



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**

**October 24, 2017
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 Leuwam Tesfai called the meeting to order at 5:30 p.m. On the call of the roll Chair Tesfai and Member Hinze were noted present. Member Wolfe was noted absent. There was a quorum.

There were no agenda changes.

2. Approval of the September 26, 2017, Complaint Committee meeting minutes.

The Committee discussed the draft minutes.

Member Hinze, seconded by Chair Tesfai, moved to approve the September 26, 2017, Complaint Committee meeting minutes.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 2 – Hinze, Tesfai
Noes: 0 – None
Absent: 1 – B. Wolfe

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.

Ann Treboux stated her objections to scheduling complaints for the sole purpose of determining if the Task Force has jurisdiction.

The Complaint Committee (Committee) shall hold hearing(s) on File No(s). 17088, 17095, 17100 and 17107 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. 17088:** Complaint filed by Ray Hartz against Chair Peter Keene and the Ethics Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.34, by willfully failing to enforce Orders of Determination issue by the Sunshine Ordinance Task Force.

Ray Hartz (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Hartz stated that he is not asking the Task Force to review previous decisions of the Ethics Commission but is concerned that the public cannot get a fair hearing before the Ethics Commission as evidenced by the 100% rulings against SOTF findings referred to the Ethics Commission. Mr. Hartz stated that it is the duty of the Ethics Commission to enforce the SOTF decision. Mr. Hartz provided a summary of the Civil Grand Jury's report regarding the matter. Deputy Director Jessica Blome, Ethics Commission (Respondent), provided a summary of the department's position. Ms. Blome stated that the SOTF does not have jurisdiction over the decisions made by the Ethics Commissions and that the SOTF complaints should not be a means to appeal Ethics Commission's decisions. Ms. Blome stated that if a party disagrees with the SOTF or Ethics Commissions decision, they are able to take the matter to Superior Court. Ms. Blome suggested that discussion between the Ethics Commission and SOTF regarding policy/procedures in handling referrals of complaints to the Ethics Commission would be the appropriate means to address the matter. A question and answer period occurred. The parties were provided an opportunity for rebuttals.

The Committee opined that Administrative Code, Section 67.34, does not appear to be the appropriate section to address the dispute over the Ethics Commissions policy/procedure. The Committee suggested that Administrative Code, Section 67.30, appears to be applicable as it states that 'the task force shall advise the Board of Supervisors and provide information to other City departments on appropriate ways in which to implement this chapter.'

The Committee requested that SOTF Chair Wolfe schedule a discussion before the SOTF regarding the interaction with the Ethics Commission and the policy/procedures used in handling matters referred to the Ethics Commission for enforcement pursuant to Administrative Code, Section 67.34 (willful violation).

Member Hinze, seconded by Chair Tesfai, moved to find that the Task Force has jurisdiction in the matter.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 2 – Hinze, Tesfai
Noes: 0 – None
Absent: 1 – B. Wolfe

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

Public Comment:
Ann Treboux asked if the matter before the Task Force would be a discussion or a hearing on a complaint.

The motion PASSED by the following vote:

Ayes: 2 – Hinze, Tesfai
Noes: 0 – None
Absent: 1 – B. Wolfe

5. **File No. 17095:** Complaint filed to Ray Hartz against Commissioner Paul Renne, Ethics Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.15(d) and 67.17, by abridging or prohibiting public criticism of the policy, procedures, programs or services of the City (Ethics Commission December 19, 2016, meeting).

Ray Hartz (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Hartz stated that the matter is not a rehearing of Complaint No. 16116 as it only named Commissioner Kopp as a respondent. Mr. Hartz stated that the current complaint names Commissioner Renne as the offending party. Mr. Hartz stated that the SOTF is not a place for a citizen to go against an attorney. Deputy Director Jessica Blome, Ethics Commission (Respondent), provided a summary of the department's position. Ms. Blome stated that the SOTF previously decided that Commissioner Kopp and Ethics Commission (which includes Commissioner Renne) violated the Sunshine Ordinance via Complaint No. 16116. Ms. Blome stated that Commissioner Renne, as a member of the Ethics Commission, was already found to have violated the Sunshine Ordinance and cannot be brought back for a hearing on the same matter. A question and answer period occurred. The parties were provided an opportunity for rebuttals.

The Committee opined that the SOTF's previous Order of Determination for Complaint No. 16116 included the entire Ethics Commission and was not limited to Commissioner Kopp.

Member Hinze, seconded by Chair Tesfai, moved to find that the Task Force has jurisdiction in the matter.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 2 – Hinze, Tesfai
Noes: 0 – None
Absent: 1 – B. Wolfe

Member Hinze, seconded by Chair Tesfai, moved to refer the matter to the Task Force for hearing.

Public Comment:
Ann Treboux expressed support for Mr. Hartz's complaint.

The motion PASSED by the following vote:

Ayes: 2 – Hinze, Tesfai
Noes: 0 – None
Absent: 1 – B. Wolfe

6. **File No. 17100:** Complaint filed by Patrick Roddie against the Department of Public Health 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.

Patrick Roddie (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Roddie stated death records are public. Mr. Roddie stated that he submitted his request on August 22, 2017, and did not receive a response until September 19, 2017. Mr. Roddie stated that the Department of Public Health did not provide the requested death records and that it is a simple matter of creating a computer query to retrieve the requested records. Linda Costa and Veronica Vien, Department of Public Health (Respondent), provided a summary of the department's position and provided a summary of the method of storage of the requested records by the state government of California. Ms. Acosta stated that the death information is entered into the state of California's Electronic Death Register System (EDRS) by a variety of parties such as funeral home directors, hospital administrators and other such parties. Ms. Acosta stated that the Department of Public Health and the City and County of San

Francisco is not the custodian of the death records and referred Mr. Roddie to the state agency responsible for maintaining the record. Ms. Acosta stated that if the department was to request the report from the state it would take over 870 separate inquiries. Ms. Acosta stated that the information is not readily available to the department and would require the department to create new documents.

SOTF Administrator Victor Young noted that the verbal testimony does not match the submitted complaint. Upon discussion it appears that Complaint No. 17100 has already been addressed and that a separate complaint was still pending.

The Committee requested that a copy of the request for death records and the department's response be provided for review on a future date as a separate complaint. The Committee request the department to review the Sunshine Ordinance requirements regarding their duties to provide public records.

Administrative Code, Section 67.21

(c) *A custodian of a public record* shall assist a requester in identifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within seven days following receipt of a request, a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request under (b). A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person.

Member Hinze, seconded by Chair Tesfai, moved to find that the Task Force has jurisdiction in the matter and that the requested records are public.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 – Hinze, Tesfai

Noes: 0 – None

Absent: 1 – B. Wolfe

Patrick Roddie withdrew the complaint as the matter has already been resolved.

7. **File No. 17107:** Complaint filed by Ann Treboux against Francis Tsang and the Office of the Mayor 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.

Ann Treboux (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Treboux provided a timeline of her public records request and stated that she never received an out of office message from the Mr. Tsang. Ms. Treboux questioned the completeness of the documents that were provided to her upon Mr. Tsang's return to the office. Communications Director, Victor Lim, Mayor's Office (Respondent), provided a summary of the department's position. Mr. Lim acknowledged that the response was late as Mr. Tsang was out of the office when the request was submitted. Mr. Lim stated that all records have been provided and staff has been informed that out of office messages are required.

The Committee requested that the Respondent provide a copy of their response to Ms. Treboux to the Task Force for review.

Chair Tesfai, seconded by Member Hinze, moved to find that the Task Force has jurisdiction in the matter and that the requested records are public.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 – Hinze, Tesfai

Noes: 0 – None

Absent: 1 – B. Wolfe

Chair Tesfai, seconded by Member Hinze, moved to refer the matter to the Task Force for hearing.

Public Comment:

Ann Treboux expressed support for Mr. Hartz's complaint.

The motion PASSED by the following vote:

Ayes: 2 – Hinze, Tesfai

Noes: 0 – None

Absent: 1 – B. Wolfe

The Complaint Committee (Committee) shall review File No(s). 17101, 17102 and 17106 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 October 24, 2017, 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.

8. **File No. 17101:** Complaint filed by Randy Sinki against 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.

Chair Tesfai, seconded by Member Hinze, moved to find that the Task Force has jurisdiction in the matter and that the requested records are public.

Public Comment:

Ann Treboux commented on retrieving authorization to represent the petitioner.

The motion PASSED by the following vote:

Ayes: 2 – Hinze, Tesfai

Noes: 0 – None

Absent: 1 – B. Wolfe

9. **File No. 17102:** Complaint filed by Liz Arbus against Kate Paterson 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.

Chair Tesfai, seconded by Member Hinze, moved to find that the Task Force has jurisdiction in the matter and that the requested records are public.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 – Hinze, Tesfai

Noes: 0 – None

Absent: 1 – B. Wolfe

10. **File No. 17106:** Complaint filed by Ann Treboux against Rebekah Krell 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.

Ann Treboux (Petitioner), stated that the Task Force has jurisdiction over the Arts Commission.

Chair Tesfai, seconded by Member Hinze, moved to find that the Task Force has jurisdiction in the matter and that the requested records are public.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 2 – Hinze, Tesfai
Noes: 0 – None
Absent: 1 – B. Wolfe

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

There were no announcements.

12. **ADJOURNMENT**

There being no further business the meeting was adjourned at 7:10 p.m.

APPROVED: November 28, 2017
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.