



SUNSHINE ORDINANCE TASK FORCE
Complaint Committee
CITY AND COUNTY OF SAN FRANCISCO
MINUTES

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

April 24, 2018
5:30 PM – 7:30 PM

Regular Meeting

Members: Leuwam Tesfai (Chair), Fiona Hinze and Bruce Wolfe

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

Chair Tesfai called the meeting to order at 5:30 p.m. On the call of the roll Chair Tesfai and Members Wolfe and Hinze were noted present. There was a quorum.

There were no agenda changes.

(Prior to the meeting Ann Treboux requested accommodation and provided her testimony via telephone.)

2. Approval of the March 27, 2018, Complaint Committee meeting minutes.

Member Hinze, seconded by Member Wolfe, moved to approve the March 27, 2018, meeting minutes.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 3 – B. Wolfe, Hinze, Tesfai
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:

Ann Treboux provided her testimony via telephone and provided her experience with the Arts Commission's staff and accusations of establishing websites similar to the Arts Commission's website.

The Complaint Committee (Committee) shall hold hearing(s) on File No(s). 17134, 17101, 18018, 17061, 17126 and 17127 to: 1) determine if the Sunshine Ordinance Task Force (Task Force) has jurisdiction; 2) review the merits of the complaints; and/or 3) issue a report and/or recommendation to the Task Force. The Task Force, upon receipt of the report and/or recommendation from the Committee, shall schedule and conduct a hearing on the merits of the complaint.

4. **File No. 17134:** Complaint filed by Thomas Busse against the San Francisco Public Utilities Commission (SFPUC) for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.24(g)(i), and 67.27, by failing to respond to a public records request in a timely and/or complete manner. (00:05:00 – 00:48:00)

SOTF Administrator provided a history of the complaint. At the March 27, 2018, meeting of the Complaint Committee the SFPUC requested a continuance in order to redact the Emergency Action Plans prior to releasing them to Mr. Busse. The Committee requested that the SFPUC be prepared to cite legal standards that determine what 'critical information' must be redacted.

Thomas Busse (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Busse stated that the only reason the SFPUC released the records was due to an investigation by the San Francisco Chronicle. Mr. Busse stated that due to the late response the information is no longer useful for his purposes but stated that he wanted to proceed with the complaint for morale and preventative reasons. Upon questioning from the Committee, Mr. Busse stated his assumption that all the requested records have been provided or redacted appropriately but would not provide a definitive answer to the Committee. Mary Ellen Carroll, San Francisco Public Utilities Commission (SFPUC) (Respondent), provided a summary of the department's position. Ms. Carroll stated that the redacted Emergency Action Plans (EAPs) were provided to Mr. Busse on April 17, 2018. Ms. Carroll stated that the California Emergency Services Act (California Government Code, Section 8589.5(e)) exempts the disclosure of EAPs. Ms. Carroll previously statement that due to recent emergencies the SFPUC decided to release the EAPs in a redacted form. In response to the Committee's questions, Ms. Carroll reaffirmed her stated that California Government Code, Section 8589.5(e), allows for EAPs exemptions from disclosure and it was the SFPUC decision to disclose the EAPs in a redacted form. A question and answer period occurred.

Member B. Wolfe, seconded by Member Hinze, moved to refer the matter to the SOTF with the recommendation to table/close the matter.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 – B. Wolfe, Hinze, Tesfai

Noes: 0 – None

5. **File No. 17101:** Complaint filed by Randy Sinki 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. (00:48:00 – 01:25:00)

Ann Treboux (Petitioner) provided a summary of the complaint and requested the Committee to find a violation via telephone. Ms. Treboux stated she is authorized to represent Randy Sinki in the matter as Mr. Sinki lives in New York and is unable to attend. Ms. Treboux stated that the requested records were not attached to the response email, that the electronic file could not be opened and questioned the completeness of the logbooks provided. Kate Patterson, Arts Commission (Respondent), provided a summary of the department's position. Ms. Patterson stated that the request was received on Saturday, September 9, 2017, and a response was provided in a timely manner on Tuesday September 12, 2017. Ms. Patterson stated Dropbox was used to transmit a portion of the requested records due to size limitations of email. Ms. Patterson stated that offers to provide the records in alternate formats was provided but a response was not received. A question and answer period occurred.

The Committee opined that the Arts Commission provided the requested records in a timely manner. The Committee stated that discussions of what should be in a particular logbook is not subject to review by the SOTF and it the not the responsibility of the Arts Commission to provide technical support to members of the public to open common electronic files.

Member B. Wolfe, seconded by Member Hinze, moved to refer the matter to the SOTF with the recommendation that Kate Patterson and the Arts Commission did not violated Administrative Code, Section 67.25.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 – B. Wolfe, Hinze, Tesfai

Noes: 0 – None

6. **File No. 18018:** Complaint filed by Randi Sinki against Sharon Page-Richie and the Arts Commission for allegedly violating Administrative Code, Sections 67.14, by failing to make audio recording available online within 72 hours. (01:25:00 – 01:38:00)

Ann Treboux (Petitioner) provided a summary of the complaint and requested the Committee to find a violation via telephone. Ms. Treboux stated she is authorized to represent Randy Sinki in the matter as Mr. Sinki lives in New York and is unable to attend. Ms. Treboux stated that the audio recording was not available online in a timely manner. Kate Patterson, Arts Commission (Respondent), provided a summary of the department's position. Ms. Patterson stated that the audio recording was available online in a timely manner. Ms. Patterson stated that due to a change in the posting methods implemented by the city's Information Technology Department, the MPV version of the audio records was not posted correctly. However, the MP3 version of the audio recording was always available for download in a timely manner. A question and answer period occurred.

The Committee opined that technical problems cannot be faulted to the various city departments and a version of the audio recording was available online in a timely manner. In addition, the Committee noted that the Arts Commission responded to the problem within minutes of it being brought to their attention.

Member B. Wolfe, seconded by Member Hinze, moved to refer the matter to the SOTF without the recommendation.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 – B. Wolfe, Hinze, Tesfai

Noes: 0 – None

7. **File No. 17061:** Complaint filed by Ann Treboux against Anne Trickey and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, by failing to comply with the Sunshine Ordinance requirements regarding submitted public comment summaries. (01:38:00 –)

Ann Treboux (Petitioner) provided a summary of the complaint and requested the Committee to find a violation via telephone. Ms. Treboux stated that the public comment statement of another party was initially listed in the minutes and subsequently removed. Ms. Treboux stated that she submitted a summary of her public comment that did not appear in the meeting minutes. Kate Patterson, Arts Commission (Respondent), provided a summary of the department's position. Ms. Patterson stated that the reference statement was removed from the meeting based upon the advice of the City Attorney that a member of the public must be present at the meeting in order for their written comment

to be included in the meeting meetings. Ms. Patterson stated that she was not aware of Ms. Treboux allegation that her written statement was not included in the meeting minutes and was not prepared to address the issue. SOTF Administrator Victor Young noted that the meeting minutes in question does not list Ms. Treboux as a public speaker. A question and answer period occurred.

The Committee requested that the Arts Commission review the audio recording of the meeting to determine if Ms. Treboux spoke during public comment, if a 150 word summary was submitted and to investigate the matter further.

Member B. Wolfe, seconded by Chair Tesfai, moved to continue the matter to the call of the chair.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 – B. Wolfe, Hinze, Tesfai

Noes: 0 – None

Member B. Wolfe, seconded by Member Tesfai, moved to continue Item Nos. 8 and 9 (File Nos. 17126 and 17127) to the call of the chair.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 – B. Wolfe, Hinze, Tesfai

Noes: 0 – None

8. **File No. 17126:** Complaint filed by Ann Treboux against Sharon Page-Ritchie and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, by failing to make minutes available no later than ten working days after the meeting. (Arts Commission November 6, 2017, meeting)

The matter was continued to the call of the chair.

9. **File No. 17127:** Complaint filed by Ann Treboux against Anne Trickey and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.9, by failing to make meeting agendas and any other documents on file available to the public, when intended for distribution to all, or a majority of all, of members of a policy body in connections with a matter anticipated for discussion or consideration at a public meeting.

The matter was continued to the call of the chair.

The Complaint Committee (Committee) shall review File No(s). 18033 to determine if the Sunshine Ordinance Task Force has jurisdiction and determine if the requested records are public pursuant to Administrative Code (Sunshine Ordinance), Section 67.21(e). The Complainant and Respondent are **not required** to attend the January 23, 2018, Complaint Committee meeting but may attend to provide testimony related to the above listed determinations. A hearing to review the merits of the complaint will be scheduled on a future date.

10. **File No. 18033:** Complaint filed by Ann Treboux against Sharon Page-Ritchie and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.15, by failing to announce changes to the agenda as soon as the information became available and taking action on an item on the agenda without accepting public comment.

Chair Tesfai, seconded by Member Hinze, moved to find that the SOTF has jurisdiction and continued the matter to the call of the chair.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 3 – B. Wolfe, Hinze, Tesfai
Noes: 0 – None

11. **Announcements, Comments, Questions, Future Agenda Items, and Pending Calendar by members of the Committee.**

There were no announcements or comments.

12. **ADJOURNMENT**

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

APPROVED: May 22, 2018
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.