



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

March 6, 2019 - 4:00 PM

Regular Meeting

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|--------|----------------------------|---------|----------------------------------|
| Seat 1 | Matthew Cate | Seat 7 | Rodman Martin |
| Seat 2 | Lila LaHood | Seat 8 | Frank Cannata |
| Seat 3 | Josh Wolf | Seat 9 | Chris Hyland - Vice Chair |
| Seat 4 | Rishi Chopra | Seat 10 | Matthew Yankee |
| 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

Vice-Chair Hyland called the meeting to order at 4:10 PM. On the call of the roll Vice-Chair Hyland and Members LaHood, Tesfai, Martin, Cannata, Yankee and Hinze were noted present. Chair B. Wolfe and Members Chopra, Cate and J. Wolf were noted not present. A quorum was present.

2. Approval of minutes from the Sunshine Ordinance Task Force February 6, 2019, meeting.

The SOTF discussed the draft meeting minutes and requested that Item No. 4, be corrected to replace the word 'lease' with 'leash'.

Action: Moved by Member Hinze, seconded by Member Yankee, to approve the February 6, 2019, meeting minutes as amended.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 7 - Hinze, Yankee, Martin, Tesfai, Cannata, LaHood, Hyland

Noes: 0 - None

Absent: 4 - B. Wolfe, J. Wolf, Cate and Chopra

Chair B. Wolfe, Member J. Wolf were noted present at 4:15 PM.

3. **File No. 18079:** Complaint filed by Ellen Tsang against Lily Madjus and the Department of Building Inspection (DBI) 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. (00:05:47 - 00:57.03)

(On November 27, 2018, the Complaint Committee moved to find that the SOTF has jurisdiction, that the requested records are public and to refer the matter to the SOTF for hearing. On February 6, 2019, the SOTF continued the matter.)

Ellen Tsang (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Tsang stated that many documents requested from the Department of Building Inspection (DBI) were not produced. Ms. Tsang stated that out of those documents she received several were marked as received by the Board of Appeals and that those documents were produced but should not have been redacted because they were from another department.

Lily Madjus, Department of Building Inspection, (Respondent), provided a summary of the department's position. Ms. Madjus stated that DBI responded to Ms. Tsang's request in August 2018 and focused on 'Item 4'. Ms. Madjus stated that the SOTF and Ms. Tsang received all requested records. Ms. Madjus stated that information that was redacted included phone numbers, home addresses, emails and other private information. Ms. Madjus stated that DBI followed the guidelines listed in the Good Government Guide and the California Constitution with regards to redacting information. Ms. Madjus stated that she may have made mistakes and is happy to work with Ms. Tsang to provide the requested documents.

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

Chair Wolfe requested that DBI remove the redactions on documents and provide them to Ms. Tsang and the SOTF.

Action: Moved by Hyland, seconded by B. Wolfe, to find that Lily Madjus and the Department of Building Inspection violated Administrative Code (Sunshine Ordinance), Section 67.21(e), by failing to make documents available in a complete and timely manner and to refer this case to the Education, Outreach and Training Committee ensure that DBI provides un-redacted version of the requested documents to Ms. Tsang.

Public Comment:

Richard Knee spoke about violating the Public Records Act and the March 14, Society of Professional Journalists dinner.

Peter Alexander spoke about attorney Tony Serra and that Mr. Serra's cases were not properly adjudicated.

The motion PASSED by the following vote:

Ayes: 9 - Hinze, Hyland, LaHood, J. Wolf, Martin, Cannata, Yankee, Tesfai, B. Wolfe

Noes: 0 - None

Absent: 2 - Cate and Chopra

4. **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. (00:59:01 – 00:01:53)
(On October 16, 2018, Education, Outreach and Training Committee moved to find the records public and referred the matter to the SOTF with the recommendation to find a violation of Administrative Code Section 67.21.)

Betty Mackey (Petitioner) was not present for the hearing and had communicated to the SOTF Administrator on March 6, 2019, that they would not be available to attend the meeting because they were out of state.

Bob Beck, Treasure Island Development Authority (Respondent), was present at the hearing. The SOTF Administrator had communicated to Mr. Beck that Ms. Mackey was out of state and unavailable for the hearing.

Action: Moved by Member Cannata, seconded by Member Hinze, to continue the matter to the call of the Chair. (The committee requested that the matter not be rescheduled for hearing until the Petitioner confirms their availability to attend the Committee hearing.)

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - Cannata, Hinze, Hyland, Yankee, Martin, LaHood, Tesfai, J. Wolf, Yankee, B. Wolfe

Noes: 0 - None

Absent: 2 - Cate and Chopra

5. **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. *(No Action) Public comment shall be taken at 5:00 p.m. or as soon thereafter as possible. (00:10:02 – 00:11:03)*

Speakers:

Richard Knee spoke about Public Records Act violations. Mr. Knee also spoke about the March 14, 2019, Society of Professional Journalists dinner.

Peter Alexander spoke about Tony Serra, that Mr. Serra's cases were not properly adjudicated and expensive buildings owned by the Church of Scientology.

6. **File No. 18086:** Complaint filed by Mark Sullivan against the Mission Dolores Green Benefit District Formation Committee for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.14, by failing to allow video and audio recording filming and still photography of a policy body. *(01:12:27 - 02:56:02)*
(On December 18, 2018, the Compliance and Amendments Committee referred the matter to the SOTF with the recommendation to find that the SOTF does NOT have jurisdiction over the Mission Dolores Green Benefit District at this time.)

Member Cannata provided a summary of the meeting of the Compliance and Amendments Committee's hearing on this matter.

Mark Sullivan (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Sullivan stated that Ordinance 14-14, Article 15(a) passed by the Board of Supervisors provides that the Mission Dolores Green Benefits District Formation Committee (GBD) may make policy decisions before the vote on their petition and decide on how long their vote can last. Mr. Sullivan stated that the Green Benefit District would not exist if not for Article 15(a). John Hooper spoke in support of the Petitioner and stated that he lives in the Haight Ashbury where the neighbors tried to form a Green Benefits District Committee but were unsuccessful. Roger Hoffman spoke in support of Petitioner and commented on jurisdiction and advisory committees created by a member of a policy body or the Mayor. Mr. Hoffman stated that Mr. McHugh received \$11,000 from former Supervisor Sheehy for neighborhood improvement.

Conan McHugh provided a summary of the Mission Dolores Green Benefits District's position. Mr. McHugh stated that he has posted all minutes of public meetings on their website. Mr. McHugh has invited individuals from the Mayor's Office to attend meetings. Mr. McHugh believes that the Sunshine Ordinance does not have jurisdiction. James Chappell, member of Mission Dolores GBD spoke in support of the Mr. McHugh and stated that this group of neighbors is not a policy body and was not created by Ordinance of the Board of Supervisors.

Member J. Wolf asked if City employees have attended meetings and Mr. McHugh responded that Jonathan Goldberg of Department of Public Works has.

Chair Wolfe wanted to know if City staff have been to meetings and how the money is spent within the process of the committee and why is money being spent on this group now.

Jonathan Goldberg, Public Works, provided a summary of the department's role in advising potential and current GDBs and stated that the city does not provide any funding to potential or current GDBs. Mr. Goldberg stated Public Works' goal is to make certain that potential GDBs have a mission/focus and provide advised as needed. Mr. Goldberg stated there is no timeline for planning groups to create a GBD.

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

Action: Moved by Member Cannata, seconded by Chair Wolfe, to find jurisdiction.

Public Comment:

Richard Knee commented on the quorum requirement.

The motion FAILED by the following vote:

Ayes: 5 - B. Wolfe, Hyland, LaHood, J. Wolf, Martin

Noes: 4 - Hinze, Cannata, Tesfai, Yankee

Absent: 2 - Cate and Chopra

Public Comment:

Lillian Stielstra spoke about needing more information and the importance of meetings being open and public.

7. **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. (02:57:00 – 04:09:21)

(On July 17, 2018, The Compliance and Amendments Committee determined that the SOTF has jurisdiction over the matter. On August 28, 2018, the Complaint Committee continued the matter to their next meeting and requested that the Respondent provide the requested information. On September 25, 2018, the Complaint Committee moved to continue the matter to the call of the Chair. On January 22, 2019, the Complaint Committee heard the matter and referred it to the SOTF for hearing.)

Robert Smith, (Petitioner) provided a summary of the complaint and requested the Committee find a violation. Mr. Smith stated that the Museum consistently does not produce documents. Mr. Smith spoke about silos 1, 2 and 3; that silo 1 (FAM) is a public department and silos 2 and 3 (Co-FAM and FAMSF) are private departments of the Museum. Mr. Smith stated that his request for documents is to silo 1 which is public and a City Department. Mr. Smith stated that he believes that all employees of the Museum are City employees. Mr. Smith stated that all employees of the Museums share the same computers and that the Museums are not providing records.

Melissa Powers, Fine Arts Museum, (Respondent), provided a summary of the department's position. Ms. Powers stated that Mr. Smith has received his responsive documents. Ms. Powers stated that Mr. Smith is not entitled to the records of Co-FAM.

Ms. Powers stated that she has asked Mr. Smith to provide search terms to narrow the scope of the request. Ms. Powers stated that she has a small pool of employees to review over 70,000 documents and inquired as to how do they find correspondence related to what Mr. Smith requests. Ms. Powers stated that not all of the employees of the Museum are City employees.

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

Member Cannata requested that the first 10% (7,000) of the 70,000 documents be made available by the Museums and should be provided to Mr. Smith before the next Committee meeting.

Action: Moved by Member Hyland, seconded by Member J. Wolf, to find that the Fine Arts Museums violated Administrative Code, Section 67.21(e) by failing to provide documents in a timely or complete manner.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 9 - Cannata, Hinze, Hyland, Martin, LaHood, Tesfai, J. Wolf, Yankee, B. Wolfe
Noes: 0 - None
Absent: 2 - Cate and Chopra

Chair B. Wolfe requested that the matter be referred to the Compliance and Amendments Committee to ensure that the requested records are provide to Mr. Smith on a rolling basis (10% of the total by the April meeting of the Committee).

SPECIAL ORDER

The hearings on File Nos. 18083, 18072, 19013 and 19010 will not begin earlier than 5:00 p.m.

8. **File No. 18083:** 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. (04:09:25 – 04:59:15)
(On January 22, 2019, the Complaint Committee moved to find that the SOTF has jurisdiction, that the requested records are public and to refer the matter to the SOTF for hearing.)

Robert Smith (Petitioner) provided a summary of the complaint and requested the Committee find a violation. Mr. Smith stated that he asked for documents related to the funding of the Islamic Fashions exhibit at the Museum. Mr. Smith stated has not received documents responsive to his request. Mr. Smith stated that he has been told the requested records contain personal information. Mr. Smith stated that Co-FAM is getting

money from admissions for exhibits at the Museum and that he should be provided those documents.

Melissa Powers, Fine Arts Museums (Respondent), provided a summary of the department's position. Ms. Powers stated that documents related to the exhibit have been produced to Mr. Smith and that there was very little to turn over. Megan Bourne, Fine Arts Museums, spoke in support of the Respondent and acknowledged that revenue from admissions goes to exhibits.

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

Action: Moved by Chair Wolfe, seconded by Member Cannata, to continue the matter to the call of the chair and requested that SOTF staff request information from the City Administrator regarding the contractual relationship of the Fine Arts Museums Foundation (FAM), the Corporation of the Fine Arts Museums (Co-FAM) and Fine Arts Museums of San Francisco (FAMSF).

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 9 - B. Wolfe, Cannata, Hyland, Hinze, LaHood, Tesfai, J. Wolf, Martin, Yankee

Noes: 0 - names

Absent: 2 - Cate and Chopra

9. **File No. 18072:** Complaint filed by Joshua Klipp against the Recreation and Parks Department 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. (04:59:04 – 05:03:02)

Joshua Klipp, (Petitioner) was notified on February 20, 2019, that the Respondent would not be available for the hearing and agreed to a continuance.

Tiffany Lin-Wilson, Recreation and Parks Department (Respondent), informed Administrator Leger on February 20, 2019, that they had a conflict and that their representative, Dennis Kern, would not be available for the hearing.

Action: Moved by Member Hinze, 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: 9 - Hinze, J. Wolf, Hyland, LaHood, Cannata, Tesfai, Martin, Yanakee,
B. Wolfe

Noes: 0

Absent: 2 - Cate and Chopra

10. **File No. 19013:** Hearing to review the SF Police Commission's response and actions on February 20, 2019, to SOTF Order of Determination regarding File No. 17131 - Magick Altman against the Police Commission. (05:04:12 – 05:08:24)

Chair Wolfe provide a summary of the actions of the Police Commission and their treatment of SOTF Orders of Determination. Member J. Wolf requested that staff inform Ms. Altman of the next hearing of the SOTF to discuss the matter.

11. **File No. 19010:** Consideration of actions to be taken regarding complaints pending before the Sunshine Ordinance Task Force filed by Anne Treboux against various city agencies due to inactivity and/or non-responsiveness to communications. (05:09:21 – 05:15:31)

Administrator Young provided a summary of possible actions that the SOTF can take to conclude Ms. Treboux's matters. Ms. Treboux has 28 open cases to be heard before an SOTF Committee. Administrator Young stated that he heard from Ms. Treboux who stated that she was unavailable for today's hearing due to illness. Administrator Young stated that there are no policies in the By-laws or Complaint Procedures that address what course of action to be taken and the issue should be referred to the Rules Committee. Administrator Young suggested that this matter be continued to the call of the Chair and that Ms. Treboux's matters should not be scheduled until she agrees to appear before the SOTF.

Public Comment:

Speakers: None.

No actions taken.

12. **Reports from Sunshine Ordinance Task Force Committees.** (05:15:39 - 05:21:03)

- Complaints Committee
- Compliance and Amendments Committee
- Education, Outreach and Training Committee
- Rules Committee
- Information Technology Ad Hoc Committee

The SOTF discussed the recent activities of the Committees.

Public Comment:

None.

No actions taken.

13. **Sunshine Ordinance Task Force - Chair's Report.** (05:21:17 – 05:36:05)

Chair B. Wolfe presented the Chair's Report.

Public Comment:

None.

No actions taken.

14. **Administrator's Report, Complaints and Communications.** (05:36:09 – 05:37:01)

- Task Force and Committee hearing schedule
- Complaints submitted and hearing files created
- Communications to the Task Force
 - January 29, 2019, letter from San Francisco Chronicle staff
- Summary of pending complaints and other issues

SOTF Administrators Leger and Young presented the Staff Report and responded to questions from the SOTF.

Public Comment:

None.

No actions taken.

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

There were no announcements.

Public Comment:

None.

No actions taken.

16. **ADJOURNMENT**

There being no further business the meeting was adjourned at 9:51 p.m.

APPROVED

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.