



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

REMOTE MEETING

July 20, 2021
5:30 PM

Remote Regular Meeting

Members: Dean Schmidt (Chair), Bruce Wolfe and Kai Forsley

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

Chair Schmidt called the meeting to order at 5:32 p.m. On the call of the roll Chair Schmidt and Members Wolfe and Forsley were noted present. Member Stein was noted absent. A quorum was present.

The Committee discussed the following agenda change. The Petitioner withdrew that Item 6, File No. 21026 via email.

There were no other agenda changes.

2. Approval of the June 15, 2021, Complaint Committee meeting minutes.

The Committee discussed the minutes and changes were recommended by Anonymous #3.

Action: Moved by Chair Schmidt, seconded by Member Wolfe to approve the June 15, 2021, meeting minutes as amended.

Public Comment:

Zach Karnazes addressed the committee and noted that the Agenda was not posted with the June audio. Mr. Karnazes wanted to confirm that minutes are accurately recorded.

Anonymous #3 requested corrections be made in the June minutes.

Peter Warfield, Executive Director Library Users Association, libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, CA 94117-0544, stated it is important that names and addresses are accurately noted in the minutes because the committee should respect what the commentators say, even if they disagree.

Patrick Monette-Shaw stated that the first speaker and Mr. Warfield are wrong. Mr. Monette-Shaw noted that today's meeting was posted on Friday and is easily accessible if one has a computer. Mr. Monette-Shaw stated that one does not need to hear Mr. Warfield's address over and over again.

The motion PASSED by the following vote:

Ayes: 3 - Schmidt, Wolfe, 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 the SOTF is making itself less available to the public. Mr. Warfield opined that the discussion on complaint procedure is important and was disappointed that there were no materials attached.

Zach Karnazes, disabled ADA Advocate and District 9 voter raised concerns about reasonable disability accommodation denials, and the short 24hrs notice given for submitting evidence before the agenda was published.

Mark Sullivan submitted written public comment and asked how SOTF members vote often falls on how you narrowly or broadly you read provisions. California Constitution, the courts, and the Sunshine Ordinance instruct you to interpret provisions broadly. Constitution "A statute, court rule, or other authority, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access." *Sierra Club v. Superior Court* "where terms are ambiguous the constitutional canon requires an interpretation that maximizes the public's right of access unless the Legislature has expressly provided to the contrary". "In other words, all public records are subject to disclosure unless the Legislature has expressly provided to the contrary." *Williams v. Superior Court*. This is to say that if you are going to vote against a broad interpretation of a public access provision than you should cite a specific provision of statute that provides a contrary exemption.

Full: <https://sfneighborhoods.net/3mincp.html>

Anonymous #3 wanted to second Mr. Sullivan's public comment about broad terms and that exemptions apply and the burden of proof is on an agency not public.

4. **File No. 21054:** Complaint filed by Patrick Monette-Shaw against Grant Colfax, Veronica Vien and the Department of Public Health for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21 by failing respond to a public records request in a timely and/or complete manner.

Patrick Monette-Shaw (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Monette-Shaw stated that his request involved a records request to the Department of Public Health for Zuckerberg San Francisco General documents for the period January 1, to June 1, 2020. On May 4, 2021 he placed separate but similar request for both Zuckerberg General Hospital and Laguna Honda Hospital for records for a period of July 1, 2020 to April 30, 2021. The Department of Public Health has only provided information from Laguna Honda.

Veronica Vien (Department of Public Health, (DPH)) (Respondent), provided a summary of the department's position. Ms. Vien stated that DPH responded accordingly to both requests for records from Laguna Honda Hospital and Zuckerberg San Francisco General. Ms. Vien stated that Zuckerberg had data that they could not extract easily. Ms. Vien stated that records from Laguna Honda Hospital is a skilled nursing facility and it was simpler to extract the requested information. Ms. Vien stated that Zuckerberg had no records to provide as the request was voluminous.

A question and answer period occurred.

Action: Moved by Member Forsley, seconded by Member Wolfe, that the Committee determined the records are public, found jurisdiction over Mr. Monette-Shaw's complaint. In addition, the Committee determined that that the respondent provide either in person or in writing from a knowledgeable person of this database and of the data when the data was transferred from the old to the new system and if the information that the requestor requested is contained in the new database and whether the information is extractable from either database for the period of time that the requestor made the request and provide that in writing within two weeks.

Public Comment:

Anonymous #3 agrees with all members of the committee. Mr. Monette-Shaw is asking for a portion of the database, that emails are not separate records and this search is no different than doing an email search.

Peter Warfield agrees with Anonymous #3 and noted that the Petitioner should be working to get the information that would support the unlawful action and insist that the Respondent provide it.

The motion PASSED by the following vote:

Ayes: 3 - Forsley, Wolfe, Schmidt

Noes: 0 - None

5. **File No. 20051:** Complaint filed by Anonymous against Trent Rhorer and the Human Services Agency for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.29-5 by failing to keep or cause to be kept a daily calendar wherein is recorded the time and place of each meeting or event attended.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that this case is about Mr. Trent Rohrer's Prop G calendars. Anonymous stated Prop G and Nonprop G calendar information are noted that the calendar entries show, for example, deputy director's meeting, a description of missing attendees, general statements of issues discussed, but do not list every attendee. Anonymous states that this is broadly noncompliant and has emailed them about this issue.

Patrice Browne (Human Services Agency) (Respondent), provided a summary of the department's position. Ms. Browne stated that Anonymous submitted an Immediate Disclosure Request for a specific calendar item. Ms. Browne stated that her department provided the records as they were entered in Mr. Rohrer's calendar but did not think specific locations of meetings needed to be included.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

Action: Moved by Member Wolfe, 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 stated that this case may not need a SOTF hearing and supports the motion.

The motion PASSED by the following vote:

Ayes: 3 - Wolfe, Forsley, Schmidt

Noes: 0 - None

6. **File No. 21026:** Complaint filed by Karl Kramer against the Daniel Kaplan and the Human Services Agency for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, by failing to respond to a request for public records in a timely and/or complete manner.

See Item 1, regarding File No. 21026. (The matter was withdrawn by the Petitioner.)

7. **File No. 21039:** Complaint filed by Karl Kramer against the Department of Public Health for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, by failing to respond to a request for public records in a timely and/or complete manner.

Karl Kramer (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Kramer stated that Kylie Ha, an intern in his office, requested information from the Department of Public Health and never received responsive records. In April 2021 he filed a complaint with the SOTF Administrator.

Veronica Vien (Department of Public Health) (Respondent), provided a summary of the department's position. Ms. Vien stated there were no responsive records to Ms. Ha's request at that time.

A question and answer period occurred.

Action: Moved by Member Wolfe, 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:

Anonymous #3 noted that even if it is possible that calculations were not computed, the process for adjusting the budget is unclear, not that the funds were allocated.

The motion PASSED by the following vote:

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

8. **Discussion regarding Complaint Procedures.**

Action: Moved by Member Wolfe, seconded by Chair Schmidt, to continue the matter to the call of the Chair until the August Complaint Committee meeting.

Public Comment:

Peter Warfield stated that he had no objection to continuing the matter hopefully to a hearing to be scheduled in the near future and glad to see that Member Wolfe has clarity to the procedures.

Anonymous #3 supports the motion to continue the matter and agrees with everyone who has spoken. Anonymous #3 thinks it is a great idea to give more notice for agendaizing this information.

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

Chair Schmidt stated that everyone on the Committee wanted to open a discussion on the subject of the packets and agenda. Chair Schmidt noted that there was no proposal of any kind and are limited to what they do here in this hearing.

Public Comment:

Peter Warfield stated thanks for the announcement of the future agenda item mentioned by Chair Schmidt and noted that the SOTF is in desperate need for effectiveness.

10. **ADJOURNMENT**

There being no further business the meeting was adjourned at 8:02 p.m.

APPROVED: 8/17/21
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.