



**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**

**January 23, 2018**  
**5:30 PM – 7:30 PM**

**Regular Meeting**

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

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

Member Louise Fischer was appointed to serve as a member of the Complaint Committee for the meeting of January 23, 2018, in place of Member Bruce Wolfe.

Acting Chair Hinze called the meeting to order at 5:44 p.m. On the call of the roll Acting Chair Hinze and Member Fischer were noted present. Chair Tesfai and Member B. Wolfe noted absent/excused. There was a quorum.

**Public Comment:**

Pauline Silva-Re, Juvenile Probation, request that Complaint No. 17123 be moved up on the agenda due to elder care issues.

Ann Treboux requested that her items be moved up on the agenda.

**Member Fischer, seconded by Acting Chair Hinze, moved to move Item Nos. 10-14 and Item No. 6 to the beginning of the agenda.**

**Public Comment:**

Male Speaker provided comments on merits of Complaint No. 17134.

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

Ayes: 2 – Hinze, Fischer

Noes: 0 – None

Absent: 1 – B. Wolfe

Excused: 1 – Tesfai

2. Approval of the November 28, 2017, Complaint Committee meeting minutes.

The Committee discussed the draft minutes.

**Acting Chair Hinze, seconded by Member Fischer, moved to approve the November 28, 2017, Complaint Committee meeting minutes.**

Public Comment:

None.

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

Ayes: 2 – Hinze, Fischer

Noes: 0 – None

Absent: 1 – B. Wolfe

Excused: 1 – Tesfai

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:

Ann Treboux described her experience with the Arts Commission regarding a January 22-23 luncheon and/or meeting.

The Complaint Committee (Committee) shall hold hearing(s) on File No(s). 17129, 17122, 17123, 17124, 17130 and 17133 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. 17129:** Complaint filed by Patrick Roddie against the Department of Public Health 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. (00:21:00 – 00:33:00)

Patrick Roddie (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Roddie summarized the reason for his records request and stated that if the department has access to public records held by other organizations they must retrieve and provide them. Linda Acosta, Department of Public Health (Respondent), provided a summary of the department's position. Ms. Acosta stated that the department is unable to and are not required to create records or reports as requested by Mr. Roddie. Ms. Acosta stated that the records in question are in possession of the State Department of Public Health and is not under the control of their department. In addition, Ms. Acosta stated their the California Department of Public Health has advised

that public records request in question must be made directly to the them pursuant to Government Code, Sections 6254(c) and 6254(g). A question and answer period occurred.

**Acting Chair Hinze, seconded by Member Fischer, moved to find that the Sunshine Ordinance Task Force (SOTF) has jurisdiction and refer the matter to the SOTF for hearing with a recommendation to find no violations of Administrative Code (Sunshine Ordinance), Section 67.21 (timely response to public records request).**

Public Comment:

None.

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

Ayes: 2 – Hinze, Fischer

Noes: 0 – None

Absent: 1 – B. Wolfe

Excused: 1 – Tesfai

5. **File No. 17122:** Complaint filed by the La Playa Park Neighborhood Association against Supervisor Katy Tang (Board of Supervisors) for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a complete manner. (00:33:00 – 00:47:00)

Member Fischer disclose her past association with the Petitioner and stated that she is able to impartially review the complaint.

Mike Murphy, La Playa Park Neighborhood Association (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Murphy stated that the Respondent has not provided all responsive records and provide evidence of emails that were not disclosed. In addition, Mr. Murphy alleged the use of unidentified equipment to send undisclosed emails. The Respondent emailed a response to the complaint but was not present at the meeting. A question and answer period occurred.

**Acting Chair Hinze, seconded by Member Fischer, moved to find that the Sunshine Ordinance Task Force (SOTF) has jurisdiction and refer the matter to the SOTF for hearing with a recommendation to find violations of Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a complete manner.**

Public Comment:

None.

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

Ayes: 2 – Hinze, Fischer  
Noes: 0 – None  
Absent: 1 – B. Wolfe  
Excused: 1 – Tesfai

6. **File No. 17123:** Complaint filed by Anonymous against the Juvenile Probation Commission 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. (00:08:00 – 00:21:00)

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that a response to the public records request was not provided in a timely manner. Anonymous confirmed that he is personally aware that the audio recordings were created and that he was present when the requested audio recordings were created. Pauline Silva-Re, Juvenile Probation (Respondent), provided a summary of the department's position. Ms. Silva-Re stated that she started working with the department in January of 2009 after the position was vacant for a least a year. Ms. Silva-Re stated that upon arriving in the office there were no records present in the office or evidence of the whereabouts of the requested audio recordings. Ms. Silva-Re stated that she performed a search for the audio records and possible storage locations but could not find the records in question. A question and answer period occurred.

**Member Fischer, seconded by Acting Chair Hinze, moved to find that the Sunshine Ordinance Task Force (SOTF) has jurisdiction and refer the matter to the SOTF for hearing with a recommendation to find violations of Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.29-7, for failing to respond to a public records request in a timely manner and failing to maintain and preserve in a professional and businesslike manner all public records and documents.**

**Public Comment:**

Ann Treboux stated that if the meetings did not occur in city hall audio recordings are not required.

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

Ayes: 2 – Hinze, Fischer  
Noes: 0 – None  
Absent: 1 – B. Wolfe  
Excused: 1 – Tesfai

Upon discussion the Petitioner noted his unavailability to attend meetings on the first Wednesday of the month and will contact the SOTF when available for hearing.

7. **File No. 17124** Complaint filed by William Simpson against the Fire 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. (00:47:39 – 00:55:00)

The Petitioner was not present and did not provide notice of their absence. Battalion Chief Lorrie Kalos, Fire Department (Respondent), provided a summary of the department's position. Battalion Chief Kalos stated that results of examinations are provided to cadets on a regular basis but copies of exams, questions and videos of training are protected. Battalion Chief Kalos provide relevant code sections that allows for the withholding of personnel records. A question and answer period occurred.

**Member Fischer, seconded by Acting Chair Hinze, moved to Table (close) the complaint due to the non-appearance without notice.**

Public Comment:  
None.

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

Ayes: 2 – Hinze, Fischer  
Noes: 0 – None  
Absent: 1 – B. Wolfe  
Excused: 1 – Tesfai

(Pursuant to the Sunshine Ordinance Task Force Complaint Procedures ” If the Complainant fails to appear at a SOTF or Committee hearing regarding their complaint without prior communication the matter shall be tabled without prejudice (Tabled complaints are considered closed and no further actions are to be taken.) The Complainant shall be notified of the action and may request that their complaint be reopened in writing if requested within 60 days. The SOTF or its Chair shall determine if the complaint shall be reopened.)

8. **File No. 17130:** Complaint filed by Patrick Mooney and Steve Tom against Tim Frye and the Planning 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. (00:55:00 – 00:57:00)

Patrick Mooney and Steve Tom noted that the Planning Department has provided the requested records after the complaint was filed and withdrew the complaint.

9. **File No. 17133:** Complaint filed by Patrick Mooney and Steve Tom against Shannon Ferguson, Tim Frye and the Planning Department for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.7-1, by failing to provide adequate notice of hearing. (00:57:00 - )

Patrick Mooney and Steve Tom (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Tom stated that Planning Department staff provided assurances that they would be informed of the public meeting dates and provided an opportunity to testify. Mr. Tom stated that due to the lack of notice their project has been delayed. Christine Silva, Planning Department (Respondent) provided a summary of the department position. Ms. Silva stated that the Planning Department is responsible for overseeing Mills Act projects but they are not responsible for providing notice of hearings for Board of Supervisors' Committee hearings. Ms. Silva noted that the staff of the Clerk of the Board of Supervisor did provide notices of hearings in a timely and appropriate manner. A question and answer period occurred.

Public Comment:

None.

Upon discussion of the issue and the role of the Sunshine Ordinance Task Force the Petitioners withdrew the complaint.

The Complaint Committee (Committee) shall review File No(s). 17134, 17136, 18001, 18002 and 18003 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 January 23, 2018, 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.

The Complaint Committee called and heard Items 10 through 14 together.

10. **File No. 17134:** Complaint filed by Thomas Busse against the San Francisco Public Utilities for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, 67.24(g)(i), 67.27 by failing to respond to a public records request in a timely and/or complete manner and against the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21(i), for acting as legal counsel for denying access to a public record.

**Member Fischer, seconded by Acting Chair Hinze, moved to find that the Sunshine Ordinance Task Force has jurisdiction over Items 10 through 14 and continued the matters for a hearing on a future date.**

Public Comment:

Ann Treboux stated that she has not receive the request records.

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

Ayes: 2 – Hinze, Fischer

Noes: 0 – None

Absent: 1 – B. Wolfe

Excused: 1 – Tesfai

11. **File No 17136:** Complaint filed by Patrick Monette-Shaw against the Department of Human Resources for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.25 and 67.34, by willfully failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

See Item 10 for discussion and actions.

12. **File No. 18001:** Complaint filed by Julian Sarkar against Jose Cisneros and the Office of the Treasurer and Tax Collector 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.

See Item 10 for discussion and actions.

13. **File No. 18002:** Complaint filed by Ann Treboux against Tom DeCaigny and Anne Trickey, 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.

See Item 10 for discussion and actions.

14. **File No. 18003:** Complaint filed by Ann Treboux against the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.7, 67.20, 67.25 and 67.27, by failing to make supporting documents available, failing to response to an Immediate Disclosure Request in a complete manner and failing to provide justification for withholding records.

See Item 10 for discussion and actions.

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

There were no announcements.

Public Comment.

None.

16. **ADJOURNMENT**

There being no further business the meeting was adjourned at 7:10 p.m.

**APPROVED: 02/27/18**  
**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.