



# **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**

**August 28, 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 pm. On the call of the roll chair Tesfai, Members B. Wolfe and Hinze were noted present. There was a quorum.

There were no agenda changes.

#### **2. Approval of the Minutes from the Complaint Committee, June 26, 2018, meeting.**

**Member B. Wolfe, seconded by Member Hinze, moved to approve the June 26, 2018, meeting minutes.**

Public Comment:  
None.

**The Motion PASSED by the following vote:**

Ayes: 3 – B. Wolfe, Hinze, Chair 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.

Public Comment:  
None.

The Complaint Committee (Committee) shall hold hearing(s) on File No(s) 18054, 18049, 18056, 18059 and 17029 to: 1) to 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. 18054:** Complaint filed by Mike Black against the Office of the Controller for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by inappropriately invoking provisions for extensions of time to respond due to the voluminous nature of a request or need to consult with another department.

Mike Black (Petitioner) provided a summary of his complaint and requested the Committee find a violation. Mr. Black stated that on June 19, 2018, he submitted an Immediate Disclosure Request (IDR) for records related to any new hearing officers for the City's Vicious and Dangerous Dog hearings hired in 2018. Mr. Black stated that he did not get a response to this IDR until June 29. Mr. Black stated that he submitted a second IDR on June 20, 2018, asking that the Controller's Office identify all hearing officers currently under contract and which was responded to on June 21, 2018. Mr. Black stated that the Controller's Office acknowledged that were late in responding to the IDR. Mr. Black stated that the Controller's Office deliberately obstructed the released of records by invoking a 14 day extension to find documents that the Controller's Office knew didn't exist.

Todd Rydstrom, Deputy Controller, Office of the Controller (Respondent) provided a summary of the department's position. Mr. Rydstrom stated that on June 19, 2018, Mr. Black sent a records request for documents related to any new hearing officer hired in 2018 for San Francisco Vicious and Dangerous Dog Hearing. Mr. Rydstrom stated that the Controller's Office maintain a contractor pool in which the Animal Care and Control Department may obtain hearing officers from. However, Mr. Rydstrom stated that city departments are not required to use the contractor pool and may hire from other sources on their own. Mr. Rydstrom stated the Controller's Office immediately responded to Mr. Black's June 20, 2018, revised request which stated that he wanted the names of any and all independent contractors who are currently under contract with the City and County and any public record in the Controller's Office that confirmed this. Mr. Rydstrom stated that the Controller's Office has provide all responsive records to Mr. Black.

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

**Member B. Wolfe, seconded by Member Hinze, moved to refer the matter to the SOTF for hearing.**

Public Comment:

None.

**The motion PASSED by the following vote:**

Ayes: 3 – B. Wolfe, Hinze, Chair Tesfai

Noes: 0 – None.

5. **File No. 18049:** Complaint filed by Robert M. Smith against the Fine Arts Museums of San Francisco (FAMSF) for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a request for public records in a timely and/or complete manner.

Robert M. Smith (Petitioner) provided a summary of his complaint and requested the Committee find a violation. Mr. Smith stated that he has not received a copy his application to be a docent and a roster of current docents from the Fine Arts Museums as requested. Mr. Smith stated that FAMSF has not conformed to the law in regards to the public records and that he is not required to narrow the nature of his request.

Melissa Powers, Manager of Board Relations and Special Projects (Respondent), provided a summary of the department's position. Ms. Powers stated that the Fine Arts Museums of San Francisco are governed one governmental agency and two 501c(3) non-profit organizations. Ms. Powers stated that all employees, whether they work for the City or the two nonprofits, have the same email domain name at famsf.org and that all emails would need to be reviewed to determine which are considered to be a public record. Ms. Powers stated that it was determined that there were over 250 thousand records which would need to be reviewed by staff which is overly burdensome and requested that Mr. Smith narrow the scope of his request. Ms. Powers stated that FAMSF responded to the requests in a timely manner and that requests for extension were properly invoked. Ms. Powers suggested an invocation of the rule of reason may be required in order to prevent disruption of the regular duties of the department by limited the amount of staff hours to work on the Mr. Smith's public records request.

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

Member B. Wolfe and Chair Tesfai requested that Ms. Powers provide information five days before the next Complaint Committee hearing regarding what are the legal and contractual relationships of the two Co-FAM and FAM, the City's entity; the public entity and the two private entities.

**Member B. Wolfe, seconded by Member Hinze, moved to continue the matter to the next Complaint Committee for hearing and requested information from the Respondent.**

Public Comment:  
None.

**The motion PASSED by the following vote:**

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

Chair Tesfai suggested that due to the similarity of the items 6 and 7 that the Committee hear the complaints together.

**Member B. Wolfe, seconded by Member Hinze, moved to hear items 6 and 7 together.**

Public Comment:  
William Clark and Ann Treboux (Complainants), agreed to hearing items Nos. 6 and 7 together.

**The motion PASSED by the following vote:**

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

6. **File No. 18056:** Complaint filed by Ann Treboux against Ann Trickey and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, by failing make meeting minutes available in a timely manner. (June 5, 2018 - Advisory Committee of Street Artists and Crafts Examiners).

See Item No. 7 (File No. 18059) for details on the combined hearing for Items Nos. 6 and 7.

7. **File No. 18059:** Complaint filed by William J. Clark against the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, by failing make meeting minutes available in a timely manner. (June 5, 2018 - Advisory Committee of Street Artists and Crafts Examiners).

Ann Treboux (Petitioner) provided a summary of her complaint and requested the Committee find a violation. Ms. Treboux stated that she outlined on pages 176 to 178 her arguments for the Committee, which cites the Brown Act and various ordinances. Ms. Treboux stated that the Advisory Committee of Street Artists and Crafts Examiners is a

policy body. Ms. Treboux referenced page 23 of Mr. Clark's complaint where they refer to the Ballot Measure of Proposition L which states that it is a Charter Amendment.

William J. Clark (Petitioner) provided a summary of his complaint and requested the Committee find a violation. Mr. Clark stated that the Street Artists and Crafts Examiners Advisory Committee is a policy body and is required to make their minutes available in a timely manner.

Rebeka Krell, San Francisco Arts Commission (Respondent), provided a summary of the department's position. Ms. Krell stated that the Arts Commission has consulted with the Office of the City Attorney in determining that the Advisory Committee of the Street Artists and Crafts Examiners is not a policy body. Ms. Krell stated that this Advisory Committee is not enumerated in the City's Charter and that it was created by Ordinance in 1972. Ms. Krell stated that the Arts Commission maintains that the Advisory Committee was not created by the Board of Supervisors, not created by the initiative of a policy body nor by a grant and is therefore not a policy body. Ms. Krell stated the Arts Commission posts the minutes of the Advisory Body as a courtesy to members of the public.

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

Member B. Wolfe request Ms. Krell and the SOTF counsel to provide documentation as to whether or not the Advisory Committee created in 1975 via Proposition L is a Charter Committee subject to the rules related to policy bodies. Issues to take into consideration is as follow:

- The 1975 Controller Statement refers to the matter as a charter amendment
- The Board of Supervisors, via Ordinance, submitted the proposal regarding the Advisory Committee to the voters of San Francisco
- Current regulation regarding the Advisory Committee is located in the Police Code and not the City Charter

Ms. Krell stated that she believes the question is with regard to draft minutes being posted and that she would obtain a written opinion from the City Attorney's Office.

**Member B. Wolfe, seconded by Member Hinze, moved to find jurisdiction for File Nos. 18056 and 18059 and referred the matters to the SOTF for hearing.**

Public Comment:

Robert Clark supports the Petitioners.

**The motion PASSED by the following vote:**

Ayes: 3 – B. Wolfe, Hinze, Chair Tesfai

Noes: 0 – None.

8. **File No. 17029:** Complaint filed by Ann Treboux against Howard Lazar and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, by failing to include the 150 word submitted public comment into the body of the minutes (Advisory Committee of Street Artist and Crafts Examiners, March 30, 2017, meeting).

*(May 23, 2017, the Complaint Committee determined that the SOTF has jurisdiction.)*

Chair Tesfai requested that this matter be continued to the next Complaint Committee meeting

**Member Hinze, seconded by Chair Tesfai, moved to continue File No. 17029 to the next Complaint Committee hearing.**

Public Comment:

**The motion PASSED by the following vote:**

Ayes: 3 – B. Wolfe, Hinze, Chair Tesfai

Noes: 0 – None.

The Committee called Items Nos. 9 through 14 to determine if the SOTF has Jurisdiction and determine if the requested records are public.

**Chair Tesfai, seconded by Member Hinze, moved to find that the SOTF has jurisdiction and that the records are public.**

Public Comment:

Ann Treboux commented on the Pioneer Monument.

Hank Heckle, Mayor's Office, commented on Complaint No. 18066 (Mr. Petrelis V. the Office of the Clerk of the Board).

**The motion PASSED by the following vote:**

Ayes: 3 – B. Wolfe, Hinze, Chair Tesfai

Noes: 0 – None

9. **File No. 18062:** Complaint filed by J. Walker against the San Francisco Public Utilities Commissioner Vince Courtney and the San Francisco Public Utilities Commission (SFPUC) for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.24, by redacting records in an inappropriate manner.

The matter was continued to the call of the chair. (See above).

10. **File No. 18063:** Complaint filed by Ann Treboux against Sharon Page-Ritchie and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.14, 67.15(a), and 67.16, by failing to post the audio recording in a timely manner, failing to provide an opportunity for public comment on the agenda and failing to post minutes in a timely manner. (Joint Historic Preservation Commission and Civic Design Committee of the Arts Commission – July 18, 2018).

The matter was continued to the call of the chair. (See above).

11. **File No. 18064:** Complaint filed by Ann Treboux against the San Francisco 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. (*attachment*)

The matter was continued to the call of the chair. (See above).

12. **File No. 18065:** Complaint filed by Ann Treboux against Andrew Wolfram and the Historic Preservation Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.14, 67.15(a), and 67.16, by failing to post the audio recording in a timely manner, failing to provide an opportunity for public comment on the agenda and failing to post minutes in a timely manner. (Joint Historic Preservation Commission and Civic Design Committee of the Arts Commission – July 18, 2018). (*attachment*)

The matter was continued to the call of the chair. (See above).

13. **File No. 18066:** Complaint filed by Michael Petrelis against the Clerk of the Board of Supervisors for violating Administrative Code (Sunshine Ordinance), Section 67.29-1 and 67.29-5, by failing to maintain and disclose Mayor Breed's complete calendar. (*attachment*)

The matter was continued to the call of the chair. (See above).

14. **File No. 18067:** Complaint filed by Betty Mackey against the Treasure Island Development Authority for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner. (*attachment*)

The matter was continued to the call of the chair. (See above).

15. **ADJOURNMENT**

There being no further business the meeting was adjourned at 7:35 p.m.

**APPROVED: 9/25/18**  
**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.