

Date: Jan. 5, 2010

Item No. 11 & 12
File No. 09075

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Bred Starr against City Attorney's Office**
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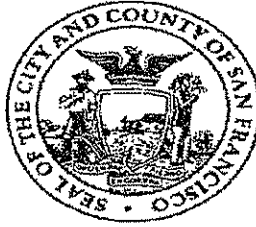
Completed by: Chris Rustom

Date: Dec. 30, 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
 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102
 Tel. (415) 554-7724; Fax (415) 554-7854
<http://www.sfgov.org/sunshine>

SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission CITY ATTORNEY / MTA

Name of individual contacted at Department or Commission JACK SONG City Attorney
Off. U

- Alleged violation public records access
- Alleged violation of public meeting. Date of meeting _____

Sunshine Ordinance Section _____
 (If known, please cite specific provision(s) being violated)

Please describe alleged violation. Use additional paper if needed. Please attach any relevant documentation supporting your complaint.

ORIGINAL REQUEST BY MARYTAGORON REQUEST IN AUGUST
IGNORED. TELEPHONE AND IN PERSON REQUESTS ACKNOWLEDGED
AND IGNORED TIME FRAME VIOLATES SUNSHINE ORDINANCE
ADVISOR SUGGESTS THERE WILL NOT BE FULL DISCLOSURE

Do you want a public hearing before the Sunshine Ordinance Task Force? yes no
 Do you also want a pre-hearing conference before the Complaint Committee? yes no

(Optional)¹
 Name BREB STARR Address _____

Telephone No. 415- [REDACTED] E-Mail Address [REDACTED]

Date 10-16-09 B Starr @Yahoo.com

I request confidentiality of my personal information. yes no
B Starr Signature

¹ NOTICE: PERSONAL INFORMATION THAT YOU PROVIDE MAY BE SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE, EXCEPT WHEN CONFIDENTIALITY IS SPECIFICALLY REQUESTED. YOU MAY LIST YOUR BUSINESS/OFFICE ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS IN LIEU OF YOUR HOME ADDRESS OR OTHER PERSONAL CONTACT INFORMATION. Complainants can be anonymous as long as the complainant provides a reliable means of contact with the SOTF (Phone number, fax number, or e-mail address).

10-29-09

Received 3 sheets of paper from Dick Song

on 10-28-09.

The City attorney office is withholding pertinent information some which is not in the three sheets of paper is already in the internet and the press

instead of providing more information

the three sheets are 13 pages short

By the illegal actions of Mary Ellen O'Brien she has continued to act

in criminal manner causitive damages

will be determined.

The City attorney office and MTA and Police department and mayor office

Please don't make a mockery by

withholding documents that were made public to the press in the past.

these documents pertain to employee who oversaw parking ticket division and found to dismiss tickets

~~Street Staff~~
family & friends and had department follow cars and ticket them in spite.

SFGate.com

Tempest hits S.F. parking dept. Top official accused of fixing tickets for herself and friends

Phillip Matier, Andrew Ross
Monday, January 12, 2004

The top ticket cop in San Francisco's Parking and Traffic Department has been put on leave from her \$102,000-a-year job after investigators found what appears to be a case of chronic ticket fixing.

An investigation by the city attorney's office found that Mary Ellen O'Brien, who oversees the city's parking ticket division, failed to list the reasons (as required) for more than 300 of the 1,189 tickets she dismissed in 2002.

The 300 in question included citations for at least three family members, as well as many of O'Brien's friends, the city attorney said in a confidential, 16-page investigative report.

Most damning of all was the report's finding that O'Brien dismissed a ticket on a city vehicle -- tagged outside her house -- that she apparently kept for her own use while she supposedly was out on a four-month medical leave.

"As to the dismissal, Ms. O'Brien stated that she had a city laptop at home with her during her leave of absence and could have dismissed the ticket from home," the report said. "She could not remember dismissing the citation or any reason for dismissing it."

O'Brien, after consulting with her attorney, acknowledged to investigators that she had dismissed citations for some family members and friends, but insisted that she hadn't done anything wrong and that she had been acting within her discretion, the report said.

However, the city attorney's office concluded that the lack of documentation and other factors created an "appearance that she had dismissed citations based on a personal relationship in violation of the Vehicle Code."

What's more, the report said she had "both solicited and accepted gifts" -- everything from Giants tickets to champagne -- from people whose tickets she had dismissed.

And what does O'Brien say now?

She insists she has been the victim of an orchestrated effort by disgruntled staffers to destroy her career.

"I've had a stellar, seven-year career in this city," she told us Friday, "and you're being fed this ... biased, inaccurate information." She declined to elaborate.



Bred Starr
<sanfranciscohome2@yahoo.com>

10/29/2009 03:44 PM

To jack.song@sfgov.org

cc

bcc SOTF/SOTF/SFGOV

Subject missing information

Dear Jack Song,

Please provide the city attorney (s) who were responsible for investigations that were disclosed.

Was Geraldine Rosen Parks involved or not?

What are the name of the attorneys who did investigation and responsible for suggested actions concerning Mary Ellen O'Brien?

From what source did this information come from?

What is the name of the city attorney who took over for Geraldine Rosen Parks when she changed positions? His last name was Sullivan.

What was the time frame that Parks was in the city attorney office?

What are the names of the attorney who dealt with these investigations?

What is the name of the attorney who represented MTA presently. What is the name of the attorney who represented MTA/DPT at the time of the investigation?

What were the exact positions of Mary Ellen O'Brien from 1994 to present? (each year what was job title and what department did she work for?)

Include name of immediate supervisor in that order.

This disclosure lacks information that should be public. We will be sending more question and information that will

1) assist in further investigation due to ethical actions 2) assist in further investigations due to criminal actions.

What role in job title did O'Brien have in reporting or advising to Mayor, Willie Brown, Gavin Newsom, Director (s) of Department of Parking and Traffic, director MTA, Chief of Police, captain of police station, community lesson officer?

These questions are for public disclosure.

We know that this is not true.

Thank you for your correspondance. You have confirmed that the city attorney office may also is involved in this.

The information that I have requested is not of personal nature and not protected..

The pages are much less than what was disclosed to the press a few years ago. We assure you that this alledged disclosure is hiding much much more. Your cooperation and assistance will be to the city attorney office benefit, we assure you.

Bred Starr

cordially,
Bred Starr

Dear Ms. Bred Starr:

The records are being reviewed by an attorney responsible MTA matters and the records will be provided as soon as she can finish gathering them.

JACK SONG
Public Information Officer



Bred Starr
[REDACTED]@yahoo.
com>

11/03/2009 10:16 PM

To SUNSHINE ORDINANCE <sof@sfgov.org>

cc clerk board of supervisors <rick.caldeira@sfgov.org>,
ethics.commission@sfgov.org

bcc

Subject Fw: SUNSHINE ORDINANCE: missing information-continued
inquiry

TO WHO IT CONCERNS:

The city attorney, the Municipal Transportation Authority, the department of parking and traffic, the police department, the mayors office are withholding information/documentation that is NOT EXEMPT UNDER THE SUNSHINE ORDINANCE. It is felt that this situation is about ready to have far reaching consequences far above a "slap on the hand" of a paid civil servant.

Redact personal information as needed. But provide the documents (however inconclusive they may be) or be ready to explain exactly why.

Bred Starr

----- Forwarded Message -----

From: Bred Starr <[REDACTED]@yahoo.com>

To: jack.song@sfgov.org; tara.collins@sfgov.org; ethics.commission@sfgov.org; SUNSHINE ORDINANCE <sof@sfgov.org>

Sent: Fri, October 30, 2009 9:42:13 AM

Subject: SUNSHINE ORDINANCE: missing information-continued inquiry

THE INFORMATION WEHAVE REQUESTED IS NOT EXEMPT UNDER THE SUNSHINE ORDINANCE!
YOU ARE IN VIOLATION AND WE INTEND TO PURSUE THIS EITHER PRIVATE OR PUBLIC. YOUR
CALL. SEE REQUEST BELOW. THIS HAS BEEN GOING ON FOR MUCH LONGER THAN NECESSARY
AND IF THERE IS NOTHING (WHICH MAY BE THE CASE) TO HIDE YOU MUST DISCLOSE ALL
INFORMATION> INFORMATION WHICH WAS RELEASED TO THE PRESS IN 2003-2004 MUST AGAIN
BE DISCLOSED.

Are some documents exempt from disclosure?

Under the California Public Records Act and the San Francisco Sunshine Ordinance, some records are exempt from disclosure. Examples of records that do not have to be disclosed are:

- Personnel records
- Medical records
- Home telephone numbers
- Social Security numbers
- Documents that are subject to the attorney client privilege
- Trade secrets
- Documents protected from disclosure by the State Constitutional Right to

Privacy

- Certain law enforcement records
- Records protected from disclosure by state and federal laws

----- Forwarded Message -----

From: Bred Starr [REDACTED]@yahoo.com>
To: sanfranciscohome2@yahoo.com
Sent: Thu, October 29, 2009 9:24:19 PM
Subject: missing information-continued inquiry

Dear Jack Song,

Please provide the city attorney (s) who were responsible for investigations that were disclosed.

Was Geraldine Rosen Parks involved or not?

What are the name of the attorneys who did investigation and responsible for suggested actions concerning Mary Ellen O'Brien?

From what source did this information come from?

What is the name of the city attorney who took over for Geraldine Rosen Parks when she changed positions? His last name was Sullivan.

What was the time frame that Parks was in the city attorney office?

What are the names of the attorney who dealt with these investigations?

What is the name of the attorney who is representing MTA presently? What is the name of the attorney who represented MTA/DPT at the time of the investigation?

What were the exact positions of Mary Ellen O'Brien from 1994 to present? (each year what was job title and what department did she work for?)

Include name of immediate supervisor in that order.

This disclosure lacks information that should be public. We will be sending more question and information that will

1) assist in further investigation due to ethical actions 2) assist in further investigations due to criminal actions.

What role in job title did O'Brien have in reporting or advising to Mayor, Willie Brown, Gavin Newsom, Director (s) of Department of Parking and Traffic, director MTA, Chief of Police, captain of police station, community lesson officer?

These questions are for public disclosure.

We know that this is not true.

You confirmed that the city attorney office may also is involved in this, due to withholding of information

The information that we have requested is not of personal nature and not protected.

The pages are much less than what was disclosed to the press a few years ago. We assure

you that this alledged disclosure is hiding much much more. Your cooperation and assistance will be to the city attorney office benefit, we assure you. Renewed interest is important as this investigation is obviously not complete. Civil servants are responsible for actions. We intend to pursue and inspect evidence
Bred Starr

cordially,
Bred Starr

Dear Ms. Bred Starr:

The records are being reviewed by an attorney responsible MTA matters and the records will be provided as soon as she can finish gathering them.

JACK SONG
Public Information Officer



DENNIS J. HERRERA
City Attorney

VIRGINIA DARIO ELIZONDO
Deputy City Attorney

DIRECT DIAL: (415) 554-4654
E-MAIL: virginia.dario.elizondo@sfgov.org

November 24, 2009

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

Re: Complaint # 09075

Dear Members of Sunshine Ordinance Task Force:

Based on the Complaint form, the complainant seems to raise two issues with regard to alleged violation of public records access: 1) the time of our response; and 2) "...advisor suggests there will not be full disclosure...." Although complainant alleges a violation of public meeting, however, she does not identify a meeting date. The following is the record and substance of our response.

We received her request on September 04, 2009 at 2:10 PM via email:

IMMEDIATE DISCLOSURE REQUEST

"Urgent request for disclosure information. Per our discussion regarding investigation concerning removal of tickets by Mary Ellen O'brien..there were other people involved in this. The investigation took place in '03 by Geraldine Parks Rosen (I believe). This information was shared in the Chronicle so it is public information already (I believe I sent one article yesterday) but there are others. Please respond as soon as possible under the Sunshine ordinance. This department is responsible for investigating the justice system of san francisco, is that not correct."

We could not immediately identify what she was looking for, so we invoked an extension on September 9, 2009. On September 24, 2009, we advised her that "Any documents responsive to your request are stored in an off-site location and those files have not yet arrived in our office for review...We will contact you as soon as we have the requested documents."

This type of document search requires a deputy city attorney familiar with the matter to review a copious amount of material. Given our the budget situation and staffing cut backs, this work must be done in conjunction with deputies' other duties and ongoing legal assignments. We all work on requests for public records as expeditiously as possible.

Finally, on October 20, 2009, we notified Ms. Starr: "We have finished reviewing the documents we retrieved from storage in response to your request for "any memorandum, correspondence, request, note, email, draft or any document as defined in California Public Records Act §6752 concerning or reflecting or touching on the issues surrounding Mary Ellen O'Brien and tickets that were dismissed from 1995-2005, investigated by [the City Attorney's Office]" and determined that most of the documents are exempt from disclosure under the attorney work product privilege, Cal. Government Code Sec. 6254(k), and Cal. Code of Civil Procedure Sec. 2018.030(a). There are documents related to personnel matters that are subject to the right of privacy under Article 1 of the California Constitution. We have notified the employee involved that we intend to release these personnel documents as public records on

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October 28, 2009, and that the employee may review these documents prior to their release. Again, we apologize for the delay and will contact you as soon as your request is ready."

On October 29, 2009, we notified Ms. Starr: "On October 28th 2009, you picked up the two documents responsive to your request for "any memorandum, correspondence, request, note, email, draft or any document as defined in California Public Records Act §6752 concerning or reflecting or touching on the issues surrounding Mary Ellen O'Brien and tickets that were dismissed from 1995-2005, investigated by [the City Attorney's Office]" As we advised you today, the remainder of the documents covered by your request are exempt from disclosure under the attorney work product privilege, Cal. Government Code Sec. 6254(k), and Cal. Code of Civil Procedure Sec. 2018.030(a). This now concludes our response to your is [sic] request."

On October 29, 2009, Ms. Starr made another request, attached.

On November 13, 2009, Jack Song responded: "I am writing on behalf of the City Attorney's Office in response to your public records request dated October 29, 2009, which is attached to this e-mail. We have completed our search for responsive records, and have located three responsive documents, which are attached to this e-mail message. Two of the responsive documents pertain to Geraldine Rosen-Park's tenure in this office and contain personal information that we have redacted to protect the privacy of the individual to whom the documents pertain. California Government Code Section 6254(c) allows a public entity to decline to disclose information if disclosure of the information would "constitute an unwarranted invasion of personal privacy." (See also California Constitution, Article I, §1; California Government Code §6254 (k) [protecting records, the disclosure of which is "exempted or prohibited pursuant to provisions of federal or state law"]; and Hill v. National Collegiate Athletic Assn. (1994) 7 Cal. 4th 1, 35 [identifying privacy interest in precluding dissemination of sensitive, confidential information].) The third document is a list of the attorneys who advise the Municipal Transportation Agency ("MTA"). In addition to seeking new categories of records from the Office of the City Attorney, your request of October 29, 2009, also states that the documents that we provided to you on October 28, in response to your earlier request for public records, did not include information that was "disclosed to the press a few years ago." As we explained in our email messages of October 20, and October 29, 2009, we did not provide you with all documents responsive to your request. As we explained, the responsive documents, other than the two documents that we provided to you, are exempt from disclosure under the attorney work product doctrine, or the attorney-client privilege. In part, your October 29, request seeks documents containing information about Ms. Mary Ellen O'Brien's employment history with the City and County of San Francisco. The Office of the City Attorney does not maintain such records. However, the MTA may have documents responsive to this portion of your request. If you would like to request records from the MTA, you may do so by sending an email message to the following address: sfintasunshinerequests@sfmta.com. If you have any questions concerning this email message, please feel free to contact me."

In conclusion, despite the vague nature of Ms. Starr's request, we ordered files stored at an off-site location, reviewed those files and provided Ms. Starr with non-exempt responsive documents as expeditiously as our work load permitted.

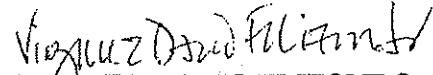
CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE CITY ATTORNEY

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Very truly yours,

DENNIS J. HERRERA
City Attorney


VIRGINIA DARIO ELIZONDO
Deputy City Attorney

Enclosure

10/29/2009 03:44 PM

Dear Jack Song,

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Include name of immediate supervisor in that order.

This disclosure lacks information that should be public. We will be sending more question and information that will

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Bred Starr

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Bred Starr

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JACK SONG
Public Information Officer