



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

September 25, 2018
5:30 PM – 7:30 PM

Regular Meeting

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

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

Acting Chair B. Wolfe called the meeting to order at 5:34 pm. On the call of the roll Chair B. Wolfe and Member Hinze were noted present. Member Cate was noted not present. Chair Tesfai also noted not present. There was a quorum.

There were no agenda changes.

2. Approval of the Minutes from the Complaint Committee, August 28, 2018, meeting.

Member Hinze, seconded by Chair B. Wolfe, moved to approve the August 28, 2018, meeting minutes.

Public Comment:
None.

The Motion PASSED by the following vote:

Ayes: 3 – Hinze, B. Wolfe
Noes: 0 – None
Absent: 2 – Cate, 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.

Public Comment:

Ann Treboux asked to have a comment/document read into the Minutes. Because Ms. Treboux was not present for this meeting, her comment was not entered into the Minutes.

4. **Consent Agenda- Determination of Jurisdiction File No(s) 18071.**

All matters listed hereunder constitute a Consent Agenda, are considered to be routine by the Sunshine Ordinance Task Force (SOTF) and will be acted upon by a single roll call vote of the Complaint Committee (Committee) to determine whether or not the SOTF has jurisdiction and to determine if the requested records are public pursuant to Administrative Code (Sunshine Ordinance), Section 67.21(e). There will be no separate discussion of these items unless a member of the Committee so requests, in which event the matter shall be removed from the Consent Agenda and considered as a separate item. The Complainant and Respondent for File No(s). 18071 are **not required** to attend the September 25, 2018, Committee meeting but may attend to provide testimony related to the determination as to whether or not the SOTF has jurisdiction. A hearing to review the merits of the complaint will be scheduled on a future date.

- **File No. 18071:** Complaint filed by Liz Arbus against the San Francisco 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.

Member Hinze, seconded by Chair B. Wolfe, moved to approve the Consent Agenda and find that the Sunshine Ordinance Task Force has jurisdiction over Complaint No(s). 18071 and determination that the requested records are public.

Public Comment:

None.

The Motion PASSED by the following vote:

Ayes: 3 – Hinze, B. Wolfe

Noes: 0 – None

Absent: 2 – Cate, Tesfai

The Complaint Committee (Committee) shall hold hearing(s) on File No(s) 18049, 18062, 18069 and 18072 to: 1) to 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.

Member Cate was noted present at 5:44 P.M.

5. **File No. 18049:** Complaint filed by Robert M. Smith against the Fine Arts Museums of San Francisco (FAMSF) 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.

Robert Smith (Petitioner) provided a summary of his complaint and requested the Committee find a violation. Mr. Smith stated that he has not received any documents from the FAMSF. Mr. Smith stated that the public museum receives 20 percent of its money from the City and that entity must turn over the public documents. Mr. Smith stated that he is entitled to records between the private and public entities of FAMSF. Mr. Smith stated that he should receive the records on a rolling basis but has received nothing.

Melissa Powers, Manager of Board Relations and Special Projects, FAMSF (Respondent) and provided a summary of the department's position. Ms. Powers stated that FAMSF consists of the following entities:

- Corporation of the Fine Arts Museum (non-profit private entity)
- Foundation of the Fine Arts Museum (non-profit private entity)
- Fine Arts Museums of San Francisco (city agency)

Ms. Powers stated that the Corporation and Foundation of the Fine Arts Museums are private entities with their own by-laws. Ms. Powers stated that the Fine Arts Museums of San Francisco is a city agency subject to Sunshine Ordinance Task Force. Ms. Powers stated that the email addresses for all three organizations have the same suffix and all emails must be reviewed to determine which are subject to public disclosure. Ms. Powers also stated there are certain employees who perform duties for both the private and public entities of the FAMSF which will require addition review of emails. Ms. Powers provided a summary of the funding sources and Memorandum of Understanding for the three entities making up FAMSF. Ms. Powers stated that the Docent program is not operated by the Fine Arts Museums of San Francisco and therefore their records are not maintained by that entity. Ms. Powers stated that FAMSF request a narrowing of the request due to the extreme volume and time that would be required to review records. Ms. Powers stated that the Corporation and Foundation of the Fine Arts Museums employees are not funded by the city and they are their own separate, private charitable organization. Ms. Powers stated that FAMSF has previously provided responsive documents to Mr. Smith but acknowledge that the request for emails has been delayed

due to the volume of the request and technical issues with FAMSF's email system switch. Ms. Powers stated that Mr. Smith has received documents including the Docent rosters and correspondence between the Museum and the Mayor's office.

Acting Chair Wolfe stated that if these records are in the possession of the City, they are public unless Ms. Powers can provide a citation of law that they are not disclosable. Acting Chair Wolfe requested that FAMSF provide a copy of the contract or Memorandum of Understanding with the Corporation and Foundation of the Fine Arts Museums and a log of the public records already provided.

Member Hinze, seconded by Member Cate, moved to continue the matter to the call of the Chair.

Public Comment:

None.

The Motion PASSED by the following vote:

Ayes: 3 – Hinze, Cate, B. Wolfe

Noes: 0 – None

Absent: 1 – Tesfai

6. **File No. 18062:** Complaint filed by J. Walker against the San Francisco Public Utilities Commissioner Vince Courtney and the San Francisco Public Utilities Commission (SFPUC) for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.24, by redacting records in an inappropriate manner.

J. Walker (Petitioner) did not appear for the Hearing and did not provide notice.

Justine Hillander, SFPUC (Respondent), provided a summary of the Commission's position. Ms. Hillander stated that the Commission responded to the public records request in a timely manner and provided 57 pages redactions pursuant Government Code Section 62.54(c) as they are personnel records.

Chair Wolfe noted that pursuant to SOTF procedures nonappearance at a noticed meeting without communication requires the SOTF to file complaints. However, the Petitioner does have the option to re-open the complaint within 60 days.

Member Hinze, seconded by Member Cate, moved to file the item due to non-appearance of the Petitioner.

Public Comment:

None.

The Motion PASSED by the following vote:

Ayes: 3 – Hinze, Cate, B. Wolfe

Noes: 0 – None

Absent: 1 – Tesfai

7. **File No. 18069:** Complaint filed by Mike Black against City Administrator Naomi Kelly, and the Office of the City Administrator 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.

A representative from the Office of the City Administrator (Respondent) was not present for the hearing. However, a memo from the Respondent was provided during the meeting. Acting Chair B. Wolfe accepted the memo and proceeded with the hearing without the Respondent.

Member Cate, seconded by Member Hinze, motion to waive the five day rule and accept the memo submitted by the City Administrator's Office.

Public Comment:

None.

The Motion PASSED by the following vote:

Ayes: 3 – Cate, Hinze, B. Wolfe

Noes: 0 – None

Absent: 1 – Tesfai

Member Cate, seconded by Member Hinze, moved to find jurisdiction and that the requested records are public.

Public Comment:

None.

The Motion PASSED by the following vote:

Ayes: 3 – Cate, Hinze, B. Wolfe

Noes: 0 – None

Absent: 1 – Tesfai

Mike Black (Petitioner) provided a summary of his complaint and requested the Committee find a violation. Mr. Black stated that on August 30, 2018, he submitted an Immediate Disclosure Request (IDR) to the City Administrator and that he did not receive a response by the end of the next business day. Mr. Black stated that on September 5, 2018, he received an email response from Bill Barnes in violation of 67.25(a) and (b) stating that the email address Mr. Black used to submit his request (city.administrator@sfgov.org) was not monitored frequently. Mr. Black stated that he checked the City Administrator's website and was unable to locate the email address Mr. Barnes said to use for public records requests. Mr. Black stated that he did not receive a response from Mr. Barnes until receiving the letter submitted at the September 25, 2018, Complaint Committee hearing. Mr. Black stated that, despite assertion of attorney client privilege, he knew there are two documents responsive to his request that were not provided as he has previously received them.

Acting Chair Wolfe suggested that the SOTF delay hearing the matter as other city bodies such as the Ethics Commission may be reviewing the matter and whose decision may affect the outcome of the SOTF findings.

Member Cate, seconded by Member Hinze, moved to refer this matter to the SOTF for hearing.

Public Comment:

None.

The Motion PASSED by the following vote:

Ayes: 3 – Cate, Hinze, B. Wolfe

Noes: 0 – None

Absent: 1 – Tesfai

8. **File No. 18072:** Complaint filed by Joshua Klipp against the Recreation and Parks 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.

Member Hinze, seconded by Member Cate, moved to find jurisdiction that the requested records are public.

Public Comment:

None.

The Motion PASSED by the following vote:

Ayes: 3 – Hinze, Cate, B. Wolfe

Noes: 0 – None

Absent: 1 – Tesfai

Member Hinze, seconded by Member Cate, moved to accept the final version of the letter submitted by Tiffany Lin-Wilson, Recreation and Parks Department.

Public Comment:

None.

The Motion PASSED by the following vote:

Ayes: 3 – Hinze, Cate, Chair B. Wolfe

Noes: 0 – None

Absent: 1 – Chair Tesfai

Joshua Klipp (Petitioner) provided a summary of his complaint and requested the Committee find a violation. Mr. Klipp stated that that he received a response in a timely manner but the four documents provided by Recreation and Parks were inadequate. Mr. Klipp stated that Recreation and Parks either does not have the requested records and the responses provided were fabricated. Mr. Klipp stated that he does not believe that did not receive any records prior to 2012 the Recreation and Parks' documents were entirely made up and Recreation and Parks did not respond to his request.

Tiffany Lin-Wilson, Recreation and Parks (Respondent) provided a summary of the Department's position. Ms. Lin-Wilson stated that she compiled the information requested and that she does not work on the strategic plan. Ms. Lin-Wilson stated she collected relevant records from staff and provided them to Mr. Klipp. Ms. Lin-Wilson stated that most of the information requested is available on the Recreation and Parks Capital and Planning Department website. Ms. Lin-Wilson stated that the reports provided to Mr. Klipp were created by Kelley Cornell which include work force budget, health and diversity of the urban forest and other related information.

Chair Wolfe requested that the Kelley Cornell or person knowledgeable of the requested records attend the SOTF hearing and be prepared to answer questions.

Member Hinze, seconded by Member Cate, moved to refer the matter to the SOTF for hearing and requested Kelley Cornell be present to provided information related to the public records request and why records prior to 2012 were not provided.

Public Comment:

None.

The Motion PASSED by the following vote:

Ayes: 3 – Hinze, Cate, Chair B. Wolfe

Noes: 0 – None

Absent: 1 – Chair Tesfai

9. **ADJOURNMENT**

There being no further business the meeting was adjourned at 8:07 p.m.

APPROVED: 10/23/18

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.