



City and County of San Francisco

Meeting Minutes

Complaint Committee

Members: Dean Schmidt, Laura Stein, Saul Sugarman

Clerk: Patricia Petersen

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City Hall
1 Dr. Carlton B. Goodlett Place,
Room 244
San Francisco, CA 94102-4689

Tuesday, April 23, 2024

5:30 pm
Special Meeting

City Hall, Room 408

1. CALL TO ORDER, ROLL CALL, AND AGENDA CHANGES (1:05)

Chair Schmidt called the meeting to order at 5:33 p.m. On the call of the roll Chair Schmidt, Members Stein and Sugarman were noted present. A quorum was present.

2. Approval of the March 19, 2024, Complaint Committee meeting minutes. (2:08)

Action: Moved by Chair Schmidt, seconded by Member Stein, to approve the March 19, 2024 minutes.

Public Comment: None.

The motion PASSED by the following vote:

Ayes: 3 – Schmidt, Stein, Sugarman

Notes: 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. (4:53)

Public Comment:

Michael Petrelis stated that he hopes the Board of Supervisors will allocate funds to broadcast the meetings of the full Task Force on SFGovTV.

Paul Kniha expressed a desire for audio, video and transcripts of the meetings of the full Task Force and its Committees.

4. **File No. 24005:** Complaint filed by Anonymous (ACU) against the Fine Arts Museum Board of Trustees for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.7(a), 67.7(d), and 67.16, by failing to post a meaningful agenda in a timely manner; acting on an item that does not appear in the posted agenda; failing to post minutes online; and California Government Code Section 54953(c) by taking action by secret ballot. (8:51)

Anonymous (Complainant) provided a summary of the complaint. Anonymous stated that the vote summaries for the Bylaw amendment items heard at the October and November 2009 Board meetings reflect an insufficient number of Trustees being present to vote.

Paria Dea, Sr. Govt. Affairs Manager (Fine Arts Museums of San Francisco) (Respondent) provided a summary of the department's position and acknowledged that the department's response to the complaint was late. Ms. Dea further stated that in 2009 the definition of a quorum in the Board's bylaws was higher than the threshold in the City Charter. Ms. Dea stated that the City Charter threshold was technically met and there should not have been a vote taken by mail outside of the Board meeting.

A question-and-answer period occurred.

Action: Moved by Member Stein, seconded by Member Sugarman, to find that the Sunshine Ordinance Task Force has jurisdiction over the matter, that the records are public, and referred the matter to the full Task Force Consent Agenda with a recommendation to find that the Fine Arts Museums violated Administrative Code, Section(s) 67.7(a) by failing to post an agenda with meaningful descriptions in a timely manner, 67.7(d) for acting on an item that does not appear in the posted agenda, and California Government Code Sec. 54953(c) by taking action by secret ballot. In addition, the Committee found no violation of Administrative Code, Section(s) 67.16, for failing to post minutes online.

The Committee noted that the Respondent acknowledged that the response was late and the Board bylaws have a different definition of quorum.

Public Comment: None.

The motion PASSED by the following vote:

Ayes: 3 – Schmidt, Stein, Sugarman

Notes: 0 – None

5. **File No. 24013:** Complaint filed by Michael Petrelis against Supervisor Ahsha Safai, Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.29-5, by failing to respond to a request for Proposition G Calendar in a timely and/or complete manner. (33:08)

Michael Petrelis (Complainant) provided a summary of the complaint. Mr. Petrelis stated that it took 9-10 days for his request to be acknowledged.

Lila Carrillo, Legislative Aide from the office of Supervisor Ahsha Safai (Respondent) provided a summary of the department's position and stated that she served as scheduler and aide. Miss Carrillo further stated that she missed Complainant's first email but saw and responded to his second email.

A question-and-answer period occurred.

Action: Moved by Member Stein, seconded by Member Sugarman, to find that the Sunshine Ordinance Task Force has jurisdiction over the matter, that the requested public records are public, and refer the matter to the full Task Force Consent Agenda with a recommendation to find that Supervisor Ahsha Safaia violated Administrative Code, Section(s) 67.29-5 by failing to provide a Proposition G Calendar in a timely manner.

Public Comment: None.

The motion PASSED by the following vote:

Ayes: 3 – Schmidt, Stein, Sugarman

Notes: 0 – None

6. **File No. 24001:** Complaint filed by Rosa L. against the Department of Public Health for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a public records request in a timely and/or complete manner. (49:51)

Rosa L. (Complainant) provided a summary of the complaint. Rosa L. stated that her complaint concerns the thoroughness of the response as she received few records.

Victor Lim, Assistant Director of Public Affairs (Department of Public Health) (Respondent) provided a summary of the department's position and stated that the case had been closed 4/19/2024 but has been reopened to conduct another search. Mr. Lim further stated the department's willingness to refine the search terms with Complainant's assistance.

A question-and-answer period occurred.

Action: Moved by Chair Schmidt, seconded by Member Sugarman, to find that the Sunshine Ordinance Task Force has jurisdiction over the matter, that the requested records are public, and refer the matter to full Task Force Consent Agenda with a recommendation to find that the Department of Public Health violated Administrative Code, Section(s) 67.21(c) for inadequate efforts to assist the Complainant in refining their search for public records.

The Committee requested that there be an order that the Department of Public Health document the location and produced documents that are responsive, and that the response and refinement process be reviewed by the Compliance and Amendments Committee (“CAC”). The CAC will review the efforts by the parties to determine a searchable refined list of DPH employees who served as point persons involved in the encampment resolution regarding COVID.

The Committee further recommends that the matter be referred to the Compliance and Amendments Committee to monitor compliance with the Committee’s request to provide documentation of the located and produced documents that are responsive.

Public Comment: None.

The motion PASSED by the following vote:

Ayes: 3 – Schmidt, Stein, Sugarman

Notes: 0 – None

7. **File No. 24014:** Complaint filed by Rosa L. against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a public records request in a timely and/or complete manner. (1:51:14)

Rosa L. (Complainant) provided a summary of the complaint, stating that she opened the complaint because the Police Department did not respond to her document request within 10 days.

Lt. Christopher Beauchamp (Respondent) provided a summary of the department’s position and stated that the department stipulates that due to staffing and clerical issues they did not respond to the requester within 10 days. Lt. Beauchamp further stated that the documents were released on March 18, 2024.

A question-and-answer period occurred.

Action: Moved by Chair Schmidt, seconded by Member Sugarman, to find that the Sunshine Ordinance Task Force has jurisdiction over the matter, that the requested records are public, and refer the matter to the full Task Force Consent Agenda, with a recommendation to find that the Police Department violated Administrative Code, Section(s) 67.21(b), by failing to respond to a public records request in a timely and/or complete manner.

The Committee noted that the Respondent acknowledged that the referenced violation occurred.

Public Comment: None.

The motion PASSED by the following vote:

Ayes: 3 – Schmidt, Stein, Sugarman

Notes: 0 – None

8. **File No. 24009:** Complaint filed by Paul Kniha against Hakem Ibrahim, Tracy Minicucci and the Municipal Transportation Agency for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.15 by failing to provide an opportunity for members of the public to address the body. (2:12:49)

Paul Kniha (Complainant) provided a summary of the complaint. Mr. Kniha stated that under a new process, persons in support of an item can speak multiple times but opponents can speak only once and cannot ask questions or provide negative comments.

Hank Willson (Respondent) provided a summary of the department's position and stated that the jurisdiction of the Sunshine Ordinance and the Task Force only applies to conduct at meetings defined by the ordinance. Mr. Willson further stated that the subject hearing was conducted by a single hearing officer with staff, which is not governed by either the Brown Act or the Sunshine Ordinance.

A question-and-answer period occurred.

Action: Moved by Chair Schmidt, seconded by Member Sugarman, to refer the matter to the full Task Force for hearing with a recommendation that the Task Force cannot determine a violation due to a lack of jurisdiction.

Public Comment: None.

The motion PASSED by the following vote:

Ayes: 3 – Schmidt, Stein, Sugarman

Notes: 0 – None

9. **File No. 24015:** Complaint filed by Paul Kniha against the Municipal Transportation Agency for allegedly violating Administrative Code (Sunshine Ordinance), Section(s); 67.21 by failing to respond to a records request in a complete and/or timely manner. (2:35:20)

Paul Kniha (Complainant) provided a summary of the complaint. Mr. Kniha stated that the ombudsman had decided not to pursue his matter, but he was not informed because documents were withheld due to attorney-client privilege.

Hank Willson (Respondent) provided a summary of the department's position and stated that the Ombuds people meet the definition of mediators under the California Evidence Code Sec. 1115(b) and are subject to the mediation privilege for all communications.

A question-and-answer period occurred.

Action: Moved by Chair Schmidt, seconded by Member Stein, to find that the Sunshine Ordinance Task Force has jurisdiction over the matter, that the requested records are public, and refer the matter to the full Task Force for hearing, with the recommendation to find that the Municipal Transportation Agency violated Administrative Code, Section(s) 67.21(b), due to improper withholding of records and 67.27(b) for failing to justify withholdings in writing, citing specific statutory authority that prohibits public disclosure.

The Committee requests that the City Attorney for the Task Force provide guidance about the contention that the MTA ombudsperson might come under the mediation information protection cited by Respondent in this case.

Public Comment: None.

The motion PASSED by the following vote:

Ayes: 3 – Schmidt, Stein, Sugarman

Notes: 0 – None

10. **File No. 24016:** Complaint filed by Paul Kniha against the 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. (3:08:14)

Member Sugarman stepped away at 8:41 p.m. and returned at 8:42 p.m.

Paul Kniha (Complainant) provided a summary of the complaint. Mr. Kniha stated that attorney-client privilege applies when the client is seeking advice, and communications that simply include the attorney does not make the communication privileged.

Hank Willson (Respondent) provided a summary of the department's position and stated that no documents were produced because of claims of attorney-client privilege and a training work product. Mr. Willson further stated that disclosure of the communications requested would impede the ability to receive legal advice.

A question-and-answer period occurred.

Action: Motion by Member Sugarman, seconded by Chair Schmidt. to find that the Sunshine Ordinance Task Force has jurisdiction over the matter, that the requested records are public, and refer the matter to the full Task Force Consent Agenda with a recommendation to find no violation because the information requested was under attorney-client privilege.

Public Comment: None.

The motion PASSED by the following vote:

Ayes: 3 – Schmidt, Stein, Sugarman

Notes: 0 – None

11. **File No. 24017:** Complaint filed by Paul Kniha against the Municipal Transportation Agency 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. (3:18:14)

Paul Kniha (Complainant) provided a summary of the complaint. Mr. Kniha stated that the Municipal Transportation Agency staff has disabled the Teams functionality of recording the transcript of a public hearing.

Hank Willson (Respondent) provided a summary of the department's position and stated that although Teams offers an option to do either a video recording or a text transcription, the department produces only a video recording of their hearings and does not have text transcriptions. Mr. Willson further stated that there is no requirement to go back and create records that don't exist.

A question-and-answer period occurred.

Action: Motion by Member Stein, seconded by Member Sugarman, to find that the Sunshine Ordinance Task Force has jurisdiction over the matter, that the requested records are public, and refer the matter to the full Task Force Consent Agenda with a recommendation to find no violation of Administrative Code, Section(s) 67.21 as all records were provided in a timely manner (within 10 days).

Public Comment: None.

The motion PASSED by the following vote:

Ayes: 3 – Schmidt, Stein, Sugarman

Notes: 0 – None

12. **File No. 24018:** Complaint filed by Guy Cicis against the SF Fine Arts Commission 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; 67.26, by failing to keep the withholding of records without justification to a minimum; and 67.27, by failing to provide written justification for a withholding. (3:31:21)

Guy Cicis (Complainant) was not present.

Coma Te, Director of Communications (San Francisco Arts Commission) (Respondent) clarified that Respondent is the San Francisco Arts Commission.

A question-and-answer period occurred.

Motion by Chair Schmidt, seconded by Member Stein, to table the matter and close the file due to lack of attendance pursuant to Complaint Procedure 7(b).

Public Comment: None.

The motion PASSED by the following vote:

Ayes: 3 – Schmidt, Stein, Sugarman

Notes: 0 – None

- 13. Announcements, Comments, Questions, and Future Agenda Items by Members of the Complaint Committee. (3:35:51)

Future Agenda Items: Member Stein stated that she cannot be at the 5/21/2024 Complaint Committee Regular Meeting. Member Sugarman stated that he cannot be at the 5/21/2024 Complaint Committee Regular meeting; he will be out of town 4/29/2024 – 5/5/2024 and 5/22/2024 - 5/28/2024).

- 14. ADJOURNMENT (3:39:48)

There being no further business the meeting was adjourned at 9:15 p.m.

APPROVED: 6/18/2024
Complaint Committee
Sunshine Ordinance Task Force

N.B. the Minutes of this meeting set forth all actions taken by the Complaint Committee of the Sunshine Ordinance Task Force on the matters stated, but not necessarily in the chronological sequence in which the matters were taken up.

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