



SUNSHINE ORDINANCE TASK FORCE CITY AND COUNTY OF SAN FRANCISCO MINUTES

Hearing Room 408
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

December 19, 2017 - 4:00 PM

Special Meeting

Seat 1	vacant	Seat 7	Dave Maass
Seat 2	Eric Eldon	Seat 8	Frank Cannata
Seat 3	Josh Wolf	Seat 9	Chris Hyland - Vice Chair
Seat 4	Rishi Chopra	Seat 10	Louise Fischer
Seat 5	Leuwam Tesfai	Seat 11	Fiona Hinze
Seat 6	Bruce Wolfe - Chair		

Ex-officio (*non-voting*) Clerk of the Board of Supervisors or his or her designee

Ex-officio (*non-voting*) Mayor or his or her designee

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

Chair Bruce Wolfe called the meeting to order at 4:05 p.m. Members Chopra, Tesfai and Hyland were noted absent. There was a quorum.

There were no agenda changes.

2. **Approval of minutes from the Sunshine Ordinance Task Force December 6, 2017, meeting.**

The SOTF discussed the December 6, 2017, meeting minutes.

Member Cannata, seconded by Member Hinze, moved to approve the December 6, 2017, meeting minutes as amended.

Public Comment:

Ann Treboux stated that her public comments for the December 6, 2017, regarding Ray Hartz item was not included in the minutes.

The motion PASSED by the following vote:

Ayes: 7 – Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, B. Wolfe

Noes: 0 – None

Absent: 3 – Chopra, Tesfai, Hyland

3. **File No. 17039:** Complaint filed by Thomas Busse against the San Francisco Public Finance Authority for allegedly violating Administrative Code (Sunshine Ordinance), Chapter 67, by failing to notice and conduct public hearings and failing to respond to request for public records. (00:03:25 – 00:10:45)
(On July 25, 2017, the Complaint Committee referred the matter to the SOTF for hearing.)

The petitioner informed the SOTF that he was unable to attend and provided additional information via email. Chair Wolfe provided a summary of the issues involved and why there are no respondents for the San Francisco Public Finance Authority.

Member Fischer, seconded by Member Maass, moved to find that the Sunshine Ordinance Task Force does not have jurisdiction over the San Francisco Public Finance Authority and concluded the matter.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 – Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, B. Wolfe

Noes: 0 – None

Absent: 3 – Chopra, Tesfai, Hyland

4. **Reconsideration of Complaint: File No. 17009:** Complaint filed by William Clark against Tom DeCaigny and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.5 and 67.7, by failing to comply with regulations for policy bodies and post agendas for the Community Working Group of the Arts Commission. (00:10:45 – 00:42:00)
(On August 2, 2017, the SOTF granted a request for reconsidered of the Order of Determination issued on the complaint.)

William Clark (Petitioner), provided a summary of the complaint and requested the SOTF to find violation. Mr. Clark stated that the Working Group was a policy body. Kate Patterson, Arts Commission (Respondent), provided a summary of the department's position. Ms. Patterson stated that it is the position of the department that the working group in question is not a policy body as the creation of the working group was left to the discretion of staff. A question and answer period followed.

Deputy City Attorney Colla commented on the matter and responded to questions from the SOTF.

Member Maass, seconded by Member Cannata, moved to substitute a motion to find that Tom DeCaigny and the Arts Commission violated Administrative Code (Sunshine Ordinance), Sections 67.5 and 67.7, by failing of a policy body to have open and public meetings and failing of a policy body to comply with agenda requirements.

Public Comment:

Robert Clark expressed support for the motion, suggested that the SOTF listen to the audio of the last meeting and suggested that the City Attorney provide a definition of a policy body.

Ann Treboux stated that the Arts Commission has a pattern of not answering questions.

Francisco Da Costa commented on the discussion of the SOTF and on the rogue actions of the Arts Commission.

The motion PASSED by the following vote:

Ayes: 7 – Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, B. Wolfe

Noes: 0 – None

Absent: 3 – Chopra, Tesfai, Hyland

5. **Public Comment:** Members of the public may address the Sunshine Ordinance Task Force (SOTF) on matters that are within SOTF's jurisdiction, but not on today's agenda. *(No Action) Public comment shall be taken at 5:00 p.m. or as soon thereafter as possible. (01:20:00 – 01:30:00)*

Speakers:

Francisco Da Costa commented on the actions of the Ethics Commission and their opinion of the SOTF.

Mike Addario commented on the New Year regulations, requested that SOTF meetings be televised and requested that all employees be trained in Sunshine regulations.

Kevin Williams provide a summary of his work history and commented on the importance of credibility and the lack of credibility of the Arts Commission.

Ann Treboux provided comments on the Arts Commission's actions.

6. **File No. 17070:** Complaint filed by Michael Addario against Kate Patterson and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.24, by failing to respond to a public records request in a complete manner. *(00:42:00 – 01:20:00)*
(On September 26, 2017, the Complaint Committee determined that the SOTF has jurisdiction and referred it to the SOTF for hearing.)

Michael Addario (Petitioner), provided a summary of the complaint and requested the SOTF to find violations. Mr. Addario stated that he does not believe that the Arts Commission's statement that they do not have the records in question and stated that the invocation of Attorney Client privileges is not appropriate. There were no speakers in support of the Petitioner. Kate Patterson, Arts Commission (Respondent), provided a summary of the department's position. Ms. Patterson stated that the requested documents are over 30 years old and that the possible creator of the document, Howard Lazar, has retired. Ms. Patterson stated that the Arts Commission has performed a search for the records in question and has not found any responsive documents. Ms. Patterson provided the hypothetical that if any records were found which consisted of City

Attorney advice to Mr. Lazar it would be considered protected due to Attorney Client privileges. There were no speakers in support of the Respondent. A question and answer period followed. The Petitioner and Respondent were provided an opportunity for rebuttals.

Deputy City Attorney Colla commented on the matter and responded to questions from the SOTF.

Member J. Wolf, seconded by Member Cannata, moved to find that Kate Patterson and the Arts Commission did not violate Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.24.

Public Comment:

Ann Treboux stated that the Arts Commission failed to send a knowledgeable representative and commented on the work of the Arts Commission.

Francisco Da Costa commented on the statements made by the SOTF and stated the Mr. Lazar defied various rules and regulations.

The motion PASSED by the following vote:

Ayes: 7 – Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, B. Wolfe

Noes: 0 – None

Absent: 3 – Chopra, Tesfai, Hyland

7. **File No. 17096:** Complaint filed by Kevin Williams against Kate Patterson and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner. (01:30:00 – 03:36:00)

(On September 26, 2017, the Complaint Committee determined that the SOTF has jurisdiction and referred it to the SOTF for hearing.)

Kevin Williams (Petitioner), provided a summary of the complaint and requested the SOTF to find violations. Mr. Williams stated that the Arts Commission is willfully not providing documents at the directions of Director Tom DeCaigny. Mr. Williams alleges that Director DeCaigny directed the Opera House to not comply with the request and that the Arts Commission made an inappropriate request for an extension of time to respond. There were no speakers in support of the Petitioner. Kate Patterson, Arts Commission (Respondent), provided a summary of the department's position. Ms. Patterson provided a summary of the actions taken by the Arts Commission to collect records and respond to the request. Ms. Patterson stated that the Arts Commission was not directed to withhold records. Ms. Patterson stated that the original request was submitted to the Bayview Opera House and assume by the Arts Commission. Ms. Patterson stated that a comprehensive search of Arts Commissions Records has been conducted and all records in possession of the Arts Commission have been provided to Mr. Williams. Ms. Patterson stated that information regarding other city departments who may have related records was provided to Mr. Williams, but Mr. Williams refused to submit a request to other city departments. Barbara Mumby, Arts Commission, confirmed that all documents

from the Arts Commission have been provided. A question and answer period followed. The Petitioner and Respondent were provided an opportunity for rebuttals.

Deputy City Attorney Colla commented on the matter and responded to questions from the SOTF.

The SOTF opined that the Arts Commission is required to provide assistance but are not required to retrieve documents from other city departments on behalf of member of the public. Request for records in possession of other city departments should be submitted directly to the department in question.

Member Cannata, seconded by Member J. Wolf, moved to continue and refer the matter to the Compliance and Amendments Committee. The Compliance and Amendments Committee shall review the individual records requests from the Petitioner and the responses from the Arts Commission to determine if the Arts Commission has provided all documents in their possession.

Public Comment:

Francisco Da Costa indicated his boredom with the hearing and stated that discrimination is an issue in the complaint.

Ann Treboux stated the Ms. Patterson doesn't understand the issues.

Teresa Wallace commented on the cultural importance of the Opera House, stated that the Opera House did not advertise opened staff positions and stated that an Opera House coordinator was fired for attempting to provide assistance to a local community event.

Sela Chandler commented on the events held at the Opera House and the disrespect of Opera House staff towards members of the community.

The motion PASSED by the following vote:

Ayes: 6 – Eldon, J. Wolf, Maass, Cannata, Hinze, B. Wolfe

Noes: 0 – None

Absent: 3 – Chopra, Tesfai, Hyland, Fischer

Member Fischer was noted absent for the remainder of the meeting at 6:40 p.m.

The meeting was recessed from 7:41 p.m. to 7:56 p.m.

8. **File No. 17105:** Hearings to review legislation and policy at the Federal, State, and local (San Francisco) level as well as other jurisdictions related to the Sunshine Ordinance and California Public Records Act.

Member Maass provide an overview of an article regarding the delay in responding to public records request when using NextRequest.

Public Comment.

None.

9. **File No. 17103:** Review and possible amendments to the Sunshine Ordinance Task Force By-Laws and Complaint Procedures to review and revised the following:
- Sunshine Ordinance Task Force Hearing Procedure
 - Reconsideration of Order of Determination
 - Rule of Reason

The SOTF discussed possible amendments to the By-Laws and Complaint Procedures and suggested changes to the process of reconsidering Orders of Determination.

Public Comment:

None.

No action taken.

10. **Reports from Sunshine Ordinance Task Force Committees.**
- Complaints Committee
 - Compliance and Amendments Committee
 - Education, Outreach and Training Committee
 - Rules Committee
 - Information Technology Ad Hoc Committee

Members of the SOTF provided updates on the actions of the Committee.

Public Comment:

None.

11. **Sunshine Ordinance Task Force - Annual Report.**

Chair Wolfe provided an update on the status of the Annual Report.

Public Comment.

None.

No actions taken.

12. **Sunshine Ordinance Task Force - Chair's Report.**

Chair Wolfe provided an update on the action taken by the Ethics Commission regarding enforcement of SOTF Orders of Determinations.

Public Comment:

None.

13. **Administrator’s Report, Complaints and Communications.**

- Task Force and Committee hearing schedule
- Complaints submitted and hearing files created
- Communications to the Task Force
- Summary of pending complaints and other issues

SOTF Administrator Victor Young presented the Administrator’s report and provided an update on the meeting schedule.

SOTF January 3, 2018, meeting rescheduled to January 16, 2018.

Compliance and Amendment Committee January 16, 2018, meeting rescheduled to January 30, 2018.

Public Comment:

None.

14. **Announcements, Comments, Questions, and Future Agenda Items by Members of the Sunshine Ordinance Task Force.**

There were no announcements.

Public Comment:

None.

15. **ADJOURNMENT**

By a rise in vote the meeting was adjourned without objection at 9:10 p.m.

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

APPROVED by the Sunshine Ordinance SOTF: January 16, 2018