



SUNSHINE ORDINANCE TASK FORCE
Complaint Committee
CITY AND COUNTY OF SAN FRANCISCO
MINUTES
REMOTE REGULAR MEETING

March 16, 2021
5:30 PM

Members: Dean Schmidt (Chair) and Laura Stein and Kai Forsley

Remote Access to Information and Participation

In accordance with Governor Newsom's Executive Order No. N-33-20 declaring a State of Emergency regarding the COVID-19 outbreak and Mayor London N. Breed's Proclamation declaring a Local Emergency issued on February 25, 2020, including the guidance for gatherings issued by the San Francisco Department of Public Health Officer, aggressive directives were issued to reduce the spread of COVID-19. On March 17, 2020, the Board of Supervisors authorized their Board and Committee meetings to convene remotely (via Microsoft Teams) and will allow remote public comment via teleconference.

Members of the public may participate by phone or may submit their comments by email to: Cheryl.Leger@sfgov.org; all comments received will be made a part of the official record. Sunshine Ordinance Task Force agendas and their associated documents are available at <https://sfbos.org/sunshine>.

As the COVID-19 disease progresses, please visit the Sunshine Ordinance Task Force website regularly to be updated on the current situation as it affects the legislative process.

Meeting Decorum: Any member of the Sunshine Ordinance Task Force may call for decorum due to disorderly conduct of meeting participants. Persons who engage in threatening and/or menacing behavior may be asked to leave.

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

Chair Schmidt called the meeting to order at 5:37 p.m. On the call of the roll Chair Schmidt and Members Stein and Forsley were noted present. A quorum was present.

There were no agenda changes.

2. **Approval of the February 16, 2021, Complaint Committee meeting minutes.**

Action: Moved by Member Stein, seconded by Member Forsley, to approve the February 16, 2021, meeting minutes as amended.

Public Comment:

Peter Warfield, Library Users Associations, requested that members state their name when speaking and noted that there is no notation of attachments.

Anonymous requested two corrections: page 3, related to 'to the contracted party to retrieve documents' and page 4 regarding 'non-contracted party'.

The motion PASSED by the following vote:

Ayes: 3 - Stein, Forsley, Schmidt

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.

Speakers:

Peter Warfield, Library Users Association, expressed concern with the Sunshine Ordinance and requested an explanation regarding the Covid emergency provision and changes to Sunshine procedures. Mr. Warfield expressed concern with NextRequest used by departments.

Anonymous commented on the use of NextRequest and possible issues.
Anonymous provided comments on the metadata update and related tools.

Anne Treboux expressed concern with the Arts Commission responses and accusations.

Tom Borden expressed concern with the operation of NextRequest and that responses are only available to the requester. For the record, I followed the "star 6" directions from Victor to unmute but was not recognized under agenda item # 3 this evening.

My statement:

John Hooper provided the following comment. I have two active and unresolved complaints on your docket, as follows:

File No. 19061 against OEWD demanding public documents stemming from a July 1, 2018 contract with SF Parks Alliance to organize Green Benefit Districts in the Haight and another in the Mission Dolores area. Both failed. At your 2/16 meeting you continued this item and asked that I further refine the list of items I have still not received. I submitted a distilled list, as requested, on March 4, 2021. Please acknowledge receipt of that email and let me know when the Committee will calendar this active complaint.

Regarding File No. 19062 against Department of Public Works, you forwarded this item to the full task force. It was not included on the March 3 SOTF agenda. Please advise when you intend to bring this complaint forward. I would like to participate.

Thank you and, again, I want to emphasize that I was unable to participate under Public Comment tonight.

4. **File No. 20068:** Complaint filed by James Chaffee against the Library Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.14 by failing to make audio recordings available on the website, 67.21 by failing to respond to a records request in a timely manner and 67.29 by failing to maintain the Library Commission website. (00:20:15 – 00:42:35)

The petitioner was not present at the meeting.

Margot Shaub (Library Commission) (Respondent), provided a summary of the department's position and responded to questions from the Committee. Ms. Shaub stated that the audio recording was online but not in its normal location during the website update. Ms. Shaub acknowledge that audio recordings were not available online for a short period of time.

A question and answer period occurred.

The Committee noted that they believe it was a temporary violation that has been resolved.

Action: Moved by Chair Schmidt, seconded by Member Stein, to find that the SOTF has jurisdiction, that the records are public and referred the matter to the full SOTF for hearing.

Public Comment:

Peter Warfield, Library Users Association, stated that the actions of the Committee are alarming and is concerned with the response of the Library Commission. Mr. Warfield noted that certain recordings have been removed from the Library Commission website.

Ann Treboux noted that the audio was not available for 23 days, a long period of time.

Anonymous stated that the only evidence provided was from the petitioner and noted that the Task Force does not have any ability or authority to remedy these issues.

The motion PASSED by the following vote:

Ayes: 3 - Stein, Forsley, Schmidt

Noes: 0 - None

5. **File No. 20073:** Complaint filed by Jud Buechler against the Department of Public Health for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25 by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner. (00:42:35 - 01:03:22)

The Petitioner was not present at the hearing.

Veronica Vien (Department of Public Health) (Respondent), provided a summary of the department's position and responded to questions from the Committee. Ms. Vien stated that a response was provided on December 24, 2020, to the request received May 5, 2020. Ms. Vien acknowledged that the response was late due to a technical issue. Ms. Vien stated that one document was provided which was responsive to the request for records.

A question and answer period occurred.

The Committee noted that the public cannot be limited to requesting document in a specific format.

Action: Moved by Member Stein, seconded by Member Forsley, to find that the SOTF has jurisdiction, that the records are public and referred the matter to the full SOTF for hearing. The Committee requested that the SOTF Administrator ask the Petitioner to provide the referenced tweet before scheduling the matter before the Task Force.

Public Comment:

Anonymous commented on responses by other DPH employees and the date of the emails are important and there is a pattern of DPH lateness.

The motion PASSED by the following vote:

Ayes: 3 - Stein, Forsley, Schmidt

Noes: 0 - None

6. **File No. 20077:** Complaint filed by Tom Borden against Recreation and Parks Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, by failing to respond to a public records request in a timely and/or complete manner. (01:03:22 – 01:34:00)

Tom Borden (Petitioner) responded to questions from the Committee regarding documents that were requested. Mr. Borden noted that a map of the trail log was requested and but not provided.

Tiffany Lin-Wilson and Lauren Chavez (Recreation and Parks) (Respondent), provided a summary of the Department's position and responded to questions from the Committee. Ms. Chavez provided an explanation of the documents provided and noted that the document is only a projection for an in-progress project. Ms. Chavez stated there may have been a misunderstanding in what was requested and can provide additional documents. Ms. Chavez noted that the trail log is not yet available and still in the planning stages. Ms. Lin-Wilson stated that the pandemic emergency prevented the Department from timely responding to the Immediate Closure Request, resulting in a request for an extension of time to respond.

A question and answer period occurred.

Action: Moved by Member Forsley, seconded by Member Stein, to find that the SOTF has jurisdiction, that the records are public and referred the matter to the full SOTF for hearing.

Public Comment:

Anonymous expressed agreement with the Committee and commented to the response time requirement.

Peter Warfield, Library Users Association, stated there are specific deadlines for document production. Mr. Warfield note that the Emergency declaration affect on the deadlines needs to be addressed.

The motion PASSED by the following vote:

Ayes: 3 - Stein, Forsley, Schmidt

Noes: 0 - None

7. **File No. 20079:** Complaint filed by Shane Anderies against District Attorney's Office and Chesa Boudin for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(e) by failing to respond to a records request in a timely and/or complete manner; 67.25 by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner; 67.26 by failing to keep withholding to a minimum and 67.27 by failing to provide justification for withholding responsive documents.
(01:34:00 - 01:56:02)

Shane Anderies (Petitioner) responded to questions from the Committee. Mr. Anderies stated that he believes there is additional information that has not been provided. Mr. Anderies provided information regarding documents that should exist and be presented. Mr. Anderies noted that the request for a description of search method and terms were not provided.

David Campos, Chief of Staff (Office of the District Attorney) (Respondent), responded to questions from the Committee. Mr. Campos noted that an extension of time to respond was requested in order to consult with the Office of the City Attorney regarding whether privileged applied to emails between the District Attorney and the Office of the City Attorney. Mr. Campos confirmed that there were 5 responsive emails that were privileged and withheld. Robin Birch (Office of the City Attorney) described what categories were used to search for responsive documents and noted that no other documents were found.

A question and answer period occurred.

Action: Moved by Chair Schmidt, seconded by Member Stein, to find that the SOTF has jurisdiction, that the records are public and referred the matter to the full SOTF for hearing. In addition, the Committee requested that the Respondent provide information regarding how their search was conducted and what search terms were used. The Committee requested the Complainant provide information regarding their rational, in this specific case, about Attorney Client Privilege and a subsequent response from the Respondent.

Public Comment:

Anonymous commented on what items are considered to be public records. Anonymous noted that the SOTF can disagree with the advice of the City Attorney. Anonymous commented on what part of a document is disclosable.

The motion PASSED by the following vote:

Ayes: 2 - Stein, Schmidt

Noes: 1 - Forsley

8. **Announcements, Comments, Questions, and Future Agenda Items by Members of the Complaint Committee.**

There were no items presented.

Public Comment:

Anonymous commented on the structure and procedure of the committee agenda.

9. **ADJOURNMENT**

The meeting adjourned at 7:57 p.m.

APPROVED: 5/18/21

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.