



SUNSHINE ORDINANCE TASK FORCE

Education, Outreach and Training Committee

CITY AND COUNTY OF SAN FRANCISCO

MINUTES

REMOTE MEETING

December 14, 2021
5:30 PM

Remote Regular Meeting

Members: Chris Hyland (Chair), Jaya Padmanabhan

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

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

Agenda changes were addressed for Item No. 4, File No. 21125.

2. Approval of the November 9, 2021, Education, Outreach and Training Committee meeting minutes.

Action: Moved by Chair Hyland, seconded by Member Padmanabhan, to approve the November 9, 2021, meeting minutes.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Hyland, Padmanabhan, 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:

Anonymous #3 speculated on how different agencies conduct records searches on government property. Anonymous #3 noted that when the search is conducted on personal property the employee is required to complete the search.

Peter Warfield, Executive Director Library Users Association.
libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, California, 94117-0544; speculated that committees often do not make violation recommendations. Mr. Warfield also stated that it would be useful for the SOTF Administrator to provide the timing on when the item begins.

4. **File No. 21125:** Complaint filed by Liza Murawski against the Department of Public Health (DPH) for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a public records request in a timely and/or complete manner.

The Petitioner complied with the Respondent's request for a postponement.

The Respondent requested a postponement due to unavailability of the person most knowledgeable regarding this complaint.

Chair Hyland requested that Tomika Eya, Program Manager for the Adult and Older Adult Populations at the Department of Public Health who also oversees the contract with Conard House be present for the February 8, 2022, hearing.

Action: Moved by Chair Hyland, seconded by Member Yankee to Continue the matter to the call of the Chair.

Public Comment:

Anonymous #3 noted that the request for a continuance was made by the Respondent, they also hoped that the Petitioner is informed of the possible February date for the hearing as they may not agree to postpone their hearing until then.

The motion PASSED by the following vote:

Ayes: 3 - Hyland, Yankee, Padmanabhan,
Noes: 0 - None

5. **File No. 21153:** Complaint filed by Anonymous against Dennis Herrera for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.29-5(a) by failing to keep or cause to be kept a calendar with certain minimum information about his business meeting, and to disclose them as public records and willful failure to discharge any duties imposed by the Sunshine Ordinance, Brown Act or the Public Records Act and 67.34 willful violation constituting official misconduct.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that this is the third calendar violation by Dennis Herrera. Anonymous stated that their second complaint was withdrawn because Mr. Herrera's office provided a written commitment saying that they would comply with the request. Anonymous made another request for Mr. Herrera's calendars and out of the twelve items provided, the information discussing category was not included.

John Scarpulla (Public Utilities Commission) (Respondent), provided a summary of the department's position. Mr. Scarpulla stated that on November 9, 2021, the Petitioner filed a public records request for Mr. Herrera's calendar entries. Mr. Scarpulla stated that on November 9, 2021, the Public Utilities Commission provided all entries. Mr. Scarpulla further noted that general issues discussed were not included in the original response, but that Mr. Herrera's office corrected the inadvertent error and provided those entries. Mr. Scarpulla requested that the SOTF find no jurisdiction and that the complaint be dismissed.

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

Action: Moved by Member Yankee, seconded by Member Padmanabhan, to find that the SOTF has jurisdiction, that the requested records are public and referred the matter to the SOTF for hearing with the recommendation that the SOTF find a violation of Administrative Code, (Sunshine Ordinance) Sections 67.29-5(a) for failing to provide complete information kept on the daily calendar and that the SOTF consider a possible 67.34 violation for willful misconduct.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Yankee, Padmanabhan, Hyland

Noes: 0 - None

6. **File No. 21152:** Complaint filed by Jarmee Thieu against Ken Pang and the Human Services Agency Investigation Division 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.

Jarmee Thieu (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Thieu stated that she requested emails from the Human Services Agency's (HSA) Hiring Committee and Mr. Pang. Ms. Thieu stated that she was told those communications are confidential. Ms. Thieu stated she was denied a job at HSA. Ms. Thieu's is requesting those records because she has a Department of Fair Employment and Housing hearing scheduled in early February.

Rebecca Needenf (Human Services Agency) (Respondent), provided a summary of the department's position. Ms. Needenf stated that the requested records were communications regarding the hiring process between Human Resources, the HSA hiring panel manager and the panelist. Ms. Needenf stated that any private information pertaining to the hiring process are exempt from disclosure. Ms. Needenf stated that her department is willing to provide records allowed under 67.24(e). Ms. Needenf stated that Ms. Thieu declined to receive those records. Ms. Needenf confirmed that Ken Pang sought advice from their Deputy City Attorney on the process and records before responding to Ms. Thieu's request.

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

Action: Moved by Chair Hyland, seconded by Member Yankee, to find that the SOTF has jurisdiction, find that the requested records are public and referred the matter to the SOTF for hearing with the recommendation that the SOTF find violations for Administrative Code, (Sunshine Ordinance) Sections 67.25 for failing to provide the requested records in a complete and timely manner; 67.26 for failing to keep withholding to a minimum; California Public Records Act 6253(b) for failing to provide an identifiable records and by failing to make the records promptly available to any person upon payment of fees covering direct costs of duplication, 6253(c) by failing to respond to the request within 10 days and by failing to determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor.

Notes: That the Education, Outreach and Training Committee request the SOTF to focus on Human Services Agency's definition of personnel records and disagrees with their blanket statement that these records are not disclosable to the petitioner and have invited the respondent to provide information from their Deputy City Attorney and recommend that the Human Services Agency make an effort to search for these records and provide an index of those records and provide them on a rolling basis while this goes to the full SOTF. Given the petitioner's upcoming legal cases there is an urgency on this matter and please agendaize at the next SOTF. Reference on page 103, where the records request is

further defined as October 12, 2021, communication between Jarmee Thieu and Ken Pang, Vladimir Rudakov, Wannie Huynh, Clare Scott, David Tu, Arleen Brice and Jose Ordaz where she says all emails for the process of hiring Team screen shots, and other documents. The Committee notes that this is a precise request and wants HSA to look into and make a concerted effort to search for the records.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Hyland, Yankee, Padmanabhan,

Noes: 0 - None

7. Announcements, Comments, Questions, and Future Agenda Items by Members of the Education, Outreach and Training Committee.

Chair Hyland announced that the next Education, Outreach and Training Committee will take place on January 11, 2022.

Administrator Leger noted the urgency in getting File No. 21152 on the SOTF January Agenda.

8. ADJOURNMENT

There being no further business the meeting was adjourned at 7:19 p.m.

APPROVED: 1/11/22

Education, Outreach and Training 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.