



SUNSHINE ORDINANCE TASK FORCE
Compliance and Amendments Committee
CITY AND COUNTY OF SAN FRANCISCO
MINUTES

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

January 28, 2020
4:30 PM

Regular Meeting

Members: Lila LaHood (Chair), Fiona Hinze and Bruce Wolfe

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

Chair LaHood called the meeting to order at 4:32 p.m. On the call of the roll Chair LaHood and Members Hinze and B. Wolfe were noted present. A quorum was present.

The SOTF Administrator stated that the Petitioners/Complainants for item No. 4, File No. 19118 and item 8, File No. 19079 withdrew their complainants.

2. Approval of the November 26, 2019, Compliance and Amendments Committee meeting minutes.

Action: Moved by Chair LaHood, seconded by Member B. Wolfe to approve the November 26, 2019, meeting minutes.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 3 - LaHood, B. Wolfe, Hinze
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:

None.

4. **File No. 19118:** Complaint filed by Paul Ondik against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b), by failing to respond to a public records request in a timely and/or complete manner.

The matter was withdrawn by the Complainant prior to the meeting.

5. **File No. 19123:** Complaint filed by Paul Kniha against the San Francisco Municipal Executive Association 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.

Paul Kniha (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Kniha stated that he has not received a response to his request from the Municipal Executives Association (MEA) Mr. Kniha stated that the MEA is a union and public agency involved in the decision making process of policies of the MEA and public funds. Mr. Kniha stated that the MEA participates in negotiations regarding compensation and collective bargaining. Mr. Kniha stated that the MEA meets with the Mayor.

The Respondent was not present for the hearing.

Member B. Wolfe stated employees are independent of City government and that the union is not a committee of a policy body; that it is not a subcommittee of any board or commission. Member B. Wolfe stated the MEA is not subject to the Sunshine Ordinance as determined by the City Attorney. Member B. Wolfe also stated that he does not believe that the MEA has a contract with the City that is subject to the Sunshine Ordinance. Member B. Wolfe questioned who the contract is with: the union or employees? Member B. Wolfe opined that if the union is meeting with the Mayor, then the documents the Mayor's Office has would be subject to Sunshine, but not the group. Member B. Wolfe stated that the SOTF does not have jurisdiction over the union and its members and that there was no evidence in the agenda packet that describes MEAs activities.

Action: Moved by Member B. Wolfe, seconded by Member Hinze, to find no jurisdiction and report to the SOTF.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 3 - B. Wolfe, Hinze, LaHood
Noes: 0 - None

6. **File No. 19109:** Complaint filed by Stephen Malloy against Department of Public Health for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.24, 67.25, 67.26 and 67.27, by failing to respond to a public records request in a timely and/or complete manner.

Stephen Malloy (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Malloy stated that in May 2019, he filed a request for records with the Ms. Vien of the Department of Public Health (DPH) and she responded in November 2019, with approximately 9 emails from 13 City officials. Mr. Malloy stated that there are other records that have not been release by Ms. Vien. Mr. Malloy stated that he filed a complaint with Micki Callahan in December 2018. Ms. Callahan responded citing attorney/client privilege.

The Respondent was not present for the hearing.

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

Member B. Wolfe noted the Respondent was not present for the hearing and requested under Administrative Code, Sunshine Ordinance 67.21 that the Department of Public Health to provide the requested records.

Public Comment:
None

The motion PASSED by the following vote:

Ayes: 3 - B. Wolfe, Hinze, LaHood
Noes: 0 - None

Member Hinze was noted absent at 5:51 PM

7. **File No. 19110:** Complaint filed by Stephen Malloy against the Fire Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.24, 67.25, 67.26 and 67.27, by failing to respond to a public records request in a timely and/or complete manner.

Stephen Malloy (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Malloy stated on May 24, 2019, he submitted a request for records via NextRequest asking for all records involving Stephen Malloy. Mr. Malloy stated that in October 2019, the Fire Dept. responded stating that they had no responsive records. Mr. Malloy stated that in November 2019, the Fire Dept. stated that they had one record which was provided. Mr. Malloy stated that he did receive approximately 800 emails. Mr. Malloy stated that the Fire Department may be working with the Department of Human Resources to keep records from him. Mr. Malloy asked the SOTF to compel the Fire Department to do a complete search regarding who may have written records about Mr. Malloy. Mr. Malloy stated that the Fire Department did not provide the records in a timely manner.

John Tucker (Fire Department) (Respondent), provided a summary of the department's position. Mr. Tucker stated that the Department received Mr. Malloy's Immediate Disclosure Request on May 24, 2019, via NextRequest, asking for all records concerning Mr. Malloy. Mr. Tucker stated that the scope of the request was too broad. Mr. Tucker stated that on September 29, 2019, the Department responded that they would continue searching for records. Mr. Tucker stated that he asked his IT Department to search for records and they said there were no other records. Mr. Tucker acknowledged that the Department failed to respond in a timely manner, but that the Department was taking steps to ensure that this situation never happens again.

Jesusa Buchong, Human Resources for the Fire Department, stated that because many staff access the Department's NextRequest system, it is hard to distinguish what has been opened and read. Mr. Buchong stated that they receive a large number of public records requests regarding property. Ms. Buchong stated that she asked the IT Department to conduct a final query on Mr. Malloy and they were able to locate an additional 500 pages of records which were provided.

A question and answer period occurred.

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

Member B. Wolfe also requested that the Respondent provide other missing records to Mr. Malloy and to acknowledge that they conceded a timeliness issue under Administrative Code, Section 67.25.

Public Comment:

None

The motion PASSED by the following vote:

Ayes: 2 - B. Wolfe, LaHood

Noes: 0 – None

Absent: 1 - Hinze

8. **File No. 19079:** Complaint filed by Thomas Picarello against the Dept. of Homelessness and Supportive Housing for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25 for failing to respond to an Immediate Disclosure Request in a timely manner.

The matter was withdrawn by the Complainant prior to the meeting.

9. The Compliance and Amendments Committee (Committee) shall hold hearing(s) on File No(s)., 19097, 19098, 19119, 19120, 19121, 19122, 19125, 19128, 19131, 19132, 19133, 19134, 19136, 19137, 19139, 19141, 19142, 19143, and 19146 to: 1) determine if the Sunshine Ordinance Task Force (Task Force) has jurisdiction; 2) review the merits of the complaints; and/or 3) issue a report and/or recommendation to the Task Force. The Task Force, upon receipt of the report and/or recommendation from the Committee, shall schedule and conduct a hearing on the merits of the complaint.

Member B. Wolfe stated that there should be a section on the Complaint Form asking the Complainant if they waive the 45-day rule. Member B. Wolfe stated that the Committee can find jurisdiction because all the respondents listed are City agencies and the parties are correct. The question is not about the 45-day rule but to determine whether the records are public or not. Member B. Wolfe stated that since Anonymous has provided the SOTF Administrator with an email stating that he is waiving his right to the 45-day rule, for the following matters:

File No. 19097: Complaint filed by Anonymous against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.26 and 67.27, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19098: Complaint filed by Anonymous against Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.26 and 67.27, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19119: Complaint filed by Anonymous against the Department of Technology for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b), 67.26 and 67.27 by failing to respond to a public records request in a timely and/or complete manner.

File No. 19120: Complaint filed by Anonymous against the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b)(c), 67.26, 67.27, by failing to respond to a request for public records in a timely and/or complete manner; failing to justify withholding of records and failing to provide assistance.

No. 19121: Complaint filed by Anonymous against the Police Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b)(k), 67.26 and 67.27, by failing to respond to a public records request in a timely and/or complete manner; withholding more than the minimum and failing to justify withholding.

File No. 19122: Complaint filed by Anonymous against City Librarian Michael Lambert and the Public Library for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

File No. 19125: Complaint filed by Anonymous against the Controller's Office for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b)(c)(k), 67.26, 67.27, by failing to respond to a request for records in a timely and/or complete manner, failing to assist, withheld more than the minimally exempt portion of a public record, failing to justify withholdings with clear reference to exemption statute or case law and failing to provide an exact copy of records.

File No. 19128: Complaint filed by Anonymous against Chief William Scott, Sgt. Brian Rodriguez, Michael Andraychak and the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.25, 67.26, 67.27 and 67.29-7(a), by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

File No. 19131: Complaint filed by Anonymous against Jose Cisneros, Theresa Buckley and the Treasurer's Office for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.24, 67.26, 67.27, by failing to respond to a request for records in a timely and/or complete manner, failing to assist, withheld more than the minimally exempt portion of a public record.

File No. 19132: Complaint filed by Anonymous against Mary Ellen Carroll and the Department of Emergency Management for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

File No. 19133: Complaint filed by Anonymous against Tom Maguire and the San Francisco Municipal Transportation Agency for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

File No. 19134: Complaint filed by Anonymous against Rob Reiter and City Hall Building Management for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25 by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

File No. 19136: Complaint filed by Anonymous against Naomi Kelly and the Office of the City Administrator for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25 by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

File No. 19137: Complaint filed by Anonymous against Thomas P. Campbell and the Fine Arts Museum for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.25 and 67.34 by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

File No. 19139: Complaint filed by Anonymous against Jeanne Buick, Henry Voong and the Department of Human Resources for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.24, 67.26 and 67.27(a), by withholding public records.

File No. 19141: Complaint filed by Anonymous against Chief William Scott and the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

File No. 19143: Complaint filed by Anonymous against Sheriff Vicki Hennessy, James Wilson and the Sheriff's Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.24, 67.25 and 67.27, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

File No. 19144: Complaint filed by Anonymous against the Department of Police Accountability for allegedly violating Administrative Code (Sunshine Ordinance), Sections, 67.21, 67.24, 67.26 and 67.27, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19145: Complaint filed by Anonymous against the Police Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.5 and 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19146: Complaint filed by Anonymous against City Librarian Michael Lambert and the Public Library for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to request for public records in a timely and/or complete manner.

Action: Moved by Member B. Wolfe, seconded by Chair LaHood to find jurisdiction for file nos. 19097, 19119, 19120, 19121, 19122, 19125, 19128, 19131, 19132, 19133, 19134, 19136, 19137, 19139, 19141, 19142, 19143, and 19146.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 - B. Wolfe, LaHood,

Noes: 0 - None

Absent: 1 - Hinze

Member B. Wolfe stated that these matters below are beyond the 45-day rule and that they need to be scheduled as soon as possible. The following matters need to be moved to the top of the Committee hearing list. The SOTF Administrator explained that Ms. Treboux's matters have been scheduled for the February SOTF Complaint Committee hearing. Member B. Wolfe stated that if these matters are not heard, special committee hearings will need to take place.

File No. 19115: Complaint filed by Ann Treboux against Margaret Baumgartner for allegedly violating Administrative Code, (Sunshine Ordinance) Sections 67.25 by failing to respond to an Immediate Disclosure Request for public records in a timely and/or complete manner.

File No. 19126: Complaint filed by Ann Treboux against the San Francisco Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

File No. 19130: Complaint filed by Stephen Malloy against Chesa Boudin and the District Attorney's Office for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 19138: Complaint filed by Stephen Malloy against the University of California, Regents of the University of California, 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.

File No. 19140: Complaint filed by Stephen Malloy against the Department of Human Resources for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to a request for public records in a timely and/or complete manner.

File No. 19145: Complaint filed by Anonymous against the Police Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.5 and 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Action: Moved by Member B. Wolfe, seconded by Chair LaHood, to find jurisdiction and to note for the record that it is assumed it is beyond the 45-day rule and that violations of Administrative Code, Sunshine Ordinance Sections 67.21(e) and 67.25, by the SOTF has plead no contest to violating those codes and that these items will be priorities for the next Committee meetings.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 - B. Wolfe, LaHood,

Noes: 0 - None

Absent: 1 - Hinze

Alex Bastian, District Attorney's Office, stated that he wanted to put on the record was present and ready to handle matter no. 19130 and that on the next scheduled date he may not be present.

Anonymous stated that he is unfamiliar with the Sunshine Ordinance and asked about file no. 19145.

10. **Announcements, Comments, Questions, and Future Agenda Items by Members of the Compliance and Amendments Committee.**

Chair LaHood stated that she wanted to review the discussion of the (a) and (b) headings on the Agenda for each item and suggested that (b) state completeness of file.

Member B. Wolfe stated that even though he does not participate on the Committee level, he thinks it is confusing for the parties and that we need to explain to the parties that their case will not be heard at that level.

The SOTF Administrator explained that when she noticed the appearance for the hearing, it was clearly marked that the parties are not required to attend the proceeding.

Member B. Wolfe stated that lines (a) and (b) should be eliminated completely because each committee has its own charge.

11. **ADJOURNMENT**

There being no further business the meeting was adjourned at 6:59 p.m.

APPROVED: 2/25/20

**Compliance and Amendments 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.