

File No. 11095

SOTF Item No. 10

CAC Item No. _____

SUNSHINE ORDINANCE TASK FORCE
AGENDA PACKET CONTENTS LIST

Sunshine Ordinance Task Force

Date: April 4, 2012

Compliance and Amendments Committee

Date: _____

CAC/SOTF

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Completed by: Andrea Ausberry Date March 27, 2012

Completed by: _____ Date _____

*An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document is in the file.



DENNIS J. HERRERA
City Attorney

MICHAEL R. KARNS
Deputy City Attorney

Direct Dial: (415) 554-3970
Email: michael.karns@sfgov.org

MEMORANDUM

TO: Sunshine Ordinance Task Force
FROM: Michael Karns
Deputy City Attorney
DATE: March 2, 2012
RE: Complaint 11095 – Bowman v. SF Department of Recreation and Parks

BACKGROUND

Complainant Arnita Bowman ("Complainant") alleges that the Recreation and Parks Department ("the Department") failed to provide documents responsive to her December 2, 2011 public records request. Complainant submitted her request by email and included "URGENT" in the subject line. On December 6, 2011, Complainant sent a follow up email to the Department, reiterating the urgency requirement of her request. On December 6, 2011, the Department sent an email to Complainant acknowledging receipt of her December 2, 2011 email, and invoked a 14-day extension of time to respond. The Department agreed to respond by December 26, 2011. As of December 10, 2011, no documents had been provided in response to Complainant's request.

COMPLAINT

On December 10, 2011, Complainant filed this complaint against the Department, alleging violations of Section 67.25 of the Ordinance.

JURISDICTION

The Recreation and Parks Department is a charter department under the Ordinance. The Task Force therefore generally has jurisdiction to hear a complaint against the Department.

APPLICABLE STATUTORY SECTION(S):

Section 67 of the San Francisco Administrative Code:

- Section 67.20(b) defines "public information".
- Section 67.21 governs responses to a public records request.
- Section 67.25 governs immediacy of response.
- Section 67.26 governs withholding of records.
- Section 67.27 governs written justification for withholding of records.

Section 6250 et seq. of the Cal. Gov't Code

- Section 6252(e) defines "public record".
- Section 6253 governs the release of public records and the timing of responses.

APPLICABLE CASE LAW:

None.

ISSUES TO BE DETERMINED

Uncontested/Contested Facts

MEMORANDUM

TO: Sunshine Ordinance Task Force
DATE: March 2, 2012
PAGE: 2
RE: Complaint 11095 – Bowman v. SF Department of Recreation and Parks

Complainant alleges that the Department failed to provide documents responsive to her December 2, 2011 public records request. Complainant submitted her request by email and included "URGENT" in the subject line. On December 6, 2011, Complainant sent a follow up email to the Department, reiterating the urgency requirement of her request. On December 6, 2011, the Department sent an email to Complainant acknowledging receipt of her December 2, 2011 email, and invoked a 14-day extension of time to respond. The Department agreed to respond by December 26, 2011.

The text of Complainant's original December 2, 2011 request is quoted here:

This is an urgent Sunshine Act Request related to the Natural Areas Program at Glen Park. There is currently a project underway to cut vegetation and spray herbicides in the Natural Area. Please provide me with the documents that provide the following information:

Active Project(s) Documentation (Please provide immediately because the work is already underway)

- *All outside agreements such as contracts or work agreements for habitat and trail improvements at Glen Canyon (e.g. chain-sawing a path, spraying herbicides, etc.) including all detailed work instructions and schedules*
- *All work order type documents for city employees detailing the specific work to be completed and the schedule*
- *The detailed project budget and detailed project plans for all projects related to the Glen Canyon Natural Area that are currently open*

Funding and Project Budgets and Plans

- *All grant applications and grant agreements for Glen Canyon trails or habitat improvements (e.g. Habitat Conservation Fund Grant) that are in process, currently open or have been open in the past 3 years*
- *Detailed list of expenditures and encumbrances for the Glen Parks Trails Project (CRPCSPPTGC) and any other project funded by a grant for the Natural Areas*
- *The detailed project budget and detailed project plans for all projects related to the Glen Canyon Natural Area that currently open or have been open in the past 3 years*

Please provide the information in an electronic format on a CD or emailed to me. I do not want hard copies. Please let me know if the expected fees exceed \$20 for providing the information.

Please let me know if there is someone else I should contact for my request or if you need clarification on my request. Please also let me know that you received this request and when I should expect the response to my request.

Complainant alleges that "Lisa Wayne should have ready access to most, if not all, of these documents in her role managing the Natural Areas Program." Complainant alleges that at the time she filed her complaint with the Task Force on December 10, 2011, she had received no documents responsive to her request from the Department, other than the December 6, 2011 email acknowledging receipt of her request.

MEMORANDUM

TO: Sunshine Ordinance Task Force
DATE: March 2, 2012
PAGE: 3
RE: Complaint 11095 – Bowman v. SF Department of Recreation and Parks

On November 7, 2011, Complainant sent a request for documents to the Department. This November 7, 2011 request is the subject of a second complaint currently before the Task Force (Complaint 11096). The text of Complainant's November 7, 2011 request for documents is quoted here:

This is a Sunshine Act Request for the annual budgets with details for the Recreation and Parks Department for the past 15 years, if available. My objective is to understand the cost of the Natural Areas Program as it relates to past park budgets and the expected future costs.

I am also requesting all project specific budgets for Natural Areas Programs for projects that have already been completed under the program, such as the Pine Lake wetland/natural area restoration and the native plant restoration at Glen Canyon.

I am also requesting an drafted budgets for Natural Areas Program for executing any of the site specific plans in the proposed Natural Areas Program or capital project requests that have been drafted. This includes any cost information or projections for removing the 18,500 tress, clearing the underbrush, and/or re-planting.

Please provide the information in an electronic format on a CD or emailed to me. I do not want hard copies. Please let me know the expected cost for providing the information.

Please let me know if there is someone else I should contact for my request or if you need clarification on my request.

On December 1, 2011, the Department made a response to this November 7, 2011 request by providing an electronic (soft copy) Microsoft Excel file with an annual budget summary for the Natural Areas Program for the years 2005-2012.

[Further details regarding Complainant's November 7, 2011 request, as well as the Department's response, can be found in the memo for Complaint 11096.]

QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS:

- Was the Department's response to Complainant's November 7, 2011 request intended to also be a response to her December 2, 2011 request?
- Did the Department make any response to Complainant's request *after* Complainant filed her complaint on December 10, 2011, but prior to December 26, 2011?
- What was the nature and extent of the search the Department conducted with regard to documents responsive to Complainant's request?

LEGAL ISSUES/LEGAL DETERMINATIONS:

- Was the Department's request for an additional 14 days to respond to Complainant's December 2, 2011 request proper under §67.25(a) of the Ordinance?

MEMORANDUM

TO: Sunshine Ordinance Task Force
DATE: March 2, 2012
PAGE: 4
RE: Complaint 11095 – Bowman v. SF Department of Recreation and Parks

- If the Department's request for an additional 14 days to respond was proper under §67.25(a) of the Ordinance, was Complainant's complaint to the Task Force on December 10, 2011 premature?
- If the Department provided no response to the December 2, 2011 request, was there a violation of state and/or local public records laws?

CONCLUSION

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

THE TASK FORCE FINDS THE ALLEGED VIOLATIONS TO BE **TRUE OR NOT TRUE.**

Date March 7, 2012

Item No. 5 & 6
File No. 11095

SUNSHINE ORDINANCE TASK FORCE
AGENDA PACKET CONTENTS LIST.

ITEMS

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Complaint submittal
Correspondence

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Completed by: Andrea Ausberry Date March 1, 2012

Completed by: _____ Date _____

*An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document is in the file.



Sunshine Complaint
complaints

to:

sotf

12/13/2011 10:07 AM

Hide Details

From: <complaints@sfgov.org>

To: <sotf@sfgov.org>

To:sotf@sfgov.org

Email:complaints@sfgov.org

DEPARTMENT:Recreation & Parks Department

CONTACTED:Lisa Wayne, Ana Alvarez, Olive Gong

PUBLIC_RECORDS_VIOLATION:Yes

PUBLIC_MEETING_VIOLATION:No

MEETING_DATE:

SECTIONS_VIOLATED:SEC. 67.25. IMMEDIACY OF RESPONSE

DESCRIPTION:Failure to provide Glen Canyon Natural Areas Program documentation of funding, contracts, and work details for pesticide application. Lisa Wayne should have ready access to most, if not all, of these documents in her role managing the Natural Areas Program. However, not a single document was provided, and in fact, the SFRPPD requested to take 24 days to provide the documents.

HEARING:Yes

PRE-HEARING:No

DATE:12/10/2011

NAME:Arnita Bowman

ADDRESS:

CITY:

ZIP:

PHONE:

CONTACT_EMAIL:arnitabowman@hotmail.com

ANONYMOUS:

CONFIDENTIALITY_REQUESTED:No



Sunshine Act Complaint: SFRPD Natural Areas Program Glen Canyon
Immediate Disclosure Request

Arnita Bowman

to:

sotf

12/10/2011 04:20 PM

Cc:

lisa.wayne, olive.gong, ana.alvarez, scott.wiener

Hide Details

From: Arnita Bowman <arnitabowman@hotmail.com>

To: <sotf@sfgov.org>

Cc: <lisa.wayne@sfgov.org>, <olive.gong@sfgov.org>,
<ana.alvarez@sfgov.org>, <scott.wiener@sfgov.org>

3 Attachments



1 Glen Canyon -NAP Financial-Project - Sunshine Task Force Notice.pdf



2Glen Canyon Project v2 - Immediate Request Original Request.pdf



3Glen Canyon Project - Immediate Request Original Request.pdf

I am filing Sunshine Act complaints regarding the **SF Recreation & Parks Department** failure to provide Public Records (SEC. 67.25. IMMEDIACY OF RESPONSE). You will also be receiving a second complaint regarding financial records.

This is the **first complaint** and is in regards to an **Immediate Disclosure Request**:

General Description: Glen Canyon Natural Areas Program documentation of funding, contracts, and work details for pesticide application

Date of Original Request: 12/6/2011

Requested From: Lisa Wayne, Ana Alvarez, and Olive Gong

Description of alleged violation: Failure to provide documents requested with Immediate Disclosure Request in the header. Note that Lisa Wayne should have ready access to most, if not all, of these documents in her role managing the Natural Areas Program. However, not a single document was provided, and in fact, the SFRPPD requested to take 24 days to provide the documents.

I want a public hearing before the Sunshine Ordinance Task Force.

I want a pre-hearing conference before the Complaint Committee.

Attached is PDFs with the email correspondence including the original request, Olive Gong's request for an extension, and my response.

Please let me know that you received this complaint, and if I need to provide any further information.

Regards,

Arnita Bowman

FW: Incomplete Response to Sunshine Act Request

From: **Arnita Bowman** (arnitabowman@hotmail.com)

Sent: Fri 12/09/11 10:47 AM

To: olive.gong@sfgov.org

Please let me know how you are responding to my email from 12/2. As of now, I plan to submit a complaint regarding both requests to the Sunshine Ordinance Task Force, which I would like to avoid if possible.

Thank you for your assistance.

Arnita Bowman

From: arnitabowman@hotmail.com

To: olive.gong@sfgov.org

Subject: Incomplete Response to Sunshine Act Request

Date: Fri, 2 Dec 2011 12:00:50 -0800

Hi,

Thank you for sending the budget for the SFNAP area. Unfortunately that does not comply with my Sunshine Act Request. I'm also concerned that the 14 day extension was invoked "because there is a need to search for, collect, and examine a voluminous amount of separate and distinct records" and then all that is provided is a few simple queries from an accounting system that in no way meets the requirements of the request. I assumed that you were planning to fully comply with my request because of the 14 day extension.

Please comply with the original requested in an expedited manner:

- 1) Annual budgets with details for the Recreation and Parks Department for the past 7 years (modified from 15 years)
- 2) All project specific budgets for Natural Areas Programs for projects that have already been completed under the program, such as the Pine Lake wetland/natural area restoration and the native plant restoration at Glen Canyon.
- 3) Any drafted budgets for Natural Areas Program for executing any of the site specific plans in the proposed Natural Areas Program or capital project requests that have been drafted.

Since making my initial request, I've become aware of other started projects with some completed for the Natural Areas such as those at Corona Heights, Sutro Mountain, Grandview, GGP Oak Woodlands, Billy Goat Hill and Twin Peaks and would have expected the detailed budgets for those to be included in your response.

Thank you for your assistance,

Arnita Bowman

From: arnitabowman@hotmail.com
To: olive.gong@sfgov.org
Subject: RE: Response to your public records request dated Nov 7, 2011, received Nov 8, 2011
Date: Tue, 8 Nov 2011 11:21:46 -0800

The extension is fine. Please let me know if a discussion would be worthwhile to try to narrow the voluminous amount of information that would need to be reviewed. I certainly don't want to create more work for the department than is necessary to understand the past and future cost of the NAP program. It is unfortunate that the SFNAP-EIR did not include a cost analysis as part of the EIR process.

Regards,
Arnita Bowman

> Subject: Response to your public records request dated Nov 7, 2011, received Nov 8, 2011
> To: arnitabowman@hotmail.com
> From: Olive.Gong@sfgov.org
> Date: Tue, 8 Nov 2011 10:20:14 -0800

>
>

> Dear Ms. Bowman,

>

> The Department is in receipt of your request for records and the Department
> is invoking an extension of 14 days beyond the 10 days usually allotted
> because there is a need to search for, collect, and examine a voluminous
> amount of separate and distinct records and/or there is a need to compile
> electronic data (per Govt. Code 6253 (c) and Govt. Code 6253 (c)(4). Thus
> documents are due Dec 2, 2011. I will send you any responsive documents on
> a rolling basis, as soon as they have been received and reviewed.

>

> Thank you for your interest in SF Recreation and Parks,
> Olive Gong

>

>

>

> Olive Gong
> San Francisco Recreation and Park Department
> McLaren Lodge
> 501 Stanyan St., SF CA 94117
> 415.831-2708 direct
> 415.831-2096 fax
> olive.gong@sfgov.org email

>

>

> Reduce, Reuse, Recycle

>

>

> From: Arnita Bowman <arnitabowman@hotmail.com>
> To: <rpinfo@sfgov.org>, <katharine.petrucione@sfgov.org>

- > Date: 11/07/2011 07:23 PM
- > Subject: Sunshine Act Request: San Francisco Natural Areas Program
- > Budget Information
- >
- >
- >
- > This is a Sunshine Act Request for the annual budgets with details for the
- > Recreation and Parks Department for the past 15 years, if available. My
- > objective is to understand the cost of the Natural Areas Program as it
- > relates to past park budgets and the expected future costs.
- >
- > I am also requesting all project specific budgets for Natural Areas
- > Programs for projects that have already been completed under the program,
- > such as the Pine Lake wetland/natural area restoration and the native plant
- > restoration at Glen Canyon.
- >
- > I am also requesting any drafted budgets for Natural Areas Program for
- > executing any of the site specific plans in the proposed Natural Areas
- > Program or capital project requests that have been drafted. This includes
- > any cost information or projections for removing the 18,500 trees, clearing
- > the underbrush, and/or re-planting.
- >
- > Please provide the information in an electronic format on a CD or emailed
- > to me. I do not want hard copies. Please let me know the expected cost for
- > providing the information.
- >
- > Please let me know if there is someone else I should contact for my request
- > or if you need clarification on my request.
- >
- > Regards,
- > Arnita Bowman
- >
- >

Immediate Disclosure Request: Sunshine Act Request: Glen Canyon Spraying Project and Funding

From: **Arnita Bowman** (arnitabowman@hotmail.com)
Sent: Tue 12/06/11 2:10 PM
To: lisa.wayne@sfgov.org; olive.gong@sfgov.org

Please immediately provide me with the documents requested in my email below to Olive Gong from Friday. If the specific documents are not available, please provide the equivalent documents, if they exist.

Also, I was told by a friend that she was told that there was a recent meetings regarding Glen Canyon where the community said that control of cape-ivy was a high priority and that is why pesticides are now being applied. Please provide me with any documentation of that community request for the control of cape-ivy.

Also, I was surprised that cape-ivy pesticides are being applied now considering:

1) According to the Cal-IPC spraying for Cape Ivy **should not occur until the Spring:**
<http://www.cal-ipc.org/ip/management/ipcw/pages/detailreport.cfm?usernumber=41&surveynumber=182.php>
Applying now seems to increase the long term cost and pesticide exposure risk to control the ivy.

2) The SFNAP EIR process has not yet been completed and Cape Ivy is part of the established Glen Canyon park landscaping. Destruction of the perennial plant seems to go far beyond maintenance activities and is likely to only increase the poison oak scrub which represents additional health risks for park users.

Any insight on these two concerns would be appreciated.

Thank you for your assistance,
Arnita Bowman

From: arnitabowman@hotmail.com
To: olive.gong@sfgov.org
Subject: URGENT Sunshine Act Request: Glen Canyon Spraying Project and Funding
Date: Fri, 2 Dec 2011 11:36:28 -0800

This is an **urgent** Sunshine Act Request related to the Natural Areas Program at Glen Park. There is currently a project underway to cut vegetation and spray herbicides in the Natural Area. Please provide me with the documents that provide the following information:

Active Project(s) Documentation (Please provide immediately because the work is already underway)

- All outside agreements such as contracts or work agreements for habitat and trail improvements at Glen Canyon (e.g., chain-sawing a path, spraying herbicides, etc.) including all detailed work instructions and schedules
- All work order type documents for city employees detailing the specific work to be completed and the schedule
- The detailed project budget and detailed project plans for all projects related to the Glen Canyon Natural Area that are currently open

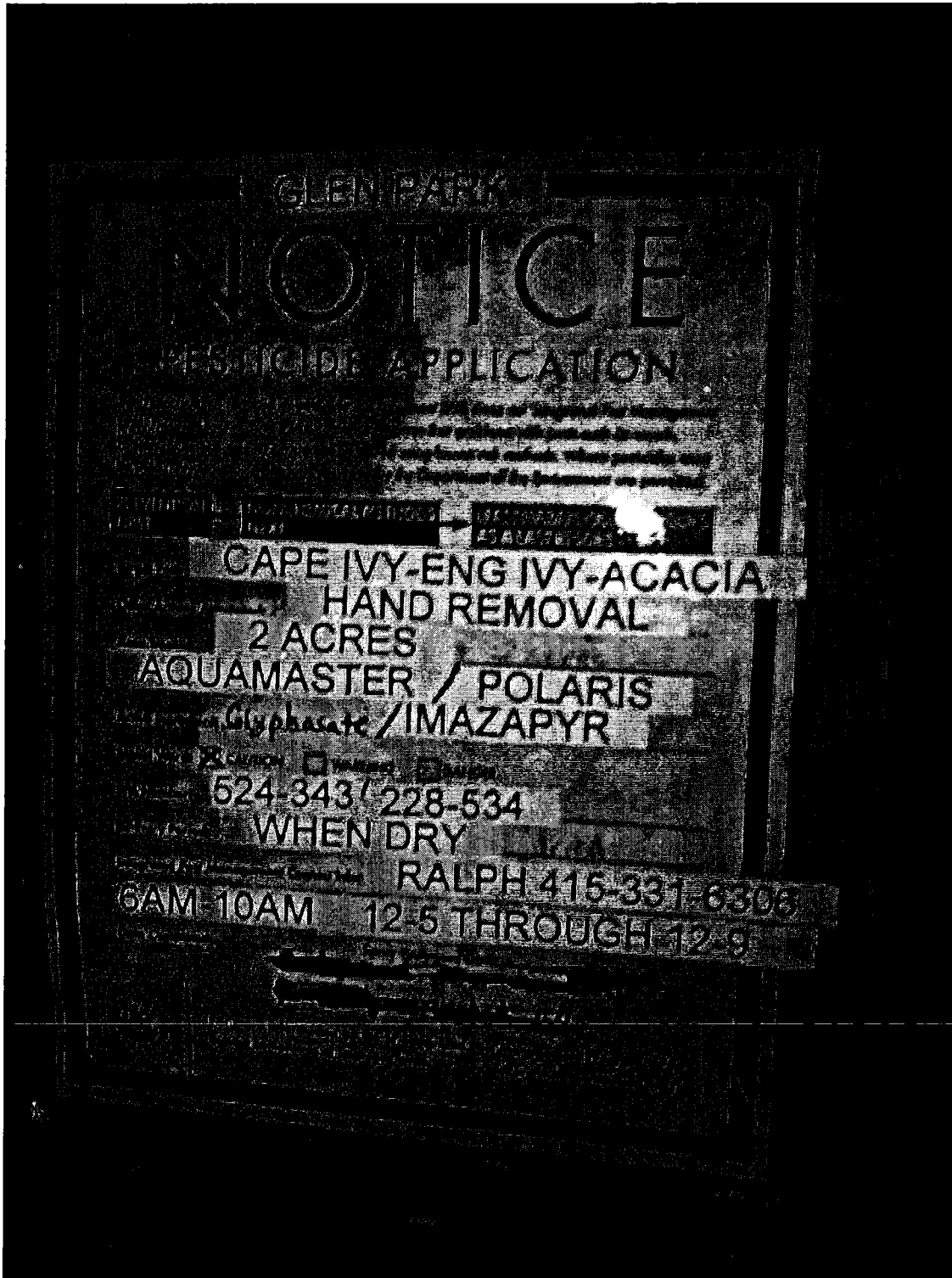
Funding and Project Budgets and Plans

- All grant applications and grant agreements for Glen Canyon trails or habitat improvements (e.g., Habitat Conservation Fund Grant) that are in process, currently open or have been open in the past 3 years
- Detailed list of expenditures and encumbrances for the Glen Parks Trails Project (CRPCSPPTGC) and any other project funded by a grant for the Natural Areas
- The detailed project budget and detailed project plans for all projects related to the Glen Canyon Natural Area that currently open or have been open in the past 3 years

Please provide the information in an electronic format on a CD or emailed to me. I do not want hard copies. Please let me know if the expected fees exceed \$20 for providing the information.

Please let me know if there is someone else I should contact for my request or if you need clarification on my request. Please also let me know that you received this request and when I should expect the response to my request.

Regards,
Arnita Bowman



Extension Requested - URGENT Sunshine Act Request: Glen Canyon Spraying Project and Funding

From: Olive.Gong@sfgov.org
Sent: Tue 12/06/11 3:25 PM
To: Arnita Bowman (arnitabowman@hotmail.com)
1 attachment
pic05819.jpg (69.1 KB)

Dear Ms. Bowman,

The Department is in receipt of your request for records and the Department is invoking an extension of 14 days beyond the 10 days usually allotted because there is a need to search for, collect, and examine a voluminous amount of separate and distinct records and/or there is a need to compile electronic data (per Govt. Code 6253 (c) and Govt. Code 6253 (c) (4)). Thus documents are due Dec 26, 2011. I will send you any responsive documents on a rolling basis, as soon as they have been received and reviewed.

Best Regards,
Olive Gong

.....

Olive Gong
San Francisco Recreation and Park Department
McLaren Lodge
501 Stanyan St., SF CA 94117
415.831-2708 direct
415.831-2096 fax
olive.gong@sfgov.org email

Reduce, Reuse, Recycle

From: Arnita Bowman <arnitabowman@hotmail.com>
To: <olive.gong@sfgov.org>
Date: 12/02/2011 11:35 AM
Subject: URGENT Sunshine Act Request: Glen Canyon Spraying Project and Funding

This is an urgent Sunshine Act Request related to the Natural Areas Program at Glen Park. There is currently a project underway to cut vegetation and spray herbicides in the Natural Area. Please provide me with the documents that provide the following information:

Active Project(s) Documentation (Please provide immediately because the work is already underway)

· All outside agreements such as contracts or work agreements for

habitat and trail improvements at Glen Canyon (e.g., chain-sawing a path, spraying herbicides, etc.) including all detailed work instructions and schedules

- All work order type documents for city employees detailing the specific work to be completed and the schedule

- The detailed project budget and detailed project plans for all projects related to the Glen Canyon Natural Area that are currently open

Funding and Project Budgets and Plans

- All grant applications and grant agreements for Glen Canyon trails or habitat improvements (e.g., Habitat Conservation Fund Grant) that are in process, currently open or have been open in the past 3 years

- Detailed list of expenditures and encumbrances for the Glen Parks Trails Project (CRPCSPPTGC) and any other project funded by a grant for the Natural Areas

- The detailed project budget and detailed project plans for all projects related to the Glen Canyon Natural Area that currently open or have been open in the past 3 years

Please provide the information in an electronic format on a CD or emailed to me. I do not want hard copies. Please let me know if the expected fees exceed \$20 for providing the information.

Please let me know if there is someone else I should contact for my request or if you need clarification on my request. Please also let me know that you received this request and when I should expect the response to my request.

Regards,
Arnita Bowman

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