



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

February 7, 2018 - 4:00 PM

Regular 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 4:07 p.m. Member Chopra was noted absent. Members Hyland and Eldon were noted excused. There was a quorum.

2. **Approval of minutes from the Sunshine Ordinance Task Force January 16, 2018, meeting.**

The SOTF discussed the January 16, 2018, meeting minutes.

Member Cannata, seconded by Member Hinze, moved to approve the January 16, 2018, meeting minutes.

Public Comment:

Michael Petrelis noted that the minutes did not note the absence of the Deputy City Attorney or provide a reason for the absence.

The motion PASSED by the following vote:

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

Noes: 0 – None

Absent: 1 – Chopra

Excused: 2 – Eldon, Hyland

Member Maass, seconded by Member Fischer, moved recuse Member Josh Wolf from hearing File No. 17094.

Public Comment:

Michael Petrelis expressed his disappointment in the lack of a televised broadcast and requested information on Member Josh Wolf's previous complaint.
Ace Washington thanked the Task Force for their service.

The motion PASSED by the following vote:

Ayes: 7 – J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, B. Wolfe
Noes: 0 – None
Absent: 1 – Chopra
Excused: 2 – Eldon, Hyland

3. **File No. 17094:** Complaint filed by Michael Petrelis against President London Breed, Board of Supervisors, 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. (00:04:00 – 00:48:00)
(On September 26, 2017, the Complaint Committee, determined that the SOTF has jurisdiction and referred the matter to the SOTF for hearing.)

Michael Petrelis (Petitioner), provided a summary of the complaint and requested the SOTF to find violation. Mr. Petrelis stated that he requested a list of blocked addresses on President Breed's Twitter account and has not received a response. There were no speakers on behalf of the Petitioner. There were no representatives from President London Breed's Office in attendance. There were no speakers on behalf of the Respondent. A question and answer period occurred. The Petitioner and Respondent were provided an opportunity for rebuttals.

Deputy City Attorney Colla commented on the matter.

The SOTF expressed concern regarding the repeated lack of attendance by the Respondent.

Member Maass, seconded by member Cannata, moved to find that President London Breed, Board of Supervisors, violated Administrative Code (Sunshine Ordinance), Sections 67.21(e) and 67.25, by failing to send an authorized representative to the SOTF hearing to explain the basis for the decision to withhold requested records and failing to respond to an Immediate Disclosure Request.

Public Comment:

Ace Washington thanked the SOTF for their service and commented on the testimony provided.

The motion PASSED by the following vote:

Ayes: 6 – Tesfai, Maass, Cannata, Fischer, Hinze, B. Wolfe
Noes: 0 – None
Recused – J. Wolf
Absent: 1 – Chopra
Excused: 2 – Eldon, Hyland

Member Maass, seconded by member Cannata, moved to refer the matter to the Ethics Commission to examine the matter and the possibility of a willful violation.

Public Comment:

None.

The motion FAILED by the following vote:

Ayes: 5 – Tesfai, Maass, Cannata, Hinze, B. Wolfe
Noes: 1 – Fischer
Recused – J. Wolf
Absent: 1 – Chopra
Excused: 2 – Eldon, Hyland

At the request of Member Cannata, Chair Wolfe referred the matter to the Compliance and Amendments Committee and requested that the requested records be provided and that the Respondent attend the meeting as required by Administrative Code, Section 67.21(e).

4. **File No. 17089:** Complaint filed by Ann Treboux 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 – 01:17:00)
(On August 22, 2017, the Complaint Committee, determined that the SOTF has jurisdiction and referred the matter to the SOTF for hearing.)

Ann Treboux (Petitioner), provided a summary of the complaint and requested the SOTF to find violation. Ms. Treboux stated that no records have been provided. There were no speakers on behalf of the Petitioner. Rebekah Krell, Arts Commission (Respondent), provided a summary of the department's position which was provided in writing. Ms. Krell stated that the investigation process is confidential and that the Office of the City Attorney was consulted on the matter. There were no speakers on behalf of the Respondent. A question and answer period occurred. The Petitioner and Respondent were provided an opportunity for rebuttals.

Member Cannata summarized that the only request that appears to be in question is the August 1, 2017, request and that due to an ongoing investigation the documents were withheld without providing a legal statute for the withholding. The SOTF noted that the Arts Commission did not provide specific statutes.

Member Cannata, seconded by Chair B. Wolfe, to find that Kate Patterson and the Arts Commission violated Administrative Code (Sunshine Ordinance), Section 67.21(d), by failing to respond to a public records request in a complete manner.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 – None

Absent: 1 – Chopra

Excused: 2 – Eldon, Hyland

5. **File No. 17028:** Complaint filed by Ann Treboux against Kate Patterson and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.25, 67.26 and 67.27, by failing to respond to an Immediate Disclosure Request in a complete manner. (01:17:00 – 02:03:00)

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

Ann Treboux (Petitioner), provided a summary of the complaint and requested the SOTF to find violation. There were no speakers on behalf of the Petitioner. Rebekah Krell, Arts Commission (Respondent), provided a summary of the department's position which was provided in writing. There were no speakers on behalf of the Respondent. A question and answer period occurred. The Petitioner and Respondent were provided an opportunity for rebuttals.

Member J. Wolf, seconded by Member Tesfai, to continue the matter to the call of the chair. Of the documents identified by the Arts Commission as existing but non-disclosable, the SOTF requests that an index of the records and a reason why each document is non-disclosable be provided.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 – None

Absent: 1 – Chopra

Excused: 2 – Eldon, Hyland

6. **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. ***Public comment shall be taken at 5:00 p.m. or as soon thereafter as possible.***

Speakers:

Ann Treboux provided information on Article 24 of the Police Code in relation to street artist.

Michael Petrelis request that SOTF meetings be televised and inquired as to the absence of the City Attorney Representative at the last meeting.

SPECIAL ORDER

The hearings on File Nos. 17129 and 17122 will not begin earlier than 5:00 p.m.

7. **File No. 17129:** 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. (02:03:00 – 02:54:00)
(*On January 23, 2018, the Complaint Committee, determined that the SOTF has jurisdiction and referred the matter to the SOTF for hearing.*)

Patrick Roddie (Petitioner), provided a summary of the complaint and requested the SOTF to find violation. There were no speakers on behalf of the Petitioner. Linda Acosta, Department of Public Health (Respondent), provided a summary of the department's position. Ms. Acosta stated that the California Department of Public Health own and maintains the requested death records and has stated that all requests for information must be submitted directly to the California Department of Public Health. There were no speakers on behalf of the Respondent. A question and answer period occurred. The Petitioner and Respondent were provided an opportunity for rebuttals.

Member Maass noted that certain subsections of the San Francisco Department of Public Health has publish documents (link listed below) that contains related death records that may have relevant information and should have been provided to the Petitioner. The SOTF requested that the parties review the new information and determine if the department may have additional records that has already been publicly released that should have been provided to the Petitioner.

<https://www.sfdph.org/dph/hc/HCAgen/HCAgen2016/May%2017/2016CHNAAppendices.pdf>

<https://www.sfdph.org/dph/hc/HCAgen/HCAgen2016/May%2017/2016CHNA-2.pdf>

Member Maass, seconded by Member J. Wolf, to continue the matter to the call of the chair.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 1 – Tesfai

Absent: 1 – Chopra

Excused: 2 – Eldon, Hyland

8. **File No. 17122:** Complaint filed by the La Playa Park Neighborhood Association against Supervisor Katy Tang (Board of Supervisors) for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a complete manner. (02:54:00 – 03:28:00)

(On January 23, 2018, the Complaint Committee, determined that the SOTF has jurisdiction and referred the matter to the SOTF for hearing.)

Members Fischer and J. Wolf disclosed their past associated with the Petitioner and stated that they are able to review the matter in an impartial manner.

Mike Murphy, La Playa Park Neighborhood Association (Petitioner), provided a summary of the complaint and requested the SOTF to find violation. Mr. Murphy provided evidence of records that have not been provided by the Respondent. There were no speakers on behalf of the Petitioner. There were no representative from the Office of Supervisor Katy Tang, Board of Supervisor, present at the meeting. There were no speakers on behalf of the Respondent. A question and answer period occurred. The Petitioner and Respondent were provided an opportunity for rebuttals.

The SOTF stated that with the lack of a Respondent to respond to questions it is difficult to make a determination and requested that Mr. Murphy provide additional evidence/documentation regarding records that have not been provided by the Office of Supervisor Katy Tang.

Member J. Wolf, seconded by Member Maass, moved to find that Supervisor Katy Tang, Board of Supervisors, violated Administrative Code (Sunshine Ordinance), Section 67.21(e), by failing to send an authorize representative to SOTF hearings and continued the matter to the call of the chair.

Public Comment:

None.

The motion PASSED by the following vote:

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

Noes: 0 – None

Absent: 1 – Chopra

Excused: 2 – Eldon, Hyland

9. **File No. 17135:** Hearing to review Administrative Code (Sunshine Ordinance), Section 67.21, regarding the legality of a named respondent in a public records request, who is in custody of records, transferring their responsibility of fulfilling the request to another member of staff without notifying the requester. (03:28:00 -)

The SOTF discussed the issue. Upon discussion two general opinions were debated as follows:

- All city employees are considered custodian of records and must personally respond to public records requests directed to them to be sure that all documents in their possession are provided.
- The City Department as a whole and their assigned custodian of records are responsible for responding to a public records request and is therefore responsible for collecting records from individual employees provide providing it to the requester.

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

Public Comment:
None.

The motion FAILED by the following vote:

Ayes: 3 – J. Wolf, Hinze, B. Wolfe
Noes: 0 – Tesfai, Maass, Cannata, Fischer
Absent: 1 – Chopra
Excused: 2 – Eldon, Hyland

Member Tesfai, seconded by Member Fischer, moved to determine that a departmental representative/custodian of records may respond to public records request on behalf of individual members of staff.

Public Comment:
None.

The motion FAILED by the following vote:

Ayes: 4 – Tesfai, Maass, Cannata, Fischer
Noes: 3 – J. Wolf, Hinze, B. Wolfe
Absent: 1 – Chopra
Excused: 2 – Eldon, Hyland

Due to the lack of consent no actions were taken on the matter.

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

The Members of the SOTF provided updates on Committee actions.

Public Comment:

None.

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

Chair Wolfe had no report.

12. **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 report and reminded the SOTF of the Ethics Commission deadline. In addition, Mr. Young reminded members of upcoming vacancies on the SOTF.

Public Comment:

None.

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

There were no announcements.

14. **ADJOURNMENT**

By a rise in vote the meeting was adjourned without objection at 8:55 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: March 7, 2018