

Date: Feb. 8, 2011

Item No. 3
File No. 10067

SUNSHINE ORDINANCE TASK FORCE
COMPLAINT COMMITTEE
AGENDA PACKET CONTENTS LIST*

- Charles Pitts against the Local Homeless Coordinating Board
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Completed by: Chris Rustom

Date: Feb 1, 2011

***This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

** The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.



DENNIS J. HERRERA
City Attorney

JERRY THREET
Deputy City Attorney

Direct Dial: (415) 554-3914
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**MEMORANDUM
PRIVILEGED AND CONFIDENTIAL**

TO: Sunshine Ordinance Task Force
FROM: Jerry Threet
Deputy City Attorney
DATE: January 18, 2011
RE: *Charles Pitts v. Local Homeless Coordinating Board (10067)*

COMPLAINT

THE COMPLAINANT ALLEGES THE FOLLOWING:

Complainant Charles Pitts ("Complainant") alleges that on November 18, 2010 he requested a copy of the minutes of the October 4, 2010 meeting of the Local Homeless Coordinating Board, but that he has not been provided them, in violation of Ordinance section 67.25(a).

COMPLAINANT FILES COMPLAINT:

On November 22, 2010, Complainant filed a Public Meeting Complaint against the Board for its alleged violations, without specifying the sections of law that had been violated.

JURISDICTION

The Board is a nine member policy body appointed by the Mayor, the Board of Supervisors, and the Controller. Its bylaws indicate that it will operate in accordance with the Sunshine Ordinance. Therefore, the Sunshine Ordinance Task Force has jurisdiction over the complaint and the Board does not contest jurisdiction.

APPLICABLE STATUTORY SECTION(S):

- Section 67.16 governs public access to minutes of a public meeting of a board or commission enumerated in the charter.
- Section 67. 21 governs the process for gaining access to public records.

APPLICABLE CASE LAW:

None.

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ISSUES TO BE DETERMINED:

Uncontested/Contested Facts: Complainant alleges that on November 18, 2010 he requested a copy of the minutes of the October 4, 2010 meeting of the Local Homeless Coordinating Board, but that he had not been provided them at the time he made his complaint, on November 22, 2010.

QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS:

- Were the minutes of the October 4, 2010 meeting of the LHCB adopted at the time they were requested by Complainant? Were draft minutes available at that time?
- Have the minutes of the October 4, 2010 meeting been completed and adopted at this time?
- Has LHCB provided Complainant with the requested minutes?

LEGAL ISSUES/LEGAL DETERMINATIONS:

- Did respondent violate Section 67.21 of the Ordinance?
- Were sections of the Sunshine Ordinance, Brown Act, and/or California Constitution Article I, Section three violated?

CONCLUSION:

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

THE TASK FORCE FINDS THE ALLEGED VIOLATIONS TO BE TRUE OR NOT TRUE.

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**~~ATTACHED STATUTORY SECTION FROM CHAPTER 67 OF THE SAN
FRANCISCO ADMINISTRATIVE CODE UNLESS OTHERWISE SPECIFIED~~**

SEC. 67.16. MINUTES.

The clerk or secretary of each board and commission enumerated in the charter shall record the minutes for each regular and special meeting of the board or commission. The minutes shall state the time the meeting was called to order, the names of the members attending the meeting, the roll call vote on each matter considered at the meeting, the time the board or commission began and ended any closed session, the names of the members and the names, and titles where applicable, of any other persons attending any closed session, a list of those members of the public who spoke on each matter if the speakers identified themselves, whether such speakers supported or opposed the matter, a brief summary of each person's statement during the public comment period for each agenda item, and the time the meeting was adjourned. Any person speaking during a public comment period may supply a brief written summary of their comments which shall, if no more than 150 words, be included in the minutes.

The draft minutes of each meeting shall be available for inspection and copying upon request no later than ten working days after the meeting. The officially adopted minutes shall be available for inspection and copying upon request no later than ten working days after the meeting at which the minutes are adopted. Upon request, minutes required to be produced by this section shall be made available in Braille or increased type size.

**SEC. 67.21. - PROCESS FOR GAINING ACCESS TO PUBLIC RECORDS;
ADMINISTRATIVE APPEALS.**

(a) Every person having custody of any public record or public information, as defined herein, (hereinafter referred to as a custodian of a public record) shall, at normal times and during normal and reasonable hours of operation, without unreasonable delay, and without requiring an appointment, permit the public record, or any segregable portion of a record, to be inspected and examined by any person and shall furnish one copy thereof upon payment of a reasonable copying charge, not to exceed the lesser of the actual cost or ten cents per page.

(b) A *custodian of a public record* shall, as soon as possible and within ten days following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered to the office of the custodian by the requester orally or in writing by fax, postal delivery, or e-mail. If the custodian believes the record or information requested is not a public record or is exempt, the custodian shall justify withholding any record by demonstrating, in writing as soon as possible and within ten days following receipt of a request, that the record in question is exempt under express provisions of this ordinance.

(c) A *custodian of a public record* shall assist a requester in identifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within seven days following receipt of a request, a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request under (b). A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person.

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(d) If the custodian refuses, fails to comply, or incompletely complies with a request described in (b), the person making the request may petition the *supervisor of records* for a determination whether the record requested is public. The supervisor of records shall inform the petitioner, as soon as possible and within 10 days, of its determination whether the record requested, or any part of the record requested, is public. Where requested by the petitioner, and where otherwise desirable, this determination shall be in writing. Upon the determination by the supervisor of records that the record is public, the supervisor of records shall immediately order the custodian of the public record to comply with the person's request. If the custodian refuses or fails to comply with any such order within 5 days, the supervisor of records shall notify the district attorney or the attorney general who shall take whatever measures she or he deems necessary and appropriate to insure compliance with the provisions of this ordinance.

(e) If the custodian refuses, fails to comply, or incompletely complies with a request described in (b) above or if a petition is denied or not acted on by the supervisor of public records, the person making the request may petition the Sunshine Task Force for a determination whether the record requested is public. The Sunshine Task Force shall inform the petitioner, as soon as possible and within 2 days after its next meeting but in no case later than 45 days from when a petition in writing is received, of its determination whether the record requested, or any part of the record requested, is public. Where requested by the petitioner, and where otherwise desirable, this determination shall be in writing. Upon the determination that the record is public, the Sunshine Task Force shall immediately order the custodian of the public record to comply with the person's request. If the custodian refuses or fails to comply with any such order within 5 days, the Sunshine Task Force shall notify the district attorney or the attorney general who may take whatever measures she or he deems necessary to insure compliance with the provisions of this ordinance. The Board of Supervisors and the City Attorney's office shall provide sufficient staff and resources to allow the Sunshine Task Force to fulfill its duties under this provision. Where requested by the petitioner, the Sunshine Task Force may conduct a public hearing concerning the records request denial. An authorized representative of the custodian of the public records requested shall attend any hearing and explain the basis for its decision to withhold the records requested.

**THE CALIFORNIA CONSTITUTION AS AMENDED BY PROPOSITION 59 IN 2004
PROVIDES FOR OPENNESS IN GOVERNMENT.**

Article I Section 3 provides:

- a) The people have the right to instruct their representative, petition government for redress of grievances, and assemble freely to consult for the common good.
- b)(1) The people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.
- 2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision that limits the right of access shall be adopted with findings

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~~demonstrating the interest protect by the limitation and the need for protecting that interest.~~

3) Nothing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.

4) Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that person may not be deprived of life, liberty, or property without due process of law, or denied equal protection of the laws, as provided by Section 7.

5) This subdivision does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings or public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.

6) Nothing in this subdivision repeals, nullifies, supersedes, or modifies protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committee, and caucuses provided by Section 7 of Article IV, state law, or legislative rules adopted in furtherance of those provisions: nor does it affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses.



RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2010 NOV 22 AM 10:32

BY AK

SUNSHINE ORDINANCE TASK FORCE
1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102
Tel. (415) 554-7724; Fax (415) 554-7854
<http://www.sfgov.org/sunshine>

SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission Local Homeless Coordinating Board

Name of individual contacted at Department or Commission David Castro

- Alleged violation public records access
- Alleged violation of public meeting. Date of meeting _____

Sunshine Ordinance Section _____
(If known, please cite specific provision(s) being violated)

Please describe alleged violation. Use additional paper if needed. Please attach any relevant documentation supporting your complaint.

Did not respond to information request
want info

Do you want a public hearing before the Sunshine Ordinance Task Force? yes no
 Do you also want a pre-hearing conference before the Complaint Committee? yes no

(Optional)¹
Name Charles Pitts Address _____

Telephone No. _____ E-Mail Address PAKASAW(A)YOHOO.COM

Date _____ Signature _____

I request confidentiality of my personal information. yes no

¹ NOTICE: PERSONAL INFORMATION THAT YOU PROVIDE MAY BE SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE, EXCEPT WHEN CONFIDENTIALITY IS SPECIFICALLY REQUESTED. YOU MAY LIST YOUR BUSINESS/OFFICE ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS IN LIEU OF YOUR HOME ADDRESS OR OTHER PERSONAL CONTACT INFORMATION. Complainants can be anonymous as long as the complainant provides a reliable means of contact with the SOTF (Phone number, fax number, or e-mail address).

"Immediate Disclosure Request

SAN FRAN ADMINISTRATIVE CODE 67.25.a

TO local homeless coordinating board

I am requesting a copy of

The Minutes of the October 4, 2010 meeting

HSA FISCAL CONTRACTS
RECEIVED
2010 NOV 18 A 11:51

Charles pitts [REDACTED]@yahoo.com

Alison
Schlageter/DHS/CCSF@CCS
F
12/22/2010 02:14 PM

To SOTF/SOTF/SFGOV@SFGOV
cc
bcc
Subject Fw: public records request

The email below is being submitted as supporting documents for Complaint #10067. I am requesting a pre-hearing.

Thank You.

Ali Schlageter
SF Local Homeless Coordinating Board Policy Analyst
Ten Year Implementation Council, Staff
Phone: 1-415-557-6451
Email: Alison.Schlageter@sfgov.org

----- Forwarded by Alison Schlageter/DHS/CCSF on 12/22/2010 02:15 PM -----



CHARLES PITTS
<pakasaw@yahoo.com>
11/23/2010 11:33 PM

To Alison Schlageter <Alison_Schlageter@ci.sf.ca.us>
cc Pamela Tebo <Pamela.Tebo@sfgov.org>
Subject Re: public records request

one reason i requested this document
is that thier was no mention of it in the agenda

--- On Tue, 11/23/10, Alison Schlageter <Alison_Schlageter@ci.sf.ca.us> wrote:

From: Alison Schlageter <Alison_Schlageter@ci.sf.ca.us>
Subject: public records request
To: pakasaw@yahoo.com
Cc: "Pamela Tebo" <Pamela.Tebo@sfgov.org>
Date: Tuesday, November 23, 2010, 12:02 PM

Hi Charles-

As you requested, attached are the minutes from the October 4, 2010 LHCB meeting.

Thanks
ali

Ali Schlageter
SF Local Homeless Coordinating Board Policy Analyst

Ten Year Implementation Council, Staff
Phone: 1-415-557-6451
Email: Alison.Schlageter@sfgov.org

Alison
Schlageter/DHS/CCSF@CCS
F

12/22/2010 02:12 PM

To SOTF/SOTF/SFGOV@SFGOV

cc

bcc

Subject Fw: public records request

The email below is being submitted as supporting documents for Complaint #10067. I am requesting a pre-hearing.

Thank You.

Ali Schlageter
SF Local Homeless Coordinating Board Policy Analyst
Ten Year Implementation Council, Staff
Phone: 1-415-557-6451
Email: Alison.Schlageter@sfgov.org

--- Forwarded by Alison Schlageter/DHS/CCSF on 12/22/2010 02:12 PM ---

Alison Schlageter/DHS/CCSF

11/23/2010 10:02 AM

To pakasaw@yahoo.com

cc Pamela Tebo/DHS/CCSF@CCSF

Subject public records request

Hi Charles-

As you requested, attached are the minutes from the October 4, 2010 LHCB meeting.

Thanks
ali



LHCBMinutes10.4.10.doc

Ali Schlageter
SF Local Homeless Coordinating Board Policy Analyst
Ten Year Implementation Council, Staff
Phone: 1-415-557-6451
Email: Alison.Schlageter@sfgov.org

San Francisco Local Homeless Coordinating Board
Full Board
Meeting Minutes
October 4, 2010

Members Present: Christine Ma; Wendy Phillips; Kevin Sharps; Richard Springwater; Erick Brown

Members Absent: Bobbie Rosenthal; Laura Guzman; Rae Suber

I. Introduction

At start of meeting it was noted that agenda item number seven will be tabled until the next meeting in November.

II. Minutes from September

Edit proposed. Public comment by Deborah from Glide said that the language regarding the Jelani house grant should read that the services should be “retained” in the Bayview.

Motion made to approve the minutes for September

M/S/C (Ma/Brown/ 2 abstentions) Motion fails.

III. 2010 NOFA Release

It was announced that the McKinney NOFA was announced on September 20th. The application is due to HUD on November 18th. Some of the news of the NOFA included: Families are now considered under the chronically homeless definition; permanent housing bonus funds is for homeless families or individuals with HUD recommending that it is used for disabled people or veterans; New to the application is that the programs have to report on performance measurements.

The NOFA also guidance on how to prepare to implement HEARTH.

No public comment.

IV. Performance Measurements 2010 Application

Bridget from Homebase went through the document regarding performance measurements, a new section of the Exhibit II applications. This new addition to the application is in alignment with changes happening to HMIS, APRs, and the emphasis on performance in HEARTH.

The measurements, two prescribed by HUD, and up to three additional ones must be included in this application and therefore we are on a tight timeline. HUD did not give much notice of this. Data for the performance measurements needs to be collected by HMIS.

Bridget reviewed the HUD mandated performance measurements that we have to report on.

Board Member Ma said we need to be practical about how much data we ask programs to collect while still meeting HUD requirements.

Board member Springwater thinks that there should be a percent benchmark for programs to meet, with incentive to improve. Look at current data to create that benchmark. Since there are many different programs there will be different benchmarks. He also asked what would happen if a CoC doesn't set benchmarks?

Bridget responded and said that we don't think currently HUD cares if there is a community wide benchmark, but its good for planning purposes.

Board member Sharps was concerned that the data has to be measured by HMIS because HMIS doesn't always reflect performance, however standards are important. He recommends projects pick their own measurements as long as it can be tracked in HMIS.

Board member Ma asked how much data collection work will it take to create these performance measurements.

Bridget stated that a lot of the data is already collected with the APRs, the important piece now is figuring out the process.

Public Comment:

Marcy from Salvation Army and Leon from Swords to Plowshares says that measurements should be different for subpopulations.

Karen from ECS said that we need to be compliant with HUD but this is a good time to respond to system wide goals via tracking performance measurements.

This is a good time to try different outcomes for different program types; collect the data; look at it; and if it needs to be better or different try something else next year.

Clara House agrees with universal outcomes and think they can get 3 or 4 outcomes out of HMIS that demonstrate what they do, however there should be difference in some measurements for programs that serve different populations.

Tomas stated that he is happy to see performance measurements on the agenda. Measurements from the community and the LHCB.

Deborah from Glide said they support performance measurements. Be careful of saying some serve the "hardest to serve", how you define this is important because you don't want to put programs at odds with each other.

Board member Springwater suggested we look at like programs, compare data, and set measurements that way. It is important to approach this thoughtfully and not have one approach for everyone.

Board member Ma said we should also look at the benchmarks we set in Exhibit One. Board member Sharps said to look at the performance measurements set in City contracts for these programs.

Motion made for the recommendation that the Funding Committee should work out the particulars of tracking performance measurements and report back on November 1st and there should be a universal measurement about mainstream benefits.

M/S/C (Ma/Sharp/Unanimous)

V. Input on quarterly survey to be completed in City funded shelters

~~Scott Walton presented from Human Services Agency. As part of a lawsuit filed and settled against the City, a survey must be completed in the single adult shelters. This survey must get input from the Local Homeless Coordinating Board along with other groups. Mr. Walton went over the draft version of the survey and collected comments from the Board members and members of the public.~~

All comments can be submitted to Mr. Walton no later than October 25th. Final draft of the survey is to be completed by November 13th.

Board member Sharps recommended that you ask questions that ask for personal experience, not for the client to give overall ratings. A person cannot speak for anyone but themselves. Also ask where they got there reservations at so you can compare responses to the reservation site it is referring to.

Board member Ma thinks you should ask how many days one has been at the shelter. Also change the wording of question #2...”affect” to “impede or inhibit”.

Board member Springwater thinks the response scale should start with “poor” and end with “excellent”.

Public Comment:

Nancy Cross asked to see the actual lawsuit and thinks that the actual lawsuit should be made more accessible to the public.

Mr. Walton responded and said the lawsuit was posted at the shelters and resource centers for a required amount of time.

Ms. Cross also commented that there should be demographic questions because men and women have different experiences. There should also be open ended questions where people can give examples and share their experiences. Doing this will allow for more meaningful information to be gathered.

Jennifer Friedenbach recommended that the responses be on a five point scale. Also there should be other ways to respond because using a rating system does not always gather information about what needs improvement. There should also be more questions about shelter access. She also recommended that there be a separate meeting hosted by the LHCB. This is a good opportunity to give feedback.

Mari from VLSP said that for question #11 you should rate each service individually.

Deborah from Glide suggested that for question #2 there should be a distinction between if the service was received vs. offered.

Tomas suggested the question "can you access beds via CHANGES" should be added. Also the Shelter Monitoring Committee should be involved. They can distribute it during their sites.

Charles thinks there is an issue if the staff are collecting the surveys because they can weed out the complaints. There should be a question about Veteran status and gender. Also question #2 should be two separate questions.

Board member Ma agreed that there should be a Policy Committee meeting held to discuss this. Mr. Walton reminded that the deadline for comments is October 25th.

VI. Appointment of Seat on the WICAC

Tabled until November.

VII. New Business

A) Housing Access Committee

During the LHCB retreat the LHCB decided they wanted to look at Housing Access. The committee would look at the process and how to access permanent supportive housing. The LHCB discussed, due to large workload currently, having this committee meeting late this year or early next year. (December or January)

Public Comment

Christine from the SHEC/CHP asked if there is one list that has all of the housing access points. Daryl Higashi said yes there is.

Charles stated that there are four or five different housing lists and many different ways to access housing. Looking for housing is a full time job. There are all different applications and the process is very complicated. There should be housing access clinics.

B) Other items:

At a future meeting there will be a presentation on the HEARTH/HMIS conference that LHCB staff attended.

VIII. Old Business

A) Update on SHP Jelani House Grant

Mikyung Kim, McKinney grants manager for Human Services Agency, provided an update on the transitional housing grant that Jelani Inc. once had. Jelani lost their funding from DPH and closed their program. It is now been figured out that Walden House will take over the grant and administer the same transitional housing program.

IX. General Public Comment

Nancy Cross stated that she is having problems at Next Door. There is violence there and it makes her anxious. There needs to be a solution provided to shelter residents for this problem and the shelter staff are not equipt to deal with the trauma clients face.

Board member Ma suggested to Ms. Cross that she use the shelter grievance procedure to bring up these issues.

Ms. Cross said the shelter administrators are not available to assist.

Charles agreed that the shelter staff and administrators and the LHCB are not taking clients complaints seriously.

X. Adjournment