



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

REMOTE MEETING

December 21, 2021
5:30 PM

Remote Regular Meeting

Members: Dean Schmidt (Chair), Laura Stein

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 Member Stein were noted present. A quorum was present.

Chair Schmidt noted the possible continuation of Item No. 11 (File No. 211630).

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

Action: Moved by Chair Schmidt, seconded by Member Stein to approve November 16, 2021, meeting minutes.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 - Schmidt, Stein

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:

Anonymous #3 stated that he was not sure if more pages would be uploaded in item 11. Anonymous #3 stated the Mayor deletes nearly all her records.

4. **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) provided a summary of the complaint and requested the Committee to find a violation. Ms. Ovalles stated that she reported a domestic violence incident by her former husband that originated in Texas to the Police Department in Texas and was told that she should contact the San Francisco District Attorney's Office. Ms. Ovalles stated that the San Francisco investigator, whose name she could not remember stated that they were not processing her case. Ms. Ovalles stated that on March 29, 2021, she submitted a records request to the San Francisco District Attorney's Office and later submitted a follow up to the original request. Ms. Ovalles stated that she never received any records or a follow up to the email from the DA's office.

Robyn Burke (District Attorney's Office) (Respondent), provided a summary of the department's position. Ms. Burke stated that the crime originated in Texas. Ms. Burke stated that the Petitioner has spoken with four different Investigators at her office and has been informed that there is no file.

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

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:

Sergei Severinov stated that the District Attorney is making a mockery of the Sunshine Task Force because the Petitioner is requesting relevant records.

Anonymous #3 was in agreement with the last commenter as long as you reference the California Public Records Act and the Brown Act. Anonymous #3 stated that the requested information could be in an email.

The motion PASSED by the following vote:

Ayes: 2 - Schmidt, Stein

Noes: 0 - None

5. **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 and failing to conduct business in a proper manner, failing to notice the time and place of the meeting, failing to allow public comment.

Chair Schmidt provided a summary of the issues and noted the privileged attorney client advice related to this case cannot be disclosed at this time.

Action: Moved by Chair Schmidt, seconded by Member Stein to refer the matter to the SOTF for hearing.

Dr. Sumchai stated that she objects that the City Attorney cannot make an opinion public and expects to receive a copy of the research.

Alisa Simpson noted that this complaint has been to the SOTF on these issues and the Complaint Committee twice. Ms. Simpson believes that legal feedback is on whether the Hunters Point Shipyard Citizens Advisory Committee is a policy body.

Chair Schmidt rescinded his motion.

Action: Moved by Chair Schmidt, second by Member Stein to send the matter to the SOTF for consideration of the case which may include whether to disclose advice from our Deputy City Attorney to the public.

Public Comment:

Anonymous #3 suggested that revising the motion to ask the full SOTF chair to agendize the motion to consider the advice of the SOTF Deputy City Attorney on the two cases in February. Anonymous #3 noted that just because the Deputy City Attorney provides advice you don't need to worry about disclosure.

Mark Sullivan noted that it sounded like the respondent has seen the confidential memo. Mr. Sullivan stated that the SOTF members are not city employees.

Peter Warfield, Executive Director Library Users Association.
libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, California, 94117-0544. Mr. Warfield expressed disagreement with the motion, objects to the SOTF having a secret and that Dr. Sumchai should consult an attorney.

The motion PASSED by the following vote:

Ayes: 2 - Schmidt, Stein

Noes: 0 - None

6. **File No. 21148:** Complaint filed by Jordan Santagatas and Karl Kramer against the San Francisco Employees' Retirement System for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, 67.24, and 67.25 and California Public Records Act, Section(s) 6254.26, by failing to respond to a request for public records in a timely and/or complete manner.

Karl Kramer (Petitioners) provided a summary of the complaint and requested the Committee to find a violation. Mr. Kramer stated that on October 5, 2021, Jordan Santagatas submitted a request for contracts between City and County of San Francisco and Vista Equity Partner from 2015 through 2021 to the Employees Retirement System. Mr. Kramer stated that he has not received the contracts.

Jay Huish (Employees Retirement System) (Respondent), provided a summary of the department's position. Mr. Huish stated that on October 26, 2021, his department responded to the Petitioner that the records are materials not subject to disclosure pursuant to California Public Records Act 6254.26.

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

Action: Moved by Member Stein, seconded by Chair Schmidt, that there is jurisdiction, the records are public and request that the SOTF address whether anything in the Sunshine Ordinance might override exemptions in the CPRA 6254.26(a)(6) and recommended that the SOTF review Administrative Code (Sunshine Ordinance) Sections 67.21(k) by failing to release public information related to the CPRA, and 67.25(c) by failing to respond immediately to the request and by failing to direct the requestor to an alternative source of information.

Public Comment:

Anonymous #3 agrees with the Committee's motion and would also include 67.26(a). Anonymous #3 stated that the law is clear and that the nine items should be disclosed.

Mark Sullivan cited CPRA 6253(e). Mr. Sullivan stated that the Ordinance exists and allows for greater access.

Peter Warfield agreed with the motion and believed there is a larger issue which is that the Ordinance can override state law.

The motion PASSED by the following vote:

Ayes: 2 - Stein, Schmidt

Noes: 0 - None

7. **File No. 21151:** Complaint filed by Jerry Dratler versus Rich Hillis, Charnbory Son, and the Planning Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to public records request in a timely and/or complete manner.

Jerry Dratler (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Dratler stated that on October 11, 2021, he requested from the Planning Department the file of 365 Pacheco Street because he wanted to review the 311 Notice. Mr. Dratler noted the urgency in his request because of a hearing to review the project was to take place in the near future. Mr. Dratler stated that Planning Department told him there were no records and did not inform Mr. Dratler that they were withholding records and why.

Laura Lynch (Planning Department) (Respondent), provided a summary of the department's position. Ms. Lynch stated that on October 11, 2021, the Planning Department received Mr. Dratler's request for planning information including the 311 Plan which was provided. Ms. Lynch stated that the Petitioner also requested the environmental analysis and was directed to the Dept. of Building Inspection. Ms. Lynch stated that all records were provided to Mr. Dratler 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 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 commented on the interesting committee hearings and that the issues brought up are important and that the Petitioner should be able to see the records.

The motion PASSED by the following vote:

Ayes: 2 - Stein, Schmidt

Noes: 0 - None

The Committee recessed at 7:51 PM and reconvened at 8:01 PM.

8. **File No. 21144:** Complaint filed by Mark Sullivan against the Department of Technology for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21(a), 67.21-1(a), 67.25(a), 67.26, and 67.27, and California Public Records Act, Section(s) 6253(b)(c)(d) 6253.3, and 6253.10(a), by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner and failing to keep withholdings to a minimum.

Mark Sullivan (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Sullivan stated that the complaint is regarding timeliness. Mr. Sullivan stated that he made several telephone calls to the Department of Technology regarding their problems with NextRequest. Mr. Sullivan cited CPRA6325(d). Mr. Sullivan noted the lack of interface with the Department of Technology and the use of NextRequest caused him a lot of trouble using the software.

Linda Gerull (Department of Technology) (Respondent), provided a summary of the department's position. Ms. Gerull noted appreciation with Mr. Sullivan for bringing the challenges he had to the forefront. Ms. Gerull stated that there is an NextRequest automotive process to route all requests to the appropriate city employee. However, the Department failed to process Mr. Sullivan's request correctly due to a system glitch causing it to ignore certain requests. Ms. Gerull stated that the system has been corrected and the department was able to investigate why this happened to prevent future problems.

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

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 on all contentions made by the Petitioner.

Public Comment:

Peter Warfield thinks this is a stunning group of violations including some of which the Department of Technology has acknowledged.

Sergei Severinov stated that as a resident of San Francisco he is very familiar with the Bill of Rights under the Constitution which gives people the right to question authority.

The motion PASSED by the following vote:

Ayes: 2 - Schmidt, Stein
Noes: 0 - None

9. **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.

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

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

Action: Moved by Chair Schmidt, seconded by Member Stein, to table the matter and close the file.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 2 - Schmidt, Stein
Noes: 0 - None

10. **File No. 21146:** Complaint filed by Sergei Severinov against Sara Maunder and the Department of Police Accountability for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.25, by failing to respond to an Immediate Disclosure Request for public records in a timely and/or complete manner.

Sergei Severinov (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Severinov stated that he submitted two records requests to the Department of Police Accountability (DPA) and specifically asked for records pertaining to himself. Mr. Severinov stated that the DPA responded saying that all their records are exempt from disclosure. Mr. Severinov stated he asked the department how they investigated his case. Mr. Severinov stated that no records can be withheld from disclosure in its entirety.

Sara Maunder (Department of Police Accountability) (Respondent), provided a summary of the department's position. Ms. Maunder stated that her office received Mr. Severinov's an Immediate Disclosure request regarding police misconduct investigation reports on October 20, 2021. Ms. Maunder stated that the requested records are not disclosable as per Government and Penal Codes. Ms. Maunder stated that her office sent a timely letter stating that more time was required because it was not a simple request. Ms. Maunder stated that her office spent time figuring out which exemptions applied and none of the categories aligned with Mr. Severinov complaint. Ms. Maunder stated that her office was unable to produce the records in a timely manner, sent a letter outlining problems with the request and later sent 14 separate files.

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

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 supported Member Stein's comments because if there are records even if partially provided, the matter needs to be adjudicated. Mr. Warfield noted that it would be helpful to include detail that would assist the SOTF's full consideration.

The motion PASSED by the following vote:

Ayes: 2 - Stein, Schmidt

Noes: 0 - None

11. Hearing – Proposed Changes to the SOTF Procedures and By-laws.

Chair Schmidt stated that this is not a hearing and there will be no actions and motions, none of the documentation made it to the file in time to have available.

Public Comment:

Peter Warfield stated that it would be useful to make the materials public before the January Complaint Committee agenda because the materials involved are from Anonymous #3, Mark Sullivan and Dean Schmidt. Mr. Warfield made an oral request that information be provided to Library Users Association to see where things stand with public comment.

No Actions Taken.

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

Public Comment:

Peter Warfield reminded that the request for records regarding the previous item and that he wants them sent to Library Users Association.

13. **ADJOURNMENT**

There being no further business the meeting was adjourned at 9:17 p.m.

APPROVED: 1/18/22

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.

