



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

## REMOTE REGULAR MEETING

June 1, 2022 - 4:00 PM

### Regular Remote Meeting

Seat 1	Dean Schmidt	Seat 7	Matthew Yankee - <b>Chair</b>
Seat 2	Lila LaHood	Seat 8	Chris Hyland
Seat 3	Vacant	Seat 9	Laurie Jones Neighbors
Seat 4	Jaya Padmanabhan	Seat 10	Thuan Thao Hill
Seat 5	Jennifer Wong - <b>Vice-Chair</b>	Seat 11	Bruce Wolfe
Seat 6	Laura Stein		

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

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

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

Chair Yankee called the meeting to order at 4:06 PM. On the call of the roll Chair Yankee and Members, Schmidt, LaHood, Padmanabhan, Wong, Stein, Wolfe, Hyland, Neighbors, Hill were noted present. A quorum was present.

The Task Force discussed the agenda and noted that the Consent Agenda, Item no. 10, File Nos. 22062, 22032, 22034, 22048, 22055 will first be heard instead at Committees.

#### Public Comment:

Peter Warfield, Executive Director, Library Users Association, [libraryusers2004@yahoo.com](mailto:libraryusers2004@yahoo.com), P.O. Box 170544, San Francisco, California, 94117-0544. Mr. Warfield requested an explanation of why the Consent Agenda would not be heard.

No actions taken.

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

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

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

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

Public Comment:

Peter Warfield stated that the lack of an in-person meeting speaks to the quality and remote meetings are a stop gap and that there is a great deal that is not public.

David Pilpel disagreed with the previous caller and noted this is not a good time to have in person meetings especially when Covid cases are surging.

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

Ayes: 10 - LaHood, Wolfe, Yankee, Wong, Schmidt, Neighbors, Stein, Hyland,  
Padmanabhan, Hill

Noes: 0 - None

2. **Approval of minutes from the Sunshine Ordinance Task Force May 4, 2022, meeting.**

The SOTF discussed the draft meeting minutes. Member Wolfe requested that the minutes be corrected per David Pilpel's suggestions.

**Action: Moved by Member Wolfe, seconded by Member Padmanabhan, to approve the May 4, 2022, meeting minutes with suggested amendments.**

Public Comment:

David Pilpel provided comment on the May 4, 2022, SOTF minutes.

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

Ayes: 10 - Wolfe, Padmanabhan, Hyland, Yankee, LaHood, Wong, Schmidt,  
Neighbors, Stein, Hill

Noes: 0 - None

3. **File No. 22061: Proposed amendments to By-Laws, Section 9 regarding Order of Business to move the Administrator’s Report to after approval of the meeting minutes. Notice of Hearing to consider changes posted May 18, 2022.**

The SOTF discussed the By-Laws, Section 9 regarding Order of Business.

**Action: Moved by Vice-Chair Wong, seconded by Member Wolfe to approve the proposed amendments to the By-Laws allowing the Administrator’s Report to be heard before general Public Comment on the agenda, and stating that general public comment and complaints will not to be heard before 5:00 PM.**

Public Comment:

David Pilpel stated that the Notice was not in an obvious place on the website and not under news but buried under the documents and is not in an intuitive place. Mr. Pilpel suggested hearing general public comment at 4:30 PM so that complaint hearings may begin at 5:00 PM.

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

Ayes: 10 - Wong, Wolfe, Padmanabhan, Hyland, Yankee, LaHood, Schmidt, Neighbors, Stein, Hill  
Noes: 0 - None

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

Administrator Leger presented the Administrator’s Report to the SOTF and responded to questions.

No actions taken.

Member Neighbors and Member Stein noted they will be serving on the Rules Committee along with Member Hyland. They are concerned about rules, procedures and getting an annual report together. Member Neighbors stated they appreciate the participation and other committee memberships.

Chair Yankee suggested that a special meeting be called for June 7, 2022, at 7:00 PM to discuss issues related to the pending complaints against Redistricting Task Force members.

Public Comment:

David Pilpel asked that the City Attorney to provide advice and issue a memo regarding the Redistricting Task Force (RTF) and posed a question regarding when the RFT’s task is complete and they have left office does their complaint have reach and then what recourse does someone have when they are no longer in office?

Chair Yankee called for a recess at 4:57 until 5:04 PM.

Member Wong was present at 5:08 PM.

5. **Public Comment:** Members of the public may address the Sunshine Ordinance Task Force (SOTF) on matters that are within SOTF's jurisdiction, but not on today's agenda. *(No Action). Public comment shall be taken at 5:00 p.m. or as soon thereafter as possible.*

David Pilpel noted that he would appreciate it if the Administrator summarized the motion prior to the vote.

6. **File No. 21141:** Complaint filed by Claudia Ovalles against the Office of the District Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a request for public records in a timely and/or complete manner.

Claudio Ovalles (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Ovalles stated that she submitted a records request to the District Attorney asking for memos, correspondence and communications. Ms. Ovalles had been waiting for some clarification on the status of her case and her requests were denied. Ms. Ovalles stated she made her request through Victim's Advocacy and her attempts were denied and therefore she used the Sunshine Ordinance Task Force.

Robyn Burke (Office of the District Attorney) (Respondent), provided a summary of the department's position. Ms. Burke stated that a police report was never filed, and any communications would be processed through a Lieutenant. Ms. Burke stated that her office conducted a search for Ms. Ovalles name and came up with emails from Ms. Ovalles which would not be a public record.

Nickie Moore (Office of the District Attorney), spoke in support of the District Attorney's Office. Ms. Moore stated that there is no active or closed case only investigatory records. Ms. Moore stated that if only investigatory records exist, they are not disclosable. Ms. Moore stated that after a thorough search, the District Attorney's Office has no responsive records.

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

**Action: Moved by Vice-Chair Wong, seconded by Member Schmidt to find a violation of California Public Records Act 6253(c) by failing to respond to the request within ten days; Administrative Code, Sunshine Ordinance Section 67.27(b) by failing to provide justification for withholding of records.**

Public Comment:

None.

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

Ayes: 10 - Wong, Schmidt, Wolfe, Padmanabhan, Hyland, Yankee, LaHood,  
Neighbors, Stein, Hill

Noes: 0 - None

7. **File No. 21148:** Complaint filed by Jordan Santagata and Karl Kramer against the San Francisco Employees' Retirement System for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, 67.24, and 67.25 and California Public Records Act, Section(s) 6254.26, by failing to respond to a request for public records in a timely and/or complete manner.

The Petitioner was not present and did not notify the Administrator of their absence.

The Respondent was present.

**Action: Moved by Vice-Chair Wong, seconded by Member Stein to table the matter and close the file per Complaint Procedures Section 7B.**

Public Comment:

None.

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

Ayes: 10 - Wong, Stein, Wolfe, Padmanabhan, Hyland, Yankee, LaHood,  
Neighbors, Hill, Schmidt

Noes: 0 - None

8. **File No. 21011:** Complaint filed by the Electronic Frontier Foundation against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.26 and 67.27(d), by failing to respond to a public records request in a timely and complete manner, failing to keep withholding to a minimum and failing to provide assistance/information regarding alternate sources of information requested.

David Maas (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Maas stated that in July 2019 the City banned facial recognition software system. In December 2020 documents on information regarding facial recognition system were provided. In January 2021 the San Francisco Police Department provided previously unreleased records. Mr. Maas is requesting violations against the Police Department for 67.21 by failing to produce requested records; 67.26 by failing to keep withholding to a minimum; 67.27 by failing to provide justification for withholding and that the agency believes most of the requested records are nonexempt and a violation of California Public Records Act 6253 by failing to provide the requested records.

Lt. Lynn O'Reilly (Police Department) (Respondent), provided a summary of the department's position. Lt. Reilly stated that the records provided were redacted under

California Public Records Act 6254(f) due to the investigatory nature of the records. Lt. Reilly stated that and in order to protect the California Law Enforcement Telecommunications System (CLETS) information the Police Department initially disagreed with providing minimal information but reviewed the request and did provide the requested information to the Petitioner. Lt. Reilly stated that regarding the facial recognition system, that in May 2019, except for when trying to locate a missing person, the Police Department does not release those materials or photos of that nature.

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

**Action: Moved by Member Schmidt, seconded by Member Neighbors to find a violation of Administrative Code, Sunshine Ordinance, Section(s) 67.26 by failing to identify the actual redactions and justifications for redactions; 67.27(d) by failing to inform the requestor of the nature and extent of the nonexempt information; under 67.21(e), orders the Police Department to go back and give a proper response to each item of the request including information about the relationship with other outside agencies; refer this matter to Ethics Commission for potential finding of willful failure misconduct; and find a violation of California Public Records Act 6253 (b) and (c) by failing to respond to the complaint in a complete and/or timely manner.**

Public Comment:

None.

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

Ayes: 10 - Schmidt, Neighbors, Wong, Stein, Wolfe, Padmanabhan, Hyland,  
Yankee, LaHood, Hill  
Noes: 0 - None

**Action: Moved by Chair Yankee, seconded by Member Wolfe to rescind the prior motion and vote.**

Public Comment:

None.

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

Ayes: 10 - Yankee, Wolfe, Neighbors, Wong, Stein, Padmanabhan, Hyland,  
Schmidt, LaHood, Hill

Noes: 0 - None

**Action: Moved by Member Schmidt, seconded by Member Neighbors to find a violation of Administrative Code, Sunshine Ordinance, Section(s) 67.26 by failing to identify the actual redactions and justifications for redactions; 67.27(d) by failing to inform the requestor of the nature and extent of the nonexempt information; California Public Records Act Sections 6253(b) and (c) by failing to respond to the complaint in a complete and/or timely manner; and under 67.21(e) orders the Police Department to go back and give a proper response to each item of the request including information about the relationship with other outside agencies and orders the Police Department to provide those records within five business days.**

Public Comment:

None.

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

Ayes: 10 - Schmidt, Neighbors, Yankee, Wong, Stein, Wolfe, Padmanabhan,  
Hyland, LaHood, Hill

Noes: 0 - None

9. **File No. 21165:** Complaint filed by Library Users Association, Peter Warfield, Executive Director against San Francisco City Librarian Michael Lambert and the San Francisco Public Library for violating Administrative Code (Sunshine Ordinance), Sections 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Peter Warfield (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Warfield stated that in January 2021, he had suggestions for the Library Commission agenda and requested the emails of Library Commissioners from City Librarian, Michael Lambert. Mr. Warfield said his request was refused without reason. Mr. Warfield stated that he received a thanks for reaching out response, but email addresses are not provided to the public and if he had information for the Commissioners that he should send it to Margot Shaub, Custodian of Public Records.

Margot Shaub, Respondent (Public Library) (Respondent), provided a summary of the department's position. Ms. Shaub stated that the Public Library responded on January 21, 2021, to Mr. Warfield's request in which she stated that the email addresses of the Library Commissioners are not provided to the general public.

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

**Action: Moved by Member Padmanabhan, seconded by Member Wolfe, to find that under the California Public Records Act 6254(b)(1) that personal emails used to conduct the public business are disclosable; orders the San Francisco City Librarian Michael Lambert and the San Francisco Public Library to disclose the email addresses to the petitioner within five business days and that this will be monitored by the Compliance and Amendments Committee; and to find a violation 67.26 by failing to provide a key by foot note or other clear reference for the justification for the redactions.**

Public Comment:

David Pilpel encouraged the SOTF to send a letter to the City Administrator, the Ethics Commission and the Department of Technology that states email addresses for use with all city business by email should be provided upon appointment.

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

Ayes: 10 - Padmanabhan, Wolfe, Schmidt, Neighbors, Yankee, Wong, Stein, Hyland, LaHood, Hill  
Noes: 0 - None

10. **File No. 22062: CONSENT AGENDA** - The Sunshine Ordinance Task Force shall review File Nos. 22032, 22034, 22048, 22055, to determine if the Sunshine Ordinance Task Force has jurisdiction; if the requested records are public; if it finds and upholds the alleged violations noted in each file; and, if applicable, to issue an Order of Determination and refer matters to the Compliance and Amendments Committee for monitoring. Hearings on each item will not be conducted unless requested by a member of the Task Force. Complainants and Respondents are not required to attend the June 1, 2022, Sunshine Task Ordinance Force meeting, but they may attend to provide testimony related to the above listed determinations.

No action or discussion occurred for this item (see Item #1).

11. **Hearing: Presentation/discussion of the text of Bills AB 1944 and AB 2449.**

Member Wolfe stated that AB1944 and AB2449 seek to amend the Brown Act and the Bagley Keen Act. Member Wolfe stated that AB1944 allowed for remote meetings in a private location and AB2449 was more focused on the members of the meeting body.

David Pilpel stated that AB1944 only requires that the quorum of the body in teleconferencing from a private location. Mr. Pilpel stated that AB2449 requires that there be a quorum that is physically acceptable for the members and to use both video and audio.



## Public Comment:

David Pilpel stated that this charter provision was a result of Alioto Pier and her concern for participation for the Board of Supervisors for those who are serving the City well and pregnant and was adopted by the Board of Supervisors. Mr. Pilpel suggested that in this case a lengthier discussion could encourage the City Administrator about the implications of these bills and the City's position.

Peter Warfield noted thanks for those who put this item on the agenda. Mr. Warfield stated that he is worried about secrecy and the reason there has been a long history of requiring meetings to take place in the jurisdiction, and that there is a reason that people come together.

**Action: Moved by Member Wolfe, seconded by Chair Yankee to continue the item to the call of the Chair.**

## Public Comment:

David Pilpel supports the motion due to the broad implications and is the probably the kind of thing the city might seek to amend.

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

Ayes: 10 - Wolfe, Yankee, Padmanabhan, Schmidt, Neighbors, Wong, Stein, Hyland, LaHood, Hill

Noes: 0 - None

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

Member Neighbors remembered several meetings ago that Member Stein suggested that a Twitter account be set up and asked for an update.

Member Hill promised to volunteer for the Information Technology Committee and investigate a possible Twitter account and update the website.

## Public Comment:

David Pilpel supports Member Hill's suggestion to update the website which has not been overhauled in 15 years. David Pilpel stated that various people have served on the SOTF and there needs to be more information.

Peter Warfield stated that lots of good ideas and suggestions came out of the hearing that would be valuable for the SOTF.

Note actions taken.

13. **ADJOURNMENT**

There being no further business the meeting was adjourned at 10:35 pm.

**APPROVED: 7/6/22**

**Sunshine Ordinance Task Force**

N.B. The Minutes of this meeting set forth all actions taken by the Sunshine Ordinance Task Force on the matters stated, but not necessarily in the chronological sequence in which the matters were taken up.