

Date: October 13, 2009

Item No. 4

File No. 09038

## SUNSHINE ORDINANCE TASK FORCE

Compliance and Amendments Committee

AGENDA PACKET CONTENTS LIST\*

- Anmarie Mabbutt against Department of Recreation and Park
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Completed by: Chris Rustom

Date: Oct. 7, 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.

**SUNSHINE ORDINANCE  
TASK FORCE**



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. (415) 554-7724  
Fax No. 415) 554-7854  
TDD/TTY No. (415) 554-5227

**ORDER OF DETERMINATION**

September 1, 2009

**DATE THE DECISION ISSUED**

August 25, 2009

*ANMARIE MABBUTT v. RECREATION AND PARKS DEPARTMENT (09038)*

**FACTS OF THE CASE**

Complainant Anmarie Mabbutt alleges that she submitted in the course of the past four weeks a number of Immediate Disclosure Requests ("IDR") with the Recreation and Park Department ("Rec & Park"). To those requests, Ms. Mabbutt states that Rec & Park provided full documentation on some, partial responses on some, "tampering" on others, and a few with no responses.

**COMPLAINT FILED**

On July 17, 2009, Ms. Mabbutt filed a complaint against Rec & Park alleging violations of Sections 67.21 and 67.25 of the Sunshine Ordinance.

**HEARING ON THE COMPLAINT**

On August 25, 2009, Complainant Anmarie Mabbutt appeared before the Task Force and presented her claim. Respondent Agency was represented by Olive Gong, the Custodian of Records for Rec & Park.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Ms. Mabbutt told the Task Force that she has submitted numerous IRDs to which some have been responded to, some have been ignored and some have generated partial responses. There are no laws, she said, that restrict the number of requests a person can make. The department, she said, has not said that the documents she wants are confidential; it has simply slowed down their response to a trickle. She also listed several documents that she wanted released first, and explained that she was attempting to work with the Department to prioritize the items in her requests. Respondent Olive Gong said in the last two months she has received 124 requests and 81 emails from the complainant. The Department has responded diligently and has sent the complainant 88 emails, 147 email documents and 337 hardcopy documents, she said. Ms. Gong alleged that all but

**ORDER OF DETERMINATION**

a few of the complainant's requests for documents were labeled "Immediate Disclosure Request" and required extensive staff time. The Department, she added, has asked the complainant to prioritize her requests so that staff could respond in an orderly fashion and also take care of requests from other members of the public. Complicating the process, she said, was that the complainant reprioritizes her top requests several times over.

The Task Force sympathizes with the Department for the burden of responding to the pending requests, which are numerous, but noted that the law requires strict compliance and that Departments are required to do their best to provide accurate, timely responses. The Task Force also wanted to make sure that Ms. Mabbutt would really work with the Department to prioritize her many requests and would refrain from reprioritizing her requests, as that only added to the Department's already heavy burden. The Task Force asked both sides to work together and directed Ms. Mabbutt to send Ms. Gong a "final" list of priorities for the Department to respond to before turning to Ms. Mabbutt's other pending requests. Both sides agreed to that process.

**DECISION AND ORDER OF DETERMINATION**

The Task Force finds that the agency violated Section(s) 67.21 of the Sunshine Ordinance. Both parties were asked to work with each other and are to appear before the Compliance and Amendments Committee on September 8, 2009 to update the Committee on the status of the responses.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on August 25, 2009, by the following vote: ( Johnson / Goldman )

Ayes: Craven-Green, Washburn, Knoebber, Johnson, Goldman, Williams, Knee

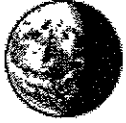
Noes: Cauthen

Excused: Chan, Chu



Richard Knee, Chair  
Sunshine Ordinance Task Force

c: Ernie Llorente, Deputy City Attorney  
Anmarie Mabbutt, complainant  
Olive Gong, respondent  
Rosa Sanchez, Deputy City Attorney



Anmarie Mabbutt  
<tenniselement@yahoo.com>

09/29/2009 11:41 AM

To SOTF@sfgov.org  
cc Olive.Gong@sfgov.org  
bcc

Subject REQUEST TO IMMEDIATELY RE-CALENDAR COMPLAINT  
#09038

--- On Tue, 9/29/09, Anmarie Mabbutt <tenniselement@yahoo.com> wrote:

From: Anmarie Mabbutt <tenniselement@yahoo.com>  
Subject: Fw: Completion of your Priority List dated 8-27-2009  
To: SOTF@sfgov.org  
Cc: Olive.Gong@sfgov.org  
Date: Tuesday, September 29, 2009, 11:40 AM

Dear SOTF,

This is to serve as notice that the San Francisco Recreation & Park Department continues to be in violation of numerous sections of the Sunshine Ordinance and as such, I respectfully request that Complaint #09038 be re-calendared before the SOTF immediately.

This is a copy of an email that I received earlier today. In it, Olive Gong writes that the Department has completed its responses to my most recent prioritized list. I have had a chance to review the documents, they are clearly incomplete and absolutely no documents were provided as responsive to IDR #66.

Also, regarding the Department's blanket denial of any documents responsive to IDRs #73-79, that is simply untrue. The Department has already supplied documents to me in regards to other IDRs that clearly state the following organizations received NFP or APBP approval and applicable rates for at least 2008: SF Viking Soccer, SF Glens, SF Seals Junior Academy, Sacred Heart Cathedral Preparatory Camps, Jewish Community Center of SF, St. Ignatius Summer Programs and Stuart Hall High School. These are the exact same organizations that are addressed in IDRs #73-79 so clearly documents must exist that are responsive to these IDRs!

Finally, on at least four occasions now, over the course of the past three weeks, the San Francisco Recreation Department and Olive Gong and Margaret McArthur in particular have denied my request for public access to review public records within their custody, during normal business hours, without requiring an appointment and without unreasonable delay, an inexcusable and very serious violation of Section 67.21(a) of the Sunshine Ordinance.

Please confirm receipt of this letter and please indicate the time and date of the next hearing regarding Complaint #09038.

Thank you for your time and attention to this matter.

Sincerely,

Anna Mabbutt

--- On Mon, 9/28/09, Olive Gong <[Olive.Gong@sfgov.org](mailto:Olive.Gong@sfgov.org)> wrote:

From: Olive Gong <[Olive.Gong@sfgov.org](mailto:Olive.Gong@sfgov.org)>  
Subject: Completion of your Priority List dated 8-27-2009  
To: "anna banana" <[tenniselement@yahoo.com](mailto:tenniselement@yahoo.com)>  
Cc: "SOTF" <[sotf@sfgov.org](mailto:sotf@sfgov.org)>  
Date: Monday, September 28, 2009, 4:27 PM

Dear Anna,

The Department has 414 hard copies for you to pick up. As usual the cost is 10 cents a copy.

Please let us know when you would like to come by to pick the copies up.

In regards to your prioritized list, dated 8-27-09:  
item # 35, and #'s 73-79 has no documents responsive to them.

Let us know which item you would like us to search for next.

Sincerely,  
Olive

.....  
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](mailto:olive.gong@sfgov.org) email

Reduce, Reuse, Recycle

(See attached file: Priority List, dated August 27, 2009.doc)



Priority List, dated August 27, 2009.doc

From: Anmarie Mabbutt <tenniselement@yahoo.com>  
To: Olive.Gong@sfgov.org  
Cc: SOTF@sfgov.org  
Date: 08/27/2009 04:44 PM  
Subject: PER SOTF REQUEST - NEW REVISED IMMEDIATE DISCLOSURE REQUEST PRIORITY LIST

Dear Olive,

At the request of the SOTF at the hearing this past Tuesday regarding Complaint #09038,

I am submitting the following revised priority list for all outstanding IDRs submitted by me to the Recreation & Park Department over the past two months:

2. I want a copy of the Public Notices for any and all public hearings that were held regarding the Proposed Revision to Article 12, FEES of the Park Code and a complete list of where these notices were posted and when they were posted. I also want a copy of any and all other efforts that were made to notify the public regarding this Proposed Revision.

If there are no documents responsive to this request, I would like the Department to confirm that in writing.

34. I want a copy of all requests for Summer Athletic Field Permits and/or Tennis Court Permits that were submitted via the official Recreation & Park website using the Online Field Request form for Summer 2009 for Youth Summer Camps.

I want to state for the record that all such requests are auto-responded so a copy of any and all of these requests should be readily and immediately available and is fully disclosable.

For IDR #34, as I have stated earlier, whether the requests for Summer Athletic Field Permits and/or Tennis Court Permits for Summer 2009 were submitted via the official Recreation & Park website using the Online Field Request form for Summer 2009 for Youth Summer Camps or were submitted using [recparksurveys.com](http://recparksurveys.com) and/or through the email addresses - [ketcham2@mindspring.com](mailto:ketcham2@mindspring.com) or [recparksurveys@mindspring.com](mailto:recparksurveys@mindspring.com)., all such requests are auto-responded and should be easily and immediately available.

THERE IS ABSOLUTELY NO EXCUSE FOR THESE REQUESTS NOT HAVING BEEN TURNED OVER YET. PLEASE LET ME KNOW AS SOON AS THEY ARE AVAILABLE.

35. Under 67.29-7.(c) of the Sunshine Ordinance, I am requesting a copy of each and every transaction between each and every permittee that received a permit for a Summer Athletic Field Permit for \$25/hour for up to 25 kids to conduct for-profit summer camp/program activities on the public athletic fields of San Francisco AND any citizen of San Francisco regarding enrollment and/or payment for any Summer 2009 camps/programs that they attended and/or paid for.

55.

64., 65. , 66. - For IDRs 64 -66, to the reduce the time and effort required of the Department to respond

to the requests, I am reducing the time frame from April 2001 - present to April 2007 - present.

Having limited the IMMEDIATE DISCLOSURE REQUESTS 64-66 to any permits issued since April 2007, I submit for the record that any responsive documents should be easily and readily available. I also submit for the record that in accordance with Department policy regarding records retention, all such permits should be available and should not yet have been destroyed.

73. - 79. - For IDRs 73. -79., to the reduce the time and effort required of the Department to respond to the requests, I am reducing the time frame from 2001 - present to 2007 - present.

Having limited the IMMEDIATE DISCLOSURE REQUESTS 73. - 79. to original copies of any and all receipts for the fee for the annual application to be approved for Not for Profit or Approved Public Benefit Fees for Athletic Field permits and original copies of any and all annual applications for such fees as well as any supporting documents and/or information that was submitted on behalf of the named organizations for the years 2007 - 2009, I submit for the record that any responsive documents should be readily available, recent in time and in accordance with the Department's records retention policy, any and all responsive documents should still exist and should not yet have been destroyed or discarded.

Please let me know as any responsive documents become available. If you need clarification of any of the above requests, please let me know.

Sincerely,

Anmarie Mabbutt





Anmarie Mabbutt  
<tenniselement@yahoo.com>

10/06/2009 03:51 PM

To SOTF@sfgov.org  
cc Olive.Gong@sfgov.org

bcc

Subject Fw: Completion of your Priority List dated 8-27-2009 -  
EXHIBIT #1 FOR 10/13/9 COMPLIANCE HEARING RE:  
COMPLAINT #09038

Dear SOTF,

Please consider the below email as Exhibit #1 for the 10/13/09 compliance hearing re: Complaint #09038.

Please note that Ms. Gong's denial of any documents responsive to IDR #35 is in and of itself a clear violation of Section 67.29-7.(c) of the Sunshine Ordinance.

I further submit that having already received notice of this requirement back on July 19th 2009, if still no responsive documents are available, General Manager Phil Ginsburg appears to clearly be in violation of Section 67.34 of the Sunshine Ordinance for having willfully failed to discharge the duties clearly required under Section 67.29-7.(c).

I also submit that Ms. Gong's blanket denial of any documents responsive to IDRs #73 -79 can simply not be true. Dozens of permits at these non-profit or APBP fees have been issued by the Department to the individuals/organizations identified in IDRs #73-79. In order to have received such rates, all such individuals/organizations would have been required by the Park Code to submit the NFP or APBP applications and attendant fees by an annual deadline before receiving any permits based on those rates.

Please be sure to include this email in the agenda item packet for the 10/13/09 compliance hearing re: Complaint #09038.

Thank you for your time and attention to this matter.

Sincerely,

Anmarie Mabbutt

--- On Mon, 9/28/09, Olive Gong <Olive..Gong@sfgov.org> wrote:

From: Olive Gong <Olive.Gong@sfgov.org>  
Subject: Completion of your Priority List dated 8-27-2009  
To: "anna banana" <tenniselement@yahoo.com>  
Cc: "SOTF" <sotf@sfgov.org>  
Date: Monday, September 28, 2009, 4:27 PM

Dear Anna,

The Department has 414 hard copies for you to pick up. As usual the cost is 10 cents a copy.

Please let us know when you would like to come by to pick the copies up.

In regards to your prioritized list, dated 8-27-09:  
item # 35, and #'s 73-79 has no documents responsive to them.

Let us know which item you would like us to search for next.

Sincerely,  
Olive

.....  
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](mailto:olive.gong@sfgov.org) email

Reduce, Reuse, Recycle

(See attached file: Priority List, dated August 27, 2009.doc)



Priority List, dated August 27, 2009.doc



Anmarie Mabbutt  
<tenniselement@yahoo.com>

10/06/2009 04:09 PM

To: SOTF@sfgov.org

cc: Olive.Gong@sfgov.org

bcc:

Subject: Fw: Re:ACCESS TO AGENDA ITEM PACKETS FOR  
RESOLUTIONS - EXHIBIT #2 for 10/13/09 compliance  
hearing re: Complaint #09038

Dear SOTF,

Please consider the below email as Exhibit #2 for the 10/13/09 compliance hearing re: Complaint #09038.

In this email, Olive Gong confirms that the Recreation & Park Department denied me access to public records within their custody and on site at MacLaren Lodge, during normal business hours, without unreasonable delay and without a prior appointment.

On at least three separate occasions over the past month, Margaret McArthur and/or Olive Gong have denied me public access to records within their custody and on site at MacLaren Lodge, during normal business hours and without reasonable delay, a clear and very serious violation of Section 67.21(a) of the Sunshine Ordinance.

Even though not required to do so, on each occasion, I sent emails and/or phone calls ahead of time to Margaret McArthur, the Commission secretary, informing her as to specifically what documents I wanted to review. Each time I was denied access and sent home.

Please be sure to include this email in the agenda packet for the 10/13/09 compliance hearing re: Complaint #09038.

Thank you for your time and attention to this matter.

Sincerely,

Anmarie Mabbutt

--- On Wed, 9/23/09, Olive Gong <Olive..Gong@sfgov.org> wrote:

From: Olive Gong <Olive.Gong@sfgov.org>

Subject: Re:ACCESS TO AGENDA ITEM PACKETS FOR RESOLUTIONS

To: tenniselement@yahoo.com

Cc: "SOTF" <sotf@sfgov.org>

Date: Wednesday, September 23, 2009, 1:52 PM

Dear Anna,

I have added your latest multi-item request to the list., now at #135 (attached).

In your email, you state that the request is not an Immediate Disclosure request.

Your request is a public documents request, one which would require searching and compiling documents from files located in storage, as some of the documents you request date back to 1993.

It is my understanding that the SOTF requested the Department to first work from your prioritized list, which you had sent us in the email dated 8/27/09. The Committee had asked that you not reprioritize your list, and the Department is still in process of fulfilling the remaining items on that list.

I have copied it below for your reference.

Sincerely,  
Olive

.....  
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](mailto:olive.gong@sfgov.org) email

Reduce, Reuse, Recycle

(See attached file: Priority List, dated August 27, 2009.doc)

(See attached file: Long list of requests.doc)

----- Forwarded by Margaret McArthur/RPD/SFGOV on 09/23/2009 11:13 AM -----

From: Anmarie Mabbutt <[tenniselement@yahoo.com](mailto:tenniselement@yahoo.com)>

To: [Margaret.McArthur@sfgov.org](mailto:Margaret.McArthur@sfgov.org)

Cc: [SOTF@sfgov.org](mailto:SOTF@sfgov.org)

Date: 09/23/2009 06:29 AM

Subject: ACCESS TO AGENDA ITEM PACKETS FOR RESOLUTIONS

Dear Margaret,

I will be stopping by to review the latest agenda item packets that you pulled for me later this morning.

I have some additional agenda item packets that I would like to review.. I would like to come by tomorrow to review the following agenda item packets for Resolutions:

#16017 - 4/18/91 - re: GGP tennis courts daily use fee

#16565 - 2/18/93 - re; rejecting bids for GGP tennis concession

#16580 - 3/18/93 - re: fees for non-profit events on Rec Park property

#16621 - 4/15/93 - re: approve annual revocable neighborhood tennis permits

#16676 - 6/17/93 - re: adult athletic field fee increases

#16735 - 9/16/93 - re: adult athletic fees and permits & reservations fees

#16743 - 10/21/93 - re: award of GGP tennis bid to Tennis Mastery

#16933 - 6/16/94 - re: GGP tennis court complex request for bids

#16977 - 9/22/94 - re: possible rejection of GGP concession bids

#16991 - 10/20/94 - re: rejection of bids for neighborhood courts

#9503-056 - 3/16/95 - GGP tennis court lesson fees

#9503-057 - 3/16/95 - GGP interim tennis program

I would like to review the full and complete contents of the above-mentioned agenda item

packets. This is not an immediate disclosure request. It is a request for public access to review public records within your custody during normal business hours, without an appointment and without unreasonable delay.

Thank you for your assistance.

Anna



Priority List, dated August 27, 2009.doc Long list of requests.doc



Anmarie Mabbutt  
<tenniselement@yahoo.com>

10/06/2009 03:33 PM

To SOTF@sfgov.org  
cc Olive.Gong@sfgov.org  
bcc

Subject Fw: Extension Invoked for requests dated 10/5/2009 -  
EXHIBIT #3 FOR 10/13 COMPLIANCE HEARING RE:  
COMPLAINT #09038

Dear SOTF,

Please consider the below email as Exhibit #3 for the 10/13/09 Compliance hearing re: Complaint #09038. As is evident from this latest email from the Department's Custodian of Record, the Department continues to be in violation of both the letter and the spirit of the Sunshine Ordinance and other public records disclosure laws.

Please be sure to include this in the agenda packet for next week's meeting.

Thank you for your time and attention to this matter.

Sincerely,

Anmarie Mabbutt

--- On Tue, 10/6/09, Olive Gong <Olive.Gong@sfgov.org> wrote:

From: Olive Gong <Olive.Gong@sfgov.org>  
Subject: Extension Invoked for requests dated 10/5/2009  
To: "Anmarie Mabbutt" <tenniselement@yahoo.com>  
Cc: "SOTF" <sotf@sfgov.org>  
Date: Tuesday, October 6, 2009, 10:29 AM

Dear Anna,

The Department has completed your last prioritized list, dated Aug 28, 2009 and will now proceed to look at your new requests, dated 10/5/2009. We are assuming that the list below is your new priorities? Please let us know if this is not the case.

The below list contains many items and require a search from many different divisions in our department (one requires a search back to 2006). This is not a simple or routine request and does not qualify as an Immediate Disclosure Request.

Due to the voluminous nature of the information required, the Department is invoking an extension of 14 calendar days, as allowed under Admin code 67.25 (b). for each request. The Department will release documents to you

on a rolling basis, after they have been received and reviewed. Please understand that the Department releases documents only after they are reviewed, so that personal information can be redacted.

Thanks,  
Olive

.....

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](mailto:olive.gong@sfgov.org) email

Reduce, Reuse, Recycle

From: Anmarie Mabbutt <[tenniselement@yahoo.com](mailto:tenniselement@yahoo.com)>

To: [Olive.Gong@sfgov.org](mailto:Olive.Gong@sfgov.org)

Cc: [SOTF@sfgov.org](mailto:SOTF@sfgov.org)

Date: 10/05/2009 06:43 AM

Subject: IMMEDIATE DISCLOSURE REQUESTS - response to RPD request for newly prioritized IDR list

Dear Olive,



In accordance and cooperation with your request for my newest IDR priorities, I have assembled the following list:

1. I want a copy of any and all public records contained in the personnel file of Dana Ketcham regarding her initial hiring. I understand that any disclosed records will need to redact her home address and phone number, social security number, age and marital status. This IDR includes but is not limited to any curriculum vitae, professional biography, resume, letters of reference and any memos, notes, letters etc regarding Ms. Ketcham's prior volunteer work with the City on behalf of the City Fields Foundation, Viking Soccer or any other non profit organization.
2. I want an authentic, untampered copy of Receipts #250494 and #250483 that were issued to Soccer Kids and Jaime Parady for Fall 2009 permits for Athletic Field use.

The following IDRs were placed on September 14, 2009 and are clearly overdue. After I placed the following IDRs, you did not respond or object to them other than to state that you were adding them to the list. That is clearly an inadequate response. Any denial of an IDR or any other public records disclosure request requires that you state with specificity the basis for the denial.

Just for the record, the Sunshine Ordinance Task Force never ordered me nor does it have the authority to order me to discontinue making public records disclosure requests.

3. I want a copy of the request for Tennis Court Permit# 8758, dated January 30, 2009 issued to University High School and Jim Ketcham.. I want a copy of any and all public records pertaining to the request for Contract #8758 including but not limited to any online request forms, informal notes, memos, etc. If there is no record of a request, please confirm so in writing.
4. I also want an authentic copy of any and all public records related to the order/instruction to issue Tennis Court Permit #8758. I expect any responsive documents to indicate at whose direction and/or upon whose authorization this permit was issued.
5. I want a copy of any and all Annual Reports prepared and/or submitted by the Recreation & Park Department General Manager to the Board

of Supervisors regarding the City Fields public-private partnership Agreement since 2006. In accordance with the language of Ordinance #060255, the RPD General Manager is required to prepare and submit an Annual Report to the Board of Supervisors regarding the progress/status of the partnership agreement.

I would like to state for the record that I already attempted to acquire these Annual Reports from the Clerk's Office but they have no record of any such reports.

I am also stating for the record that all of the above IDRs should be fulfilled by the close of business tomorrow. None of the records requested are voluminous, remote in time, require an extensive search or consultation with other departments

Thank you for your time and attention to this matter..

Sincerely,

Anna Mabbutt