shows that the only opportunity for public comment is at the end, 1.1 through 1.4 lack opportunities for the public to address the committee. The agenda for this meeting neither offers the public an opportunity to comment on the adoption of the minutes for the June 7, 2022, meeting under Item 2.1, as there is but one opportunity for the public to comment on the separate approvals of this and the minutes for the May 10, 2022, meeting.
- The agenda for the regular meeting of the Commission on July 20, 2022, attached hereto as EXHIBIT 72, contains numerous items to be transacted or discussed for which the agenda provides no opportunity for members of the public to address the Commission. Specifically, there is an opportunity shown for the public to directly address the Commission on "**ITEM 4.0 REPORT [sic] FROM THE COMMITTEES,**" but this is really three different reports, and the one opportunity for the public to address the Commission only occurs "before or during" the last of them, i.e., "**Strategic Planning Ad Hoc Committee, Commissioner Bohrer.**" The agenda provides *no opportunity* for the public to address the Commission on "**Implementation Committee, Chair Stephen Banuelos,**" nor "**Site Visit Committee, Chair Vigil.**"