



SUNSHINE ORDINANCE TASK FORCE

Complaint Committee

CITY AND COUNTY OF SAN FRANCISCO

MINUTES

REMOTE MEETING

June 15, 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 5:42 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 May 18, 2021, Complaint Committee meeting minutes.

The Committee discussed the Minutes and recommended approval with suggested amendments.

Action: Moved by Member Stein, seconded by Member Forsley, to approve the May 18, 2021, minutes as amended.

Public Comment:

Anonymous #1 stated that he made comments that were not reflected in the minutes of the May meeting. Anonymous #1 stated that he received mail with no return address and the SOTF Administrator stopped taking phone calls.

Peter Warfield, Executive Director of Library Users, can be reached at libraryusers2004@yahoo.com; or P.O. Box 170544, San Francisco, CA 94117-0544. Mr. Warfield noted that the contact information in the May minutes was correct and that he considers it important to be included in these minutes.

Anonymous #2 stated that there should be a motion to approve the Complaint Committee minutes of February and March 2021.

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, Executive Director of the Library Users Association, noted the difficulties posed by Covid and the lack of legal memos for the SOTF. Mr. Warfield stated that it would be much improved if this body would look into how SOTF is working for the public and its ability to provide swift justice.

Anonymous #1 has used SOTF with considerable benefit for decades and wants to further elaborate on the digital divide. Anonymous #1 looks forward to returning to in person meetings at City Hall.

Anonymous #2 discussed that news clips of Mayor Breed showing sweeps of homeless people be covered by the SOTF. Anonymous #2 stated that the City Attorney used a letter to restrict his access to records.

Jarmee Thieu asked when her case will be heard before the SOTF.

4. **File No. 21021:** Complaint filed by Wynship Hillier against the Behavioral Health Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.7 and 67.9, by failing to provide meaningful and sufficiently clear agenda descriptions, distribute agenda packets to members of the public, 67.15 by failing to provide an opportunity for public comment on each item on the agenda, and California Public Records Act by failing meeting with quorum and failing to list disability information on the agenda.

Wynship Hillier (Petitioner) provided a summary of the complaint and requested the Committee find a violation. Mr. Hillier stated that the Behavioral Health Commission has never been compliant with the Sunshine Ordinance and has several open meeting violations. Mr. Hillier stated that the same violations happen month after month. Mr. Hillier stated that at the May 2021 meeting he observed so many violations that he filed a complaint with the SOTF.

Geoffrey Grier (Acting Executive Director, Behavioral Health Commission) (Respondent), provided a summary of the department's position. Mr. Grier stated that until last Tuesday, he was unaware of the complaints brought by Mr. Hillier. Mr. Grier

stated that the first complaint was that the parties did not receive their agenda packets and failure to allow public comment. Mr. Grier stated at the September 8, 2020 hearing of the Behavioral Health Commission there were four items on the agenda and public comment was allowed after each item. Mr. Grier stated that the disability notice was omitted but he does not have details on it.

Richelle Lee Slota, Co-Chair of the Behavioral Health Commission, stated that last year her son had experienced severe mental health issues and was homeless in the Tenderloin. Mx. Slota stated that it was her son's experience that made her decide to become a member of the Commission to find better ways to help the mentally ill. Mx. Slota said that Mr. Hillier doesn't know if he wants to destroy or leave the Commission. Mx. Slota stated that she is close to resigning from her seat because of Mr. Hillier.

A question and answer period occurred.

Member Stein asked the parties if they could consolidate File Nos. 21036 and 21021 before their scheduled SOTF meeting?

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

Public Comment:

Anonymous #2 suggested that the Commission seek guidance from their Deputy City Attorney because the Executive Director is not responsible for what the body does.

Anonymous #1 asked what EOTC meant (Education, Outreach and Training Committee).

Peter Warfield supports the motion and what Anonymous #2 said. Mr. Warfield stated that he finds it troubling that the Respondent was not able to provide more of an argument.

The motion PASSED by the following vote:

Ayes: 3 - Forsley, Schmidt, Stein

Noes: 0 - None

5. **File No. 21002:** Complaint filed by Anonymous against Gwyneth Borden and the Municipal Transportation Agency, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee find a violation. Anonymous stated that on November 20, 2020, he sent an

Immediate Disclosure Request to Ms. Borden. Anonymous stated he never received his requested records so he filed a complaint against the SFMTA. Anonymous asked that the case be continued to next month.

The Respondent was not present for the hearing and did not advise the SOTF Administrator of their absence.

A question and answer period occurred.

Action: Moved by Member Forsley, seconded by Member Stein, 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 expressed thanks to Member Stein for taking the position of the Petitioner and for having a good process so that the Petitioner will have time to review the records. Mr. Warfield agrees that there are a lot of complaints about first class mail.

Anonymous #2 noted that in the notice of appearance materials should be submitted five calendar days before the hearing and in reality this not acceptable.

The motion PASSED by the following vote:

Ayes: 3 - Forsley, Stein Schmidt

Noes: 0 - None

6. **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.

Anonymous (Petitioner) provided a summary of the complaint and requested that the Committee find a violation. Anonymous stated that on February 14, 2020 he filed an Immediate Disclosure Request with the Public Library asking for contracts and communications involving Ace Mailing and the Library. Anonymous stated that the previous Custodian of Records responded stating that they have no responsive records. Anonymous stated that the Library has had contracts with Ace Mailing since 2014.

Margot Shaub (Public Library) (Respondent), provided a summary of the department's position. Ms. Shaub stated that the previous Custodian of Records responded to the request. Ms. Shaub referred to a February 14, 2020 responsive letter from the Library containing responsive records.

A question and answer period occurred.

Action: Moved by Member Forsley, seconded by Member Stein, 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, Executive Director of Library Users, agrees with the motion that there is jurisdiction. Mr. Warfield responded to Member Stein's comment that many times people do not make the distinction between the Public Library and the Library Commission.

Anonymous #2 agreed with Mr. Warfield that if the Custodian doesn't have the record, they should provide guidance and forward the request to the appropriate party.

The motion PASSED by the following vote:

Ayes: 3 - Forsley, Stein, Schmidt

Noes: 0 - None

The Committee took a ten-minute break at 8:20 pm until 8:30 pm.

7. **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) provided a summary of the complaint and requested the Committee to find a violation. Mr. Bejanski stated that on March 11, 2021 he received a bill from the Planning Department for a fine of \$33,000 for not following the legal requirements for advertising and renting a short-term rental.

Jonas Ionin (Planning Department) (Respondent), provided a summary of the department's position. Mr. Ionin stated that he received several requests from Mr. Bejanski and responded on January 21, 2021 in a timely manner to all of them except one.

Laura Lynch (Planning Department) stated that on January 5, 2021, the Planning Department sent Mr. Bejanski an email confirming receipt of his requests. Ms. Lynch stated that on January 21, 2021 a letter was addressed to Mr. Bejanski enclosing his records and noting that one response was tardy. Ms. Lynch also stated that on March 19, 2021, responses to additional emails were sent in a timely manner and that no other records were outstanding.

A question and answer period occurred.

Action: Moved by Chair Schmidt, seconded by Member Stein, 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:

Anonymous #2 noted that in this case the Respondent admitted they violated the timeliness requirement. Anonymous #2 noted that the Order of Determination will show a violation against the Planning Department.

The motion PASSED by the following vote:

Ayes: 3 - Schmidt, Stein, Forsley

Noes: 0 - None

8. **File No. 20117:** Complaint filed by Stephen Bejanski against Jonas Ionin and the Planning Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.24, by failing to provide public records; 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; 67.27 by failing to justify withholding and 67.29 by failing to provide an index of records.

Stiliyan Bejanski (Petitioner) provided a summary of the complaint and requested that the Committee find a violation. Mr. Bejanski stated that he believed there was a conspiracy theory against him for filing a complaint against the Planning Department. Mr. Bejanski stated that the responsive records were not complete and stated that several emails are missing from those documents.

Jonas Ionin (Planning Department) (Respondent), provided a summary of the department's position. Mr. Ionin stated that his point has been addressed in the previous complaint. Mr. Ionin stated that the only records held back were communications with the City Attorney's Office.

A question and answer period occurred.

Action: Moved by Chair Schmidt, 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:

Anonymous #2 stated that the SOTF generally gives the benefit of the doubt to the Petitioner. Anonymous #2 stated that this Committee, per the Malloy v. Dept. of Human Resources matter, an order to disclose the headers was issued and that this case has similar issues.

The motion PASSED by the following vote:

Ayes: 3 - Schmidt, Forsley, Stein

Noes: 0 - None

9. **File No. 21011:** Complaint filed by the Electronic Frontier Foundation against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.26 and 67.27(d), by failing to respond to a public records request in a timely and complete manner, failing to keep withholding to a minimum and failing to provide assistance/information regarding alternate sources of information requested.

Beryl Lipton (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Lipton stated that this case involves the Police Department's failure to produce requested records regarding the use of face recognition software. Ms. Lipton stated that the Police Department provided one document and was informed that several records were exempt from disclosure. In March 2021, the Police Department produced over 20 records. Ms. Lipton stated that the Police Department should comply with the Ordinance.

Lt. Arran Pera (Police Department) (Respondent), provided a summary of the department's position. Lt. Pera stated that he received the complaint alleging violations of 67.21, 67.26 and 67.27(d) and has reevaluated the request and has produced additional documents related to the use of face recognition software. Lt. Pera stated that all records including communications from the press were provided as a supplemental response to the requestor. Lt. Pera stated that he declines to release some information per Evidence Code 1040.

A question and answer period occurred.

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

Public Comment:

Anonymous #2 supports the motion and there is a clear violation of 67.26 because they withheld records and admits that only some of the documents were withheld.

The motion PASSED by the following vote:

Ayes: 3 - Schmidt, Stein, Forsley

Noes: 0 - None

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

Member Stein sent a note to Chair Wolfe stating that the Committee needs to reexamine the timeline of when paper packets are sent out and it reaches the parties.

11. **ADJOURNMENT**

There being no further business the meeting was adjourned at 9:50 p.m.

APPROVED: July 20, 2021
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.