



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

REMOTE REGULAR MEETING

**May 25, 2021
4:30 PM**

Members: Lila LaHood (Chair), Jennifer Wong and Laurie Jones Neighbors

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

Chair LaHood called the meeting to order at 4:33 p.m. On the call of the roll Chair LaHood and Members Neighbors and Wong were noted present. A quorum was present.

2. Approval of the April 27, 2021, Compliance and Amendments Committee meeting minutes.

Action: Moved by Chair LaHood, seconded by Member Neighbors, to approve the April 27, 2021, meeting minutes with amendments and requested that the October 27, 2020, minutes be scheduled for the June meeting.

Public Comment:

Peter Warfield, Executive Director of Library Users, libraryusers2004@yahoo.com; P.O. Box 170544, San Francisco, CA 94117-0544 stated that it is important to provide contact information because during this health crises, it isn't possible to have personal contact with other members of the public.

Anonymous noted a misspelling in the April 27, 2021, minutes and discussed the October 27, 2020 minutes.

The motion PASSED by the following vote:

Ayes: 3 - LaHood, Neighbors, Wong
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.

Anonymous #1 stated that the goals of the SOTF are to work within the parameters of the Sunshine Ordinance. Anonymous stated that Administrator Leger has cut off telephone access and is requesting that a 2-hour block of time be reserved to work with parties.

Anonymous #2 stated that he has no personal experience with phone calls but thinks that the SOTF should have office hours. Anonymous #2 asked when the SOTF is going to schedule Mr. Hooper's complaints.

Peter Warfield noted that it is disappointing to be ignored especially within the decision-making process. Mr. Warfield stated that he is losing faith in the SOTF and its interest in correctness. Mr. Warfield stated that Supervisor Peskin is losing his support.

4. **File No. 19145: Hearing regarding request for reconsideration.** Complaint filed by Chris Kohrs against the Police Commission the SOTF found that the Police Commission **DID NOT** violate Administrative Code (Sunshine Ordinance), Sections 67.5 and 67.21, for failing to respond to a public records request in a timely and/or complete manner.

Chris Kohrs (Petitioner) provided a summary of the complaint and requested reconsideration of the decision of the SOTF in his case. Mr. Kohrs stated that statute SB1421 covers off duty conduct and relates to the issue because he was off duty at the time of the incident. Mr. Kohrs stated the anomaly is that dialogue is missing from the recording of his Police Commission hearing and the Commission is stating that the recording was not altered.

Sgt. Stacy Youngblood (Police Department) (Respondent), provided a summary of the department's position. Sgt. Youngblood responded that SB1421 applies to off duty officers and that use of force does not apply in this instance because Mr. Kohrs was in a traffic accident. Sgt. Youngblood also noted that Mr. Kohrs was given the recording because he was a former police officer requesting information from his personnel record; not because he sent a public records request. Sgt. Youngblood stated that Mr. Kohrs is mistaken in believing that the recording was altered.

A question and answer period occurred.

Action: Moved by Member Neighbors, seconded by Member Wong, refer the matter to the SOTF with the recommendation to deny the request for reconsideration as there was a lack of new information provided by the Complainant.

Public Comment:

Anonymous stated that the motion is wrong and that a vote should not be taken on conduct of police officers. Mr. Kohrs interpretation of nonduty conduct is new evidence. Anonymous stated that SB1421 records are disclosable.

Stephen Malloy stated support of Anonymous' comments and Mr. Kohrs for requesting reconsideration. Mr. Malloy stated disciplinary records are disclosable and that the SOTF should reconsider this matter.

Peter Warfield stated that he rejects the motion and that the SOTF should have a full discussion of the materials.

Anonymous #2 stated that this matter is relevant to public access to records. Anonymous #2 also noted that no one has seen a copy of the court reporter's transcription notes. Anonymous #2 asked why the Police Commission doesn't release the recording? Anonymous #2 noted that the SOTF should analyze the tapes carefully.

The motion PASSED by the following vote:

Ayes: 2 - Neighbors, Wong

Noes: 1 - LaHood

5. **File No. 20123:** Complaint filed by Maya Zubkovskaya against the Department of Emergency Management for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.24(d)(2), by failing to disclose certain portions of law enforcement information.

Douglas Carlson (Petitioner), the Petitioner's husband, provided a summary of the complaint and requested the Committee to find a violation. Mr. Carlson stated that this matter involves a request for an unredacted audio recording, disclosure of the redactions on the incident report and the identity of the reporting party. Mr. Carlson stated they now know the reporting party's name and that this person has no privacy interest. Mr. Carlson stated that there are inconsistencies in several redacted portions of the audio recording and report as there are some redactions in one place but not another when comparing the audio recording and written report.

Kristen Walker (Department of Emergency Management) (Respondent), provided a summary of the department's position. Ms. Walker stated that the audio was provided as requested. Ms. Walker stated that her department consulted with the City Attorney regarding privacy and the appropriate redactions were made including whether to release names and phone number of reporting party. Ms. Walker stated that the audio recording was provided and the only redaction was of the name of the reporting party and confirmed that they would provide a new copy of the audio recording as requested by the Committee.

A question and answer period occurred.

Action: Moved by Member Neighbors, seconded by Member Wong, to find that the SOTF has jurisdiction.

Member Neighbors rescinded her motion.

Action: Moved by Chair LaHood, second by Member Neighbors to find jurisdiction and to continue the matter to the Call of the Chair so that the parties can agree that public records were determined and that the parties exchange records within fourteen days.

Public Comment:

Anonymous #2 noted that it is great when the Petitioner is happy and gets what they want, great, but they can also withdraw their complaint at any time.

Peter Warfield stated that he agrees with Anonymous #2 in this instance and noted that this matter cannot be scheduled for the June SOTF hearing. Mr. Warfield noted two weeks is plenty of time to determine if the matter should go forward.

Chair LaHood rescinded her motion and provided a new motion.

Action: Moved by Chair LaHood, seconded by Member Neighbors, to find jurisdiction, to refer the matter to the SOTF with the request that the Respondent provide a new copy of the audio and audio information to the Petitioner within two weeks of this hearing.

Public Comment:

Peter Warfield thanked the SOTF Administrator for asking for clarity of the motion which he supports. Mr. Warfield noted that there may still be changes requested by the Petitioner.

Anonymous #2 agrees with Mr. Warfield's opinion.

The motion PASSED by the following vote:

Ayes: 3 - LaHood, Neighbors, Wong

Noes: 0 - None

6. **File No. 20079:** Complaint filed by Shane Anderies against District Attorney's Office and Chesa Boudin for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(e) failing to respond to a records request in a timely and/or complete manner; 67.25 by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner; 67.26 withholding kept to a minimum and 67.27 failing to provide justification for withholding responsive documents.

Shane Anderies (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Anderies stated that per the request of the SOTF he received Ms. Burke's email stating that a Signal search was conducted, however the search was only performed on Mr. Boudin's email. Mr. Anderies requested that the Signal search be conducted on all emails of all personnel in the office. Mr. Anderies stated that he sent a letter asking for preservation of evidence

Robyn Burke (District Attorney's Office) (Respondent), provided a summary of the department's position. Ms. Burke stated that when the request was received regarding Mr. Thomas Ostly, a search was conducted on Mr. Boudin's email, cell phone and messaging apps. Ms. Burke stated that they provided all records found and they complied with the request.

A question and answer period occurred.

Action: Moved by Chair LaHood, seconded by Member Neighbors, to request that the District Attorney's Office verify that a comprehensive search of all department communications has been completed, to search for communications to and from Chesa Boudin regarding Mr. Thomas Ostly, including, but not limited to, email, Signal and other messaging apps and request that conversation settings for any conversations that included Chesa Boudin within the department and that the results be forwarded to the SOTF Administrator within two weeks to be reviewed at the next Compliance and Amendments Committee hearing.

Public Comment:

Peter Warfield stated that the Petitioner makes sense and has made a comprehensive request that needs to be satisfied. Mr. Warfield stated that the detailed nature of the motion is troubling. Mr. Warfield noted that 67.29-f requires professionally maintaining records.

Anonymous #2 noted agreement with Mr. Warfield especially regarding 67.29-f. Anonymous #2 thanked the Chair for digging deeper when the respondent was giving nonsensical messages.

The motion PASSED by the following vote:

Ayes: 3 - LaHood, Neighbors, Wong

Noes: 0 - None

The Committee was recessed from 7:14 PM to 7:24 PM. .

7. **File No. 20134:** Complaint filed by Mark Sullivan against the Office of Economic and Workforce Development 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.

Mr. Sullivan was not present for the hearing and did not notify the Administrator of their absence.

Marianne Thompson (Office of Economic and Workforce Development) (Respondent) was present.

Action: Moved by Chair LaHood, seconded by Member Wong, to table the matter. (It was noted that the Complainant would be notified of the action and would be able to request the matter be reopened within 60 days).

Public Comment:

Anonymous #2 stated that the Petitioner’s request was clear and requested a t. Anonymous #2 stated that the respondent did produce financial information, contracts and funding to Mr. Hooper.

Peter Warfield thanked the Chair for their sincere effort to determine what the issue is. Mr. Warfield noted that there are procedures that provide for what happens when a party does not appear.

The motion PASSED by the following vote:

Ayes: 3 - LaHood, Wong, Neighbors

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.

Chair LaHood stated that the Petitioner said that the hearing could go forward despite his absence. Chair LaHood stated that this case has already been heard by the SOTF and the Petitioner is seeking responsive records. Chair LaHood stated that Mr. Malloy’s request was about metadata, redactions and that a document was redacted in full with no legal citations provided. Chair LaHood opined that the date, time and subject line does not fall under attorney/client privilege.

Mr. Malloy was not present for the hearing but did advise the SOTF Administrator of their absence and to go forward with the hearing.

Ted Wisinski (Department of Human Resources) (Respondent), provided a summary of the department's position. Mr. Wisinski stated that he believes Mr. Malloy was of the opinion that there were other records that should have been produced. Mr. Wisinski asked if he had to complete a second search?

Action: Moved by Chair LaHood, seconded by Member Neighbors, to request that the Department of Human Resources review the documents it has presented including redactions on the basis of attorney/client privilege, to justify those redactions and to remove unnecessary redactions on header fields including but not limited to, from, date and time stamps and complete a new search to locate additional responsive records. The Committee requested that the matter be continued to the next Compliance and Amendments Committee hearing for monitoring.

Public Comment:

Anonymous #3 stated that there are questions about the determination received from legal counsel. Anonymous #3 stated that there may be a certain legal code when the decision was made about the metadata.

Anonymous #2 stated support for the motion and wishes that all motions of the SOTF were as clear. Anonymous #2 stated that the Committees spend hours getting the specific details clear.

Peter Warfield supports the motion and does reflect the kinds of issues that arise frequently. Mr. Warfield asked where the City Attorney for the SOTF was and why opinions were only conveyed to the Chair and not documented so that everyone can review them.

The motion PASSED by the following vote:

Ayes: 3 - LaHood, Neighbors, Wong
Noes: 0 - None

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

Member Wong suggested that the SOTF listen to the podcast On Our Watch.

Chair LaHood noted that the SOTF no longer receives City Attorney memos but that members can follow up with the City Attorney at any time. Chair LaHood stated that the circumstances can be addressed by the SOTF Administrator.

Public Comment:

Peter Warfield stated that all things are excellent and valuable. Mr. Warfield stated that a full discussion and report on the topic of attorney/client privilege is necessary.

Anonymous #2 agreed with Mr. Warfield. Anonymous #2 stated that the SOTF should prepare a full presentation on the issue of attorney/client privilege and anything that relates to it.

10. **ADJOURNMENT**

There being no further business the meeting was adjourned at 8:18 p.m.

APPROVED: 6/22/21
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.