



# SUNSHINE ORDINANCE TASK FORCE CITY AND COUNTY OF SAN FRANCISCO MINUTES

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

June 6, 2018 - 4:00 PM

## Regular Meeting

Seat 1	vacant	Seat 7	vacant
Seat 2	vacant	Seat 8	Frank Cannata
Seat 3	Josh Wolf	Seat 9	Chris Hyland - <b>Vice Chair</b>
Seat 4	Rishi Chopra	Seat 10	Louise Fischer
Seat 5	Leuwam Tesfai	Seat 11	Fiona Hinze
Seat 6	Bruce Wolfe - <b>Chair</b>		

Ex-officio (*non-voting*) Clerk of the Board of Supervisors or his or her designee

Ex-officio (*non-voting*) Mayor or his or her designee

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

Chair Wolfe called the meeting to order at 4:04 pm. On the call of the roll Chair Wolfe, Vice Chair Hyland and Members Wolf, Tesfai, Cannata and Hinze were noted present. Member Fischer was noted not present. There was a quorum.

Member Fischer was noted present 4:08 pm.

### 2. Approval of minutes from the Sunshine Ordinance Task Force April 4, 2018, meeting.

**Member Hinze, seconded by Vice Chair Hyland, moved to approve the April 4, 2018, meeting minutes.**

Public Comment:

None.

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

Ayes: 6 – J. Wolf, Tesfai, Cannata, Hinze, Hyland and B. Wolfe

Noes: 0 – None

Absent 1 – Fischer

3. **File No. 17131:** Complaint filed by Magick Altman against the Police Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.5, 67.7-1, 67.15 and 67.34, by willfully failing to make meetings open to the public, creating barriers to attendance and failing to allow public comment and to provide adequate public notice.

*(On February 27, 2018, the Complaint Committee, determined that the SOTF has jurisdiction over the matter and referred the matter to the Task Force.)*

Member Josh Wolf stated that he is familiar with the Petitioner but is able to remain fair and impartial.

Magick Altman (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Altman stated that members of the public were not given equal time to speak. Ms. Altman said the Police Commission recessed the meeting, changed meeting rooms and did not advise the public of the new meeting location. Ms. Altman also stated that members of the public who were outside City Hall were not permitted admission to the building. Raphael Becauze, Alexander Post, Gilbert Bernstein, Jeremy Miller, Victor Picazo and Karen Fleishman provided a summary of their experiences at the November 3, 2017, Police Commission meeting and spoke in support of the Petitioner.

Sgt. Rachel Killshaw, Police Department (Respondent), provided a summary of the department's position. Sgt. Killshaw stated that the Police Commission and the Sheriff's Department have provided written statements and documents responsive to the SOTF's requests. Sgt. Killshaw also stated that the Sheriff's Department was responsible for the decision to close access to City Hall, not the Police Commission. Sgt. Killshaw stated that staff from the Police Commission posted a notice of changed of meeting room on the door to inform the public of the change of venue. There were no speakers who spoke in support of the Respondent.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

The SOTF opined that the Police Commission could have done more to inform the public of the meeting room change due to the confusion of the situation.

**Member Tesfai, seconded by Member Hinze, moved to find that the Police Commission violated Administrative Code, Sections 67.15(b), (c) and (e), by failing to allow members of the public to directly address the Police Commission, failing to uniformly apply time limits for public comment and failure to announce changes to the agenda/change of meeting location as they became known.**

Public Comment:

Richard Knee suggested that a violation of Sunshine Ordinance, Section 67.21(e), also occurred for failing to send a knowledgeable representative.

Ann Treboux commented to length of time taken to review this particular matter.

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

Ayes: 7 – J. Wolf, Tesfai, Cannata, Fischer, Hinze, Hyland and B. Wolfe

Noes: 0 – None

4. **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.

*(On 2/7/18, the SOTF found a violation of Sunshine Ordinance, Section 67.21(e) for failure of the Respondent to attend the meeting and continued the matter to the call of the chair with a request to the Petitioner to provide additional evidence).*

Members Josh Wolf and Louise Fischer stated that they are familiar with the Petitioner but are able to remain fair and impartial.

Mike Murphy (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Murphy provided evidence that Supervisor Tang has not provided the requested records. Mr. Murphy provided a summary as to why the requested documents are important. There were no speakers who spoke in support of the Petitioner.

A representative from the Office of Supervisor Katy Tang (Board of Supervisors) was not present at the meeting. There were no speakers who spoke in support of the Respondent. A question and answer period occurred. The parties were provided an opportunity for rebuttals.

The SOTF expressed concern that elected officials have recently decided to not attend meetings.

**Member Cannata, seconded by Member Hinze, moved to find that Supervisor Katy Tang (Board of Supervisors) violated Administrative Code, Section 67.21, by failing to respond to a request for public records in a complete manner.**

Public Comment:

None.

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

Ayes: 7 – J. Wolf, Tesfai, Cannata, Fischer, Hinze, Hyland and B. Wolfe

Noes: 0 – None

**Public Comment:** Members of the public may address the Sunshine Ordinance Task Force (SOTF) on matters that are within SOTF's jurisdiction, but not on today's agenda. *(No Action) Public comment shall be taken at 5:00 p.m. or as soon thereafter as possible.*

Speakers:

Ann Treboux described her experience outside a Board of Appeals meeting. Richard Knee introduced the Society of Professional Journalists' Recommendations for membership to the SOTF and presented other related information.

### **SPECIAL ORDER**

**The hearings on File Nos. 17028, 17067, and 17120 will not begin earlier than 5:00 p.m.**

5. **File No. 17028:** Complaint filed by Ann Treboux against Kate Patterson and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.25, 67.26 and 67.27, by failing to respond to an Immediate Disclosure Request in a complete manner.

*(On 2/7/18, the SOTF continued the matter to the call of the chair and requested that the Arts Commission provide an index of records and reason why each documents is considered to be non-disclosable.)*

Ann Treboux (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Treboux stated that she has not received the requested records. There were no speakers on behalf of the Petitioner.

Rebekah Krell, Arts Commission (Respondent), provided a summary of the department's position. Ms. Krell provided a summary of the types of documents that have been withheld and stated that the requested records were reviewed and determined to be confidential and not disclosed. There were no speakers on behalf of the Respondent.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

Deputy City Attorney Nicholas Colla responded to questions from the SOTF.

The SOTF stated that they requested a summary of each document that was withheld and a specific reason the record qualified for withholding. The SOTF noted that the request was not satisfied by the summary provided by the Arts Commission.

**Member J. Wolf, seconded by Member Cannata moved to refer the matter to the Compliance and Amendments Committee. The SOTF requested that the Arts Commission provide a detailed Index of Records indicating a summary of the documents that were withheld and a specific reason/citation that allows for the withholding of the record for the Compliance and Amendments Committee's review.**

Public Comment:

None.

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

Ayes: 7 – J. Wolf, Tesfai, Cannata, Fischer, Hinze, Hyland and B. Wolfe

Noes: 0 – None

6. **File No. 17067:** Complaint filed by Ann Treboux against Anne Trickey and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.7, by failing to post an agenda for a policy body (Program Director Hearing, June 14, 2017). (*attachment*)

*(On August 22, 2017, the Complaint Committee determined that the Task Force has jurisdiction over the matter and referred the matter to the SOTF for hearing.)*

Ann Treboux (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Treboux stated that this was a meeting of a policy body and that no agenda was made available. There were no speakers on behalf of the Petitioner.

Rebekah Krell, Arts Commission (Respondent), provided a summary of the department's position. Ms. Krell stated that the Program Director's meeting is not a policy body pursuant to Sunshine Ordinance 67.3(d)(6) as the Program Director's meeting consists of only City employees. There were no speakers on behalf of the Respondent.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

Deputy City Attorney Nicholas Colla responded to questions from the SOTF.

The SOTF opined that pursuant to the Sunshine Ordinance the Program Director's meeting does not appear to be a policy body. The SOTF noted that the language located at the end of the agenda is template language and does not imply that the Program Director's meeting is a policy body.

**Member Hinze, seconded by Vice Chair Hyland, moved to find that the Arts Commission DID NOT violate Administrative Code, (Sunshine Ordinance) Section 67.7.**

Public Comment:

None.

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

Ayes: 6 – Tesfai, Cannata, Fischer, Hinze, Hyland and B. Wolfe

Noes: 1 – J. Wolf

7. **File No. 17120:** Complaint filed by Ann Treboux against Anne Trickey, Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.13 and 67.15(b)(c)(d), by failing to provide an opportunity for members of the public to directly address a policy body without abridging or prohibiting public criticism of the policy, procedures, programs or services of the City.

*(On February 27, 2018, the Complaint Committee determined that the Task Force has jurisdiction over the matter and referred the matter to the Task Force.)*

The Committee listened to the audio recording of the meeting in question.

Ann Treboux (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Treboux stated that she was not allowed to complete her comment and was cut off by the Arts Commission before she could provide her comments. There were no speakers on behalf of the Petitioner.

Rebekah Krell, Arts Commission (Respondent), provided a summary of the department's position. Ms. Krell stated that Ms. Treboux attempted to make comments regarding her attendance at a Board of Appeals meeting which is not under the jurisdiction of the meeting body in question. Ms. Krell stated that Ms. Treboux created a disturbance at the meeting and was asked to leave if she could not control herself. Ms. Krell stated that Ms. Treboux was allowed to stay throughout the meeting and make public comment on various matters. Ms. Krell stated that Ms. Treboux's public comment was not abridged due to public criticism but because Ms. Treboux was not speaking to a topic under the jurisdiction of the meeting body. There were no speakers on behalf of the Respondent.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

Deputy City Attorney Nicholas Colla responded to questions from the SOTF.

The SOTF opined that the Arts Commission did not allow enough time to determine if Ms. Treboux's statements were under the jurisdiction of the meeting body.

**Member Tesfai, seconded by Member Hinze, moved to find that the Arts Commission DID NOT violate Administrative Code, (Sunshine Ordinance) Section 67.13 and 67.15.**

Public Comment:

None.

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

Ayes: 5 – Tesfai, Fischer, Hinze, Hyland and B. Wolfe

Noes: 2 – J. Wolf, Cannata

The SOTF took no additional action on the matter.

8. **File No. 18015: Administrator’s Report: Review of NextRequest Public Records Request Software.**

**Member Tesfai, seconded by Member Cannata, moved to continue the matter to the call of the Chair and allocate 30 minutes to hear the matter.**

Public Comment:  
None.

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

Ayes: 7 – J. Wolf, Tesfai, Cannata, Fischer, Hinze, Hyland and B. Wolfe  
Noes: 0 – None

9. **Sunshine Ordinance Task Force - Annual Report.**

Chair Wolfe provided an update on the Annual Report.

Public Comment:  
None.

The SOTF took no actions on the matter.

10. **Reports from Sunshine Ordinance Task Force Committees.**

- Complaints Committee
- Compliance and Amendments Committee
- Education, Outreach and Training Committee
- Rules Committee
- Information Technology Ad Hoc Committee

The Committee Chairs provided a summary of the Committee’s actions.

Public Comment:  
None.

The SOTF took no actions on the matter.

11. **Sunshine Ordinance Task Force - Chair’s Report.**

Chair had no actions to report.

Public Comment:  
None.

The SOTF took no actions on the matter.

- **Administrator’s Report, Complaints and Communications.** Task Force and Committee hearing schedule
- Complaints submitted and hearing files created
- Communications to the Task Force
- Summary of pending complaints and other issues

SOTF Administrator Victor Young presented the Administrator’s report.

Public Comment:  
None.

The SOTF took no actions on the matter.

12. **Announcements, Comments, Questions, and Future Agenda Items by Members of the Sunshine Ordinance Task Force.**

Member J. Wolf requested that a list be maintained detailing failure of elected officials to attend Sunshine meetings.

13. **ADJOURNMENT**

There being no further business the meeting was adjourned at 8:44 p.m.

**APPROVED: August 1, 2018**

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.