



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 28, 2017
5:30 PM – 7:30 PM**

Regular Meeting

Members: Leuwam Tesfai (Chair), Fiona Hinze, Victoria Baranetsky

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. There was a quorum.

Member Baranetsky was noted present at 5:35 p.m.

Member Hinze, seconded by Member Baranetsky, moved to hear Item No. 9 out of order to be heard prior to Item No. 2.

Public Comment:

Ann Treboux objected to the change of the agenda order and requested that her items be move to the beginning of the meeting.

The motion PASSED by the following vote:

Ayes: 3 - Baranetsky, Hinze, Tesfai
Noes: 0 - None

Chair Tesfai, seconded by Member Baranetsky, moved to hear Items Nos. 5, 6, 7, and 8 out of order to be heard prior to Item No. 3.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Baranetsky, Hinze, Tesfai

Noes: 0 - None

2. **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:

None.

The Complaint Committee (Committee) shall hold hearing(s) on File No(s). 16113, 17001, 17005, 16083, 16096 and 16097 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 Complainant and Respondent may attend to provide clarification, evidence and related testimony. However, attendance by the Complainant and Respondent is **not required** at the February 28, 2017, Complaint Committee meeting.

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. The Complaint and Respondent will be required to attend the Task Force meeting to review the merits of the complaint(s).

3. **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. (00:54:00 – 01:13:00)
(On January 24, 2017, the Complaint Committee reviewed the complaint, requested that certain questions be transmitted to the Respondent and continued the matter to the next meeting of the Committee.)

Larry Chan (Complainant) provided a summary of the complaint. Mr. Chan stated that the investigation of the Police complaint in question has ended but an appeal of the findings is pending. Task Force Administrator Victor Young noted that the Police Department responded to questions from the Committee regarding the status of the Police complaint and the nature of the redactions.

Upon review of the Police Department's response the Committee opined that the reason for the redaction is unclear as the nature of the information that was redacted cannot be evaluated without testimony from the Police Department.

Member Hinze, seconded by Member Baranetsky, moved to continue the matter to the call of the chair and requested the attendance of a representative from the Police Department at the next meeting before Complaint Committee.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 3 - Baranetsky, Hinze, Tesfai
Noes: 0 - None

4. **File No. 17005:** Complaint filed by Janelle Caywood against City Administrator Naomi Kelly and the Office of the City Administrator for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.34, by failing to respond to a request for public records in a timely and/or complete manner and for willful failure to discharge any duties imposed by the Sunshine Ordinance. (01:13:00 -)

Jack Gallagher, Office of the City Administrator (Respondent) provided a summary of the department's position. Mr. Gallagher stated that the department provided a response to Ms. Caywood's initial response in a timely manner. Mr. Gallagher described the process used to search for the requested records and how the record is maintained. Mr. Gallagher stated that due to a difference in terminology there was a need to work with Ms. Caywood to clarify what records were requested but all requested records were provided. Mr. Gallagher also stated that Ms. Caywood has other request for records pending that are unrelated to the current complaint before the Task Force.

The Committee opined that it appears that the records requested by Ms. Caywood have been provided. The Committee requested that Task Force staff contact Ms. Caywood to ask if she would like to withdraw her complaint as it appears that the requested records have been provided. If Ms. Caywood would like to proceed with the complaint the Committee requested that Ms. Caywood appear at the next Complaint Committee meeting to provide additional information regarding the complaint.

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

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 3 - Baranetsky, Hinze, Tesfai
Noes: 0 - None

5. **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. (00:05:20 – 00:22:00)

(On January 24, 2017, the Complaint Committee reviewed the complaint, requested that the Respondent attend the next meeting of the Committee and continued the matter to the next meeting of the Committee.)

Ann Treboux (Complainant) provided a summary of the complaint and stated that she has not received all of the requested records. Ms. Treboux indicated that in addition to not receiving the request records an inventory of records and justification for withholding records were not provided. Rebekah Krell, Arts Commission (Respondent) provided a summary of the department's position and answered questioned from the Task Force. Task Force Administrator Victor Young noted that pursuant to the Arts Commission's written response Ms. Treboux made a similar request for records related to harassment Arts Commission employee's in which the Task Force found no violations (Complaint No. 15114).

The Committee opined that the justification for withholding the requested documents remain valid.

Member Hinze, seconded by Member Baranetsky, moved to refer the matter to the Task Force with the recommendation to find jurisdiction and find 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: 3 - Baranetsky, Hinze, Tesfai
Noes: 0 - None

6. **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. (00:22:00 – 00:32:00)

(On January 24, 2017, the Complaint Committee continued the matter to the next meeting of Committee.)

Ann Treboux (Complainant) provided a summary of the complaint and stated that she has not received all of the requested records. Ms. Treboux indicated that in addition to not receiving the request records an inventory of records and justification for withholding records were not provided. Rebekah Krell, Arts Commission (Respondent) acknowledged that the response to the Immediate Disclosure Request was late but that

the requested documents were provided upon Ms. Patterson's return to the Office. Ms. Krell noted the January 3, 2017 email to Ms. Treboux with the requested records attached and stated that all records were provided. Ms. Krell stated that the Arts Commission has discontinued the use of a central email address due to technical issues and that all requests for records should now be sent directly to Ms. Patterson.

The Committee opined that the request records were provided to Ms. Treboux but were not provided in a timely manner.

Member Hinze, seconded by Member Baranetsky, moved to refer the matter to the Task Force with the recommendation to find jurisdiction and find that Kate Patterson and the Arts Commission violated Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Requesting in a timely manner.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 3 - Baranetsky, Hinze, Tesfai
Noes: 0 - None

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. (00:32:00 – 00:40:00)

Ann Treboux (Complainant) provided a summary of the complaint and stated that she has not received all of the requested records. Ms. Treboux indicated that in addition to not receiving the request records an inventory of records and justification for withholding records were not provided. Rebekah Krell, Arts Commission (Respondent) acknowledged that the response to the Immediate Disclosure Request was late but that the requested documents maintained by Arts Commission were provided upon Ms. Patterson's return to the Office. Ms. Krell stated that due to a miscommunication responsibility for records requests were delayed. Ms. Krell stated that the Arts Commission complied with Ms. Treboux request to make an appointment to inspect the records in person.

The Committee opined that the request records were provided to Ms. Treboux but were not provided in a timely manner.

Member Hinze, seconded by Member Baranetsky, moved to refer the matter to the Task Force with the recommendation to find jurisdiction and find that Kate Patterson and the Arts Commission violated Administrative Code (Sunshine

Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Requesting in a timely manner.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Baranetsky, Hinze, Tesfai

Noes: 0 - None

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. (00:40:00 – 00:54:00)

Ann Treboux (Complainant) provided a summary of the complaint and stated that she has not received all of the requested records. Ms. Treboux indicated that in addition to not receiving the request records an inventory of records and justification for withholding records were not provided. Rebekah Krell, Arts Commission (Respondent) acknowledged that the response to the Immediate Disclosure Request was late but that a response was provided stating that any records regarding the matter are considering confidential attorney-client communications, language was provided to Ms. Treboux providing justification for withholding privileged communications, and that the Arts Commission does not have any other response records. Ms. Krell stated that due to a miscommunication responsibility for records requests were delayed.

The Committee responded to Ms. Treboux comment and opined that attorney-client confidentiality remains a valid justification for withholding even after a court case is close regarding a specific subject.

Member Hinze, seconded by Member Baranetsky, moved to refer the matter to the Task Force with the recommendation to find jurisdiction and find that Kate Patterson and the Arts Commission violated Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Requesting in a timely manner.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 3 - Baranetsky, Hinze, Tesfai

Noes: 0 - None

9. **Approval of the January 24, 2017, Complaint Committee meeting minutes.**

The Committee discussed the draft minutes.

Member Hinze, seconded by Member Baranetsky, moved to approve the January 24, 2017, Complaint Committee meeting minutes.

Public Comment:

Speakers: None.

The motion PASSED by the following vote:

Ayes: 3 - Baranetsky, Hinze, Tesfai

Noes: 0 - None

10. **Announcements, Comments, Questions, Future Agenda Items, and Pending Calendar.**

There were no announcements or comments by members of the Committee.

11. **ADJOURNMENT**

There being no further business the meeting was adjourned at 7:02 p.m.

**APPROVED: March 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.