



SUNSHINE ORDINANCE TASK FORCE

Complaint Committee

CITY AND COUNTY OF SAN FRANCISCO

MINUTES – DRAFT

**Hearing Room 408
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689**

**February 20, 2024
5:30 PM**

Regular Meeting

Members: Dean Schmidt (Chair), Laura Stein and Saul Sugarman

1. CALL TO ORDER, ROLL CALL, AND AGENDA CHANGES (00:00:26)

Chair Schmidt called the meeting to order at 5:30 p.m. On the call of the roll Chair Schmidt, Member Stein and Member Sugarman were noted present. A quorum was present.

The Committee members discussed possible agenda changes. Chair Schmidt stated that Respondent in Item 9 (File No. 24003) admitted no contest. Following discussion among the Committee members, Item 9 was moved to be heard before Item 4 (File No. 23095).

Public Comment:

Anne Treboux expressed thanks for moving Item 9 to an earlier time on the agenda.

**2. Approval of the January 16, 2024, Complaint Committee meeting minutes.
(00:05:40)**

Member Stein provided edits to the minutes.

Action: Moved by Chair Schmidt, seconded by Member Stein, to approve the January 16, 2024 minutes as amended.

Public Comment: None.

The motion PASSED by the following vote:

Ayes: 3 - Schmidt, Stein, Sugarman

Noes: 0 - None

3. **Public Comment:** Members of the public may address the Committee on matters that are within the Committee's jurisdiction but not on today's agenda. (00:11:10)

Anne Treboux stated that the documents received did not have the court stamp which means they were not public.

4. **File No. 23095:** Complaint filed by Mark LaCroix against the San Francisco Fire Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.10(b) by failing to consider the appointment, employment, evaluation of performance, or dismissal of a City employee, if the policy body has the authority to appoint, employ, or dismiss the employee, or to hear complaints or charges brought against the employee by another person or employee unless the employee complained of requests a public hearing; 67.11 prior to any closed session, a policy body shall state the general reason or reasons for the closed session, and shall cite the statutory authority, including the specific section and subdivision, or other legal authority under which the session is being held; 67.12 by failing to disclose closed session discussions and actions. (00:26:56)

Mark LaCroix (Complainant) provided a summary of the complaint. Mr. LaCroix stated that the closed session of 4/6/2022 was improperly noticed because the Fire Commission's deliberations were not to consider his dismissal, and they did not have the authority to dismiss him at that meeting. Mr. LaCroix further stated that the Fire Commission admitted a violation of Sec. 67.11 by not citing the legal authority on which the closed session was held, and requests that the record be made public and released to him.

Maureen Conefrey, Fire Commission Secretary (Fire Commission), (Respondent) provided a summary of the Fire Commission's position. Ms. Conefrey stated that the hearing in Mr. LaCroix's matter was in open session. Ms. Conefrey further stated that Mr. LaCroix's public records request for the audio or transcript of the deliberation of his matter was denied because the deliberation was in closed session.

A question-and-answer period occurred.

Action: Moved by Member Stein, seconded by Chair Schmidt, to find that the SOTF has jurisdiction, and to forward the matter to the full Task Force with the recommendation to find a violation of Administrative Code, Section(s) 67.11 for failing to state a general reason for the closed session and to consider whether there is a 67.10(b) violation regarding fees.

Public Comment:

Anonymous stated that there is a lack of transparency from the Fire Commission in collaboration with the City Attorney's Office, and it is a disservice to the public.

The motion PASSED by the following vote:

Ayes: 3 - Schmidt, Stein, Sugarman

Noes: 0 - None

5. **File No. 23099:** Complaint filed by Mark LaCroix against the San Francisco Fire Commission for allegedly violating Administrative Code (Sunshine Ordinance), 67.5 by failing to conduct meetings of any policy body open and public; 67.10 conducting a closed session hearing on a non-permitted topic, and 67.11 by failing to properly notice a closed session hearing. (00:58:14)

Mark LaCroix (Complainant) provided a summary of the complaint. Mr. LaCroix stated that the Fire Commission held a closed session meeting on 1/12/2022 noticed as Personnel exception, status and calendaring of pending disciplinary and separation cases. Mr. LaCroix stated that the Fire Commission's response was that the closed session pertained to the potential dismissal and separation of employees.

Maureen Conefrey, Fire Commission Secretary (Fire Commission), (Respondent) provided a summary of the Fire Commission's position. Ms. Conefrey stated that the president requested an agenda item for the Department of Human Resources and the City Attorney to give advice on how the dismissals for about 22 potential non-disciplinary separation cases would work under the 2022 health order. Ms. Conefrey further stated that agenda was timely and included the necessary citations, and the minutes state that the closed session was for a discipline hearing and labor negotiations as allowed.

Chair Schmidt stated that the issues in File Nos. 23095 and 23099 are similar, and the matters are to be heard on the same day.

A question-and-answer period occurred.

Action: Moved by Chair Schmidt, seconded by Member Stein, to find that the SOTF has jurisdiction and to forward the matter to the full Task Force. The Committee requested that the matter be heard on the same day as File No. 23095, as the parties are the same and the issues are similar but not the same.

Public Comment:

Anonymous stated that if there were back door or behind / closed-session discussions about firing firefighter personnel and it did not involve personal information about the firefighter, it should be open to the public to understand decisions about dismissals or non-disciplinary separation agreements.

The motion PASSED by the following vote:

Ayes: 3 - Schmidt, Stein, Sugarman

Noes: 0 - None

6. **File No. 23100:** Complaint filed by Jimmer Cassiol against City Administrator's Office for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21 by failing to respond to a public records request in a timely and/or complete manner. A question-and-answer period occurred. (01:22:05)

Jimmer Cassiol (Complainant) provided a summary of the complaint. Mr. Cassiol stated that he submitted a records request on 10/22/2023 and answered Respondent's request for clarification on 10/23/2023. Mr. Cassio further stated that he requested an update on his request on 11/3/2023 and was informed on 11/15/2023 that they were conferring with another department on redactions. Mr. Cassiol stated that on 11/17/2023 Respondent informed him that they had no disclosable responsive documents.

Respondent was not present.

A question-and-answer period occurred.

Action: Moved by Chair Schmidt, seconded by Member Stein, to find that the SOTF has jurisdiction, that the requested records are public, and to forward the matter to the full Task Force. The Committee requested information regarding why the exemptions under Section 67.21 apply and to determine whether there is a violation for failure to send a representative to the hearing.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Schmidt, Stein, Sugarman

Noes: 0 - None

7. **File No. 23101:** Complaint filed by Rosa L. against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a records request in a timely and/or complete manner. (01:48:04)

Rosa L. (Complainant) provided a summary of the complaint. Ms. Rosa L. stated that she filed a request for bodycam footage on December 7, 2023, and the Police Department did not respond until January 11, 2024.

Lieutenant Christopher G. Beauchamp (Police Department), (Respondent) provided a summary of the Police Department's position. Lieutenant Beauchamp stipulated that the Police Department did not respond in a timely manner, that the request should have been fulfilled by the media relations unit, and that the department has adjusted its policies to make sure that requests are taken care of in a timely fashion.

A question-and-answer period occurred.

Action: Moved by Chair Schmidt, seconded by Member Sugarman, to find that the SOTF has jurisdiction, that the requested camera footage is a public record, and to forward the matter to the full Task Force with recommendation to find a timeliness violation as conceded and to consider the sufficiency of the response under Administrative Code, Section 67.21.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Schmidt, Stein, Sugarman

Noes: 0 - None

8. **File No. 24002:** Complaint filed by Anonymous (ACU) against the Fine Arts Museum for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.7(b), by failing to provide a description that is sufficiently clear and specific 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 that item. (02:27:25)

Anonymous (Complainant) provided a summary of their complaint. Anonymous stated that the complaint refers to seven occasions in 2021 and 2022 at which the Fine Arts Museum of San Francisco Board of Trustees discussed JFK Drive access but the matter appears on only two of the seven agendas.

Respondent was not present.

A question-and-answer period occurred.

Action: Moved by Member Stein, seconded by Member Sugarman, to find that the SOTF has jurisdiction over the public meeting and to forward the matter to the full Task Force with a recommendation to review whether there is a violation of Administrative Code, Section 67.7(b) for failing to provide a clear agenda descriptions; violation for including letters received after the meeting took place in the minutes; and violation of Section 67.21(e) by failing to send an authorized representative to the hearing.

Public Comment:

Anne Treboux stated that it can be impossible to understand from the agendas and minutes what took place at the meetings.

The motion PASSED by the following vote:

Ayes: 3 - Schmidt, Stein, Sugarman

Noes: 0 - None

9. **File No. 24003:** Complaint filed by Anonymous (ACU) against the Fine Arts Museum for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.5(b), by failing to make meetings of this policy body open and public and governed by the provisions of the Ralph M. Brown Act; 67.16 by failing to provide meeting minutes within 10 working days after the meeting. (00:14:50)

Chair Schmidt stated that it is appropriate to forward the matter to the full Task Force consent calendar as Respondent declares no contest to the allegations.

Anonymous (Petitioner) stated that it was challenging to identify the Sunshine Ordinance violations because there was no notice, agenda, or minutes of the meeting.

A question-and-answer period occurred.

Action: Moved by Chair Schmidt, seconded by Member Sugarman, to forward the matter to the consent calendar of the next available full Task Force meeting based on Respondent's declaration of no contest to violations of Sunshine Ordinance Sections 67.5(b) and 67.16.

Public Comment:

Anne Treboux stated that they had similar complaints against the Fine Arts Museum six or seven years ago.

The motion PASSED by the following vote:

Ayes: 3 - Schmidt, Stein, Sugarman

Noes: 0 - None

10. **File No. 23097:** Hearing - Proposed edits to the SOTF Complaint Procedure to expedite complaint processing, per the Sunshine Ordinance requirements. (*Discussion and Action*) (03:01:06)

The Committee discussed proposed changes to the complaint process to expedite the complaint process. Chair Schmidt stated he will present information to the SOTF about court cases that may affect decisions that are not made within a statutory time period.

Motion: Moved by Chair Schmidt, seconded by Member Sugarman, to approve as a Committee the proposed changes to the complaint process and bylaws and forward it to the full Task Force for review and approval.

Public Comment: None.

The motion PASSED by the following vote:

Ayes: 3 - Schmidt, Stein, Sugarman

Noes: 0 - None

11. **Announcements, Comments, Questions, Future Agenda Items, and Pending Calendar by members of the Committee.** (03:58:26)

Chair Schmidt stated that he asked both Member Anderson and Member Kumar if they wanted to be on the Complaint Committee. Chair Schmit further stated that Member Anderson declined, and that he has not heard from Member Kumar.

12. **ADJOURNMENT** (04:00:14)

There being no further business the meeting was adjourned at 9:30 p.m.

APPROVED: 3/19/2024

Complaint Committee

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.

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