



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

Hearing Room 408
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

October 15, 2019
5:30 PM

Regular Meeting

Members: Rodman Martin (Chair), Bruce Wolfe and Matthew Cate

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

Chair Martin called the meeting to order at 5:33 p.m. On the call of the roll Chair Martin and Member Cate were noted present. Member B. Wolfe was noted not present. A quorum was present.

2. 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 provided the following summary of their public comment:

"Thank you for your findings in 19047; I look forward to the Order for non-Prop-G and ICS calendars.

The City makes the SOTF naturally skeptical when it over-argues exemptions, which causes genuine risks to be underestimated. The City also fails to explain real risks persuasively. Regardless of the City's innuendo against me, I'm not a criminal hacker; my preference is the City release all non-exempt information while withholding genuinely risky material. To that end, I will be arguing for withholding certain information at the Technology Committee and hopefully can explain the concerns in a way better understood by SOTF.

I remain officially Anonymous even if the City has internally identified me, because who I am is not relevant to whether a record is public. What is public for one must be public for all.

Please urge the City to distinguish between exemptions and burden to improve this communication.”

Michael Petrelis thanked the SOTF members for volunteering their time and requested that all SOTF meetings be televised.

3. **Approval of the September 17, 2019, Complaint Committee meeting minutes.**

Action: Moved by Member Cate, seconded by Chair Martin, to approve the September 17, 2019, meeting minutes.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 - Cate, Martin

Noes: 0 - None

Absent: 1 - B. Wolfe

Upon discussion and with the agreement of both the Complainant and the Respondent File Nos. 19084 and 19085 were call and heard together.

4. **File No. 19084:** Complaint filed by Mo Green against the City Attorney’s Office for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to a request for documents in a timely and/or complete manner. (00:07:50 – 00:42:00)

Mo Green (Petitioner) provided a summary of the complaint and requested the Committee to find violation. Mr. Green state that he made several requests for documents to the City Attorney and the San Francisco Public Utilities Commission (SFPUC) and even with a ‘meet and confer’ the documents have not yet been provided. Mr. Green stated that since many of the documents are related to himself limited redactions should be needed.

John Cote, Office of the City Attorney (Respondent), provided a summary of the department’s position. Mr. Cote stated that a public records request was not made and/or submitted and the that SOTF does not have jurisdiction. Mr. Cote stated that there is existing litigation and that records requested through the legal discovery process are not subject to the provisions of the Sunshine Ordinance.

Ms. Coria, (San Francisco Public Utilities Commission, SFPUC) (Respondent), provided a summary of the department’s position. Ms. Coria stated that all records were provided pursuant to the legal discovery process and a public records request has not been submitted.

The Committee suggested that Mr. Green submit a public records requests to the Office of the City Attorney and the SFPUC as the SOTF does not have jurisdiction over legal procedures. If an acceptable response is not provided to the public records request the SOTF will be able to review the matter.

Action: Moved by Member Cate, seconded by Chair Martin, to continue the matter to the call of the chair.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 - Cate, Martin

Noes: 0 - None

Absent: 1 - B. Wolfe

5. **File No. 19085:** Complaint filed by Mo Green against the Public Utilities Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to a request for documents in a timely and/or complete manner.

See File No. 19084 for testimony and action.

6. **File No. 19093:** Complaint filed by Michael Petrelis against Sean Elsbernd and the Office of the Mayor for allegedly violating Administrative Code, (Sunshine Ordinance) Sections 67.21 by failing to respond to a request for public records in a timely and/or complete manner. (00:42:00 – 00:56:00)

Victor Young, Assistant Clerk, suggested that the complaint be revised to list Chief of Staff Elsbernd instead of Mayor Breed as the calendars in questions were for Mr. Elsbernd. The Petitioner agreed to revise the name party in the complaint.

Michael Petrelis (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Pretrelis stated that Chief of Staff Elbernd's full calendar was not provided and that the Office of the Mayor is not acting in good faith to provide the requested calendars.

Hank Heckel, Office of the Mayor (Respondent) provided a summary of the department's position. Mr. Heckel stated that a request for additional time to respond was enacted in order to allow for consultation with others and that all available records were provided at the time of the request. Mr. Heckel stated that the requirement to create and maintain a Proposition G calendar does not apply to Chief of Staff Elsbernd.

Action: Moved by Member Cate, seconded by Chair Martin, to find that the SOTF has jurisdiction, find that the requested records are public, and refer the matter to the SOTF for hearing.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 - Cate, Martin

Noes: 0 - None

Absent: 1 - B. Wolfe

7. **File No. 19091:** Complaint filed by Anonymous against Mayor London Breed, Hank Heckel and the Office of the Mayor for allegedly violating Administrative Code, (Sunshine Ordinance) Sections 67.21, 67.26, 67.27 and 67.29-7, by failing to respond to a request for public records in a timely and/or complete manner. (00:56:00 –)

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that records were withheld without providing justification and that a violation of Sunshine Ordinance, Section 67.29-7, occurred for failing to maintain records as records from the application 'WhatsApp' could not be provided. Anonymous request that the portion of his complaint regarding metadata be divided out and that the remainder of the complaint move forward (Allegation No. 4 SFAC67.21(1)/CPRA Gov Code 6253(b) and No. 8 SFAC 67.26). (Metadata portion of complaint divided into File No. 19109 and will be scheduled before the Information Technology Committee.)

Hank Heckel, Office of the Mayor (Respondent) provided a summary of the department's position. Mr. Heckel stated that a search was conducted of all requested media, including email and text messages, and all responsive records were provided. Mr. Heckel stated that individuals are not required to provide affidavits or written declarations regarding the search for records on personal devices.

Action: Moved by Chair Martin, seconded by Member Cate, to find that the SOTF has jurisdiction, find that the requested records are public, and refer the matter to the SOTF for hearing.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 - Cate, Martin

Noes: 0 - None

Absent: 1 - B. Wolfe

8. **File No. 19094:** Complaint filed by Anonymous against Linda Gerull and the Department of Technology for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.25, 67.26 and 67.27 by failing to respond to a public records request in a timely and/or complete manner.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that he did not want to log into NextRequest in order to submit a request or receive responsive records. Anonymous stated that they did not receive a response to the second part of the request. Anonymous referenced the enterprise system and stated that it was omitted from the catalog.

Arlene Licudine and Brian Roberts, Department of Technology (Respondent) provided a summary of the department's position. Ms. Licudine stated the department did not receive the request from muckrock and believes that the request may have been missed due to email filtering of 're' which resulted in the failure to create a service request. Ms. Licudine stated that a search was conducted of all requested media, including email and text messages, and that all responsive records were provided.

Action: Moved by Member Cate, seconded by Chair Martin, to find that the SOTF has jurisdiction, find that the requested records are public, and refer the matter to the SOTF for hearing.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 - Cate, Martin

Noes: 0 - None

Absent: 1 - B. Wolfe

9. **ADJOURNMENT**

There being no further business the meeting was adjourned at 7:26 p.m.

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.

APPROVED: 11/19/19
Complaint Committee
Sunshine Ordinance Task Force