Date: March 10, 2009

Item No. 3
File No. 09007

SUNSHINE ORDINANCE TASK FORCE

COMPLAINT COMMITTEE

AGENDA PACKET CONTENTS LIST*

☒	**by David Larkin against the Department of Public Works**
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Completed by: Chris Rustom **Date:** March 4, 2009

***This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

** The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.

CITY AND COUNTY OF SAN FRANCISCO

DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

ERNEST H. LLORENTE
Deputy City Attorney

DIRECT DIAL: (415) 554-4236
E-MAIL: ernest.llorente@sfgov.org

March 3, 2009

Nick Goldman, Chair
Members of the Complaint Committee

Re: David Larkin v. Department of Public Works and Barbara Moy (09007)

Dear Chair Goldman and Members of the Complaint Committee:

This letter addresses the issue of whether the Sunshine Ordinance Task Force ("Task Force") has jurisdiction over the complaint of David Larkin against the San Francisco Department of Public Works.

BACKGROUND

On January 7, 2009, Complainant David Larkin requested information about an investigation about the conduct of DPW surveyor Bruce Storrs following a complaint filed by David Larkin against Bruce Storrs. The investigation was conducted by Bureau manager Barbara Moy. Frank Lee of DPW disclosed some records but withheld others citing California Public Records Act 6254(c) and Article 1, Section of the California Constitution. The basis for the redaction or withholding of information cited by DPW is because the disclosure of the record would constitute an unwarranted invasion of personal privacy.

COMPLAINT

On January 29,2009 filed a complaint against the DPW Office and Barbara Moy alleging violations of the Sunshine Ordinance and the Public Records Act.

SHORT ANSWER

Based on Complainant's allegation and the applicable sections of the Sunshine Ordinance and the California Public Records Act, which are cited below, the Sunshine Ordinance Task Force ***does*** have jurisdiction over the allegation. The allegations are covered under section 67.21 of the Ordinance and under section 6254 of the California Public Records Act.

DISCUSSION AND ANALYSIS

Article I Section 3 of the California Constitution as amended by Proposition 59 in 2004, the State Public Records Act, the State Brown Act, and the Sunshine Ordinance as amended by Proposition G in 1999 generally covers the area of Public Records and Public Meeting laws that the Sunshine Ordinance Task Force uses in its work.

The Sunshine Ordinance is located in the San Francisco Administrative Code Chapter 67. All statutory references, unless stated otherwise, are to the Administrative Code. Section 67.21 generally covers requests for documents and Section 67.25 covers Immediate Disclosure Requests. CPRA section 6253 generally covers Public Records Requests and section 6254 covers materials subject to disclosure.

In this case, DPW has the records requested by David Larkin but cites exemptions in the Public Records Act to justify withholding of the information. The Task Force has jurisdiction to hear this complaint will determine whether the DPW Office violated the Ordinance and/or the Public Records Act.

<complaints@sfgov.org>
01/29/2009 10:11 AM

To <sotf@sfgov.org>
cc
bcc
Subject Sunshine Complaint

Submitted on: 1/29/2009 10:11:07 AM

Department: DPW

Contacted: Mr. Frank Lee and Ms. Barbara Moy

Public_Records_Violation: Yes

Public_Meeting_Violation: No

Meeting_Date:

Section(s)_Violated: the use of 6254 (c) to deny my request and possibly others

Description: Brief history
I filed a complaint against Mr. Bruce Storrs with the Dpw. Ms. Moy of the DPW determined Mr.Storrs did nothing wrong. I requested a copy of her investigation and other material. I was denied this material per 6254 (c).

I submitted a complaint on 1/26/09 to the Sunshine Ordinance Committee in regards to the D.P.W.'s refusal to supply me with information I requested on 1/7/09. Mr. Frank Lee cited Section 6254 (c) of the California Public Records Act as the basic for his refusal to disclose.

On 1/26/09 I submitted 2 additional requests for information and again Mr. Frank Lee again refused to provide me the information I requested again citing section 6254 (c).

Mr. Frank Lee turned down all of my requests citing the following.

"There were other documents related to what you have requested. However, as allowed by California Public Records Act Section 6254(c), we are withholding these documents because disclosing them would constitute an unwarranted invasion of personal privacy. Of these documents, you are already in possession of one because it was an email addressed to you on December 17, 2008. That document is not attached to this email."

Section 6254 (c)
6254. Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following:
(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

I do not believe Section 6254 (c) pertains in any way to my situation and the information I requested should be made available. I believe this is a deliberate attempt by Ms. Barbara Moy to stall my request in her attempt to

shield Mr. Storrs and herself by not making this report public.

I will be happy to answer any question you have.

Thank You

[redacted]@yahoo.com

Hearing: Yes

Date: 1/27/08

Name: David Larkin

Address:

City: San Francisco

Zip:

Phone: 415-[redacted]

Email: [redacted]@yahoo.com

Anonymous:

Confidentiality_Requested: Yes

To whom this may concern.

I am writing this in regards to my complaint I filed with the D.P.W. in November 2008 against Mr. Bruce Storrs, County Surveyor. I believe both Mr. Storrs and Ms. Moy have acted in a bias and unacceptable manner, and Ms. Moy's findings only highlight her disregard to act in a neutral fashion.

Ms. Barbra Moy in her 12/17/08 email made a determination that Mr. Storrs behavior on November 14, 2008 was acceptable and the level of service I received from Mr. Storrs and the Department of Mapping that day was consistent with their customer service protocols.

A brief history of my past contact with the Department of Mapping and Mr. Bruce Storrs

I believe this is what led up to Mr. Storrs unprofessional and illegal behavior on November 14, 08.

I first contacted Mr. Storrs in June, 05 asking him to review/record my survey as required by law. In his June 28 email, Mr. Storrs said he would review/record my survey within 2 months

Mr. Storrs did not review my survey until 03/08/06, 9 months later in violation of State Law.

I informed Ms Barbara Moy on 10/31/05 that Mr. Storrs has yet to review/record my survey and was neglecting to follow State Law by not recording my survey per #8766 of the Business and Professions Code. (State law says he has 20 days from receiving my survey to review/record it). Ms. Moy did not respond to me and took no action.

I emailed Ms. Olga Ryerson of the D.P.W. asking her to intervene on my behalf. She never responded to me and took no action to get Mr. Storrs to record my survey as required by law.

Mr. Storrs in a November 10, email informs Mr. Edwin Lee (Director of the D.P.W), Robert Beck and Barbara Moy that he has no intention of recoding my survey, again in direct violation of the Business and Professions Code. Mr. Storrs has no right legal or otherwise as County Surveyor to make such a determination.

As of 11/14/05 Mr. Lee, Ms. Moy, Ms. Ryerson never responded, took no action and refused to compel Mr. Storrs to abide by California Business and Professions Code #8766..

On 11/14/05 I ask the B.P.E.L.S California (Board of Professional Engineers and Land Surveyors) for their opinion and help. They immediately open a complaint against Mr. Storrs based on his emails and his failure to follow the Business and Professions Code. I was not a party to this complaint.

On 3/27/06 Mr. Storrs in violation of the Sunshine Act tried to charge me $125 for staff time to reproduce some surveys. Mr. Storrs after being notified by Mr. Frank Darby of the Sunshine Ordinance Task Force, Mr. Storrs withdrew his fees. I believe this was in retaliation for advising the B.P.E.L.S. of his illegal behavior.

Hi I Filed A COMPLAINT Against The D.P.W
I would like To Know if There is Anything else
I CAN do. I CAN be reached AT 415-948-5117
or DAVIDLARKIN1@YAHOO.COM

Thanks
David Larkin

A brief summary of my current complaint.

I emailed Bruce Storrs on 11/12 requesting a copy of a survey that I am legally entitled to.

I got no response

I went to the department of mapping on 11/14 and asked the oriental girl at the front desk if there was a survey for me. She looked around and said no, she then went to Bruce Storrs's office and he came out.

Bruce asked me if I was Mr. Larkin and I said yes. He told me he wasn't going to give me a survey and I asked why. He said because I opened a complaint against him in 2005 and to get out of his office, He said he wasn't even going to talk to me and walked away..

The girl at the front desk came back and I asked her for Bruce's supervisor's name, she asked why and I said because he wouldn't give me a copy of a survey, she said she would make me a copy. She went to get a copy and Bruce followed her into an office and told her not to make me a copy.

Bruce then walked over to me and confronted me a second time. He said "I should know who my friends are" and stood within a few feet of me telling me he was no longer going to talk to me, and get out of his office. When I just stood and he told me at least 4 more times to get out of his office and he wasn't going to talk to me. I was not in his office but the public area in front of the main counter.

I went right over to the D.P.W. office at City Hall and talked to a Christine Falvey (415-554-6931) who took my complaint. She forwarded my complaint to Ms. Moy who 2 years previous took no action against Mr. Storrs even when he was in direct violation of State Law.

Ms. Moy on December 17,found that Mr. Storrs did nothing wrong.

Mr. Storrs has no right to threaten me by saying . "I should know who my friends are"
Mr. Storrs has no right to confront and accuse me of opening a complaint against him. I did not open a complaint against him, the State of California did and I was not party to that complaint.
Mr. Storrs has no right to force me leave the public area of the Mapping Department. I was not in his office but in the public area.
Mr. Storrs has no right to refuse to supply me with a copy of a map I am legally entitled to.
Mr. Storrs has no right to make me the first person in the history of the Mapping Department to go through the sunshine ordinance to get a copy of a map.

Ms. Moy decision in 2005 not to compel Mr. Storrs to comply with State law is only a precursor to her continuing condoning of this type of behavior from Mr. Storrs. It demonstrates her bias and impartiality against me her propensity to protect Mr. Storrs. Ms. Moy's investigation is a sham should be reopened and my complaint should be reviewed by an impartial neutral party.

I have emails, and other documents to back up accusations, and can provide them. I also wish to include Ms. Barbara Moy of the Department of Public Works in my complaint.

For Ms. Moy to find that Mr. Storrs and his staff have provided me with the level of service that is consistent with their customer service protocols is ridiculous.

I will be happy to answer any other question you may have

Thank You

David Larkin
Davidlarkin1@yahoo.com

From: Falvey, Christine
Sent: Tuesday, November 18, 2008 12:29 PM
To: Moy, Barbara L
Subject: FW: Burce Storrs

what can i tell him (just that I forwarded complaint to you, and you will be contacting him?)

From: Moy, Barbara L
Sent: Tuesday, November 18, 2008 12:43 PM
To: Falvey, Christine
Subject: RE: Burce Storrs

Yes I will call him tomorrow.

I'll be at City hall all afternoon...

From: Falvey, Christine
Sent: Tuesday, November 18, 2008 1:12 PM
To:
Subject: RE: Burce Storrs

David,

Thank you for checking in. I referred your complaint to Barbara Moy, Bureau Manager of the Bureau of Street Use and Mapping and Ed Reiskin, Director of Public Works. Ms. Moy will be responding to your complaint this week.

From: Moy, Barbara L
Sent: Monday, December 01, 2008 10:16 AM
To: Falvey, Christine
Subject: RE: Bruce Storss

Christine,

I'll call him.. I spoke to him week before last.

From: Moy, Barbara L
Sent: Monday, December 01, 2008 10:32 AM
To:
Cc: Falvey, Christine
Subject: RE: Bruce Storss

Mr. Larkin,

I will be completing my review shortly. I should be back to you in a day or so. Need to talk to additional staff who were off last week.

From: Falvey, Christine
Sent: Tuesday, December 09, 2008 8:28 AM
To: Moy, Barbara L
Subject: RE: Bruce Storss

has the dept. formally responded to his complaint?

From: Moy, Barbara L
Sent: Tuesday, December 09, 2008 8:32 AM
To: Falvey, Christine
Subject: RE: Bruce Storss

No... I am still working on that.... I wrote to Mr Larkin late last week that I was getting more statements which was taking longer than I thought given the thanksgiving holidays.

From: Falvey, Christine
Sent: Monday, December 15, 2008 10:02 AM
To: Moy, Barbara L
Subject: FW: My complaint

barbara, any update?

From: Moy, Barbara L
Sent: Monday, December 15, 2008 11:03 AM
To: Falvey, Christine
Subject: RE: My complaint

I will write to him... I got some more statements.

From: Falvey, Christine
Sent: Tuesday, December 16, 2008 4:05 PM
To: Moy, Barbara L; Reiskin, Ed
Subject: FW: My complaint

Follow Up Flag: Follow up
Flag Status: Flagged

Barbara and Ed, Want to send this along. Do we have anything to report to D. Larkin?

From: "Moy, Barbara L" Barbara.Moy@sfdpw.org 12/17/08

To: "'dgl888@pacbell.net'" <dgl888@pacbell.net>

Mr. Larkin,

I am addressing your specific complaint about Bruce Storrs, County Surveyor related to your visit to our offices on the afternoon of November 14th. You have expressed other concerns regarding the process for getting copies of maps and other documents. You requested maps as well as letters/documents which required review and possible redaction of private information in consultation with the City Attorney's office as necessary. Mr. Frank Lee has responded to your various requests for documents from our files and has provided all that you have requested. I will therefore only address the incident of November 14th and your specific complaint about Mr. Storrs

Background on your complaint:

You contacted Christine Falvey, in the Director's office on Friday November 14th. Ms. Falvey contacted me to share your concerns.

I called you on November 19th, to discuss your complaint. In summary, you indicated you came to our office on Friday afternoon and were not given a copy of a map during your visit. You felt that you were being treated differently than other members of the public. You believe that Mr. Storrs holds you responsible for a "complaint" to the Board of Professional Engineers and Land Surveyors regarding a map review a few years ago. You indicated that you did not file a complaint but did make an inquiry to the BPELS. I advised you that I would need to review the situation and that I would get back to you as soon as possible

On Monday December 8th, after not hearing the results of my review, you wrote to me, unhappy that I had not yet replied to you. In your email you stated that on November 14th, "Mr. Storrs came out of his office, confronted me, made false accusations, made what might be consider threatening remarks and refused to supply me with a copy of a survey that I am legally entitled to." You also voiced your issues with the timeliness of the review and approval of a Record of Survey "more than 2 years ago". While this is not the specific issue at hand, you felt that the inquiry you made to the State Board concerning the timeliness of map reviews led to Mr. Storrs' actions on November 14th.

I have individually interviewed the staff who were present during your visit on November 14th. Based on those interviews, I cannot substantiate the claims you put forward. I believe Mr. Storrs and his staff have provided you with the level of service that is consistent with our customer service protocols. I recognize that in the past you have received copies of maps directly from Mr. Storrs' staff in person and have obtained a copy on the spot. This will not always be possible due to staff priorities and the need to assure that the documents you have requested do not contain personal information, which must be redacted. In a communication last week to you, Mr. Frank Lee outlined a process for future requests, which I trust will work for you.

If you have any further questions or comments, please do not hesitate to contact me.

From: [mailto:]
Sent: Tuesday, November 18, 2008 11:31 AM
To: Falvey, Christine
Subject: Burce Storrs

Ms. Falvey

I would like to get an update on the situations that occured last week concerning Mr. Bruce Storrs.

Thank You
David Larkin

From: Falvey, Christine
Sent: Tuesday, November 18, 2008 12:29 PM
To: Moy, Barbara L
Subject: FW: Burce Storrs

what can i tell him (just that i forwarded complaint to you, and you will be contacting him?)

From: Moy, Barbara L
Sent: Tuesday, November 18, 2008 12:43 PM
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Yes I will call him tomorrow.

I'll be at City hall all afternoon...

From: Falvey, Christine
Sent: Tuesday, November 18, 2008 1:12 PM
To:
Subject: RE: Burce Storrs

David,

Thank you for checking in. I referred your complaint to Barbara Moy, Bureau Manager of the Bureau of Street Use and Mapping and Ed Reiskin, Director of Public Works. Ms. Moy will be responding to your complaint this week.

From:
Sent: Monday, December 01, 2008 9:45 AM
To: Moy, Barbara L
Cc: Falvey, Christine
Subject: Bruce Storss

Mrs. Moy

I would like an update of my complaint against Mr. Storrs.

From: Moy, Barbara L
Sent: Monday, December 01, 2008 10:16 AM
To: Falvey, Christine
Subject: RE: Bruce Storss

Christine,

I'll call him.. I spoke to him week before last.

From: Moy, Barbara L
Sent: Monday, December 01, 2008 10:32 AM
To:
Cc: Falvey, Christine
Subject: RE: Bruce Storss

Mr. Larkin,

I will be completing my review shortly. I should be back to you in a day or so. Need to talk to additional staff who were off last week.

Thank you.

Barbara Moy

From: [mailto:
Sent: Monday, December 08, 2008 6:22 PM
To: Moy, Barbara L
Cc: Falvey, Christine
Subject: RE: Bruce Storss

Ms. Moy

I am very unhappy with this entire matter and the way it is being handled. This is not the first time or even the second time Mr. Storrs has shown bias towards me.

It has been a week since we last communicated and I still have not received your reply. I do not understand why it has taken over three weeks to talk to a couple of people in his office with no visible progress/results. Mr. Storrs came out of his office, confronted me, made false accusations, made what might be consider threatening remarks and refused to supply me with a copy of a survey that I am legally entitled to.

The first time I asked for the D.P.W.s help they looked the other way forcing me to seek help from and outside agency at my time and expense. I hope the D.P.W. is not asking me to do so a second time

Over two years ago I asked the D.P.W. to intervene on my behalf and have Mr. Storrs simply follow the rules of the California Business and Professions Code. After numerous emails the D.P.W. took the position that Mr. Storrs was head of that department, competent, and his decisions were final. By taking that stand the D.P.W. left me no choice but get a second opinion from the B.P.E.L.S. The B.P.E.L.S. immediately upon reviewing Mr. Storrs's and the D.P.W. responses opened a complaint against Mr. Storrs (County Surveyor of San Francisco). I did not open a complaint, listed in that complaint nor was I involved in any way with that complaint other than asking for the State's opinion if Mr. Storrs was following state law, and getting my survey recorded in a timely manner as legally required by the State. Mr. Storrs now holds me responsible for that complaint when in fact it was his failure to follow State law even after being asked numerous times
to do so. I can supply all the emails and other documents to back up my claim.

(1) It has taken me nearly a month just to get copies of the two surveys on 8 ½ x 11 size paper. I have been unsuccessful and it should not be my responsibility in getting these 8 ½ x 11 size maps enlarged to the California State required size of 16"x24". Previously Mr. Gallup upon receiving my email would always make me a 16" x 24" copy usually that day, the cost would be $5.00 and hassle free. The Department of Mapping has that capability but apparently they do not wish to do so in my case.

(2) I also firmly believe that not all of the correspondence that I originally asked for in my sunshine act request of 11/14/08 has been turned over to me.

Until this matter is resolved, The Mapping Department should not treat me any differently than anyone else.

(1) I am now demanding that the Department of Mapping stop producing 16" x 24" maps to anyone, (surveyors, or public). All maps from the Department of Mapping (even maps retuned to surveyors for corrections), should now be produced on 8 ½" x 11" size paper only.

(2) I am now demanding that the Department of Mapping immediately change its procedures and require all request for maps, condo records or any other information be made through the sunshine act as I have to do.

Mr. Storrs is well aware of the sunshine ordinance and its rules and regulations. Mr. Storrs once tried to charge me staff time of $125 to produce some maps. I was again forced to have an outside agency (the sunshine ordinance taskforce) informed Mr. Storrs that was he was doing was inappropriate. I have the documents to back this up

I believe Mr. Storrs forced me to be the first person ever, to go through the sunshine act to get a copy of a map from his department that I was legally entitled to.

I should not be treated differently than anyone else asking for information from the Mapping Department.

Mr. Storrs through his actions of telling me to leave his office (I was not in his office but the public area), came out of his office and confronted me, falsely accused me of filing a complaint against him with the State of California,

making remarks such as "I should know who my friends are" and refused to give me a map I am legally entitled to has left me very hesitant and somewhat afraid to ever deal with the Department of Mapping in the future.
Mr. Storrs uninitiated this fiasco over two years ago and continues to make this personal. All I originally wanted was one copy of one map that I requested the day before, was legally entitled to and could have been produced in less than 5 minutes. Mr. Storrs turned this simply request into a never ending three year nightmare for me.
I am seriously considering filing a formal complaint against Mr. Bruce Storrs.

David Larkin

From: Moy, Barbara L
Sent: Tuesday, December 09, 2008 8:32 AM
To: Falvey, Christine
Subject: RE: Bruce Storss

No... I am still working on that.... I wrote to Mr Larkin late last week that I was getting more statements which was taking longer than I thought given the thanksgiving holidays.

From: Falvey, Christine
Sent: Tuesday, December 09, 2008 8:28 AM
To: Moy, Barbara L
Subject: RE: Bruce Storss

has the dept. formally responded to his complaint?

From:
Sent: Monday, December 15, 2008 9:12 AM
To: Falvey, Christine
Subject: My complaint

Follow Up Flag: Follow up
Flag Status: Flagged

Ms. Falvey

It has been over a month and still no results on my complaint against Mr. Storrs.

I contacted Ms. Moy over two weeks ago,(December 1,) asking about the status of my complaint. Her reply was

"Mr. Larkin,

I will be completing my review shortly. I should be back to you in a day or so. Need to talk to additional staff who were off last week.

Thank you.

Barbara Moy"

She never replied and this is not the first time my complaint against Mr.Storrs has been ignored by the D.P.W.

I am asking you to intervene on my behalf. If I do not hear back with the results of my complaint by Wednesday afternoon I will be left with no choice but to file a complaint with the "Whistle Blowers program"

Thank You
David Larkin

From: Falvey, Christine
Sent: Monday, December 15, 2008 10:02 AM
To: Moy, Barbara L
Subject: FW: My complaint

barbara, any update?

From: Moy, Barbara L
Sent: Monday, December 15, 2008 11:03 AM
To: Falvey, Christine
Subject: RE: My complaint

I will write to him... I got some more statements.

From: Falvey, Christine
Sent: Tuesday, December 16, 2008 4:05 PM
To: Moy, Barbara L; Reiskin, Ed
Subject: FW: My complaint

Follow Up Flag: Follow up
Flag Status: Flagged

Barbara and Ed, Want to send this along. Do we have anything to report to D. Larkin?

Ms. Moy response to my complaint against Mr. Storrs

Flag this message

Your Complaint regarding Bruce Storrs

Wednesday, December 17, 2008 7:42 AM

From:

"Moy, Barbara L" <Barbara.Moy@sfdpw.org>

View contact details

To:

"'dgl888@pacbell.net'" <dgl888@pacbell.net>

Mr. Larkin,

I am addressing your specific complaint about Bruce Storrs, County Surveyor related to your visit to our offices on the afternoon of November 14th. You have expressed other concerns regarding the process for getting copies of maps and other documents. You requested maps as well as letters/documents which required review and possible redaction of private information in consultation with the City Attorney's office as necessary. Mr. Frank Lee has responded to your various requests for documents from our files and has provided all that you have requested. I will therefore only address the incident of November 14th and your specific complaint about Mr. Storrs

Background on your complaint:

You contacted Christine Falvey, in the Director's office on Friday November 14th. Ms. Falvey contacted me to share your concerns.

I called you on November 19th, to discuss your complaint. In summary, you indicated you came to our office on Friday afternoon and were not given a copy of a map during your visit. You felt that you were being treated differently than other members of the public. You believe that Mr. Storrs holds you responsible for a "complaint" to the Board of Professional Engineers and Land Surveyors regarding a map review a few years ago. You indicated that you did not file a complaint but did make an inquiry to the

BPELS. I advised you that I would need to review the situation and that I would get back to you as soon as possible

On Monday December 8th, after not hearing the results of my review, you wrote to me, unhappy that I had not yet replied to you. In your email you stated that on November 14th, "Mr. Storrs came out of his office, confronted me, made false accusations, made what might be consider threatening remarks and refused to supply me with a copy of a survey that I am legally entitled to." You also voiced your issues with the timeliness of the review and approval of a Record of Survey "more than 2 years ago". While this is not the specific issue at hand, you felt that the inquiry you made to the State Board concerning the timeliness of map reviews led to Mr. Storrs' actions on November 14th.

I have individually interviewed the staff who were present during your visit on November 14th. Based on those interviews, I cannot substantiate the claims you put forward. I believe Mr. Storrs and his staff have provided you with the level of service that is consistent with our customer service protocols. I recognize that in the past you have received copies of maps directly from Mr. Storrs' staff in person and have obtained a copy on the spot. This will not always be possible due to staff priorities and the need to assure that the documents you have requested do not contain personal information, which must be redacted. In a communication last week to you, Mr. Frank Lee outlined a process for future requests, which I trust will work for you.

If you have any further questions or comments, please do not hesitate to contact me.

From:
Sent: Thursday, December 18, 2008 7:56 AM
To: Falvey, Christine
Subject: Re: Your Complaint regarding Bruce Storrs

Mr. Falvey

I believe Ms. Moy decision was bias as was her decision 2 years ago. The actions of Mr. Storrs should not be condoned. This is the second time she allowed Mr. Storrs to violate either State law or city code. Mr. Storrs has no right to treat me differently than any one else,or Imake threats but apparently Ms. Moy disagrees. I asked 311 to intervene through the whistle blower's program. I also do not agree with Ms. Moy decision to have the public go through her department to get maps, simple because of Mr. Storrs childish behavior.

I do not believe Ms. Moy addressed Mr. Storrs behavior that day, with him personally demanding I leave the public area of the mapping department, or bringing up a complaint as the reason he is treating me as the first person ever to have to go through the sunshine act to get a map. She did not address many other parts of my complaint but simple said Mr. Storrs acted appropratly. By allowing this type of behavior to continue shows her bias and allows Mr. Storrs to continue to act in a way that the city should not tolerate.

Please email me if you wish to discuss this further.

David Larkin

From:
Sent: Tuesday, January 06, 2009 5:53 PM
To: Falvey, Christine
Cc: Lee, Frank W; DPW; Moy, Barbara L
Subject: complaint Bruce Storrs, Barbara Moy

Ms. Falvey

You failed to respond to my letter dated December 18, 08, As you can guess I am very disappointed in Ms. Moy's decision that Mr. Storrs actions that day were acceptable. I find it ridiculous that his behavior was found acceptable. I would like to hear from you and get your opinion if Mr. Storrs actions that day were at the level of service that is consistent with the mapping customer service protocols.

This is the second time Ms. Moy has sided with Mr. Storrs when he is clearly in violation of the law and in the wrong.

If you do not address my concerns I will have my complaint professional written and forwarded to various employees of the D.P.W., other city agencies, my attorney, the city attorney, the Mayor, every supervisor, any publication willing to read it and to Mr. Jeffery N. Lucas, PLS, Esq. of P.O.B. who has expressed an interested in my predicament.

Ms. Moy wrote
"I have individually interviewed the staff who were present during your visit on November 14th. Based on those interviews, I cannot substantiate the claims you put forward. I believe Mr. Storrs and his staff have provided you with the level of service that is consistent with our customer service protocols. I recognize that in the past you have received copies of maps directly from Mr. Storrs' staff in person and have obtained a copy on the spot. This will not always be possible due to staff priorities and the need to assure that the documents you have requested do not contain personal information, which must be redacted. In a communication last week to you, Mr. Frank Lee outlined a process for future requests, which I trust will work for you.

1)Mr. Storrs has no right to threaten me. "I should know who my friends are"
(2)Mr. Storrs has no right to confront me in public and accuse me of opening a complaint against him. I did not open a complaint against him, the State of California did and I was not party to that complaint. (Check it out)
(3)Mr. Storrs has no right to force me leave the public area of the Mapping Department. I was not in his office but in the public area.
(4)Mr. Storrs has no right to refuse to supply me with a copy of a map I am legally entitled to. Mr. Storrs has no right to make me the first person in the history of the Mapping Department to go through the sunshine ordinance to get a copy of a map. This was a deliberate act by Mr. Storrs against me, and you take no action. Why?
(5) Mr. Storrs is well aware of the sunshine ordinance and that I am legally entitled to those maps. In 03/06 Mr. Storrs tried to charge me $125 in staff time to get some maps, after he was notified by Mr. Frank Darby of the Sunshine Ordinance Task Force Mr. Storrs withdrew his fees.

(6) I will not accept the process Mr. Frank Lee and Ms. Moy suggest. This process discriminatory and sets the way I am treated differently as opposed to the public. If Ms. Moy makes me go through the sunshine ordinance to request a map that I am legally entitled to, then I demand that everyone else including all surveyors be expected to do the same. What is Ms. Moy's logic in allowing Mr. Storrs to refuse to provide me the maps that I am legally entitled to and been getting for over 4 years to suddenly change this process because Mr. Storrs throws a tantrum.

1

From:
Sent: Tuesday, January 06, 2009 5:53 PM
To: Falvey, Christine
Cc: Lee, Frank W; DPW; Moy, Barbara L
Subject: complaint Bruce Storrs, Barbara Moy

Ms. Falvey

You failed to respond to my letter dated December 18, 08, As you can guess I am very disappointed in Ms. Moy's decision that Mr. Storrs actions that day were acceptable. I find it ridiculous that his behavior was found acceptable. I would like to hear from you and get your opinion if Mr. Storrs actions that day were at the level of service that is consistent with the mapping customer service protocols.

This is the second time Ms. Moy has sided with Mr. Storrs when he is clearly in violation of the law and in the wrong.

If you do not address my concerns I will have my complaint professional written and forwarded to various employees of the D.P.W., other city agencies, my attorney, the city attorney, the Mayor, every supervisor, any publication willing to read it and to Mr. Jeffery N. Lucas, PLS, Esq. of P.O.B. who has expressed an interested in my predicament.

Ms. Moy wrote
"I have individually interviewed the staff who were present during your visit on November 14th. Based on those interviews, I cannot substantiate the claims you put forward. I believe Mr. Storrs and his staff have provided you with the level of service that is consistent with our customer service protocols. I recognize that in the past you have received copies of maps directly from Mr. Storrs' staff in person and have obtained a copy on the spot. This will not always be possible due to staff priorities and the need to assure that the documents you have requested do not contain personal information, which must be redacted. In a communication last week to you, Mr. Frank Lee outlined a process for future requests, which I trust will work for you.

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1

I believe I am entitled to know not only the basis behind Ms. Moy decision but specific details of why she found that Mr. Storrs did nothing wrong that day and why it took her over two weeks just to interview some mapping personal. I have requested additional information through the sunshine ordinance.

This started out with me just asking for one copy of a map I am legally entitled to, and look how have it has progressed.

Dave Larkin

First set of request for maps took from 11/14/08 to 12/10/08

November 14, 08 request #1

I am requesting under the Sunshine Ordinance a copy of the corrected survey returned to Mr. Ron on 11/12/08 for Block 1269 Lot#008

I am requesting under the sunshine Ordinance a copy of all correspondences between the Department of Permit and Mapping/ Mr. Bruce Storrs/ his department and Mr. Ben Ron/ Martin M. Ron Associates and any other documents related to block 1269 lot 008. between September 1, 2008 and present

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November 17, 08 request #2
IMMEDIATE DISCLOSURE REQUEST

I am requesting under the Sunshine Ordinance a copy of the corrected survey returned to Mr. Ron on 11/12/08 for Block 1269 Lot#008

I am requesting under the sunshine Ordinance a copy of all correspondences between the Department of Permit and Mapping/ Mr. Bruce Storrs/ his department and Mr. Ben Ron/ Martin M. Ron Associates and any other documents related to block 1269 lot 008. between September 1, 2008 and present.

IMMEDIATE DISCLOSURE REQUEST

Thank You
David Larkin

It took 26 days to get a copy of a map that I was legally entitled to. Why was I refused the map in the first place, I received over 30 maps in the past two years dealing with Mr. Tom Gallup, but problems arise as soon as Mr. Storrs get involved. why was I the first person in the history of the Mapping Department to have to go through the sunshine ordinance Why did Mr. Storrs refuse to give me a map and leave his office and confront me, why did he make a threat, "you should know who your friends are" and have no action taken.

It took the DPW till December 10 to get me the maps in the standard 18x24 format\

Second set of request per Ms. Moy's report

January 6, 2009 request #3

I am requesting a copy of any and all communications, including but not limited to emails, memos etc, by Mr. Bruce Storrs, Ms. Barbara Moy, Ms Christine Falvey, , Mr. Frank Lee or any city employee or agency that has any reference to the complaint/investigation brought by or concerning David Larkin. Please contact me as soon as possible with any questions you may have.

January 8, 2009 request #4
Immediate Disclosure Request

I am requesting a copy of the Department of Public Works investigating of Mr. Bruce Storrs, County Surveyor. I am requesting all communications in any form related to the complaint I filed per this investigation.

I am requesting all communications on all past investigations and or complaints against Mr. Bruce Storrs.

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request #5

Immediate Disclosure Request #1 January 24, 2008 (1/26/09)

I am requesting a copy of the report that Ms. Barbara Moy wrote and used to make her determination that Mr. Storrs and his staff have provided (me) with the level of service that is consistent with our customer service protocols. I did not get a copy of that report/investigation per my previous sunshine request.

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request #6

Mr. Lee (1/26/09)

Immediate Disclosure Request #2

I am requesting the names of the people that Ms. Moy interviewed for this report, and a copy of their statements, whether or not they are included in this report.

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request #7

Immediate Disclosure Request #3 (1/26/09)

Ms Moy wrote December 17, 2008

"This will not always be possible due to staff priorities and the need to assure that the documents you have requested do not contain personal information, which must be redacted. In a communication last week to you, Mr. Frank Lee outlined a process for future requests, which I trust will work for you."

Mr Lee did not outline the process but only proposes one December 10, 2008

"We would like to propose that requests for copies of maps could be made in a less formal manner than through a Public Records Request. Ms. Moy has agreed to accept such requests directly from any public member and will inform her staff of this. However, we would like the public to understand that though our staff will act diligently, such requests will take time to process, scan or copy. Her staff will also check on the cost for copies."

Immediate Disclosure Request #3

I am requesting a copy of the policy Ms. Moy recently implemented and informed her staff about regarding how she now will process public request from her department.

I am requesting a copy of what departments in the D.P.W. Ms. Moy will require to follow this new policy.

I am requesting to know if this policy only cover only "maps" or does it cover all request for any and all public documents.

I am requesting to know if all requests without exception will have to go through Ms. Moy's office. Will Department of Mapping personal including Mr. Storrs have the discretion to be able to provide maps and or documents to the public without going through Ms. Moy's office?

I am requesting to know if land surveyor's and contractors are considered "public" and will have to go through the same process to get maps, and documents as I will have to.

Mr. Lee (1/29/09) request #8

I am requesting a copy of all reports and material previously denied by the DPW. I am requesting this per 67.26

No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure under express provisions of the California Public Records Act or of some other statute. Information that is exempt from disclosure shall be masked, deleted or otherwise segregated in order that the nonexempt portion of a requested record may be released, and keyed by footnote or other clear reference to the appropriate justification for withholding required by section 67.27 of this article

Request #9

Mr. Lee (1/29/09)

Immediate Disclosure Request

I am requesting a list of all material that I was denied by the DPW per 6254 (c). I am not requesting the material just a list of what the DPW said I was not entitled to.

Request #10

Mr. Lee (1/29/09)

I am requesting all communications between with the City Attorney's Office and/or any other city agency with regard to my complaint and the DPW's determination not to release information requested through the Sunshine Ordinance.

This is the only response I received for any of my requests
Dear Mr. Larkin:

We have completed our research and found no documents responsive to your request.

This is the general response to request #3 to #9, I believe Ms. Moy should be held responsible for her actions and an appropriate disciplinary response should be taken

January 22, 2009 the DPW response to the above answer to #3,4,5,6,7,8, and 9 is
Dear Mr. Larkin:

Our department has completed our research and found the attached documents that are responsive to your immediate disclosure request of January 7, 2009.

Due to privacy concerns, we have redacted personal information, such as personal phone numbers and e-mail addresses, from these documents. We redacted this personal information pursuant to Section 6254(c) and Section 6254(k) of the California Public Records Act and Article 1, Section 1 of the California Constitution.

There were other documents related to what you have requested. However, as allowed by California Public Records Act Section 6254(c), we are withholding these documents because disclosing them would constitute an unwarranted invasion of personal privacy. Of these documents, you are already in possession of one because it was an email addressed to you on December 17, 2008. That document is not attached to this email.

If you have any questions, please feel free to contact me at (415) 554-6993 or at

SUNSHINE ORDINANCE TASK FORCE

Support Documents Replacement Form

The documents this form replaces exceeds 75 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.

File #09007 – **David Larkin** vs. **Dept of Public Works**

FROM: Frank Lee, Public Works

- ☒ **12 Public Records Requests made by Mr. Larkin**
- ☐
- ☐
- ☐

This list reflects the explanatory documents provided.

Completed by: **Frank Darby** **Date:** _____

City and County of San Francisco

Gavin Newsom, Mayor
Edward D. Reiskin, Director

(415) 554-6920
FAX (415) 554-6944
http://www.sfdpw.com

Department of Public Works
Office of the Director
City Hall, Room 348
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4645

February 18, 2009

Sunshine Ordinance Task Force
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Re: Sunshine Complaint #09007

Dear Sunshine Ordinance Task Force:

We write to explain that the complaint filed by Mr. David Larkin lacks merit.

Mr. David Larkin has made several public records request for documents related to a DPW investigation conducted in response to Mr. Larkin's complaint against a DPW employee. We responded fully and in a timely manner to all of Mr. Larkin's requests, and we supplied Mr. Larkin with responsive documents.

The responsive documents that we withheld were documents related to the investigation. These documents, which are part of the employee's personnel file, included the names of the employees interviewed and their written statements. We withheld these documents in accordance with Section 6254(c) of the California Public Records Act, which states that "nothing in this chapter shall be construed as require disclosure of records that are any of the following: ... (c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy." See also S.F. Administrative Code Section 67.1(g) and California Constitution. Article 1, Section 1.

Mr. Larkin refers to a report that he requested but did not receive. The only report that DPW made in connection with his complaint took the form of a response to Mr. Larkin's complaint. The employee's supervisor prepared that response and gave to Mr. Larkin, in the form of an email, at the conclusion of the investigation. We are not withholding a report.

We understand that, under the City's Sunshine Ordinance, documents relevant to an investigation of an employee may be subject to disclosure under certain circumstances. S.F. Administrative Code Section 67.24(c)(7) provides that the record of confirmed misconduct involving dishonesty, misappropriation of public resources, or unlawful discrimination are not exempt from disclosure. But, there is no "confirmed misconduct" here. The employee's supervisor found that the employee did not engage in misconduct.

In addition, the misconduct alleged by Mr. Larkin was not the type of conduct addressed in Section 67.24(c)(7).

In sum, DPW's decision to withhold records in response to Mr. Larkin's request for documents was consistent with the terms of the Sunshine Ordinance and the Public Records Act.

Sincerely,

Frank W. Lee
Executive Assistant to the Director