



SUNSHINE ORDINANCE TASK FORCE

Complaint Committee

CITY AND COUNTY OF SAN FRANCISCO

MINUTES

REMOTE MEETING

May 17, 2022
5:30 PM

Remote Regular Meeting

Members: Dean Schmidt (Chair), Laura Stein, Bruce Wolfe

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

Chair Schmidt called the meeting to order at 5:49 p.m. On the call of the roll Chair Schmidt and Members Stein and Wolfe were noted present. A quorum was present.

There were no agenda changes.

2. Approval of the April 19, 2022, Complaint Committee meeting minutes.

Action: Moved by Chair Schmidt, seconded by Member Stein to approve the April 19, 2022, meeting minutes.

Public Comment:

Peter Warfield, Executive Director Library Users Association, libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, California, 94117-0544. Mr. Warfield provided his contact information because it is difficult to make a personal connection with other speakers who may be participating in the hearing.

The motion PASSED by the following vote:

Ayes: 3 - Schmidt, Stein, Wolfe
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 he would appreciate it if the Chair would enable people to respond to things without negative connotations and when someone speaks to ask for patience because for more than 15 minutes the public was unaware of when the meeting began.

4. **File No. 22054:** Complaint filed by Stiliyan Bezhanski against Debra Lew and the Treasurer and Tax Collector's Office for allegedly violating Administrator Code Section(s) 67.21 and 67.25, by failing to respond to a public records request in a timely and/or complete manner.

Stiliyan Bezhanski (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Bezhanski noted there was a miscommunication between two complaints because there are two separate complaints involved. Mr. Bezhanski submitted this complaint per the guidelines of 6253(c) on May 1. The complaint was opened on May 4. Mr. Bezhanski stated that the second reason for the complaint was he has made a total of 11 public records act requests to the Treasurer and Tax Collector's Office.

Member Stein noted if this request constituted an IDR, then responses were not provided in a timely manner. Member Stein also noted that this request is probably not properly an IDR because an ongoing legal dispute between the parties involved requires that all documents be reviewed. Member Stein also stated there is a question of whether the emails were not redacted properly. Member Stein stated that the petitioner has previously stated that the TTC did not need to redact his personal information in their responses, and this personal information is already made public through the process of the request, which was not anonymous

Debra Lew (Treasurer and Tax Collector's Office) (Respondent). Ms. Lew stated that her office responded to the Immediate Disclosure Request of April 20. Ms. Lew stated that there were over 600 documents to review and advised the Petitioner the next day that her office would have provided the records on a rolling basis as if a standard public records request had been made. Ms. Lew stated that the second part of this request involved the fact that Mr. Bezhanski stated that his privacy had been violated when the redactions were made; specifically Mr. Bezhanski's email was visible. Ms. Lew stated that Mr. Bezhanski put his email address on Next/Request.

Action: Moved by Chair Schmidt, seconded by Member Stein that the records are public, there is jurisdiction and forward to the SOTF with the recommendation for no violation for timeliness and no privacy violations.

Public Comment

Peter Warfield stated that he agrees in general with the motion and specifically with sending the matter to the Sunshine Task Force. Mr. Warfield did not agree that the committee could determine whether a request was a proper IDR.

The motion PASSED by the following vote:

Ayes: 2 - Schmidt, Stein

Noes: 0 - None

Member Wolfe was not present for this hearing.

5. **File No. 22024:** Complaint filed by Sergei Severinov against the Office of the City Attorney in their capacity as the Supervisor of Records for allegedly violating Administrator Code (Sunshine Ordinance), Section(s) 67.21(d), by failing to provide a determination as to whether the record requested is public in a timely manner.

The Petitioner was not present and did not notify the Administrator of their absence.

The Respondent was present.

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

Public Comment:

Peter Warfield stated that he is not a party to the action but does have concerns about quashing information. Mr. Warfield stated that he does not recall that the respondent does not have an opportunity to speak or does he see how it would harm anyone to have a party speak.

The motion PASSED by the following vote:

Ayes: 2 - Schmidt, Stein

Noes: 0 - None

Member Wolfe was not present for this hearing.

6. **File No. 22027:** Complaint filed by John Templeton against the Planning Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.7; 67.21, and 67.29-7, by failing to post an agenda containing a meaningful description of each item of business to be transacted or discussed at the meeting; failing to respond to a request for public records in a timely and/or complete manner; and failing to maintain and preserve all documents in a professional manner.

John Templeton (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Templeton stated he submitted a request for information on November 29, 2021. Mr. Templeton stated that this complaint is about failure to maintain public records and the fact that the Planning Department did not begin to review his request until five days after receipt and did not meet the 10-day response deadline. Mr. Templeton stated that he was told the records did not exist. Mr. Templeton stated that on March 11, 2022, he received his records; four months after his initial request. Mr. Templeton also noted that there is a 2-year gap in meeting agendas of the Planning Department during this time period for which records were sought. Mr. Templeton also stated that three people were unable to make public comment on agenda items at an October 20 meeting.

Jonas Ionin (Planning Department) (Respondent), provided a summary of the department's position. Mr. Ionin stated that Mr. Templeton's complaint regarding not maintaining records in a professional manner because is not correct. Mr. Ionin acknowledged that the responses were not provided in a timely manner. Mr. Ionin stated the only time stamped communication that his office responded to was March 28, 2022. Mr. Ionin noted that his office did invoke an extension of time to respond because of the voluminous nature and the number of staff working on the request and the difficulties collecting the responsive records due to the number of staff departures.

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

Action: Moved by Member Stein, seconded by Member Wolfe, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for consideration of Administrative Code, Sunshine Ordinance Sections 67.21 by failing to provide records in a complete and/or timely manner; 67.15 by failing to allow public commentators to speak at a public meeting and 67.29-7 by failing to maintain records in a professional and businesslike manner.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Stein, Wolfe, Schmidt

Noes: 0 - None

7. **File No. 22028:** Compliant filed by John Templeton against the Historic Preservation Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.7; 67.21, and 67.29-7, by failing to post an agenda containing a meaningful description of each item of business to be transacted or discussed at the meeting; failing to responded to a request for public records in a timely and/or complete manner; and failing to maintain and preserve all documents in a professional manner.

John Templeton (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Templeton stated that the difference between this case and the one prior is that the Chair of the Historic Preservation Commission should have been on his side and ask where the information is. Mr. Templeton stated that there has never been a black property listed on the National Register of Historic Places.

Jonas Ionin (Historic Preservation Commission) (Respondent), provided a summary of the department's position. Mr. Ionin stated that this case is identical to the previous one and transfers his comments from the previous complaint. Mr. Ionin said that he supervises records for both the Planning Department and its Historical Preservation Commission, and complaint #22028 and #22027 should be treated as the same complaint.

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

Bruce Wolfe stated that under the Sunshine Ordinance, all government entities, including commissions within departments, must be treated separately for the purposes of complaints.

Action: Moved by Member Stein, seconded by Member Wolfe, to find that the SOTF has jurisdiction, that the requested records are public and to refer the matter to the SOTF for consideration of Administrative Code, Sunshine Ordinance, Section 67.21 by failing to provide records in a timely manner; 67.15 by failing to allow public commentors at a public meeting and 67.29-7 by failing to maintain records in a professional and businesslike manner.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Stein, Wolfe, Schmidt

Noes: 0 - None

8. **File No. 22030:** Complaint filed by Gizelle Rabi and Karl Kramer against Karen Fletcher and the Adult Probation Department 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.

Karl Kramer (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Kramer stated that on December 23, 2021, Ms. Rabi, a research intern with his office, sent an initial request for MCO and cost of doing business (CODB), information to the Adult Probation Department. Mr. Kramer stated that on January 10, 2022, his office received a letter stating that they had no responsive

records. On January 25, 2022, his office did receive MCO and CODB allocations but not to each department. On February 4, 2022, Mr. Kramer received a chart of figures from the Controller's Office.

Cristel M. Tullock (Adult Probation Department) (Respondent), provided a summary of the department's position. Ms. Tullock stated that all the inquiries that were made were and responded to and the information was provided.

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

Member Stein stated that it is not clear that the records requested do in fact exist.

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:

None.

The motion PASSED by the following vote:

Ayes: 3 - Wolfe, Schmidt, Stein

Noes: 0 - None

9. **File No. 22031:** Complaint filed by Gizelle Rabi and Karl Kramer against City Administrator Carmen Chu and the Office of the City Administrator for allegedly violating Administrator Code (Sunshine Ordinance), Section(s) 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 on December 23, 2021, an email was sent to Carmen Chu; on January 4, 2022, documents were provided to his office. On January 8, 2022, Ms. Chu's office responded with one document. On January 11, 2022, another document was provided, and Mr. Kramer's office requested more details. On April 6, 2022, an email exchange with the City Administrator's Office ensued and more clarification was requested. Mr. Kramer note that the information they sent was from 2019 and 2020 and outlined the funding of two programs each of which funds different nonprofits.

Vivian Po (City Administrator's Office) (Respondent), provided a summary of the department's position. Ms. Po stated that they denied the allegation of not providing records in a timely manner and have been very responsive to the requestor. Ms. Po stated that her office provided documents, spreadsheets, and created new excel spreadsheets

providing the funding and information trying to base it on their understanding of how each of the nonprofit receives funding.

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

Action: Moved by Member Wolfe, 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:

None.

The motion PASSED by the following vote:

Ayes: 3 - Wolfe, Stein, Schmidt

Noes: 0 - None

10. **ADJOURNMENT**

There being no further business the meeting was adjourned at 9:10 p.m.

APPROVED: June 21, 2022

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.