



**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**

**May 23, 2017**  
**5:30 PM – 7:30 PM**

**Regular Meeting**

**Members:** Leuwam Tesfai (Chair), Fiona Hinze, Bruce Wolfe

**1. CALL TO ORDER, ROLL CALL, AND AGENDA CHANGES**

Chair Leuwam Tesfai called the meeting to order at 5:37 p.m. On the call of the roll Chair Tesfai, Member Hinze and Member Wolfe were noted present. There was a quorum.

There were no agenda changes.

**2. Approval of the April 25, 2017, Complaint Committee meeting minutes.**

The Committee discussed the draft minutes.

**Member Hinze, seconded by Member Wolfe, moved to approve the April 25, 2017, Complaint Committee meeting minutes.**

Public Comment:

Speakers: None.

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

Ayes: 3 - Wolfe, Hinze, Tesfai

Noes: 0 - None

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:

None.

The Complaint Committee (Committee) shall hold hearings on File Nos. 17016, 17027, 17031, 17038 and 17039 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. 17016:** Complaint filed by Jerry Dratler against Ben Rosenfield and the Office of the Controller 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.

*(On April 25, 2017, the Complaint Committee found that the Sunshine Ordinance Task Force has jurisdiction, request the petitioner to provide additional documents and continued the matter.)*

The Complaint Committee previously determine that the Sunshine Ordinance Task Force has jurisdiction in the matter on March 28, 2017.

Jerry Dratler (Petitioner), provided a summary of the complaint and stated that work papers are not protected records and should be provided. Mr. Dratler stated that he has not received Appendix A and has not received the draft/final report regarding General Hospital. There were no speakers on behalf of the Petitioner. Tonia Lediju, Office of the Controller (Respondent), provided a summary of the department's position and stated that the Controller's Office complies with all yellow book standards in regards to auditing practices. Ms. Lediju stated that the Controller's Office is not hiding any findings or recommendations and all records have been provided and/or posted online. Ms. Lediju stated that the contractor is working in conjunction with the Controller's Office and all documents created by the contractor are consider work papers of the Controller's Office. Ms. Lediju stated that a final/draft documents was not created for the General Hospital report and only a final report was issued. There were no speakers on behalf of the Respondent. A question and answer period followed. The parties were provided an opportunity for rebuttals.

**Member Wolfe, seconded by Member Hinze, moved to refer the matter to the Sunshine Ordinance Task Force with a recommendation to find a violation of Administrative Code (Sunshine Ordinance), Section 67.21(b), for failure to respond to a public records request.**

Public Comment:

Speakers: None.

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

Ayes: 3 - Wolfe, Hinze, Tesfai

Noes: 0 - None

5. **File No. 17027:** Complaint filed by Anonymous against Anne Brask, Christine Silva, John Rahaim and the Planning Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failure to respond to an Immediate Disclosure Request in a timely and/or complete manner.

**Member Hinze, seconded by Member Wolfe, moved to find jurisdiction over the matter.**

Public Comment:

None.

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

Ayes: 3 - Wolfe, Hinze, Tesfai

Noes: 0 - None

The Petitioner was not present at the hearing. Ms. Tsang spoke on behalf of the Petitioner and provided samples of the past actions of the Planning Department. Christine Silva, Planning Department (Respondent), provided a summary of the department's position and stated that the department is in compliance with the requirements of the Sunshine Ordinance. Ms. Silva provided a timeline of actions and summarized the documents provided to the Petitioner. There were no speakers on behalf of the Respondent. A question and answer period followed. The parties were provided an opportunity for rebuttals.

The Committee noted that the follow up request from the Petitioner appears to be comments and questions regarding the validity of the response provided by the Planning Department and not a request for additional public records.

**Member Wolfe, seconded by Member Hinze, moved to refer the matter to the Sunshine Ordinance Task Force with a recommendation to find that the Planning Department did not violate Administrative Code (Sunshine Ordinance), Sections 67.21 or 67.25.**

Public Comment:

Speakers: None.

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

Ayes: 3 - Wolfe, Hinze, Tesfai

Noes: 0 - None

6. **File No. 17031:** Complaint filed by Ann Treboux against the Sheriff's Department for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and complete manner.

**Member Hinze, seconded by Member Wolfe, moved to find jurisdiction over the matter.**

Public Comment:

None.

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

Ayes: 3 - Wolfe, Hinze, Tesfai

Noes: 0 - None

Ann Treboux (Petitioner) provided a summary of the complaint and requested the Task Force for find violations. There were no speakers on behalf of the Petitioner. Mark Nicco, Office of the Sheriff (Respondent), provided a summary of the department's position and acknowledged that the response to the Immediate Disclosure Request was late. Mr. Nicco stated that the general mailbox was not checked in a timely manner and that when the email was retrieved the title which requested an immediate response was missed. There were no speakers on behalf of the Respondent. A question and answer period followed. The parties were provided an opportunity for rebuttals.

**Member Wolfe, seconded by Member Hinze, moved to refer the matter to the Sunshine Ordinance Task Force with a recommendation to find a violations of Administrative Code (Sunshine Ordinance), Section 67.25, for failing to respond to an Immediate Disclosure Request in a timely manner.**

The Committee waived the appearance of the parties at the full Task Force hearing as the parties agree that a violation occurred.

Public Comment:

Speakers: None.

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

Ayes: 3 - Wolfe, Hinze, Tesfai

Noes: 0 - None

7. **File No. 17038:** Complaint filed by Gregory Berlin, Aqua Terra Aeris Law Group, against the Office of the Treasurer and Tax Collector, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.26, by failing to respond to public records request in a complete manner and failing to keep withholding of records to a minimum.

**Member Wolfe, seconded by Member Hinze, moved to find jurisdiction over the matter.**

Public Comment:

None.

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

Ayes: 3 - Wolfe, Hinze, Tesfai

Noes: 0 - None

Gregory Berlin (Petitioner) provided a summary of the complaint and requested the Task Force for find violations. Mr. Berlin objects to the department's redaction of certain records and provided examples of other entities providing similar information. There were no speakers on behalf of the Petitioner. Debra Lew, Treasurer/Tax Collector (Respondent), provided a summary of the department's position and stated that information disclosed by taxpayers is confidential as disclosure could disadvantage the taxpayer if the information was distributed to the public. Ms. Lew stated that if specific information was accidentally distributed previously the department is not now required to disclose similar information. There were no speakers on behalf of the Respondent. The parties were provided an opportunity for rebuttals.

The Committee opined that that public records laws specify that the disclosure of public records that "would" disadvantage specific parties may be redacted but the Treasurer/Tax Collector must have proof of the creation of a disadvantage through disclosure.

**Member Wolfe, seconded by Member Hinze, moved to refer the matter to the Sunshine Ordinance Task Force with a recommendation to find a violations of Administrative Code (Sunshine Ordinance), Section 67.25(c), for failing to inform the requester of the nature and extent of the non-exempt information and inquire as to the requester's purpose for seeking it, in order to suggest alternative sources for the information which may involve less redaction or to otherwise prepare a response to the request.**

Public Comment:

Speakers: None.

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

Ayes: 3 - Wolfe, Hinze, Tesfai

Noes: 0 - None

8. **File No. 17039:** Complaint filed by Thomas Busse against the San Francisco Public Finance Authority for allegedly violating Administrative Code (Sunshine Ordinance), Chapter 67, by failing to notice and conduct public hearings and failing to respond to request for public records.

Thomas Busse (Complainant) provided a summary of his complaint and request that the Task Force take action. SOTF Administrator Victor Young noted that a Respondent could not be identified.

Member Bruce Wolfe provided a summary of his research into the Public Finance Authority. Member Wolfe stated that since the imposition of a tax would be on the residents of the City and County of San Francisco (CCSF) and that the administration and burden of the ballot initiative is also under the jurisdiction of CCSF and their taxpayers, there appears to be a preponderance and gravity towards the CCSF that these bodies come under compliance of the Sunshine Ordinance. However, the language of the Sunshine Ordinance provides for an application to all agencies, boards and commissions created by the City Charter or by Ordinance or Resolution passed by the Board of Supervisors. The Public Finance Authority was created by state law which assigned representatives from the Board of Supervisors and the Board of Education to be members of the Public Finance Authority.

**Member Wolfe, seconded by Member Hinze, moved to find jurisdiction over the matter.**

Public Comment:  
None.

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

Ayes: 3 - Wolfe, Hinze, Tesfai  
Noes: 0 – None

**Member Wolfe, seconded by Member Hinze, moved to continue the matter to the next meeting of the Complaint Committee.**

Public Comment:  
None.

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

Ayes: 3 - Wolfe, Hinze, Tesfai  
Noes: 0 – None

The Committee requested that a request for representatives from the Board of Supervisors and the Board of Education attend the next meeting of the Complaint Committee to provide information regarding the Public Finance Authority and the lack of meetings and related documentation.

The Complaint Committee (Committee) shall review File Nos. 17028, 17029, 17045, 17046 to determine if the Sunshine Ordinance Task Force has jurisdiction and determine if the requested records are public pursuant to Administrative Code (Sunshine Ordinance), Sections 67.21(e). The Complainant and Respondent are **not required** to attend the May 23, 2017, 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.

Chair Tesfai requested that items Nos. 9 through 12 be called and heard together (Files Nos. 17028, 17029, 17045 and 17046).

9. **File No. 17028:** 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. (*attachment*)

See Item No. 12 (File No. 17046) for actions.

10. **File No. 17029:** Complaint filed by Ann Treboux against Howard Lazar and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, by failing to include the 150 word submitted public comment into the body of the minutes (Advisory Committee of Street Artist and Crafts Examiners, March 30, 2017, meeting). (*attachment*)

a) See Item No. 12 (File No. 17046) for actions.

11. **File No. 17045:** 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. (*attachment*)

See Item No. 12 (File No. 17046) for actions.

12. **File No. 17046:** 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. (*attachment*)

Items Nos. 9 through 12 (File Nos. 17028, 17029, 17045 and 17046) were called and heard together. The Committee discuss issues related to jurisdiction.

**Member Wolfe, seconded by Member Hinze, moved to find that the Sunshine Ordinance Task Force has jurisdiction in the matters listed in File Nos. 17028, 17029, 17045 and 17046 and that the public records in question are public records. (A hearing on the merits of the complaint will be scheduled on a future date.)**

Public Comment:

None.

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

Ayes: 3 - Wolfe, Hinze, Tesfai

Noes: 0 – None

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

Member Wolfe requested that his notes regarding File No. 17039 be included as part of the file.

**14. ADJOURNMENT**

There being no further business the meeting was adjourned at 7:25 p.m.

**APPROVED: June 27, 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.