



SUNSHINE ORDINANCE TASK FORCE CITY AND COUNTY OF SAN FRANCISCO MINUTES

REMOTE REGULAR MEETING

September 1, 2021 - 4:00 PM

Regular Remote Meeting

Seat 1	Dean Schmidt	Seat 7	Matthew Yankee - Vice-Chair
Seat 2	Lila LaHood	Seat 8	Chris Hyland
Seat 3	Vacant	Seat 9	Laurie Jones Neighbors
Seat 4	Jaya Padmanabhan	Seat 10	Kai Forsley
Seat 5	Jennifer Wong	Seat 11	Bruce Wolfe - Chair
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

Vice-Chair Yankee called the meeting to order at 4:03 PM. On the call of the roll Chair Wolfe, Vice-Chair Yankee, and Members LaHood, Padmanabhan, Wong, Stein, Hyland, Neighbors, Forsley were noted present. Member Schmidt was noted not present. A quorum was present.

The SOTF Administrator stated that the Petitioner of Item No. 7, File No. 20123 requested a postponement on August 31, 2021.

Action: Moved by Member Stein, seconded by Member LaHood to continue File No. 20123 to the call of the Chair.

Public Comment:

Patrick Monette-Shaw expressed disappointment that the Petitioner and her husband requested a continuance because her complaint was five months old. Mr. Monette-Shaw wished that there was a process by the SOTF to deal with late cancellations.

Peter Warfield, Executive Director Library Users Assn.
libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, California, 94117-0544. Mr. Warfield agreed with the previous speaker that last minute withdrawals are a problem and asked the SOTF the reason for the postponement.

Mr. Warfield noted that the Sunshine personnel have invested a lot of work preparing for the hearing.

Doug Carlson (File No. 20123) apologized for the late request, stated that their initial request was due to litigation against the City and that they expect to receive the requested records soon.

Chair Wolfe stated that it is in the best interest of the SOTF that the file be continued to the call of the Chair.

Member Schmidt was noted present at 4:25 PM.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 0 - None

2. Approval of minutes from the August 4, 2021, Sunshine Ordinance Task Force meeting.

Action: Moved by Chair Wolfe, seconded by Member Wong, to approve the August 4, 2021, meeting minutes as amended.

Public Comment:

Peter Warfield, Executive Director, Library Users Association, noted that members of the public are allowed to provide a 150-word summary for inclusion in the minutes. Mr. Warfield also stated that the minutes need to be clear.

Patrick Monette-Shaw agreed that meeting minutes should be somewhat brief and urged the committee to make a rule to strike a balance between highly detailed minutes and summary minutes.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 0 - None

3. File No. 20055: Complaint filed by Liza Murawski against the Department of Public Health for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21 by failing to respond to a records request in a timely and/or complete manner.

Liza Murawski (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Murawski stated that this is not the first time Public

Health has not made an appearance at a SOTF hearing. Ms. Murawski stated that she has requested mental health data from navigation centers and Single Room Occupancy that support mental health recovery treatment. Ms. Murawski stated that Public Health (DPH) has 30 regular programs. Ms. Murawski stated that DPH did submit responses which were not timely and consisted of blanket cut and paste responses with nothing substantive to her research.

The Respondent was not present at the hearing and did not notify the Administrator of their absence.

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

Action: Moved by Chair Wolfe, seconded by Member Padmanabhan, to find that the Department of Public Health violated Administrative Code (Sunshine Ordinance), Section(s) 67.21(c) and 67.21(e), by failing to provide assistance to the Petitioner and by failing to send a representative to the hearing. The Task Force orders the Respondent to comply with the Petitioner's request and referred the matter to the Education, Outreach, and Training Committee for monitoring.

Public Comment:

Anonymous #3 provided the following written public comment. While I support the motion as written, the obligation of the City is not only to *assist* the complainant under SFAC 67.21(c) when the records are held by a contractor, but to actually produce the copies under SFAC 67.21(b). This is a state law obligation under CPRA, as interpreted by *Community Youth Athletic Center v. City of National City*, (Cal. Ct. App. 2013); while records may be in the actual possession of the contractor, they are also constructively possessed by the City, and the City must sufficiently push its contractors to produce responsive records. Furthermore, under Sunshine Ordinance, agencies must produce not merely "public records" but also "public information," which allows requesters to request any information *contained in* public records, like this case. Please find also a violation of 67.21(b).

Peter Warfield, Executive Director, Library Users Association, agreed with and supports Anonymous #3.

Chair Wolfe amended their motion to include a violation of 67.21(b).

Action: Moved by Chair Wolfe, seconded by Member Padmanabhan, to include a violation of Administrative Code, Sunshine Ordinance Section 67.21(b) for failure to timely produce the requested records.

Public Comment on the Amendment.

Peter Warfield, Executive Director, Library Users Association, thanked Chair Wolfe for including section 67.21(b) for failure to timely produced the records.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 0 - None

Action on Original Motion as Amended: Moved by Chair Wolfe, seconded by Member Padmanabhan, to find that the Department of Public Health violated Administrative Code (Sunshine Ordinance), Section(s) 67.21(b), 67.21(c) and 67.21(e), for failure to timely produce the requested records, by failing to provide assistance to the Petitioner, and by failing to send a representative to the hearing. The Task Force orders the Respondent to comply with the Petitioner's request and referred the matter to the Education, Outreach and Training Committee for monitoring.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 0 - None

- 4. 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. *Public comment shall be taken at 5:00 p.m. or as soon thereafter as possible.*

Anonymous #3 provided the following written public comment.

1. Dr. Sumchai's reconsideration was incorrectly denied in August. She properly requested reconsideration of SOTF 19077 (in a single email that also discussed 20011) one day after you published the Order, which is within the time limit.
2. I haven't heard anything about the pilot approved last month.
3. Recently your committees considered ~150 different allegations from one complainant against one respondent in ~3 complaints. It's unclear how this will work out at full SOTF being able to analyze all these allegations in 5 minutes, but if this does work out, please consider combining complaints to reduce the backlog.
4. A year ago, you approved by motion various recommendation to the Board of Supervisors about terminating Mayoral emergency orders re: suspension of Sunshine, but it seems you never issued that recommendation formally. City agencies are currently denying public records based on voter-prohibited balancing tests unrelated to COVID.

Peter Warfield, Executive Director, Library Users Association, stated that he repeatedly provides his contact information because he is not connected with the City and there may be people trying to reach him. Mr. Warfield stated that the

SOTF should be asking for support from the Clerk of the Board and the City Attorney.

Mark Sullivan submitted via email the following summary of their public comment:

“... affirmative vote 6 ... of SOTF ...required ...all substantive matters.”

Brown Act “..., “action taken” means ... majority of the members ... legislative body...make a positive...negative decision ... vote... when sitting as a body...upon ...motion ...”

No comma between positive or negative. “all” not used, “majority of members” “when sitting as a body”. complaint should not be at arbitrary number SOTF members seated hearing. When SOTF has failed get 6 votes affirmative, taken the minority vote win issued orders for that position. Violates Brown Act. California Constitution, SFOS Sec. 67.36. Supersedes other Local Laws.

By-law based one sentence Municipal Code Sec. 4.104 3(b) Spaghetti fest code. The next “All appointive ... units of government shall act by a majority... or other vote of all...” SOTF is an appointive unit of government and can act “by majority, or other vote”. SOTF duty comply Brown Act, change by-laws.

Patrick Monette-Shaw expressed surprise that Ms. Vien is no longer working for the Department of Public Health and provided other related comments.

- 5. File No. 21008:** Complaint filed by Stiliyan Bejanski against the Planning Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, by failing to respond to a public records request in a timely and complete manner.

Stiliyan Bejanski (Petitioner) was not present for the hearing and did not inform the Administrator of their absence.

Laura Lynch (Planning Department) (Respondent) was present for the hearing.

Member Schmidt provided a synopsis of the Complaint Committee hearing.

Action: Moved by Member Wong, seconded by Member Neighbors, to table the matter without prejudice due to nonappearance by the Petitioner.

Public Comment:

Patrick Monette-Shaw stated that due to the nonappearance of the Petitioner the SOTF should develop a procedure when the respondent admits to violating the Ordinance by not providing records then the matter should be placed on the agenda.

Peter Warfield, Executive Director, Library Users Association, stated that procedures are in place though he doesn't understand what options this Complainant has with respect to whether they maintain their place in line.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 0 - None

6. **File No. 20117:** Complaint filed by Stiliyan Bejanski against Jonis Ionin and the Planning Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.24 by failing to provide public information; 67.25 failing to respond to an Immediate Disclosure Request in a timely and/or complete manner, 67.26 failing to keep withholding to a minimum; 67.27 failing to justify withholding, and 67.29 failing to provide an index of records.

Stiliyan Bejanski (Petitioner) did not appear for the hearing and did not notify the Administrator of their absence.

Laura Lynch (Planning Department) (Respondent), was present for the hearing.

Member Schmidt provided a synopsis of the Complaint Committee hearing.

Action: Moved by Member Stein, seconded by Member Schmidt, to table the matter without prejudice due to nonappearance by the Petitioner.

Public Comment:

Patrick Monette-Shaw stated that he understood that the SOTF adopted streamlining procedures to alleviate the backlog of complaints and decided to combine a single complainant's multiple complaints.

Peter Warfield, Executive Director, Library Users Association, proposed a question and wanted a response to his procedural question on what happens to a complainant who does not show up.

The motion PASSED by the following vote:

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

Noes: 0 - None

Absent: 0 - None

7. **File No. 20123:** Complaint filed by Maya Zubkovskaya against the Department of Emergency Management for allegedly violating Administrative Code (Sunshine

Ordinance), Sections 67.24(d)(2), by failing to disclose certain portions of law enforcement information.

Please see Item 1 for action on this matter.

8. Chair’s Report.

Chair Wolfe stated that he found a part of an email that was sent out and reported in the news in the analytics of Covid 19 including deaths. Chair Wolfe noted that a former Petitioner, Patrick Roddy, was unable to get death information from Public Health because they enter their information into the state database.

Public Comment:

Patrick Monette-Shaw sympathized with Chair Wolfe but noted that this is the second discussion regarding systemwide advisory over timeliness. Mr. Monette-Shaw requested that another advisory alerting City departments of their requirements to attend SOTF meetings should be sent more frequently and posted on the agenda to document and include when and how city departments are notified when they are in violation of the Ordinance.

Peter Warfield, Executive Director, Library Users Association, agreed with the previous speaker but stated that there needs to be clarity regarding the reporting of deaths and that there should be a complaint.

9. Administrator’s Report, Complaints and Communications.

The SOTF Administrator presented the Administrator’s Report.

Public Comment.

Patrick Monette-Shaw commended both Victor Young and Cheryl Leger for their years and dedication to supporting the SOTF and stated that both Mr. Young and Ms. Leger have managed huge volumes of complaints snagging city agencies and helping relieve the backlog of complaints.

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

There was no discussion and no action taken.

11. ADJOURNMENT

There being no further business the meeting was adjourned at 6:51p.m.

**APPROVED: 10/6/21
Sunshine Ordinance Task Force**

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