



SUNSHINE ORDINANCE TASK FORCE

Complaint Committee

CITY AND COUNTY OF SAN FRANCISCO

MINUTES

REMOTE MEETING

May 18, 2021
5:30 PM

Remote Regular Meeting

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

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

Chair Schmidt called the meeting to order at 5:33 p.m. On the call of the roll Chair Schmidt and Members Stein and Forsley were noted present. A quorum was present.

The Committee discussed the Petitioner's request for a postponement of Item No. 7, File No. 20056.

Action: Moved by Member Stein, seconded by Chair Schmidt, to continue the matter to the Call of the Chair and requested that the SOTF Administrator send the Petitioner another copy of the Agenda Packet before the next hearing.

Public Comment:

Peter Warfield, Executive Director of Library Users Association, can be reached at libraryusers2004@yahoo.com, or P.O. Box 170544, San Francisco, CA 94117-0544 stated that the discussion about postponement and jurisdiction was confusing. Mr. Warfield supported the Petitioner's request for a continuance.

Anonymous concurred with Mr. Warfield in that the discussion regarding postponement and jurisdiction was confusing. Anonymous also stated that the Library representative misstated the complaint. Anonymous stated that the Complaint is against the City Librarian.

Member Stein amended the motion to reschedule the matter to the next Complaint Committee hearing.

Action: Moved by Member Stein, seconded by Chair Schmidt, to continue the matter to the next Complaint Committee hearing and requested that the SOTF Administrator send the Petitioner another copy of the Agenda Packet before the next hearing.

The motion PASSED by the following vote:

Ayes: 3 - Stein, Schmidt, Forsley
Noes: 0 - None

2. Approval of the April 20, 2021, Complaint Committee meeting minutes.

The Committee discussed the Minutes. Member Stein noted one change.

Action: Moved by Chair Schmidt, seconded by Member Stein, to approve the April 20, 2021, meeting minutes as amended.

Public Comment:

Peter Warfield noted the inability to personally approach people who are listening during a remote meeting. Mr. Warfield appreciates that the minutes have come a long way.

The motion PASSED by the following vote:

Ayes: 3 - Schmidt, Stein, Forsley
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 stated that he feels socially cut during public comment and then being ignored. Library Users made a complaint regarding public comment during a Library Commission meeting. Mr. Warfield stated that there are difficulties when making public comment via telephone instead of an in-person meeting.

Anonymous stated that there are thousands of people city wide who do not have cell phones or a reliable way of making an appearance at a remote meeting. Anonymous noted that he has been using a facsimile machine for communication with the SOTF Administrator.

Dr. Ahimsa Sunchai noted the challenges she has experienced delivering hard copies of important documents to the Department of Public Health. Dr. Sumchai stated that she sent a letter to Director Colfax by certified mail reporting on a meeting with federal officials and never received the receipt of delivery.

4. **File No. 20011:** Complaint filed by Ahimsa Porter Sumchai against Mayor London Breed and the Office of the Mayor for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.15, 67.5 and 67.6, by failing to have a meeting quorum, failing to notice the time and place of the meeting, failing to allow public comment at the Mayor's Hunters Point Shipyard Citizens Advisory Committee meetings on July 17, 2019, January 27, 2020 and January 28, 2020.

Dr. Ahimsa Porter Sumchai (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Dr. Sumchai stated that the complaint form was not included in the packet. Dr. Sumchai stated that there are ongoing violations stemming from the Whistleblower complaint. Dr. Sumchai noted that the SOTF Administrator placed this item on the Compliance and Amendments Committee November 2020 Agenda and without her approval, removed it from the Agenda.

Hank Heckel, Compliance Officer (Mayor's Office) (Respondent), provided a summary of the department's position. Mr. Heckel stated that this matter relates to the Hunters Point Shipyard Community Advisory Committee. Mr. Heckel stated that the Committee should be hearing new facts or claims on File No. 19077 in which she alleges that she was not given proper notice of the July 17, 2019. Mr. Heckel explained that she was not omitted nor was there a deliberate attempt to exclude her.

Alisa Vincent, Clerk of the Hunters Point Community Advisory Committee (CAC) stated that Dr. Sumchai has confused the July 2019 and January 2020 CAC meetings. Ms. Vincent stated that on January 22, 2019, Dr. Sumchai asked if she could present information during Public Comment. Ms. Vincent stated that the following day, Dr. Sumchai's request was confirmed so long as she did not speak about biomonitoring. Ms. Vincent stated that Dr. Sumchai was never been denied a chance to speak. Ms. Vincent noted that Dr. Sumchai also claimed that the minutes of that meeting were falsified because Diedra Smith was not at the table when the meeting came to order and there was no quorum. Ms. Vincent stated that CAC was just hosting the meeting and not having a quorum does not disallow them from holding the meeting.

Assistant Clerk Victor Young (Sunshine Ordinance Task Force) responded to questions from the Complaint Committee.

A question and answer period occurred.

Action: Moved by Chair Schmidt, seconded by Member Forsley, to find there is jurisdiction, that the requested records are public and to forward to the SOTF with the recommendation of finding that there is no new information that justifies reconsidering the prior decision as requested by the Petitioner.

Public Comment:

Peter Warfield referred to the complaint procedures that outline the requirements for a reconsideration. Mr. Warfield was surprised that this matter was not noticed as a reconsideration.

The motion PASSED by the following vote:

Ayes: 3 - Schmidt, Forsley, Stein

Noes: 0 - None

5. **File No. 20122:** Complaint filed by Thomas Busse against the Dennis Herrera and the City Attorney's Office 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.

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

John Cote, Communications Director (Office of the City Attorney) (Respondent), provided a summary of the department's position. Mr. Cote stated that the records request was voluminous and required a review of ten years of investigation materials related to Mohamad Nuru's activity beginning 2003. Mr. Cote stated on September 4, 2020, they informed the requestor that additional time was needed to respond. Mr. Cote stated that due to the emergency Proclamation from the Mayor's Office there was no violation for timeliness.

A question and answer period occurred.

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

Public Comment:

Peter Warfield noted that there are always reasons and some more legitimate than others and the law is the law whether there is a violation or not.

The motion PASSED by the following vote:

Ayes: 3 - Stein, Forsley, Schmidt

Noes: 0 - None

Member Forsley was noted absent at 8:17 PM.

6. **File No. 20120:** Complaint filed by Ileina Afuha'amango against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by

failing to respond to a records request for public records in a timely and/or complete manner.

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

Lt. Arran Pera (Police Department) (Respondent), provided a summary of the department's position. Lt. Pera stated that the request report involved an open investigation into a death and responded to the Petitioner that due to the nature of the incident, the report would not be released immediately. Lt Pera noted that the Petitioner was told that the Police Department was monitoring the investigation. Lt. Pera stated that the records were provided once they were releasable.

A question and answer period occurred.

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

Public Comment:

Peter Warfield stated that a Sunshine request determines what records are disclosable and to look to the law because there must be a specific citation.

The motion PASSED by the following vote:

Ayes: 3 - Stein, Schmidt

Noes: 0 - None

Absent: 1 - Forsley

7. **File No. 20056:** Complaint filed by Anonymous against City Librarian Michael Lambert for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b)(1) by failing to respond to a records request in a complete and timely manner.

The matter was continued in Item 1 under Agenda changes.

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

Chair Schmidt stated that he asked the City Attorney if there were any changes on the current status of the Mayor's Orders. Chair Schmidt stated that even though changes are based on the state of emergency he is not sure how long we can continue on this basis. Chair Schmidt noted that this discussion should be addressed by the SOTF at the next meeting.

Public Comment:

Peter Warfield expressed concern over the number of people requesting continuances and that there has not been enough time to allow member of the public to prepare their materials to get into the packet.

9. **ADJOURNMENT**

There being no further business the meeting was adjourned at 8:57 p.m.

APPROVED: DRAFT
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.