



SUNSHINE ORDINANCE TASK FORCE

Complaint Committee

CITY AND COUNTY OF SAN FRANCISCO

MINUTES

REMOTE REGULAR MEETING

October 18, 2022
5:30 PM

Members: Dean Schmidt (Chair), Laura Stein and Bruce Wolfe

Remote Access to Information and Participation

In accordance with Governor Newsom's Executive Order No. N-33-20 declaring a State of Emergency regarding the COVID-19 outbreak and Mayor London N. Breed's Proclamation declaring a Local Emergency issued on February 25, 2020, including the guidance for gatherings issued by the San Francisco Department of Public Health Officer, aggressive directives were issued to reduce the spread of COVID-19. On March 17, 2020, the Board of Supervisors authorized their Board and Committee meetings to convene remotely (via Microsoft Teams) and will allow remote public comment via teleconference.

Members of the public may participate by phone or may submit their comments by email to: sotf@sfgov.org; all comments received will be made a part of the official record. Sunshine Ordinance Task Force agendas and their associated documents are available at <https://sfbos.org/sunshine>.

As the COVID-19 disease progresses, please visit the Sunshine Ordinance Task Force website regularly to be updated on the current situation as it affects the legislative process.

Meeting Decorum: Any member of the Sunshine Ordinance Task Force may call for decorum due to disorderly conduct of meeting participants. Persons who engage in threatening and/or menacing behavior may be asked to leave.

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 Members Stein and Wolfe were noted present. A quorum was present.

Complainant Patrick Monette-Shaw requested that Item 4 be continued to the call of the Chair. (See Item 4 for action)

Public Comment:

Peter Warfield commented on missing section of Item 6 and requested that the Committee move forward.

Anonymous #3 expressed support of Mr. Warfield's position.

2. **Approval of the September 20, 2022, Complaint Committee meeting minutes.**

Action: Moved by Member Stein, seconded by Member Schmidt, to approve the September 20, 2022, meeting minutes.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Wolfe, Stein, Schmidt

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 3 expressed concern regarding if a member can recuse themselves in a conflict-of-interest situation and an undated resignation letter for Mayoral appointees.

4. **File No. 22101** Complaint filed by Patrick Monette-Shaw against the Department of Public Health for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21 by failing to respond to or acknowledge receipt of a records request in a timely and/or complete manner and California Government Code, Section(s) 6253(c), and by failing to respond to a public records request in a timely manner.

Action: Moved by Chair Schmidt, seconded by Member Wolfe, to continue the matter to the Call of the Chair.

Public Comment:

Peter Warfield, Executive Director Library Users Association,
libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, California,
94117-0544 with the motion.

The motion PASSED by the following vote:

Ayes: 3 - Wolfe, Stein, Schmidt

Noes: 0 - None

5. **File No. 20104:** Complaint filed by Anonymous (ARE) against Dennis Herrera for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21(d) failure to issue an order to comply with a records request when acting as the Supervisor of Records/Custodian of Records.

Anonymous (ARE) (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that the complaint should only be against Mr. Herrera and not the Office of the City Attorney. Anonymous requested that the determine what is required of the Supervisor of Records.

Jen Kwart (Office of the City Attorney) (Respondent); provided a summary of the department's position. Ms. Kwart provided a summary of the two methods provided by the Sunshine Ordinance that address public records complaints via the Supervisor of Records or complaints with the Sunshine Ordinance Task Force. Ms. Kwart stated that Task Force should not find that they have jurisdiction over the matter and that the Office of City Attorney has the duty to advise but not to order specific actions. Ms. Kwart stated that the Sunshine Ordinance cannot supersede the duty of the City Attorney to advise their clients.

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

Action: Moved by Member Wolfe, seconded by Member Stein, to find that the SOTF has jurisdiction as stated within 67.21(d) and referred the matter to the SOTF for hearing.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Wolfe, Stein, Schmidt

Noes: 0 - None

6. **File No. 22107:** Complaint filed by Peter Warfield and the Library Users Association against City Librarian Michael Lambert and the Public Library for allegedly violating Administrative Code (Sunshine Ordinance), 67.29-5, by failing respond to and provide the Proposition G Calendar in a timely and/or complete manner.

Peter Warfield and the Library Users Association (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Warfield stated that the requested calendar was not provided in a timely manner. Mr. Warfield stated that there was also a violation of 67.25 regarding Immediate Disclosure Request.

Margo Shaub (Public Library) (Respondent), provided a summary of the department's position. Ms. Shaub acknowledged that there was some confusion regarding Prop G requirements/requests and steps are being taken to address the issue. Ms. Shaub stated that time was needed to redact proprietary information. Ms. Shaub stated that they will either redact the calendar daily or maintain two separate calendars.

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

Action: Moved by Member Stein, seconded by Member Wolfe, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF Consent Agenda for violations of 67.25 and 67.29-5 against Public Librarian Michael Lambert by failing to respond to a request for Proposition G calendar in a timely and/or complete manner.

Public Comment:

Anonymous 3 agreed with the Committee's motion and that the department head has personnel responsibility for maintaining his own calendar.

The motion PASSED by the following vote:

Ayes: 3 - Wolfe, Stein, Schmidt

Noes: 0 - None

7. **File No. 21140:** Complaint filed by Maria Schulman against the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a request for public records in a timely and/or complete manner.

Maria Schulman (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Schulman stated that she received a response but believes specific records were not provided until a later date. Ms. Schulman stated that all records were eventually provided but the response was delayed and not timely.

Jen Kwart (Office of the City Attorney (Department) (Respondent), provided a summary of the department's position. Ms. Kwart stated that the response estimated when the documents would be provided. Ms. Kwart noted that the transcript was accidentally not provided but that issue was corrected. Ms. Kwart stated that all records were provided that are not subject to attorney/client privilege.

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

Member Wolfe stated that withholdings for attorney/client privilege require an explanation.

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 for consideration of CPRA 6253(c) for time frame of response and consideration of proper withholding of documents.

Public Comment:

Anonymous #3 agreed with the motion and commented on suspension of requirements made by the Mayor. Anonymous #3 commented on the referral to other parties to provide documents.

The motion PASSED by the following vote:

Ayes: 3 - Wolfe, Stein, Schmidt

Noes: 0 - None

8. **File No. 21145:** Complaint filed by Maria Schulman against Sara Maunder and the Department of Police Accountability for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a request for public records in a timely and/or complete manner.

Maria Schulman (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Schulman stated she submitted the request via NextRequest and the Department of Police Accountability failed to provide the documents on a rolling basis.

Sarah Maunder (Department of Police Accountability) (Respondent), provided a summary of the department's position. Ms. Maunder stated that over 134 documents have been provided on a rolling basis and in a timely manner. Ms. Maunder stated there was only one document ("transcript") that was provided one day late and can be retransmitted if needed.

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

Action: Moved by Member Stein, seconded by Member Wolfe, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing regarding timeliness of record production.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Wolfe, Stein, Schmidt

Noes: 0 - None

9. **File No. 22110** Complaint filed by Anonymous (ARE) against Supervisor Matt Dorsey for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21(b) for failure to respond to a records request within 10 days, 67.25 failure to acknowledge an immediate disclosure request within one business day and for violations of Government Code 6253(c) for failure to respond to a public records request in a timely manner.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous provided a summary of a previous decision and action of Supervisor Dorsey prior to becoming a Supervisor.

Bryan Dahl (Office of Supervisor Matt Dorsey) (Respondent), provided a summary of the department's position. Mr. Dahl noted that the office failed to acknowledge receipt of the Immediate Disclosure Request and provided documents in a timely manner. Mr. Dahl stated that the office does not have any other documents responsive to the request.

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

Action: Moved by Member Stein, seconded by Member Wolfe, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF Consent Agenda for violations of 67.25 failing to respond to an Immediate Disclosure Request in a timely manner.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Wolfe, Stein, Schmidt

Noes: 0 - None

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

Member Stein commented on Administrative Code, Section 67.21(d), and requested that Task Force Deputy City Attorney advice regarding the Office of the City Attorney not being able to fulfill their duties to be Supervisor of Records and provide advice to city departments. (Related to File No. 20104 as test complaint.)

Member Stein commented on the Rules Committee action regarding the Task Force Annual Report to be discussed by an Ad Hoc Committee.

Public Comment:

Anonymous 3 expressed concern regarding the discussion of actions related to items listed on the agenda.

11. **ADJOURNMENT**

There being no further business the meeting was adjourned at 7:56 p.m.

APPROVED: November 15, 2022
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.

The Sunshine Ordinance Task Force was established by Chapter 67. The purpose of the Task Force is to protect the public's interest in open government and to carry out the duties enumerated in [Chapter 67 of the San Francisco Administrative Code](#). For additional information concerning Sunshine Ordinance Task Force please contact the Task Force by e-mail sotf@sfgov.org or by calling (415) 554-7724.

Agenda Item Information

Each item on the agenda may include the following documents:

- 1) Department or Agency cover letter and/or report;
- 2) Public correspondence;
- 3) Other explanatory documents.

These items will be available for review at City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, Reception Desk.

Meeting Procedures

Public Comment will be taken before or during the Committee's consideration of each agenda item. Speakers may address the Task Force for up to three minutes on that item. During General Public Comment, members of the public may address the Task Force on matters that are within the Task Force's jurisdiction and are not on the agenda. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the official file.

Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations, except that public speakers using interpretation assistance will be allowed to testify for twice the amount of the public testimony time limit. If simultaneous interpretation services are used, speakers will be governed by the public testimony time limit applied to speakers not requesting interpretation assistance.

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the hearing begins, written comments regarding the agenda items. These comments will be made a part of the official public record. Written communications should be submitted to the SOTF at:

1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102.

AGENDA PACKET: Available for review in the Office of the Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, or on the internet at: <http://www.sfbos.org/sunshine>.

AUDIO RECORDINGS: Audio recordings of the meeting of the Sunshine Ordinance Task Force are available at: <http://www.sfbos.org/sunshine>.

LANGUAGE INTERPRETERS: Requests must be received at least 48 hours in advance of the meeting to help ensure availability. Contact Wilson Ng at (415) 554-7725.

Paunawa: Ang mga kahilingan ay kailangang matanggap sa loob ng 48 oras bago mag miting upang matiyak na matutugunan ang mga hiling. Mangyaring tumawag ka sa (415) 554-5184.

翻譯 必須在會議前最少四十八小時提出要求
請電 (415) 554-7719

Disability Access

The hearing rooms in City Hall are wheelchair accessible. Assistive listening devices for the hearing rooms are available upon request with the SOTF Clerk. The nearest accessible BART station is Civic Center (Market/Grove/Hyde Streets). Accessible MUNI Metro lines are the F, J, K, L, M, N, T (exit at Civic Center or Van Ness Stations). MUNI bus lines also serving the area are the 5, 5R, 6, 7, 7R, 7X, 9, 9R, 19, 21, 47, and 49. For more information about MUNI accessible services, call (415) 701-4485. There is accessible parking in the vicinity of City Hall at Civic Center Plaza and adjacent to Davies Hall and the War Memorial Complex. Accessible curbside parking is available on Dr. Carlton B. Goodlett Place and Grove Street.

The following services are available on request 48 hours prior to the meeting; except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week: For American sign language interpreters or the use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please contact the SOTF Clerk at (415) 554-7724 to make arrangements for the accommodation. Late requests will be honored, if possible.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (San Francisco Administrative Code, Chapter 67) or to report a violation of the ordinance, contact: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102; phone (415) 554-7724; fax (415) 554-5163; or email sotf@sfgov.org.

Citizens may obtain a free copy of the Sunshine Ordinance by printing the San Francisco Administrative Code, Chapter 67 on the Internet at <http://www.sfbos.org/sunshine>.

Cell Phones, Pagers and Similar Sound-Producing Electronic Devices

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices (Chapter 67A of the San Francisco Administrative Code).

Ethics Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Governmental Conduct Code, Section 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at: 25 Van Ness Avenue, Suite 220, San Francisco, CA 94102; telephone (415) 581-3100; fax (415) 252-3112; web site www.sfgov.org/ethics

Under Campaign and Governmental Conduct Code, Section 1.127, no person or entity with a financial interest in a land use matter pending before the Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community Investment and Infrastructure, Historic Preservation Commission, Planning Commission, Port Commission, or the Treasure Island Development Authority Board of Directors, may make a campaign contribution to a member of the Board of Supervisors, the Mayor, the City Attorney, or a candidate for any of those offices, from the date the land use matter commenced until 12 months after the board or commission has made a final decision, or any appeal to another City agency from that decision has been resolved. For more information about this restriction, visit sfethics.org.