



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**

**February 27, 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 5:35 p.m. On the call of the roll Chair Tesfai and Member Hinze were noted present. There was a quorum.

There were no agenda changes.

2. Approval of the January 23, 2018, Complaint Committee meeting minutes.

Member Hinze, seconded by Chair Tesfai, moved to approve the January 23, 2018, 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.

Speakers:

Ann Treboux provided the following 150 word summary:

"At the September 15, 2017 and February 21, 2019 meeting of the SF Board of Permits and Appeals, Anne Trickey was directed to process a Street Artist permit application. DCA Brad Russi explained this to her twice on the public record. Let the record reflect that I am handing, staff of the SFAC a Street Artist Application. You are directed to process this application. If I do not hear from staff of the SFAC within two weeks – I was told to file another appeal."

Member Wolfe was noted present at 5:38 p.m.

The Complaint Committee (Committee) shall hold hearing(s) on File No(s). 17120, 18003, 17131 and 17134 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. 17120:** Complaint filed by Ann Treboux against Anne Trickey, Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.13 and 67.15(b)(c)(d), by failing to provide an opportunity for members of the public to directly address a policy body without abridging or prohibiting public criticism of the policy, procedures, programs or services of the City. (00:03:08 – 00:23:00)

Ann Treboux (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Treboux stated that her general public comment was interrupted. Rebekah Krell, Arts Commission (Respondent), provided a summary of the department's position. Ms. Krell stated Ms. Treboux's comments were not under the jurisdiction of the Street Artist and Crafts Examiners Committee and therefore not allowed pursuant to Administrative Code, Section 67.15(a). Therefore, Ms. Treboux's public comment was interrupted to provide a reminder of the subject matter limitation. Ms. Krell stated that Ms. Treboux also interrupted the meeting by talking on the phone during the meeting and was asked to leave the room to complete her phone call. Security was called to prevent Ms. Treboux from further interrupting the meeting. A question and answer period occurred. An opportunity for rebuttals was provided.

Member B. Wolfe requested that Deputy City Attorney Colla provide details as to what authority created the Advisory Committee of Street Artist and Crafts Examiners for the purpose of determining if the body is a policy or passive meeting body and what audio recording is required.

The Committee requested that a copy of the audio recording of the meeting be placed into the file and provide to Ms. Treboux. It is suggested that SOTF Members review the audio recording prior to the next meeting (Approximately the first 10 minutes of the meeting). The Committee opined that Administrative Code, Section 67.15(d) regarding abridgement of public comment appears to be in dispute.

Police Code, Section 2400 regarding the Street Artist Ordinance was adopted by the electors of San Francisco via initiative ordinance as Proposition L on November 4, 1975.

“There is hereby established an Advisory Committee of Street Artists and Crafts Examiners, **who shall advise the Art Commission on matters relating to the wares produced by street artists** and to perform such other functions as shall from time to time be deemed appropriate by the Commission. **The Advisory Committee shall consist of five members to be appointed by the Mayor.**”

Member B. Wolfe, seconded by Member Hinze, moved to find that the Sunshine Ordinance Task Force (SOTF) has jurisdiction and refer the matter to the SOTF for hearing.

Public Comment:
None.

The motion PASSED by the following vote:

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

5. **File No. 18003:** Complaint filed by Ann Treboux against Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.7, 67.20, 67.25 and 67.27, by failing to make supporting documents available, failing to respond to an Immediate Disclosure Request in a complete manner and failing to provide justification for withholding records. (00:23:00 – 01:02:00)

Ann Treboux (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Treboux stated that the communication provided by the Arts Commission via NextRequest did not include pdf attachments. Ms. Treboux stated that she received too many emails regarding the matter and never received a response to her inquiry. Rebekah Krell, Arts Commission (Respondent), provided a summary of the department’s position. Ms. Krell provided a summary of the actions and communications between the Arts Commission and Ms. Treboux. Ms. Krell stated that a response was provided to Ms. Treboux in a timely manner informing Ms. Treboux that there were no supporting documents associated with the January 9, 2018 agenda. A question and answer period occurred. An opportunity for rebuttals was provided.

The Committee opined that the automatic public records tracking system (NextRequest) was used to provide a response to the Immediate Disclosure Request in a timely manner.

However, the NextRequest System may be confusing to members of the public and it can be difficult to know which of the multiple emails contain the official response. The Committee suggested that a hearing be conducted to review NextRequest to possibly develop user friendly modifications and develop training for the public.

No actions was taken on the matter.

Public Comment:

None.

6. **File No. 17131:** Complaint filed by Magick Altman against the Police Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.5, 67.7-1, 67.15 and 67.34, by willfully failing to make meetings open to the public, creating barriers to attendance and failing to allow public comment, to provide adequate public notice and failing to provide an opportunity for public comment. (01:02:00 – 01:39:00)

Magick Altman (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Altman stated that the Police Commission recessed the meeting, changed meeting rooms and did not inform the public of the change of meeting rooms. Ms. Altman stated that members of the public were provided conflicting information regard the meeting room. Ms. Altman stated that access to City Hall was locked down or stopped for an undertermined period of time which prevented access to the public meeting. Ms. Altman alleged that Police Commissioners had discussions during the recess. Ms. Altman stated that Chief William Scott was allowed additional time to speak while members of the public had the microphone cut off at two minutes.

Sgt. Rachel Kilshaw, Police Commission (Respondent), provided a summary of the department's position. Sgt. Kilshaw stated that the Police Commission recessed their meeting for approximately one hour due to the disorderly conduct of the audience. Sgt. Kilshaw stated that access to City Hall was not allowed for approximately 15 minutes but access to City Hall was allowed well before the Police Commission reconvened. Sgt. Kilshaw stated that the Sheriff's Department made the decision to stop access to City Hall at their sole discretion with no input from the Police Commission. Sgt. Kilshaw stated that their City Attorney representative advised the Police Commission to move the meeting from Room 250 (Legislative Chamber) to Room 400 as the members of the public in the Chamber would not come to order or allow the meeting to continue. Sgt. Kilshaw stated that notices of the hearing room change were posted outside the meeting room and that the Sheriff's Deputies announced the room change but acknowledged that the Police Commission did not make an announcement themselves. Sgt. Kilshaw stated that Chief William Scott was an invited guest speaker and is therefore not subject to time limitations applied to public commenters. Sgt. Kilshaw stated that all members of the public were allowed to speak for two minutes. Sgt. Kilshaw stated that members of the public could view the meeting in the overflow room if parties could not enter the meeting room. A question and answer period occurred. Parties were provided an opportunity for rebuttal.

The Committee requested that the Police Commission provide witnesses or statements regarding the time City Hall access was closed and who made the decision. Information regarding the policy or procedures to changing rooms mid meeting was also requested. The Committee requested the Petitioner to provide witnesses or statements regarding the experiences of the public, their lack of accurate information and inability to enter City Hall.

The Committee reviewed the proposed violations and suggested that the following Administrative Code Sections to be applicable to the complaint:

67.15(b) – An opportunity for each member of the public to address the body shall be provide.

67.15(c) – Public Comment time limits shall be applied uniformly to members of the public.

67.15(e) – Any agenda changes or continuance shall be announced by the presiding officer of a policy body as soon as the change becomes known to such presiding officer.

Chair Tesfai, seconded by Member B. Wolfe, moved to find that the Sunshine Ordinance Task Force (SOTF) has jurisdiction and refer the matter to the SOTF for hearing.

Public Comment:

Speaker described their experience at the meeting in question where he received conflicting information and was not allowed to return to the meeting.

The motion PASSED by the following vote:

Ayes: 2 – B. Wolfe, Hinze, Tesfai

Noes: 0 – None

Chair Tesfai announced that due to the late hour the Committee would determine if the SOTF has jurisdiction in File No. 17134 and continue it to the next meeting of the Committee as needed.

7. **File No. 17134:** Complaint filed by Thomas Busse against the San Francisco Public Utilities for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, 67.24(g)(i), 67.27 by failing to respond to a public records request in a timely and/or complete manner and against the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21(i), for acting as legal counsel for denying access to a public record. (01:39:00 -)

Thomas Busse (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mary Ellen Carrol, San Francisco Public Utilities Commission (SFPUC) (Respondent), provided a summary of the department's position on the matter. Ms. Carrol stated that the records were withheld due to public safety

concerns. The representative from the Office of the City Attorney was unable to remain at the meeting and was not present for statements.

The Committee suggested that the SFPUC be prepared to discuss Administrative Code, Section 67.24(g) regarding basis for withholdings. The Committee requested that the SFPUC provide citations as to what specific section of the law authorized the withholding of each specific record requested by Mr. Busse.

Chair Tesfai, seconded by Member B. Wolfe, moved to find that the Sunshine Ordinance Task Force (SOTF) has jurisdiction, divide the complaint to have one file for each respondent and continued the matter to the call of the chair.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 – B. Wolfe, Hinze, Tesfai

Noes: 0 – None

The complaint against the Office of the City Attorney in File No. 17134 was divided into File No. 18013.

The Complaint Committee (Committee) shall review File No(s). 18005 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.

8. **File No. 18005:** Complaint filed by Ann Treboux against Director Tom DeCaigny, Kate Patterson and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.4, 67.25, 67.26 and 67.27, by failing to respond to an Immediate Disclosure Request in a complete manner.

The Committee review the matter to determine if the SOTF has jurisdiction.

Chair Tesfai, seconded by Member Hinze moved to find that the Sunshine Ordinance Task Force (SOTF) has jurisdiction and that the records are public and continued the matter to the call of the chair.

Public Comment:

Ann Treboux (Petitioner) stated that the SOTF has jurisdiction and provided other unrelated comments.

The motion PASSED by the following vote:

Ayes: 2 – B. Wolfe, Hinze, Tesfai

Noes: 0 – None

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

There were no announcements.

10. **ADJOURNMENT**

There being no further business the meeting was adjourned at 7:34 p.m.

APPROVED: March 27, 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.