

Date: July 27, 2010

Item No. 24, 25

File No. 10034

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Nick Pasquariello against the Department of Technology
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Completed by: Chris Rustom

Date: July 22, 2010

***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.



DENNIS J. HERRERA
City Attorney

JANA CLARK
Deputy City Attorney

Direct Dial: (415) 554-3968
Email: jana.clark@sfgov.org

July 12, 2010

Nick Goldman, Chair
Members of the Complaint Committee

Re: 10034, *Nick Pasquarellio v. San Francisco Department of Technology*

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 Nick Pasquarellio ("Complainant") against the San Francisco Department of Technology (the "Department").

BACKGROUND

Complainant Nick Pasquarellio alleges that the Department failed to disclose records requested in violation of the Ordinance.

COMPLAINT

On June 28, 2010, Mr. Pasquarellio filed a complaint with the task Force alleging a violation.

SHORT ANSWER

Based on the Complainant's allegations, it would appear that the Task Force *does* have subject matter jurisdiction over the allegations, which if true, could constitute a violation of state or local public meeting laws.

DISCUSSION AND ANALYSIS

The San Francisco Department of Technology is a department under the Sunshine Ordinance. Therefore, the Task Force appears to have jurisdiction to hear the complaint.

confidential
fax

To: Mr. Chris Rustom SOTF Clerk
Fax Number: 554 7854

From:
Fax Number:
Business Phone:
Home Phone:

Pages: 2
Date/Time: 6/28/2010 5:36:31 PM
Subject: New complaint vs. Department of Technology

Dear Mr. Rustom,

I wish to file a new complaint with SOTF against the San Francisco Department of Technology for their failure to respond to the attached IMMEDIATE DISCLOSURE REQUEST.

I have not received any response to the attached June 24, 2010 IMMEDIATE DISCLOSURE REQUEST.

Nick Pasquariello
jpk@pobox.com
(415) 431-2990

IMMEDIATE DISCLOSURE REQUEST

Post Office Box 42791
San Francisco, California 94142
(415) 431-2990

June 24, 2010

Mr. Barry Fraser
Telecommunications Policy Analyst
Department of Technology
One South Van Ness Avenue, 2nd floor,
San Francisco, California 94103-0948
(415) 581-3976
(415) 581-3970 (FAX)

Dear Mr. Fraser,

Re: BAVC contract of August 20, 2009

Please send me a copy of any and all contracts between Bay Area Video Coalition (aka BAVC) and Salesforce.com, Inc. dba Delaware Salesforce.com, 1 Market Street, Suite 300, San Francisco, California 94105.

Please also send me a copy of any and all contracts between Salesforce.com/Foundation, at the above address and BAVC.

This public records request is being made in accordance with the August 20, 2009 contract between the City and County of San Francisco, California and the Bay Area Video Coalition, sections cited below:

- Article 12 - Disclosure of Information and Documents and Article, section 12.2 – Sunshine Ordinance, and
- Article 13 – Assignments and Subcontracting, section 13.1, No Assignment By Grantee, section 13.3, Subcontracting
 - (a) Limitations and
 - (b) Terms of Subcontractsection 13.4 Grantee Retains Responsibility.

Your immediate attention to this matter would be much appreciated.

Yours truly,

Nick Pasquariello



City & County of San Francisco
**Department of
Technology**
Powered by Innovation

One South Van Ness Avenue, 2nd Floor
San Francisco, CA 94103-0948
Office: 415-581-4001 • Fax: 415-581-4002

June 28, 2010

Mr. Nick Pasquariello
Post Office Box 42791
San Francisco, CA 94142

Dear Mr. Pasquariello,

This letter is in response to your FAXed Immediate Disclosure Request dated June 24, 2010. Unfortunately, your FAX was inadvertently misdirected and did not come to my attention until today.

You have requested copies of any and all contracts between Bay Area Video Coalition and Salesforce.com or Salesforce.com/Foundation. The Department of Technology has no records that respond to your request.

Thank you for your patience in this matter.

Sincerely,

Barry Fraser
Principal Administrative Analyst
Department of Technology



Printed on recycled paper



N <jpk@pobox.com>
07/09/2010 05:46 PM

To sotf@sfgov.org
cc
bcc
Subject Re: SOTF hearing reminder: #10034_Nick Pasquariello vs
Dept. of Technology

Due to a family emergency I will not be able to attend this meeting.
I therefore ask for a continuance to a date after July 21, 2010
Nick Pasquariello
At 07:56 PM 7/9/2010, you wrote:

>This is a reminder that a hearing is scheduled with the Complaint Committee
>of the Sunshine Ordinance Task Force, regarding the above titled complaint,
>to determine whether the Task Force has jurisdiction over this matter, and
>to clarify the complaint.

>
>Date: Tuesday, July 13, 2010
>Location: City Hall, Room 406
>Time: 4:00 p.m.

>
>Complainants: Your attendance is required at this hearing.

>
>Respondents/Departments: Pursuant to Section 67.21 (e) of the Ordinance,
>the custodian of records or a representative of your department, who can
>speak to the matter, is required at the hearing.

>
>To access the agenda please click on the link below. Then click on the
>associated item number to access the packet material related to your item.

>
><http://www.sfbos.org/index.aspx?page=10819>

>
>Chris Rustom
>Sunshine Ordinance Task Force
>1 Dr. Carlton B. Goodlett Place
>City Hall, Room 244
>San Francisco, CA 94102-4689
>OFC: (415) 554-7724
>FAX: (415) 554-7854
>SOTF@sfgov.org



Krisana Hodges
<krisana@hodgeslaw.net>
07/19/2010 04:27 PM

To sotr@sfgov.org
cc jpk@pobox.com, Ken Ikeda <ken@bavc.org>, Barry Fraser
<Barry.Fraser@SFGOV.ORG>, Ron.Vinson@sfgov.org
bcc

Subject Re: Sunshine Complaint Received: #10035_Nick
Pasquariello vs Dept. of Technology

Mr. Rustom,

Attached is a letter I sent to Mr. Pasquariello last week concerning this matter. The letter was sent on July 15, 2010, via US Mail, to the post office box identified in Mr. Pasquariello's correspondence. As you can see, the letter directs Mr. Pasquariello to a publicly available web site where he can review all of the information he is requesting.

Given that BAVC has already responded to Mr. Pasquariello's inquiry, BAVC respectfully requests that this matter be taken off calendar.

If this matter is not taken off calendar, BAVC respectfully submits that the Task Force has no jurisdiction over the matter and requests that Mr. Pasquariello's complaint be reviewed prior to hearing for an evaluation of its suitability for this forum. Mr. Pasquariello is asking for information about BAVC's routine business dealings with a third party technology provider supporting BAVC's overall contact management needs. This matter is simply a common business correspondence regarding a typical technology service. Mr. Pasquariello's letter has no direct connection to BAVC's contract with the City, is not seeking information enumerated in Section 12L, and does not concern any other subject matter within the purview of the Task Force. Finally -- and most importantly -- Mr. Pasquariello's request has been addressed and *resolved*. Mr. Pasquariello already has the information he is requesting through this complaint. There is simply no issue left for the Task Force to adjudicate, and no need for this matter to consume any of the valuable time and attention of the Task Force.

Please call or email if you require any additional information related to this matter.

Thank you for your time.

Krisana Hodges



100715 BAVC LTR NP Resp.pdf

Krisana M. Hodges, Esq.
HODGES LAW OFFICE
149 9th Street, Suite 201; San Francisco, CA 94103
415.648.4647 (office) • 415.449.6545 (fax)
krisana@hodgeslaw.net

This email and attachments may contain private, confidential or privileged material for the sole use of its intended recipient. If you are not the intended recipient, please notify me immediately and permanently delete this email and its attachments.

July 15, 2010

Via US Mail

Nick Pasquariello

PO Box 42791

San Francisco, CA 94142

Re: Inquiry regarding Salesforce.com

Dear Mr. Pasquariello,

As you know, I represent the Bay Area Video Coalition ("BAVC"). I write in response to your recent letter inquiring about BAVC's contracts with Salesforce.com.

Your letter references Section 12 of the Grant Agreement between BAVC and the City and County of San Francisco (the "City").¹ This provision concerns BAVC's acknowledgement that the City will make information related to its work with BAVC available to the public. I know of no provision in the Grant Agreement obligating BAVC to produce its business records and contracts to anyone who may make such a request, especially documents not specifically related to BAVC's work with the City and otherwise concerning BAVC's overall operations.

BAVC supports the City in its commitment to transparency. To that end, BAVC chooses to maintain a robust, dynamic web site with information about its current activities and ongoing operations. In addition, BAVC complies with the terms of the Grant Agreement and the relevant provisions of Administrative Code Section 12L, by making enumerated information available and inviting the public to attend open BAVC Board Meetings.²

¹ Section 12.2 reads in relevant part: "[BAVC] acknowledges and agrees that this Agreement and the application Documents are subject to Section 67.24(e) of the San Francisco Administrative Code, which provides that contracts, including this Agreement, grantee's bids, responses to Requests for Proposals (RFPs) and all other records of communication between the City and persons or entities seeking contracts, shall be open to inspection immediately after a contract has been awarded."

² If you would like to learn more about BAVC's compliance with Section 12L, please review the *BAVC Sunshine Compliance Policy*, available at http://www.bavc.org/index.php?option=com_content&task=view&id=2169&Itemid=1920.

As a private, non-profit entity with limited resources and experience in matters of public governance, BAVC believes its finite resources are best allocated to the support and provision of direct services to the diverse communities BAVC serves. BAVC does not have the resources to promptly and personally respond to broad requests for general information from members of the public. In addition, BAVC does not maintain public records.³ If you would like documents other than the information BAVC makes available online or through the BAVC Sunshine Compliance Policy, or if you would like to review public records related to BAVC or public access generally, I encourage you to submit a request for information directly to the San Francisco Department of Technology.

As a courtesy and in an effort to resolve this matter so that it does not continue to consume BAVC's resources, BAVC directs you to the salesforce.com Master Service Agreement ("MSA"), available online at <http://www.salesforcefoundation.org/products/msa>. The MSA governs BAVC's use of salesforce.com's services. As I have attempted to communicate to you via email several times before and have confirmed to you in person, BAVC has no record that a scan of any identification document you may have provided to BAVC was ever saved and entered into BAVC's electronic database or otherwise stored with salesforce.com.⁴

Finally, as I explained in my last letter to you and we have discussed in person, BAVC does not process correspondence sent from unregistered fax machines.⁵ BAVC welcomes correspondence via email through the SF Commons website. You may send correspondence via fax, provided that the fax delivery device you use complies with the law and that you include a return fax number so we may respond in kind. BAVC also accepts mail at SF Commons, 2727 Mariposa St., 2nd Floor, San Francisco, California 94110. You may call the SF Commons main office at 415.558.2123.

If you have questions about this matter, please contact me by phone at (415) 648-4647, or by email at krisana@hodgeslaw.net.

Sincerely,



Krisana M. Hodges

³ The Sunshine Ordinance refers to the California Public Records Act definition of "public records" as "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." CA Gov. Code § 6252(e).

⁴ BAVC's records show that you are not a Producer with SF Commons. If you wish to become a Producer, please note that you will need complete the necessary forms and provide proof of residence.

⁵ If you choose to continue to attempt to communicate with BAVC or my office in this way going forward, please be aware that we may not receive your correspondence and that you are not likely to receive a response.

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