



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

REMOTE MEETING

August 16, 2022
5:30 PM

Remote Regular Meeting

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

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 Wolfe were noted present. A quorum was present.

There were no agenda changes.

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

Action: Moved by Member Stein, seconded by Member Wolfe, to approve the July 19, 2022, meeting minutes.

Public Comment:

David Pilpel provided suggested changes to the July Minutes.

The motion PASSED by the following vote:

Ayes: 3 - Stein, Wolfe, Schmidt

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:

Michael Petrellis suggested that the Board of Supervisors allocate money so that all meetings of the Sunshine Task Force could be broadcast on SFgov.tv.

Anonymous #3 noted that a few weeks ago the Sunshine Task Force ruled against former members of the Redistricting Task Force; two of those requests were for himself. Anonymous #3 stated that the Board of Supervisors refused to do anything but the City Attorney knows that some members of the Redistricting Task Force have emails and that they are required to provide those records.

4. **File No. 22082:** Complaint filed by Michael Petrelis against the Department of Public Health for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond for public records in a timely and/or complete manner.

Michael Petrellis (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Petrellis stated that he made a request for documents to the Department of Public Health using email and was directed to file his request to their NextRequest portal. Mr. Petrellis' complaint is that City departments should not require that requestors use NextRequest and should have accepted his request using his desired forum.

Dierdre Hussey (Department of Public Health (DPH)) (Respondent), provided a summary of the department's position. Ms. Hussey stated that on May 21, 2022, Mr. Petrellis made a request to DPH asking for records that show someone from DPH went to the Bank of America on Castro Street to ask that they clean the outside of the building. Ms. Hussey stated that on the request due date Mr. Petrellis complained that he was unable to access the responsive records. Ms. Hussey stated that at 1:29 pm on that same date the Department emailed Mr. Petrellis his records.

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, that the requested records are public and to refer the matter to the SOTF for hearing with no recommendation.

Public Comment:

Anonymous #3 noted that there is a provision of the CPRA that does not allow a government agency to control access to records and further noted that the City cannot require that the requestor use NextRequest and that the terms and conditions are more restrictive.

The motion PASSED by the following vote:

Ayes: 3 - Wolfe, Stein, Schmidt

Noes: 0 - None

5. **File No. 22083:** Complaint filed by Sophia De Anda against the Mayor's Office of Housing and Community Development (MOHCD) for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond for public records in a timely and/or complete manner.

Sophia De Anda (Petitioner) was not present for the hearing and did not advise the SOTF Administrator of their absence.

Kyra Geithman (Respondent), Mayor's Office of Housing and Community Development was present for the hearing.

Member Wolfe suggested that this matter go on the Consent Calendar based on Project Catalytic calendar.

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

Action: Moved by Member Wolfe, seconded by Member Stein, to refer the complaint to the SOTF Administrator and apply the letter of noncompliance by the respondent to the SOTF Chair Yankee to be scheduled on the consent calendar.

Public Comment:

Anonymous #3 provided two comments; first does see how it can be confusing for complainants to understand if they need to make a personal appearance and two appreciates that the Committee did not dismiss the complaint.

The motion PASSED by the following vote:

Ayes: 3 - Wolfe, Stein, Schmidt

Noes: 0 - None

6. **File No. 22084:** Complaint filed by Stiliyan Bezhanski against Debra Lew and the Office of the Treasurer and Tax Collector for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21 and 67.25, and California Government Code, Section(s) 6253(c), by failing to respond to an Immediate Disclosure 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 stated that the due date for his records

request was June 24, 2022, and he received his records July 5, 2022, several days past the due date.

Debra Lew (Treasurer and Tax Collector (TTX)) (Respondent), provided a summary of the department's position. Ms. Lew stated that TTX received an Immediate Disclosure Request on June 24, 2022, and responded by asking for key search words. Ms. Lew stated that TTX established that 1,500 records existed and wrote to the Petitioner that due to the large volume of documents, they were not treating this request as a typical Immediate Disclosure Request. Ms. Lew stated that due to ongoing litigation, the need to be careful and properly redact those records was essential as they are privileged. Ms. Lew stated that the records were released on July 5, 2022.

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 with the recommendation that there is no violation.

Public Comment:

Anonymous #3 agreed with the respondent.

The motion PASSED by the following vote:

Ayes: 3 - Stein, Schmidt, Wolfe

Noes: 0 - None

7. **File No. 20113:** Complaint filed by Anonymous (ARE) against Mayor London Breed, Hank Heckel, and the Office of the Mayor for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 by failing to respond to a records request in a timely and/or complete manner; 67.26, by failing to keep withholding to a minimum; 67.27 failing to provide justification for withholding; and 67.34 for willful failure.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that this and the next two of his three cases are regarding calendar entries. Anonymous stated that he requested two weeks of the Mayor's calendar entries and that there is no dispute that the records are public and there is jurisdiction based on California Public Records Act 6254(f) which allows records to be disclosed. Anonymous stated that at the time he filed his complaint, the Mayor's Office argued that they can withhold information about certain meetings.

Hank Heckel (Mayor's Office) (Respondent) was not present for the hearing. Mr. Heckel requested a continuance of the matter which was not granted by the Petitioner.

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 whether the records can be withheld in their entirety due to personal security concerns and whether it constitutes a willful violation of misconduct regarding Administrative Code, Sunshine Ordinance Section 67.34 for finding willful violation in light of order 19103.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Stein, Wolfe, Schmidt

Noes: 0 - None

8. **File No. 20114:** Complaint filed by Anonymous (ARE) against the Dennis Herrera and the City Attorney's Office for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21 failing to respond to a records request in a complete and timely manner; 67.26 failure to keep withholding to a minimum; 67.27 failure to justify withholding; 67.34 willful failure and official misconduct.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that regarding this case he agrees that the Times Mirror court case says that based on California Public Records Act 6255 and balancing, in those circumstances the records cannot be disclosed. Anonymous asked if the City Attorney has security detail because it might apply to the police procedures and if so, the City Attorney as the Supervisor of Records, his future calendars are disclosable.

Jenn Kwart (City Attorney's Office) (Respondent), provided a summary of the department's position. Ms. Kwart stated that the City Attorneys' Office met with SFPD to see if they can reevaluate their process. Ms. Kwart stated that to obtain adequate security the City Attorney continues to withhold under 6254(d) future calendars. Ms. Kwart reiterated that there are security concerns and there have been threats to the City Attorney. Ms. Kwart acknowledged that the SOTF has jurisdiction and requested that they find no violation.

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 on the alleged violations.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Stein, Schmidt, Wolfe

Noes: 0 - None

9. **File No. 20121:** Complaint filed by Anonymous (ARE) against the Paul Miyamoto, Alison Lambert and the Sheriff's Office for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(a) by failing to provide records without unreasonable delay, 67.21(b) by failing to provide a timely and complete response, 67.21(k) by violating the CPRA incorporated by reference into the Sunshine Ordinance, 67.25(d) by failing to provide rolling responses; 67.26 by failing to keep withholding to a minimum; 67.27 by failing to justify withholding in writing and 67.34 for official misconduct.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that he requested the future calendars of Sheriff Miyamoto. Anonymous stated that he was told the Sheriff's Department can release Sheriff Miyamoto's calendar entries after the meeting has occurred and produce the records as they become available.

Alison Lambert (Sheriff's Department) (Respondent), provided a summary of the department's position. Ms. Lambert stated that initially, the Sheriff's Department stated that the Mayor's proclamation was in place however, within 24 hours they began providing records on a rolling basis.

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 hearing.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Stein, Wolfe, Schmidt

Noes: 0 - None

10. Review and Consider Proposed Efficiency Edits to The Complaint Process.

The Complaint Committee discussed reevaluating the complaint and committee process. Member Stein suggested cutting the material at the end and incorporate what new members would be doing. The Committees would still have to agree that the records are public, there is jurisdiction and direct cases to the SOTF and still refer to the Consent Calendar.

Member Wolfe stated that he wants a mock process before this becomes the process and is tested with official designation to see if the process can work in the way it is described in C1.

Action: Moved by Member Stein, seconded by Chair Schmidt to forward this item to the SOTF for consideration.

Member Wolfe voted no because this option is not ready for primetime and have not had a discussion on where and why this is happening. Member Wolfe noted that a Task Force meeting is required to discuss where the problems are because those issues have not been flushed out.

Public Comment:

David Pilpel made three suggestions. First, there is a lot of verbiage and he took pieces from some suggestions including an overview and created a new concept. Second, suggests including some examples including how to handle a records request that is contested. Third prepare a clean, marked revision of the By-Laws and Complaint procedures for the public to read.

The motion PASSED by the following vote:

Ayes: 2 - Stein, Schmidt

Noes: 1 - Wolfe

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

Action: Moved by Member Wolfe, seconded by Member Stein that the Compliant Committee combine this item with public comment and announcements, comments where the members of the Complaint Committee speak first, and general public comment will open to address matters that are within the committee's jurisdiction or was discussed during this period.

Public Comment:

David Pilpel noted that this item is different from General Public Comment and that this is not an opportunity for members of the public to comment on this item. However, another opportunity for General Public Comment should not be a problem.

Member Wolfe is rescinding their motion being influenced by Mr. Pilpel's thoughts.

12. **ADJOURNMENT.**

There being no further business the meeting was adjourned at 8:45 p.m.

APPROVED: September 20, 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.