



**SUNSHINE ORDINANCE TASK FORCE**  
**Rules Committee**  
**CITY AND COUNTY OF SAN FRANCISCO**  
**MINUTES DRAFT**

**Hearing Room 408**  
**City Hall, 1 Dr. Carlton B. Goodlett Place**  
**San Francisco, CA 94102-4689**

**September 26, 2017 - 4:00 PM**

**Special Meeting**

**Members:** Fiona Hinze (Chair), Chris Hyland, Louise Fischer

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

Member Dave Maass was appointed to the serve on the September 26, 2017, Rules Committee in place of Member Chris Hyland.

Chair Fiona Hinze called the meeting to order at 4:05 p.m. On the call of the roll Chair Hinze and Member Maass were noted present. There was a quorum.

Member Fischer was noted present at 4:06 p.m.

There were no agenda changes.

**2. Adoption of the minutes for the October 25, 2016, Rules Committee meetings.**

The Committee discussed the draft minutes.

**Member Maass, seconded by Chair Hinze, moved to approve the October 25, 2016, Complaint Committee meeting minutes.**

Public Comment:  
None.

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

Ayes: 3 – Maass, Fischer, Hinze  
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:

Male Speaker commented on his experience regarding being informed he could not perform in Union Square. (The Committee provided suggestions as to where to obtain a permit to perform).

Ann Treboux submitted the following summary of her public comment:

“Ann Tricky, The Street Artist Program did a faulty investigation. She claimed that she saw me in a google map search selling mass produced items from a table on Market near Spear. The photo was of Market and Drumm and neither me or a table was visible in the photo. Anne Trickey did another Goggle Map search and claimed that I live in a Japanese Restaurant at 129 E. 60ST ST. NYC. Her photo did not depict a Japanese restaurant but a 5 story building. She further claimed that a photo of a Buszzer System was mailboxes and my name was not on them. Margaret Baumgartner of the SF City Attorney's Office attempted to take documents left on the podium at the last appeals hearing. Trickey called my family and tenants in NYC. NYPD Police reports have been filed against her. Clearly there are issues within the street artist program.“

4. **File No. 17103:** Review and possible amendments to the Sunshine Ordinance Task Force By-Laws and Complaint Procedures.

The Committee intends to review the following topics:

- Rules of Reason
- Reconsideration Procedures (Requirements)
- Timeline for responding to SOTF Complaints
- Processing complaints for parties who are unable to attend in person
- Process for complaints and other issues to be initiated by members of the Task Force
- Vote requirement
- Process for reviewing redacted documents
- Other issues related to the By-laws and Complaint Procedures

The Committee discussed proposed changes to the Task Force By-Laws and Complaint Procedures.

The Committee reviewed and proposed revision to the draft language regarding the Rules of Reason and suggested the following:

- Require that the department head authorize the justification that Rule of Reason is justified and that they be a named respondent. (Requiring that the City Attorney authorize invocation of Rule of Reason was not supported.)
- Require that Respondents complaint by California Government Code 6253.1 by proving the proof or acknowledgement that they:
  - Provided assistance in identifying responsive records
  - Described the information technology and physical location of the records

- Provide suggestions for overcoming any practical basis for denying access to records
- Made a reasonable effort to elicit additional clarifying information from the requester to help identify or narrow the public record
- The Respondent will be requested to inform the Task Force if the requester requested a statement as to the “existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records” within seven days.
- The SOTF will use the following criteria or information to determine if the Rules of Reason is applicable (and request the respondent to provide):
  - Estimate of time and resource required to fulfill request
  - Amount of time and resource Respondent has expended to date
  - Amount of time and resources the Respondent would not consider “unduly burdensome”
  - Proof that the Respondent sought greater resources to comply with requests
  - Sample of records it could provide during a reasonable period of time
  - Inventory or records and categories of records identified so far that are responsive to the request

The Committee reviewed the process for reconsideration of complaints and the following was suggested:

- Remove the reconsider of complaints except for situation of administrative errors.
- Clarify the procedure to read as follows to ensure that evidence that new information exist that would change the outcome of the complaint:

Within 10 days of receipt of the Order of Determination, either the complainant or respondent may petition the SOTF for reconsideration only if information exists that was not available at the time of the hearing. The petitioning party must present an offer of proof and documentation as to the new information and provide a written explanation as to how the new information may change the Task Force’s original determination. The SOTF will accept no more than one request for reconsideration per Order of Determination.

The Task Force or its Committee shall consider the petition at its next scheduled meeting and determine if new information exist, is relevant and may change the outcome of the complaint. If a petition for reconsideration is granted, the hearing will be reopened on the complaint to consider the new information. The complaint shall be scheduled before the SOTF or one of its Committees on a future date for a hearing on the merits of the complaint with the inclusion of the new information.

The Committee discussed the timeliness for departments to respond to SOTF complaint and no suggestions were provided.

The Committee discussed complaints for parties who are unable to attend in person. SOTF Administrator Young noted that the procedures currently allow for accommodations for special circumstances and suggested that the following language be included in the notice of hearing:

*Complainants: Your attendance is required for this meeting/hearing. (If you are unable to attend the meeting please contact the SOTF Office. Accommodations may be available in certain circumstances or you may request the Task Force to hear your complaint without your attendance base solely upon submitted documents.)*

The Committee discussed the potential process for complaints against departments to be initiated by members of the Task Force. The Committee suggested that a new procedure should be developed. The Committee requested that the City Attorney provided advice as to whether or not the SOTF can initiate a complaint against a city agency on their own initiative and how it might be accomplished.

The Committee discussed the possibility of changing the vote requirement due to the lack of a full complement of sitting members. The issue of allowing continuance due to absences of SOTF members was discussed. Chair Bruce Wolfe provided a history of past attempts to change the vote requirement and the recruitment of members to the vacant SOTF seats. Chair Wolfe indicated a ballot initiative would be require to change any vote requirement.

The Committee discussed the possibility of reviewing documents redacted by departments to determine if they have been appropriately redacted. It was requested that inquires be made as to the possibility of having an authorized outside parties (a court judge) review redacted documents on behalf of the Task Force to determine if documents were redacted appropriately. Member Fischer stated that it is the judgement of the SOTF to determine if a party's testimony is believable and/or trusted.

**Member Maass, seconded by Member Fischer, moved to approve the Rules Committee's suggestions and to refer the matter to the Task Force for additional discussions.**

Public Comment:

Francisco DaCosta stated that the Ethics Commission is having similar discussion and the experience of former Task Force members is missing. Mr. DaCosta stated that there is no vision for the future and the boat needs to be rocked.

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

Ayes: 3 – Maass, Fischer, Hinze

Noes: 0 – None

**5. Announcements, Comments, Questions, and Future Agenda Items by Members of the Rules Committee.**

Member Maass suggested that the discussion of the meeting should have been televised.

6. **ADJOURNMENT**

There being no further business the meeting was adjourned at 5:33 p.m.

**APPROVED: DRAFT**

**Rules 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.