



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

September 15, 2020 - 5:30 PM

Remote Regular Meeting

Members: Fiona Hinze (Chair), Matthew Yankee and Josh Wolf

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

Chair Hinze called the meeting to order at 5:33 p.m. On the call of the roll Chair Hinze and Members Yankee and J. Wolf were noted present. A quorum was present.

There were no agenda changes.

2. Approval of the December 17, 2019 and the February 18, 2020, Complaint Committee meeting minutes.

Action: Moved by Member Yankee, seconded by Member J. Wolf, to approve the December 17, 2019 and February 18, 2020, meeting minutes.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Yankee, J. Wolf, 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:

Anonymous thanked the Complaint Committee for returning to hear complaints. Anonymous also stated that attorney memos help to specify the allegations.

Peter Warfield stated his appreciation Anonymous' suggestion that SOTF create a form to be completed by the Petitioner which might make it easier for the public to understand the merits of an action.

4. **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.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that he sent a records request to the Police Department and they responded on July 15, 2020, asking for a 14-day extension. Anonymous stated that on August 5, the Police Department sent blank emails and continued to provide documents on a rolling basis. Anonymous stated that on February 19, 2020 the Police Department responded stating that more records would be produced. Anonymous believes that those records were not copies of original records. Anonymous also noted that the Police Department did not provide citations for the redactions in the records provided.

Lt. Andraychak (Police Department) (Respondent), provided a summary of the department's position. Lt. Andraychak stated that Anonymous' request was not simple or routine. In addition to emails, Anonymous asked for Facebook Messenger documents. Lt. Andraychak noted that his department is still processing some emails from the Command staff and due to Covid-19 and riots, some officers were taken away from providing the requested records. Lt. Andraychak also noted that he is not aware of any rulings regarding metadata. Lt. Andraychak stated that he can ask officers to check their personal email accounts and will provide that information.

Action: Moved by Member Yankee, seconded by Member J. Wolf, to find that the requested records are public and to refer the matter to the SOTF for hearing.

Public Comment:

Peter Warfield stated that he could not see the documents related to this action. Mr. Warfield also added that metadata has been discussed for many years and that it should be searchable.

The motion PASSED by the following vote:

Ayes: 3 - Yankee, J. Wolf, Hinze
Noes: 0 - None

5. **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 and 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.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that he asked for Jeff Adachi's records. Anonymous pointed out that of the 2,000 records received, many of those pages were redacted and the City Attorney's Office did not provide legal justification for the redactions. Anonymous opined that the City Attorney's Office thinks they do not have to provide a legal citation for their redactions.

The Respondent was not present for the hearing and did not inform the SOTF Administrator of their absence.

Action: Moved by Member Yankee Hinze, seconded by Member J. Wolf, to find that the requested records are public and to refer the matter to the SOTF for hearing.

Public Comment:

Peter Warfield wants to assure the Committee that not all City agencies are redacting improperly and fail to note legal citations. Mr. Warfield added that redactions need to be clearly marked.

The motion PASSED by the following vote:

Ayes: 3 - Yankee, J. Wolf, Hinze

Noes: 0 - None

6. **File No. 19101:** Complaint filed by Ray Hartz against President Mark Buell and the Joint Zoo Committee for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.15(d), and 67.16, by failing to place the submitted 150-word summaries of Public Comment into the meeting minutes (Meeting of August 15, 2019).

Mr. Hartz was not present for the hearing and did not notify the SOTF Administrator of his absence.

The Respondent was not present for the hearing and did not inform the SOTF Administrator of their absence.

Action: Moved by Member Yankee, seconded by Chair Hinze to table the matter.

Public Comment:

Peter Warfield stated that Ray Hartz is doing a great service by carving a path for others. Mr. Warfield opined that the requirement that the Petitioner be present at the hearing is unnecessarily onerous.

The motion PASSED by the following vote:

Ayes: 3 - Yankee, Hinze, J. Wolf

Noes: 0 - None

The Petitioner will be notified of the action and given the opportunity reopen the matter.

7. **File No. 19145:** Complaint filed by Chris Khors 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.

Chris Khors (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Khors stated that he went before the Police Commission, in closed session, regarding his termination from the Police Department. Mr. Khors requested a copy of the recording and transcript of that hearing which he received. Mr. Khors stated that after reviewing the hearing materials, he believes dialogue was missing and the recording was not authentic. Mr. Khors believes this because deliberations that took place were not recorded as the Court Reporter left the room. Mr. Khors also requested the make and model of the recording equipment. Mr. Khors believes that the audio was altered. Mr. Khors requested a copy of the digital original.

Sgt. Stacy Youngblood (Police Department) (Respondent), provided a summary of the department's position. Sgt. Youngblood stated that Mr. Khors as a former Police Officer, was provided a copy of the closed session recording and transcript the same day he requested it. Sgt. Youngblood also stated that Mr. Khors was informed that he could come to the Office at any time to listen to the record. Sgt. Youngblood noted that the recording matches the transcript the Police Commission has. Sgt. Youngblood stated that Mr. Khors was also given a copy of his personnel record which would not be available to members of the general public.

Action: Moved by Member J. Wolf, seconded by Member Yankee, to find that the requested records are public and to refer the matter to the SOTF for hearing.

Public Comment:

Anonymous noted that the Committee should recognize that this is clearly a public record request from a public agency.

The motion PASSED by the following vote:

Ayes: 3 - J. Wolf, Yankee, Hinze

Noes: 0 - None

8. **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.

Stephen Malloy (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Malloy stated that this matter began in November 2019. Mr. Malloy stated that he received six emails on November 14 which were heavily redacted. Mr. Malloy contends that the City Attorney's Office unlawfully requested that the Department of Human Resources not release any records. Mr. Malloy stated that his case is rooted in bias and discrimination. Mr. Malloy stated that this matter regards official misconduct of the City Attorney by clearly directing Human Resources to not release records or redact them correctly.

The Respondent was not present for the hearing and did not inform the SOTF Administrator of their absence.

Action: Moved by Member Yankee, seconded by Chair Hinze, to find that the requested records are public and to refer the matter to the SOTF for hearing.

Public Comment:

Anonymous stated that it is important to note on page 253 is a violation of 67.26 because it is clear what some of those redactions were. Anonymous stated that there is no reason for names to be redacted and that each redaction should have a legal reference.

The motion PASSED by the following vote:

Ayes: 3 - Yankee, Hinze, J. Wolf

Noes: 0 - None

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

Chair Hinze and Member Yankee expressed thanks to Member J. Wolf for his contributions and years of service and acknowledged his resignation from the Sunshine Ordinance Task Force.

10. **ADJOURNMENT**

There being no further business the meeting was adjourned at 7:14 p.m.

APPROVED: 10/20/20
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.