

**SUNSHINE ORDINANCE
TASK FORCE**



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May 16, 2012

Board of Supervisors
City and County of San Francisco
San Francisco City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

**Re: Department of Public Works Failure to Document Expenditures
(Sunshine Ordinance Complaint No. 11087, Nyman v. Dept. of Public Works)**

Dear Board of Supervisors,

On January 3, 2012, the Sunshine Ordinance Task Force ("Task Force") heard a Sunshine complaint brought by Lars Nyman against the Department of Public Works ("DPW") alleging failure to adequately respond to a request for public records. Mr. Nyman has been attempting for months to receive records detailing approval of the initial budget of \$101,625.50 for the Montgomery/Alta Street tree project and the subsequent authorization to spend \$229,039.80, more than double the initially approved amount.

The DPW records requested by Mr. Nyman are public records subject to disclosure under the Sunshine Ordinance and California Public Records Act. Frank Lee, Executive Assistant to the DPW Director, informed the Task Force that DPW failed to document the approval of the project and that approval of the amount over budget was given verbally.

The Task Force expressed skepticism in response to Mr. Lee's assertion that DPW, a large taxpayer-funded department, does not maintain records supporting the need to increase a project's budget by such a significant amount. Members of the public expressed surprise supporting documents are not an absolute requirement.

The Task Force strongly advises the Board of Supervisors to immediately investigate DPW's documentation of its expenditures. Supporting materials justifying initial budget estimates and any amounts over budget should be required before any City employee or elected official approves a project. This type of documentation is essential to the public's right to know what their government and those acting on behalf of their government are doing. Any less demonstrates a callous disregard for the public's right to know guaranteed by state and local law.

The need for DPW to document its expenditures is evident in the Controller's recent report titled *Street Maintenance Benchmarking Report FY 2011*. San Francisco spends more than any of the

other eight comparison cities yet falls below average in several categories including street maintenance. Members of the public and Board of Supervisors need to have access to properly maintained DPW work orders and other supporting materials to adequately assess the reason for these types of disparities and ensure responsible use of taxpayer money.

Thank you for your timely attention to this matter. A copy of the Order in the complaint, referral to the Ethics Commission, and Controller's report are attached. Please contact the Sunshine Ordinance Task Force Administrator at sotf@sfgov.org or (415) 554-7724 with any questions or concerns.



Hope Johnson, Chair
Sunshine Ordinance Task Force

cc: San Francisco Mayor Edwin M. Lee
Ben Rosenfield, San Francisco Controller
Lars Nyman, Complainant
Frank Lee, Executive Assistant, Department of Public Works, Respondent
Mohammed Nuru, Director, Department of Public Works, Respondent
Board President David Chiu, District 3
Supervisor Eric Mar, District 1
Supervisor Mark Farrell, District 2
Supervisor Carmen Chiu, District 4
Supervisor Christina Olague, District 5
Supervisor Jane Kim, District 6
Supervisor Sean Elsbernd, District 7
Supervisor Scott Wiener, District 8
Supervisor David Campos, District 9
Supervisor Malia Cohen, District 10
Supervisor John Avalos, District 11
Jerry Threet, Deputy City Attorney