



# 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

April 5, 2017 - 4:00 PM

## Regular Meeting

Seat 1	Victoria Baranetsky	Seat 7	Dave Maass
Seat 2	Eric Eldon	Seat 8	Frank Cannata
Seat 3	Josh Wolf	Seat 9	Chris Hyland - <b>Vice Chair</b>
Seat 4	Rishi Chopra	Seat 10	Louise Fischer
Seat 5	Leuwam Tesfai	Seat 11	Fiona Hinze
Seat 6	Bruce Wolfe - <b>Chair</b>		

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 Wolfe called the meeting to order at 4:02 p.m. Members Chopra, Baranetsky, Eldon and J. Wolf were noted absent. There was a quorum.

Member Eldon was noted present at 4:05 p.m.

There were no agenda changes.

### 2. **Approval of minutes from the Sunshine Ordinance Task Force March 1, 2017, meeting.**

**Member Hinze, seconded by Member Fischer, moved to approve the March 1, 2017, meeting minutes.**

Public Comment:

None.

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

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 3 – Chopra, Baranetsky, J. Wolf

3. **File No. 16101:** Complaint filed by Michael Petrelis against Suzy Loftus, Police Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.15(d), by abridging or prohibiting public criticism of the policy, procedures, programs or services of the City, or of any other aspect of its proposals or activities. (00:01:35 – 00:46:22)

*(On February 21, 2017, the Education, Outreach and Training Committee reviewed the complaint and referred it to the Task Force with the recommendation to find violations.)*

**Member Hinze, seconded by Member Eldon, moved to find jurisdiction.**

Public Comment:

None.

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

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 3 – Chopra, Baranetsky, J. Wolf

Michael Petrelis (Petitioner/Complainant) provided an overview of the complaint and requested that the Task Force find violations. Mr. Petrelis stated that former Commissioner Suzy Loftus should have been required to attend the meeting even though she is no longer with the Police Commission. Mr. Petrelis stated that the Police Commission guidelines (Rule 3.2) violates his First Amendments rights to free speech and that he should have been allowed to provide public comment without interruptions. There were no speakers in support of the Petitioner/Complainant. The SOTF noted that Ms. Loftus was not present at the meeting and is no longer associated with the Police Commission. Sgt. Rachel Kilshaw, speaker as a witness for the Respondent, provided a summary of the department's position. Sgt. Kilshaw stated that the interruption of Mr. Petrelis' public comment did not count towards his public comment time. Sgt. Kilshaw read into the record the transcriptions of the meeting and stated that the interruptions were to request that Mr. Petrelis address the Commission and not a specific person. Sgt. Kilshaw stated that Police Commission, Rule 3.2 which requires that public comment be address to the commissions and not an individual was approved by the Office of the City Attorney. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

Deputy City Attorney Colla provided comments and responded to questions from the Task Force.

The SOTF opined that Police Commission, Rule 3.2 is incomplete and does not provide comprehensive information or justification. The SOTF believes that sections from the California Public Records Act and the Sunshine Ordinance should be referenced in order to provide comprehension information. In addition, the SOTF believes that the request to comply with Police Commission, Rule 3.2 forced Mr. Petrelis to amend and abridge his public comment in violation of Sunshine Ordinance, Section 67.15(d).

**Member Eldon, seconded by Member Hinze, moved to find that Suzy Loftus, Police Commission, violated Administrative Code (Sunshine Ordinance), Section 67.15(d), by interrupting and abridging public comment by requesting that public commenters not address or state the names of a specific person and to address all comments directly to the commission.**

Public Comment:

Ashy Worsham (Police Commission), provided a summary of the incident and responded to questions of the Task Force.

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

Ayes: 7 – Eldon, Tesfai, Maass, Cannata, Hinze, Hyland, B. Wolfe

Noes: 1 – Fischer

Absent: 3 – Chopra, Baranetsky, J. Wolf

In addition, the SOTF suggests that the Police Commission consider revising Rule 3.2 to coincide with Sunshine Ordinance. The SOTF requests that the Police Commission provide a response regarding the suggestion to amend Rule 3.2.

4. **File No. 16113:** Complaint filed by Larry Chan against Lieutenant Kathryn Waaland and the San Francisco Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, by failing to respond to a public records request in a timely and/or complete manner. (00:46:22 – 01:36:00)  
*(On March 28, 2017, the Complaint Committee reviewed the complaint and referred it to the Task Force without recommendations.)*

**Member Hinze, seconded by Member Eldon, moved to find jurisdiction.**

Public Comment:

None.

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

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 3 – Chopra, Baranetsky, J. Wolf

Larry Chan (Petitioner/Complainant) provided an overview of the complaint and requested that the Task Force find violations. There were no speakers in support of the Petitioner/Complainant. The representative from the Police Department (Respondent) was not present. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

Deputy City Attorney Colla provided comments and responded to questions from the Task Force.

**Member Cannata, seconded by Member Tesfai, moved to find that Lieutenant Kathryn Waaland and the Police Department violated Administrative Code (Sunshine Ordinance), Sections 67.21(e) 67.26 and 67.27, by failing to send an authorized representative to the hearing to explain the basis of its decision to withhold the requested records, failing to keep withholding to a minimum and failing to provide sufficient justification for redaction public records.**

Public Comment:

Michael Petrelis expressed support for the motion and stated that the police department should have send a representative.

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

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe  
Noes: 0 – None  
Absent: 3 – Chopra, Baranetsky, J. Wolf

**Vice Chair Hyland, seconded by Member Cannata, moved to find that Lieutenant Kathryn Waaland and the Police Department violated Administrative Code (Sunshine Ordinance), Section 67.21(e), by failing to respond to a request for public records in a complete manner. The complaint shall be referred to the Compliance and Amendments Committee and it is ordered that the Police Department re-submit records provided via the Police Department December 9, 2016, communications in a format that limits redactions to identifying information.**

Public Comment:

None.

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

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe  
Noes: 0 – None  
Absent: 3 – Chopra, Baranetsky, J. Wolf

The Task Force requests that it be noted that pursuant to Administrative Code (Sunshine Ordinance), Section 67.21(e), that if the Respondent does not comply with the Order of Determination within five days of issuance the Task Force shall notify the district attorney or the attorney general who may take whatever measures she or he deems necessary to insure compliance with the provision of the Sunshine Ordinance.

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

Speakers:

Michael Petrelis expressed thanks for the members of the SOTF and requested that the SOTF meetings be televised.

6. **File No. 16083:** 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 complete manner. (01:37:00 – 02:06:00)

*(On February 28, 2017, the Complaint Committee reviewed the complaint and referred it to the Task Force with the recommendation to find no violations.)*

**Member Tesfai, seconded by Member Fischer, moved to find jurisdiction.**

Public Comment:

None.

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

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 3 – Chopra, Baranetsky, J. Wolf

The Petitioner/Complainant informed the SOTF that she would not be able to attend. There were no speakers in support of the Petitioner/Complainant. Kate Patterson, Arts Commission (Respondent) provided an overview of the department's position. Ms. Patterson provided the relevant code sections which allowed for the redaction of records in order to protect parties involved. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

Deputy City Attorney Colla provided comments and responded to questions from the Task Force.

**Member Tesfai, seconded by Member Hinze, moved that Kate Patterson and the Arts Commission did not violate Administrative Code (Sunshine Ordinance), Section 67.25.**

Public Comment:

None.

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

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 3 – Chopra, Baranetsky, J. Wolf

7. **File No. 16096:** 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. (02:06:00 – 02:10:00)  
*(On February 28, 2017, the Complaint Committee reviewed the complaint and referred it to the Task Force with the recommendation to find violations.)*

**Member Tesfai, seconded by Member Hinze, moved to find jurisdiction.**

Public Comment:

None.

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

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 3 – Chopra, Baranetsky, J. Wolf

The Petitioner/Complainant informed the SOTF that she would not be able to attend. There were no speakers in support of the Petitioner/Complainant. Kate Patterson, Arts Commission (Respondent) provided an overview of the department's position. Ms. Patterson acknowledged that the response was late due to a miscommunication among staff members but all documents have been provided. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

**Member Maass, seconded by Member Hinze, moved that Kate Patterson and the Arts Commission violated Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure request in a timely manner.**

Public Comment:

None.

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

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 3 – Chopra, Baranetsky, J. Wolf

8. **File No. 16097:** 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. (02:10:00 – 02:15:00)  
*(On February 28, 2017, the Complaint Committee reviewed the complaint and referred it to the Task Force with the recommendation to find violations.)*

**Member Tesfai, seconded by Member Cannata, moved to find jurisdiction.**

Public Comment:

None.

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

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 3 – Chopra, Baranetsky, J. Wolf

The Petitioner/Complainant informed the SOTF that she would not be able to attend. There were no speakers in support of the Petitioner/Complainant. Kate Patterson, Arts Commission (Respondent) provided an overview of the department's position. Ms. Patterson acknowledged that the response was late due to a miscommunication among staff members but a response was provided stating that the Arts Commission does not have any responsive records. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

**Member Cannata, seconded by Member Maass, moved that Kate Patterson and the Arts Commission violated Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure request in a timely manner.**

Public Comment:

None.

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

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 3 – Chopra, Baranetsky, J. Wolf

9. **File No. 17001:** Complaint filed by Ann Treboux against Kate Patterson and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner. (02:15:00 – 02:24:00)

*(On February 28, 2017, the Complaint Committee reviewed the complaint and referred it to the Task Force with the recommendation to find violations.)*

**Member Tesfai, seconded by Member Cannata, moved to find jurisdiction.**

Public Comment:

None.

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

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 3 – Chopra, Baranetsky, J. Wolf

The Petitioner/Complainant informed the SOTF that she would not be able to attend. There were no speakers in support of the Petitioner/Complainant. Kate Patterson, Arts Commission (Respondent) provided an overview of the department's position. Ms. Patterson acknowledged that the response was late but all documents have been provided. In addition, Ms. Patterson stated that the Arts Commission has discontinued the use of the general email address for public records request due to technical issues. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

**Member Tesfai, seconded by Member Cannata, moved that Kate Patterson and the Arts Commission violated Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure request in a timely manner.**

Public Comment:

None.

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

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 3 – Chopra, Baranetsky, J. Wolf



10. **File No. 16093: Review and possible amendments to the Sunshine Ordinance Task Force By-Laws and Complaint Procedures. (02:24:00 – 03:14:00)**
- Maximum number of hearings per person/meeting
  - Rules of Reason
  - Vexatious Complainants/Respondents
  - How to treat Ethics Commission rulings that disagree with the decision of the Task Force
  - Duplicate filings and/or re-adjudication
  - Precedence and Log of Task Force decisions
  - Other issues related to the Task Force By Laws and Complaint Procedures

The SOTF discussed the Complaint Procedures and proposed amendments.

**Vice Chair Hyland, seconded by Member Hinze, moved to adopt the Complaint Procedures with technical amendments.**

Public Comment:  
None.

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

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe  
Noes: 0 – None  
Absent: 3 – Chopra, Baranetsky, J. Wolf

**Member Cannata, seconded by Member Maass, moved to set a limit of two complaints to be schedule for any SOTF or Committee hearings for each Complainant/Petitioner per meeting.**

Public Comment:  
None.

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

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe  
Noes: 0 – None  
Absent: 3 – Chopra, Baranetsky, J. Wolf

**Chair Wolfe, seconded by Member Tesfai, moved to authorize SOTF Committees to determine if requested records are public for complaints related for Administrative Code (Sunshine Ordinance), Section 67.21 and 67.25.**

Public Comment:  
None.

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

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 3 – Chopra, Baranetsky, J. Wolf

The SOTF discussed issues related to the Rules of Reason. City Attorney Colla provided information on the matter and stated that he would provide a copy of a memo regarding the matter.

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

- City Attorney's Memorandum regarding public records on personal electronic devices (*attachment*)
- Sunshine Ordinance Task Force - Annual Report (2016-2017)

Chair Wolfe presented the Chair's Report and answered questions from the SOTF.

Deputy City Attorney Colla provided comments and responded to questions from the Task Force.

Public Comment:

None.

- **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

Task Force Administrator Victor Young provided a summary of the Administrator's Report.

Public Comment:

None.

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

Member Maass requested that the SOTF conduct a hearing to review the Police Departments Public Records Center and its new compliance system (software).

Member Maass requested a hearing regarding email and out of office messages in related to public records requests. Chair Wolfe suggested that the IT Ad Hoc Committee schedule a hearing on the matter.

13. **ADJOURNMENT**

**Chair Wolfe, seconded by Member Cannata, moved to adjourn the meeting.**

**By a rise in vote the meeting was adjourned without objection at 8:18 p.m.**

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.

**APPROVED by the Sunshine Ordinance Task Force: May 3, 2017**