



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

REMOTE MEETING

November 16, 2021
5:30 PM

Remote Regular Meeting

Members: Dean Schmidt (Chair), Laura Stein and Matthew Yankee

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

Chair Schmidt called the meeting to order at 5:36 p.m. On the call of the roll Chair Schmidt and Members Stein and Yankee were noted present. A quorum was present.

There were no agenda changes.

2. Approval of the October 19, 2021, Complaint Committee meeting minutes.

Action: Moved by Member Stein, seconded by Chair Schmidt, to approve the October 19, 2021, with amendments.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 3 - Stein, Schmidt, Yankee
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:

Anonymoose #3 stated that he received the new notice of complaint filing using the new respondent's packet and provided feedback. Anonymoose #3 noted that

he had three different sets of instructions and believes that from the motion last week, respondent is to use one of those instructions.

4. **File No. 21126:** Complaint filed by Stiliyan Bejanski against Debra Lew and the Office of the Treasurer and Tax Collector (TTX) for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.24, 67.25, 67.26, 67.27, and 67.29, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner, failing to keep withholdings to a minimum, failing to provide justification for withholdings, and failing to provide an index of records.

Stiliyan Bejanski (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Bejanski stated that he requested records from the Treasurer and Tax Collector's Office and received the response on September 20, 2021. Mr. Bejanski stated that some documents were withheld but his main complaint is about timeliness. Mr. Bejanski stated that his records were provided more than 14 days after the request was made.

Debra Lew (Treasurer and Tax Collector's Office) (Respondent), provided a summary of the department's position. Ms. Lew stated that her office produced the records on October 5, 2021, but that the complaint was filed before her office had a chance to complete the review of records. Ms. Lew stated that there is pending litigation. Ms. Lew noted that all records were produced in a timely manner.

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

Action: Moved by Member Stein, seconded by Member Yankee, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing and with a request to consider a violation of Government Code 6253(c) and to remove the violations 67.24, 67.25, 67.26, 67.27 and 67.29 from the complaint.

Public Comment:

Anonymoose #3 noted that he agrees with the city that 6253(c) requires a notice of disclosable public records and nothing else is required for 6253(c) can give an extension or notice of 10 days so that within 24 days you give the final notice. Anonymoose #3 noted the issue is whether the 25 days was a prompt production of the records and should the SOTF review 6253(b).

The motion PASSED by the following vote:

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

5. **File No. 21136:** Complaint filed by Anonymous against Katharine Porter, Elizabeth Coolbrith, and the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21(a)(b) and 67.25(b), by failing to respond to a request for public records in a timely and/or complete manner.

Anonymous (Petitioner) was not present for the hearing due to the inadvertent error of the SOTF Administrator not properly noticing the Petitioner.

Jen Kwart (City Attorney's Office) (Respondent) was present for the hearing.

Action: Moved by Member Yankee, seconded by Chair Schmidt, to continue the matter to the December Complaint Committee hearing.

Public Comment:

Anonymous #3 stated that he was accidentally noticed for this complaint and informed the SOTF Administrator in a timely manner.

The motion PASSED by the following vote:

Ayes: 3 - Yankee, Schmidt, Stein

Noes: 0 – None

6. **File No. 21141:** Complaint filed by Claudia Ovalles against the Office of the District Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a request for public records in a timely and/or complete manner.

Claudia Ovalles (Petitioner) was present for the hearing.

Robyn Burke (District Attorney's Office) (Respondent). Ms. Burke was not present for the hearing because the notice was not properly sent out by the SOTF Administrator to the District Attorney's Office.

Action: Moved by Chair Schmidt, seconded by Member Yankee, to continue the item to the next Complaint Committee hearing in December and that the matter be heard at the beginning of the agenda.

Public Comment:

Anonymous #3 stated that he doesn't know that the District Attorney's Office received notice of this complaint and noted that they should receive a new notice and request additional documentation if they did not receive the notice.

Mark Sullivan doesn't disagree with the motion. . Mr. Sullivan noted this is a violation and that the respondent could submit information on the complaint at any time.

The motion PASSED by the following vote:

Ayes: 3 - Schmidt, Yankee, Stein

Noes: 0 - None

7. Proposal to Improve Complaint Files.

Member Stein presented her suggested ideas to improve complaint files. Member Stein stated that she tried to incorporate suggestions from SOTF members, the public and approached the Assistant Clerks at the Board of Supervisors. Member Stein stated that she ended up with three approaches that involved structural guidelines.

Chair Schmidt stated that Member Stein's approach is great and is ready to be put before the SOTF.

Action: Moved by Chair Schmidt, seconded by Member Yankee, to send the packet to the SOTF.

Public Comment:

Mark Sullivan provided the following written comment: "Revise reconsideration "that verification that these materials were not available" Current word is "exist", if you are changing that word change it to "that verification that these materials were not presented". Available opens illogical arguments, I have heard. If available before but not present at hearing, reconsideration not heard. Would mean only information created after hearing, but within 90 days Order of Determination considered retro-active bases for reconsideration. Is SOTF saying a complainant must know all that existed before filing a complaint? Consistent with the language and spirit of the Sunshine Ordinance to provide the most open government possible, all inferences shall be viewed in the light most favorable to the petitioner. Complainants want to present best case first time around. No idea what issues arise during hearing. Important thing SOTF make the correct decision on law and information presented. You do not want to perpetuate a flawed decision."

Anonymoose #3 noted that the only substantive change is the request for reconsideration process and the rest is as is. Anonymoose #3 also noted that the ideas are great.

The motion PASSED by the following vote:

Ayes: 3 - Schmidt, Yankee, Stein

Noes: 0 - None

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

Chair Schmidt stated that the committee has met a couple of times and there have not been a lot of cases presented and this may be due to the backlog. Chair Schmidt also noted after reviewing Member Stein's proposal, he has ideas about making changes to the complaint procedure. Chair Schmidt wants to make sure that Member Stein's proposal is prepared and ready to present to the SOTF.

Public Comment:

Anonymoose #3 stated that when matters are referred to the Ethics Commission, they send the case back to the SOTF. Anonymoose #3 stated that unfortunately ethics will say any violation is willful and refer the matter back to the SOTF.

Mark Sullivan agreed with Anonymoose #3 and that beyond the City complying better with Sunshine the number one thing is procedures and the Ordinance which allows a great variety of hearings and complaints.

9. ADJOURNMENT

There being no further business the meeting was adjourned at 8:08 p.m.

APPROVED: 12/21/21

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.