



SUNSHINE ORDINANCE TASK FORCE
Education, Outreach and Training Committee
CITY AND COUNTY OF SAN FRANCISCO
MINUTES - DRAFT

REGULAR MEETING

May 23, 2023
5:30 PM

Regular Meeting

Members: Chris Hyland (Chair) and Thuan Thao Hill

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

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

There were no agenda changes.

2. Approval of the January 24, 2023, Education, Outreach and Training Committee meeting minutes.

Action: Moved by Chair Hyland, seconded by Member Hill, to continue the minutes as they were referenced incorrectly in the agenda.

Public Comment:

Peter Warfield, Executive Director of Library Users Association, libraryusers2004@yahoo.com, P.O. Box 170544, San Francisco, California, 94117-0544. Mr. Warfield stated that the most sensible thing is to put the minutes to the next hearing.

The motion PASSED by the following vote:

Ayes: 2 - Hyland, Hill
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:

Wynship Hillier stated that at the last Compliance and Amendments Committee file 22092 was referred to the Education, Outreach and Training Committee in February and that he is interested in having that case heard.

Peter Warfield stated that EOT meeting time conflicts with the Board of Supervisors meetings.

4. **File No. 22142** Complaint filed by Wynship Hillier against the Behavioral Health Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.15(a)(c)(d) and California Government Code, Section(s) 54954(a), 54954.1, 54956(c)(2), 64954.3(a), by failing to adopt bylaws allowing members of the public up to three minutes for public comment and other restriction; failing to adopt times for regular meetings; failing to send out notice of hearing in a timely manner; failing to approve appropriate minutes; failing to allow public comment opportunity at the Site Visit Committee.

Wynship Hillier (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Hillier stated that the Behavioral Health Commission did not submit a written response to his complaint and that the Committee should not allow them to state their objections for the first time today.

Amber Gray (Behavioral Health Commission, (BHC)) provided a summary of the Commission's position. Ms. Gray stated that she has been following the advice of their City Attorney to ensure that she is doing everything correctly. Ms. Gray also noted that members of the public have been allowed to make public comments regularly at BHC meetings.

Marlo Simmons (Department of Public Health) (Respondent), provided a summary of the department's position. Ms. Simmons stated that the BHC is following the advice of their City Attorney regarding minutes and formulation of their agendas. Ms. Simmons recognizes that Mr. Hillier has a lot of concerns about technical details because he regularly attends BHC meetings. Ms. Simmons requested that Mr. Hillier act in good faith and refrain from sending emails to the Commissioners, to stop talking to the Commissioners during meetings and to work collaboratively.

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

Action: Moved by Chair Hyland, seconded by Member Hill, to find jurisdiction and continued the matter to the Call of the Chair. The EOTC requested the SOTF Administrator correctly restate the Complaint Summary with the correct code citations as previously provided by the complainant. Chair Hyland requested the petitioner provide the EOT a table of alleged SOTF code violations, to include the dates and code sections. Chair Hyland also requested the Respondent provide documented changes to their meetings processes and by-laws since the Full Task Force consent agenda ruling on April 6, 2022.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 - Hyland, Hill

Noes: 0 - None

5. **File No. 23020:** Complaint filed by Paul Kniha against the San Francisco Municipal Transportation Agency for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.25, by failing to respond to an Immediate Disclosure 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 submitted a note from his wife's doctor stating that working from home was necessary to care for his wife and family. On January 13, 2023, he received a response stating that due to ongoing investigation records were withheld. Mr. Kniha stated that there were no records or an explanation of the investigation. On January 24, 2023, Mr. Kniha filed a complaint against the SFMTA, and on March 27, 2023, he received a response also stating there was an ongoing investigation.

Hank Wilson (San Francisco Municipal Transportation Agency (SFMTA)) (Respondent), provided a summary of the department's position. Mr. Wilson confirmed that the SFMTA did not produce any responsive records and cited Evidence Code Division 8, Article 9, Section 1040. Mr. Wilson confirmed that they are relying on City Attorney advice and that he has no knowledge or information regarding the withholding of records. Mr. Wilson also noted that since this Sunshine request they are now producing responsive records because of this action.

Caroline Celaya (San Francisco Municipal Transportation Agency) stated that there have been numerous public records requests from Mr. Kniha and the singular response should have been that records have been withheld.

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

Mr. Kniha addressed the similarities of this case and the next one and SOTF Administrator Young suggested combining the two. The EOT Committee and both parties agreed with this suggestion and to have item 6 called.

Public Comment:

None.

6. **File No. 23036** Complaint filed by Paul Kniha against the San Francisco Municipal Transportation Agency for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.10(b) by failing to consider the appointment, employment, evaluation of performance, or dismissal of a City employee.

Administrator Young called item 6 and noted that Administrative Code 67.10(b) is regarding policy bodies that hold closed session meetings, and that this citation may have been taken out of context.

Chair Hyland asked Mr. Kniha if he was wrongfully quoting this section and reviewed original letter to Administrator Leger regarding section 67.10(b).

Mr. Kniha admitted that he incorrectly cited 67.25 instead of 67.10(b).

Paul Kniha (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Kniha noted the similarities between this case and the previous one. On January 13, 2023, he received a response stating that due to ongoing investigation records were withheld. Mr. Kniha stated that there were no records or an explanation of the investigation. On January 24, 2023, Mr. Kniha filed a complaint against the SFMTA, and on March 27, 2023, he received a response stating there was an ongoing investigation. Mr. Kniha asserts that the SFMTA illegally withheld records.

Hank Wilson (San Francisco Municipal Transportation Agency) (Respondent), provided a summary of the department's position. Mr. Wilson stated that a search was conducted and that records were withheld under Evidence Code 1040.

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

Action: Moved by Member Hill, seconded by Chair Hyland, to combine File Nos. 23020 and 23036, find that the SOTF has jurisdiction, that the requested records are public and to refer the matter to the SOTF for hearing with a recommendation for violations of 67.25 for failing to respond to an Immediate Disclosure Request in a complete and/or timely manner and 67.26 for failing to keep withholding to a minimum.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 - Hill, Hyland

Noes: 0 - None

7. **File No. 23026** Complaint filed by Socrates Frode against the Department of Human Resources for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Socrates Frode (Petitioner) was not present for the hearing and did not notify the Administrator of their absence.

Mawuli Tuben, Senior Policy Analyst and Aliya Christi, Senior Policy Analyst (Department of Human Resources) (Respondents), were present for the hearing.

Action: Moved by Member Hill, seconded by Chair Hyland, to table the matter and close the case per SOTF Complaint Procedures, Section 7B.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 - Hill, Hyland

Noes: 0 - None

8. **Hearing** - Develop and implement an education campaign regarding the implications of *Smith v. San Jose* on communications practices of commissioners and commission staff.

Chair Hyland stated that one simple item in the annual report would be a letter from EOT or the SOTF quick summary of *Smith v. San Jose* and that a good practice would be to establish independent email accounts for commission staff for the correct place for records requests.

Member Hill volunteered to draft the letter which he will forward to Chair Hyland who will forward to Chair Yankee.

Action: Moved by Chair Hyland, seconded by Member Hill, to authorize Member Hill to draft a letter from EOT for approval of the SOTF

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 - Hyland, Hill

Noes: 0 - None

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

Chair Hyland noted that he will not be present for the July EOT hearing.

10. **ADJOURNMENT.**

11. There being no further business the meeting was adjourned at 8:09 p.m.

APPROVED: DRAFT

**Education, Outreach and Training 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.