



SUNSHINE ORDINANCE TASK FORCE
Complaint Committee
CITY AND COUNTY OF SAN FRANCISCO
MINUTES - DRAFT
REMOTE MEETING

April 19, 2022
5:30 PM

Remote Regular Meeting

Members: Dean Schmidt (Chair), Laura Stein

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

Chair Schmidt called the meeting to order at 5:34 p.m. On the call of the roll Chair Schmidt and Member Stein were noted present. A quorum was present.

The committee discussed possibly combining File Nos. 22014 and 22020 but took no action.

2. Approval of the March 15, 2022, Complaint Committee meeting minutes.

Action: Moved by Chair Schmidt, seconded by Member Stein, to approve the March 15, 2022, meeting minutes with suggested amendments.

Public Comment:

Marc Norton thanked the Committee for making the change to Item 7 and expressed hope that the minutes will be delayed with respect to Item 8.

Peter Warfield, Executive Director Library Users Association, libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, California, 94117-0544. Mr. Warfield stated that he did not hear that Public Comment was closed and that it should be a matter of right that a member of the public be allowed to make public comment.

Chair Schmidt withdrew their motion.

Action: Moved by Chair Schmidt, seconded by Member Stein to continue the adjustment of the minutes in accordance with the suggestions of Anonymous #3.

Public Comment:

Marc Norton requested that the change to Item 7 be included on the website for the next meeting.

Peter Warfield noted that providing contact information is an important part of Public Comment.

The motion PASSED by the following vote:

Ayes: 2 - Schmidt, Stein

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 spoke about general sunshine issues that the City is handling poorly and that because the Redistricting Task Force is in session, he has been Sunshining everything.

Peter Warfield noted appreciation with the previous speaker mentioning the Redistricting Task Force. Mr. Warfield also stated that many members of the public are unhappy with what is happening.

4. **File No. 20063:** Complaint filed by Anonymous against Paul Henderson and the Department of Police Accountability for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.26 for not providing legal justification for redactions and 67.29.5 for not providing the place and issues discussed in Prop G calendar.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that Paul Henderson did not provide correct entries into his Prop G calendar. Anonymous noted that if Mr. Henderson were meeting with the Mayor, the entry is not included and that is unlawful. Anonymous stated that he will introduce an entire year of calendar entries which demonstrate the general sense of what has been included.

Sara Maunder (Department of Police Accountability) (Respondent), provided a summary of the department's position. Ms. Maunder stated that on April 14, 2021, her office sent a letter to Anonymous detailing that the calendar does comply as is shown in the meeting titles. Ms. Maunder stated that entries for Human Resources was not recorded in the

calendar because the matters were private and confidential. Ms. Maunder also noted that confidential information in the titles was redacted and they did not use a redaction code.

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 pending inclusion of the Petitioner's supporting documentation and respondents' April 14, 2022, letter.

Public Comment:

Peter Warfield suggested that the Committee get an acknowledgement of the petitioner's availability for next month's hearing. Mr. Warfield supports the motion in general.

Sergi Severinov stated that as a resident of San Francisco he is insulted that a lot of money goes to finance an incompetent agency like Police Accountability.

The motion PASSED by the following vote:

Ayes: 2 - Stein, Schmidt

Noes: 0 - None

5. **File No. 20064:** Complaint filed by Anonymous against the Police Commission or allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21(b) by failing to respond to a records request in a timely manner and 67.25(b) declaration of 14-day instead of a 10-day extension.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that he will drop the complaint if the respondent sends a no contest letter due to the 10 to 14 day extension to respond.

Lt. Stacy Youngblood (Police Commission) (Respondent), provided a summary of the department's position. Lt. Youngblood stated that the wrong template was used when responding to Anonymous, and that he is waiting for one commissioner to provide letters.

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

Action: Moved by Chair Schmidt, seconded by Member Stein, 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 for violations of Administrative Code, Sunshine Ordinance, Sections 67.21(b), by failing to respond to a records

request in a complete and timely manner and 67.25(b) by failing to notify the requestor that a ten day extension of time was necessary to collect the documents. It is requested that the petitioner inform the SOTF Administrator within the next two weeks if they want to withdraw the complaint.

Public Comment:

Peter Warfield stated that the law must be taken seriously and that it is important to act on open government.

The motion PASSED by the following vote:

Ayes: 2 - Schmidt, Stein

Noes: 0 - None

6. **File No. 22014:** Complaint filed by Sergei Severinov against Lt. Lynn Reilly and the Police Department for allegedly violating Administrator Code (Sunshine Ordinance), Section(s) 67.21(b), by failing to respond to a public records request in a timely and/or complete manner.

Sergi Severinov (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Severinov stated that he is a member of an immigrant family and they are being harassed by the Police Department. Mr. Severinov stated that he has filed multiple complaints against the Police Department and requests for records. Mr. Severinov stated that the police department has refused to search for those records.

Lt. Lynn Reilly (Police Department) (Respondent), provided a summary of the department's position. Lt. Reilly stated that she received two records requests from Mr. Severinov the first stating that the Police Department is in violation of 67.21 and the second received on March 10, 2022. Lt. Reilly stated that she provided a timely response on February 16, 2022, to the first request noting that that this request was for arrest records of individuals and searches for criminal records. Lt. Reilly stated that on March 16, 2022, she wrote a letter to Mr. Severinov informing him that the information he requested was prohibited from public disclosure.

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

Action: Moved by Chair Schmidt, seconded by Member Stein, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing and requested the SOTF determine if there is a violation of Administrative Code, Sunshine Ordinance, Sections 67.21(b) by failing to provide the requested records in a complete and timely manner and 67.21(c) by failing to assist the requestor in obtaining their records.

Public Comment:

Anonymous #3 agreed with the recommendation for the violations of 67.21(b) and (c) and suggested including sections 67.26 and 67.27.

Peter Warfield thanked Chair Schmidt and Member Stein for pressing forward to find out what exactly happened.

The motion PASSED by the following vote:

Ayes: 2 - Schmidt, Stein

Noes: 0 - None

7. **File No. 22020:** Complaint filed by Sergei Severinov against the Police Department for allegedly violating Administrator Code (Sunshine Ordinance), Section(s) 67.21(c), by failing to respond to a public records request in a timely and/or complete manner.

Chair Schmidt stated that this complaint appears to be duplicative of the previous case and based on the same facts.

Sergi Severinov (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Severinov stated that this is not a duplicative request. Mr. Severinov stated that after he received the refusal, he submitted a new request which was refused by a different action of the Police Department.

Lt. Lynn Reilly (Police Department) (Respondent), provided a summary of the department's position. Lt. Reilly stated that a duplicative letter was submitted by her department.

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

Action: Moved by Chair Schmidt, seconded by Member Stein, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing and request the SOTF decide whether there are violations of Administrative Code, Sunshine Ordinance, Sections 67.21(b) by failing to provide the requested records in a complete and timely manner and 67.21(c) by failing to assist the requestor in obtaining their records and request that File Nos. 22014 and 22020 be heard concurrently.

Public Comment:

Anonymous #3 agreed that cases 22014 and 22020 contain identical requests.

Peter Warfield noted that duplicative issues and rules concerning them have for a long time been a serious problem left to the SOTF to not really deal with.

The motion PASSED by the following vote:

Ayes: 2 - Schmidt, Stein

Noes: 0 - None

8. **File No. 22022:** Complaint filed by Stiliyan Bezhanski against the Office of the Treasurer and Tax Collector for allegedly violating Administrator Code (Sunshine Ordinance), Section(s) 67.25 and Government Code, Section 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 he requested records from the Treasurer and Tax Collector's Office and on February 5, 2022, he received a message that some of the information will be redacted citing 67.25(d). Mr. Bezhanski stated that the request is still open

Debra Lew (Treasurer and Tax Collector's Office) (Respondent), provided a summary of the department's position. Ms. Lew stated that the request was submitted as an Immediate Disclosure Request but due to the voluminous nature the City invoked the rule of reason and burden. Ms. Lew stated that her office has been producing records on a regular basis and still have hundreds of records to review. Ms. Lew stated that her office is short staffed.

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

Action: Moved by Chair Schmidt, seconded by Member Stein, to find that the SOTF has jurisdiction, that the requested records are public and referred the matter to the SOTF for hearing to decide if there is a violation of Administrative Code, Sunshine Ordinance, Section 67.21 by failing to provide the requested records in a complete and timely manner and the California Public Records Act 6253(c) by failing to, within 10 days from receipt of the request, determine whether the request, in whole or part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of that determination.

Public Comment:

Anonymous #3 noted agreement with the motion and the Chair Schmidt pointed this out in other rule of reason cases and there is a specific case that defines the rule of reason.

Peter Warfield stated that he thinks the rule of reason is a wrench in the process of making information requests.

The motion PASSED by the following vote:

Ayes: 2 - Schmidt, Stein

Noes: 0 - None

9. **File No. 22015:** Complaint filed by Anonymous (MUC) against the Police Department for allegedly violating Administrator Code (Sunshine Ordinance), Section(s) 67.21, 67.25(d), 67.69-7(a); and 67.34, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner; failing to provide records on a rolling basis; failing to preserve and maintain records; and willfully violating the Sunshine Ordinance.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that the wrong respondent was named and they need to be named properly. On December 21, 2021, he made a request for text messages from the Director of Communications from the Police Department and the Mayor's Office and later learned that those records had been deleted.

Lt. Lynn Reilly (Police Department) (Respondent), provided a summary of the department's position. Lt. Reilly stated that the complaint was received on March 11, 2022. Lt. Reilly also said that the SFPD received a request on March 17, 2022, to which they produced four images to provide immediate access to the requestor. Lt. Reilly stated that the department has been unable to produce more records due to a shortage of staff.

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

Action: Moved by Chair Schmidt, seconded by Member Stein, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing to decide if there is a violation of Administrative Code, Sunshine Ordinance, Section 67.21 by failing to respond to a records request in a complete and timely manner and California Public Records Act 6253(c) by failing to within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination.

Public Comment:

Peter Warfield stated that when the petitioner makes requests for violations to be found and why you are not specifying those things, but not two others, wants it to be clearer exactly the reason why you have not determined those in your motion as possibly less or insignificant.

The motion PASSED by the following vote:

Ayes: 2 - Schmidt, Stein

Noes: 0 - None

10. **File No. 22018:** Complaint filed by Peter Drekmeier against the San Francisco Public Utilities Commission for allegedly violating Administrator Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Peter Drekmeier (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Drekmeier stated that they want to know how the SFPUC got the rationing calculations and have had trouble getting the data. Mr. Drekmeier stated that the request for the water quality rationing and was repeatedly denied.

Mayara Ruski Augusto Sa (Public Utilities Commission (PUC)) (Respondent), provided a summary of the department's position. Ms. Augusto Sa stated that the Petitioner has submitted requests in the past 16 months and the PUC has submitted over 1,600 records. Ms. Augusto Sa said this was the first where records were not released due to attorney/client privilege. Ms. Augusto Sa stated the PUC currently is a party in litigation concerning a water quality certification which was issued by the State Water Quality Board. Ms. Augusto Sa stated that the information sought by the requester was prepared in conjunction with the City Attorney's Office and that information is privileged.

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

Action: Moved by Chair Schmidt, seconded by Member Stein, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF to consider violations of Administrative Code, Sunshine Ordinance, Section 67.21 by asserting attorney/client privilege as an exemption to all the documents sought by the Petitioner and a violation of 67.24(b)(2) that under California law, when litigation is finally adjudicated or otherwise settled, records of all communications between the department and the adverse party shall be subject to disclosure, including the text and terms of any settlement.

Public Comment:

Anonymous #3 stated that what he heard is that an agency was caught lying in other cases and the petitioner are being shielded from that information due to requests for legal advice, agree with the motion and even when the state court has considered the state document.

Peter Warfield stated that Member Stein and Chair Schmidt have gotten the motion spot on and would consider the recommendation of Anonymous #3.

The motion PASSED by the following vote:

Ayes: 2 - Schmidt, Stein

Noes: 0 - None

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

No actions taken.

Public Comment:

Peter Warfield stated that today he heard testimony from people who were uninformed about the operation of their departments and the procedures in their departments.

Anonymous #3 stated that he wanted to second everything Mr. Warfield said and when the committee talks about procedures.

12. ADJOURNMENT

There being no further business the meeting was adjourned at 7:28 p.m.

APPROVED: DRAFT
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.