



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

REMOTE MEETING

January 18, 2022
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 5:35 p.m. On the call of the roll Chair Schmidt and Member Stein were noted present. A quorum was present.

There were no agenda changes.

2. Approval of the December 21, 2021, Complaint Committee meeting minutes.

Action: Moved by Member Stein, seconded by Chair Schmidt, to approve the December 21, 2022, meeting minutes.

Public Comment:

Patrick Monette-Shaw stated that in Item 5, the Library responded in a timely manner and that Library Commission members email addresses should not be disclosed.

Peter Warfield, Executive Director Library Users Association, libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, California, 94117-0544. Mr. Warfield disagreed with the previous commenter and will address the issue of private emails when that agenda item is called.

Mark Sullivan searched for Matthew Yankee and found nothing.

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:

Patrick Monette-Shaw stated that he supports Chair Wolfe's request for additional funding for additional staff and is requesting the boiler plate language to write a letter in support.

Mark Sullivan provided the following written public comment for this hearing. Complaints are further about public's right to know and holding officials accountable. Your jurisdiction. Many clauses public access law's state this. Sec 67.1 (e) If you only think what you are doing as solely about records and meeting access, you are not realizing SOTF's full purpose. Heard Monette-Shaw complain waiting for OD so that he can make another request. OD has little weight outside motion in it. Taskforce spends time correcting minutes approving, none is done for ODs. What really has weight is voted action. Sec 67.21 (e) "Upon the determination record is public, the SOTF shall immediately order". SOTF determination action is immediate order. All validity weight unto itself. OD is internal passed on to "other municipal office with enforcement powers", a shall that a person has violated any provision access laws. Other examples: "meetings held without a quorum" "action taken" "meeting definition Winship's communication" Brown, "Willful" Sunshine enhancement.

Peter Warfield stated with respect to the process for changing Sunshine processes, it seems to be difficult to follow the details on when, why and how it is being changed and should be fully discussed and in detail and should specify the action.

4. **File No. 20124:** Complaint filed by Stephen Bejanski against Kevin Guy and the Office of Short-Term Rentals for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.24 for failing to provide public information; 67.25 for failing to respond to an Immediate Disclosure Request in a timely manner, 67.26 for failing to keep withholding to a minimum; 67.27 for failing to justify withholding and 67.29 and failing to provide an index of records.

Stylian Bejanski was not present for the hearing and did not inform the SOTF Administrator of their absence.

Kevin Guy of the Office of Short-Term Rentals was not present for the hearing and did not inform the SOTF Administrator of their absence.

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

Public Comment:

Patrick Monette-Shaw expressed frustration with the continuing problem of parties and various committees when SOTF items are scheduled and when the parties do not show up for the hearing.

Peter Warfield noted that the case will be closed for lack of appearance by the Petitioner and that he does not know the no-show rule.

The motion PASSED by the following vote:

Ayes: 2 - Schmidt, Stein

Noes: 0 - None

5. **File No. 21165:** Complaint filed by Peter Warfield, Library Users Association against City Librarian Michael Lambert and the Public Library for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Peter Warfield (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Warfield stated that on December 31 he sent a request for the emails of members of the Library Commission, which was denied by the City Librarian, Michael Lambert. Mr. Warfield stated there was no justification for the denial. Mr. Warfield noted that this was a flat refusal and there is no specific statute on which to base this decision.

Margot Shaub (Public Library) (Respondent), provided a summary of the department's position. Ms. Shaub referred the Committee to the responsive letter provided which was sent in a timely manner. Ms. Shaub said her office communicates regularly with Library Commission members. Ms. Shaub stated that members of the public can send requests or letters to her and that she will forward them, but the policy of the Library is that they do not provide email addresses per Government Code 6254.3.

Patrick Monette-Shaw stated that he communicates with Administrator Leger who forwards emails and letters to the SOTF members. Mr. Monette-Shaw stated that the Complainant is not entitled to private email addresses of Library Commission members.

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, that the requested records are public and referred the matter to the SOTF for hearing, to request a determination of a timeliness violation and question whether the email addresses are exempt information.

Public Comment:

Mark Sullivan agrees with Member Stein and that the window of personal privacy outweighs the public right to know.

The motion PASSED by the following vote:

Ayes: 2 - Schmidt, Stein

Noes: 0 - None

6. **File No. 22001:** Complaint filed by Andrew Sisneros against Caroline Celaya and the San Francisco Municipal Transportation Agency (SFMTA) for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.1, 67.8, 67.9, 67.21, 67.25 and 67.26, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Andrew Sisneros (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Sisneros stated that he does not understand why the SFMTA is withholding his requested items. Mr. Sisneros requested records in early November and is seeking clarification for nondisclosure.

Julie Kirschbaum (San Francisco Municipal Transportation Agency) (Respondent), provided a summary of the department's position. Ms. Kirschbaum stated that there were a small number of responsive records. Ms. Kirschbaum stated that this matter is going through a grievance process and is now in arbitration and the attorneys that were responsible are not available. Ms. Kirschbaum noted that the information was not public because the matter involved personnel and labor negotiations issues and processes.

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, to refer the matter to the SOTF for hearing and to question if the records are properly exempt under Evidence Code 1040 and to recommend a violation under Administrative Code (Sunshine Ordinance) Section 67.26 for failing to provide minimum withholding.

Public Comment:

Mark Sullivan agreed with the Committee regarding Evidence Code 1040 and that the Custodian should be able to claim that violation. Mr. Sullivan also

recommended that the Committee consider 67.24(b) regarding disclosure of litigation materials.

The motion PASSED by the following vote:

Ayes: 2 - Stein, Schmidt

Noes: 0 - None

7. **File No. 22004:** Complaint filed by Karioki Uhuru against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Karioki Uhuru (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Uhuru stated that he requested records from the Police Department repository and learned after some time that the Sheriff's Department holds those records. Mr. Uhuru noted that the Police Department is responsible for their own records and if they are not in their possession, they should have referred him to the Custodian of Records for the Sheriff's Department.

The representative from the Police Department was not present for the hearing and did not inform the SOTF Administrator of their absence.

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 with the recommendation to find violations for Administrative Code, (Sunshine Ordinance) Sections 67.21(b) for failing to produce records in a complete and/or timely manner; 67.21(c) for failing to refer the Petitioner to the correct person at the Sheriff's Department; and 67.21(e) for failing to send a knowledgeable person to the hearing.

Public Comment:

Name of commenter or state None.

The motion PASSED by the following vote:

Ayes: 2 - Schmidt, Stein

Noes: 0 - None

8. **Proposed changes to speed up the SOTF process.**

Chair Schmidt addressed the Committee regarding the backlog of complaints that remain to be heard. Chair Schmidt noted both Anonymoose's and Mark Sullivan's suggested changes to speed up the complaint hearing process. Chair Schmidt stated that the number of complaints increases monthly, including those from Anonymoose. Anonymoose's proposal was to have committees hear cases

and to create a consent calendar. Chair Schmidt stated there is a bottle neck of cases and no way around it.

Member Stein supports on having a consent calendar and supports having members review the cases to decide if they can be included on the calendar. Member Stein would like the task force to consider putting time limits on how long each member can question a party when hearing a case. Time limits on questions could provide more focus and efficiency during the Q&A period, and reduce the burden on petitioners who currently must attend long meetings.

Action: Moved by Chair Schmidt, seconded by Member Stein to continue the discussion on proposed changes to speed up the SOTF process.

Public Comment:

Peter Warfield noted thanks and support for Chair Schmidt's ideas regarding how to reduce the backlog.

Mark Sullivan stated support for all the ideas addressed and thinks that eliminating opening statements might make the hearings more focused.

The motion PASSED by the following vote:

Ayes: 2 - Schmidt, Stein

Noes: 0 - None

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

Chair Schmidt Noted appreciation of Member Stein's work and thinks that there are other additional processes and ideas to consider and eliminate the backlog.

10. **ADJOURNMENT**

There being no further business the meeting was adjourned at 9:03 p.m.

APPROVED: 2/15/22

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.