

Date: Sept. 28, 2010

Item No. 14 & 15

File No. 10042

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Cal Tilden v Recreation and Park Department
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Completed by: Chris Rustom

Date: Sept, 23, 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

**MEMORANDUM
PRIVILEGED AND CONFIDENTIAL**

TO: Sunshine Ordinance Task Force
FROM: Jana Clark
Deputy City Attorney
DATE: September 23, 2010
RE: *10042 Cal Tilden v. Recreation and Parks Department*

COMPLAINT

Complainant Cal Tilden alleges that the Recreation and Parks Department ("the Department") violated the Ordinance by failing to provide a prospective lessee's response to an RFQ for the Stow Lake Concession prior to its public meeting regarding that lease, scheduled for August 19, 2010, thereby undermining his right to participate in public comment.

COMPLAINANT FILES COMPLAINT:

On August 2, 2010, Mr. Tilden filed a complaint against the Department.

JURISDICTION

The Recreation and Parks Department is a charter department under the Ordinance. The Task Force therefore has jurisdiction to hear the complaint against the Department.

APPLICABLE STATUTORY SECTION(S):

Section 67 of the San Francisco Administrative Code:

- Section 67.21 governs responses to a public records request, and the format of requests and of responsive documents.
- Section 67.24(e)(1) governs public information that must be disclosed regarding the bidding process for public contracts, bids, and proposals.
- Section 67.26 governs withholding of records.
- Section 67.27 governs written justification for withholding of records.
- Section 67.5 governs public access to meetings of policy bodies.
- Section 67.15 governs public testimony at meetings of policy bodies.

Section 6250 et seq. of the Cal. Gov't Code

- Section 6253 governs the release of public records and the timing of responses.

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APPLICABLE CASE LAW:

None

ISSUES TO BE DETERMINED**Contested/Uncontested Facts:**

It appears that the relevant facts are not in dispute. Mr. Tilden stated that the Department issued a request for RFQ for the Stow Lake concessions lease and that responses were due April 6, 2010. He alleged further that on August 19, 2010, the Department was scheduled to receive staff recommendations and to vote to authorize staff to enter into lease negotiations with the Ortega Group. Mr. Tilden alleged that prior to the August 19, 2010 meeting, he requested that the Department provide him with a copy of prospective lessee Ortega Family Enterprises response to the RFQ. He alleged further that without the response, there would be no way to meaningfully participate in public testimony at the August 19, 2010 meeting.

Nicholas Kinsey, Assistant Director of the Department, replied to Mr. Tilden's complaint in a July 27, 2010 email, informing Mr. Tilden that the Sunshine Ordinance required that all "responses to requests for proposals and all other records of communications between the department and persons or firms seeking contracts shall be open to inspection immediately after the contract has been awarded." Also in the email, the Department stated that the requested document would be available for inspection once the Board of Supervisors approved the final contract and noted that there were numerous, mandated public meetings regarding the Stow Lake Concession.

In a follow-up to the email, Olive Gong, Custodian of Records for the Department, responded that the Department was withholding the response to the RFQ in reliance on section 67.24(e) of the Ordinance. Ms. Gong stated that the Department would make the document available once the Board of Supervisors approved the contract for the Stow Lake Concession.

In a reply to the Department's response, complainants alleged that 67.24(e) applied only to an RFP and not to an RFQ, and that an RFQ is a conceptual proposal, as distinguished from an actual bid.

LEGAL ISSUES/LEGAL DETERMINATIONS:

Does section 67.24(e)(1) allow the Department to withhold the prospective lessee Ortega Family Enterprises' response to the RFQ?

If yes, does section 67.15 require the Department to release documents not otherwise subject to release under section 67.24(e)(1) if the complainant states that review of the documents prior to the meeting is necessary for him to provide meaningful public testimony.

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If the facts alleged by complainants are true, was there a violation of the state and/or local public records or meetings law?

CONCLUSION

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

THE TASK FORCE FINDS THE ALLEGED VIOLATIONS TO BE **TRUE OR NOT TRUE.**

THE CALIFORNIA CONSTITUTION AS AMENDED BY PROPOSITION 59 IN 2004 PROVIDES FOR OPENNESS IN GOVERNMENT.

Article I Section 3 provides:

- a) The people have the right to instruct their representative, petition government for redress of grievances, and assemble freely to consult for the common good.
- b)(1) The people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.
- 2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protect by the limitation and the need for protecting that interest.
- 3) Nothing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.
- 4) Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that person may not be deprived of life, liberty, or property

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without due process of law, or denied equal protection of the laws, as provided by Section 7.

5) This subdivision does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings or public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.

6) Nothing in this subdivision repeals, nullifies, supersedes, or modifies protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committee, and caucuses provided by Section 7 of Article IV, state law, or legislative rules adopted in furtherance of those provisions: nor does it affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses.

ATTACHED STATUTORY SECTIONS FROM CHAPTER 67 OF THE SAN FRANCISCO ADMINISTRATIVE CODE (THE SUNSHINE ORDINANCE) UNLESS OTHERWISE SPECIFIED

SEC. 67.21. PROCESS FOR GAINING ACCESS TO PUBLIC RECORDS; ADMINISTRATIVE APPEALS.

(b) A custodian of a public record shall, as soon as possible and within ten days following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered to the office of the custodian by the requester orally or in writing by fax, postal delivery, or e-mail. If the custodian believes the record or information requested is not a public record or is exempt, the custodian shall justify withholding any record by demonstrating, in writing as soon as possible and within ten days following receipt of a request, that the record in question is exempt under express provisions of this ordinance.

(l) Inspection and copying of documentary public information stored in electronic form shall be made available to the person requesting the information in any form requested which is available to or easily generated by the department, its officers or employees, including disk, tape, printout or monitor at a charge no greater than the cost of the media on which it is duplicated. Inspection of documentary public information on a computer monitor need not be allowed where the information sought is necessarily and unseparably intertwined with information not subject to disclosure under this ordinance. Nothing in this section shall require a department to program or reprogram a computer to respond to a request for information or to release information where the release of that information would violate a licensing agreement or copyright law.

SEC . 67.24. PUBLIC INFORMATION THAT MUST BE DISCLOSED

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Contracts, Bids and Proposals.**(e)****(1)**

Contracts, contractors' bids, responses to requests for proposals *and all other records of communications between the department and persons or firms seeking contracts* shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. All bidders and contractors shall be advised that information provided which is covered by this subdivision will be made available to the public upon request. Immediately after any review or evaluation or rating of responses to a Request for Proposal ("RFP") has been completed, evaluation forms and score sheets and any other documents used by persons in the RFP evaluation or contractor selection process shall be available for public inspection. The names of scorers, graders or evaluators, along with their individual ratings, comments, and score sheets or comments on related documents, shall be made immediately available after the review or evaluation of a RFP has been completed.

(2)

Notwithstanding the provisions of this Subdivision or any other provision of this ordinance, the Director of Public Health may withhold from disclosure proposed and final rates of payment for managed health care contracts if the Director determines that public disclosure would adversely affect the ability of the City to engage in effective negotiations for managed health care contracts. The authority to withhold this information applies only to contracts pursuant to which the City (through the Department of Public Health) either pays for health care services or receives compensation for providing such services, including mental health and substance abuse services, to covered beneficiaries through a pre-arranged rate of payment. This provision also applies to rates for managed health care contracts for the University of California, San Francisco, if the contract involves beneficiaries who receive services provided jointly by the City and University. This provision shall not authorize the Director to withhold rate information from disclosure for more than three years.

(3)

During the course of negotiations for:

(i)

personal, professional, or other contractual services not subject to a competitive process or where such a process has arrived at a stage where there is only one qualified or responsive bidder;

(ii)

leases or permits having total anticipated revenue or expense to the City and County of five hundred thousand dollars (\$500,000) or more or having a term of ten years or more; or

(iii)

any franchise agreements,

all documents exchanged and related to the position of the parties, including draft contracts, shall be made available for public inspection and copying upon request. In the event that no records are prepared or exchanged during negotiations in the above-mentioned categories, or the records exchanged do not provide a meaningful representation of the respective positions, the City Attorney or City representative familiar with the negotiations shall, upon a written request by a member of the public, prepare written summaries of the respective positions within five working

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days following the final day of negotiation of any given week. The summaries will be available for public inspection and copying. Upon completion of negotiations, the executed contract, including the dollar amount of said contract, shall be made available for inspection and copying. At the end of each fiscal year, each City department shall provide to the Board of Supervisors a list of all sole source contracts entered into during the past fiscal year. This list shall be made available for inspection and copying as provided for elsewhere in this Article.

SEC. 67.26. WITHHOLDING KEPT TO A MINIMUM.

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. This work shall be done personally by the attorney or other staff member conducting the exemption review. The work of responding to a public-records request and preparing documents for disclosure shall be considered part of the regular work duties of any city employee, and no fee shall be charged to the requester to cover the personnel costs of responding to a records request.

SEC. 67.27. JUSTIFICATION OF WITHHOLDING.

Any withholding of information shall be justified, in writing, as follows:

- (a) A withholding under a specific permissive exemption in the California Public Records Act, or elsewhere, which permissive exemption is not forbidden to be asserted by this ordinance, shall cite that authority.
- (b) A withholding on the basis that disclosure is prohibited by law shall cite the specific statutory authority in the Public Records Act or elsewhere.
- (c) A withholding on the basis that disclosure would incur civil or criminal liability shall cite any specific statutory or case law, or any other public agency's litigation experience, supporting that position.
- (d) When a record being requested contains information, most of which is exempt from disclosure under the California Public Records Act and this Article, the custodian shall inform the requester of the nature and extent of the nonexempt information and suggest alternative sources for the information requested, if available.

SEC. 67.15. PUBLIC TESTIMONY.

- (a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address a policy body on items of interest to the public that are within policy body's subject matter jurisdiction, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Section 67.7(e) of this article. However, in the case of a meeting of the Board of Supervisors, the agenda need not provide an opportunity for members of the public to address the Board on any item that has already been considered by a

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committee, composed exclusively of members of the Board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the Board.

(b) Every agenda for special meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item prior to action thereupon.

(c) A policy body may adopt reasonable regulations to ensure that the intent of subdivisions (a) and (b) are carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Each policy body shall adopt a rule providing that each person wishing to speak on an item before the body at a regular or special meeting shall be permitted to be heard once for up to three minutes. Time limits shall be applied uniformly to members of the public wishing to testify.

(d) A policy body shall not abridge or prohibit public criticism of the policy, procedures, programs or services of the City, or of any other aspect of its proposals or activities, or of the acts or omissions of the body, on the basis that the performance of one or more public employees is implicated, or on any basis other than reasonable time constraints adopted in regulations pursuant to subdivision (c) of this section.

(e) To facilitate public input, any agenda changes or continuances shall be announced by the presiding officer of a policy body at the beginning of a meeting, or as soon thereafter as the change or continuance becomes known to such presiding officer.

CAL. PUBLIC RECORDS ACT (GOVT. CODE §§ 6250, ET SEQ.)

SECTION 6253

(a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

(c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available. As used in this section,

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“unusual circumstances” means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

- (1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
- (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
- (3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.
- (4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.



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 RECREATION & PARK DEPARTMENT

Name of individual contacted at Department or Commission Nick Vinsey, Olive GONG, Phil GINSBERG, Commission

Alleged violation public records access
Alleged violation of public meeting. Date of meeting Forthcoming Meeting - AUG 19 2010

Sunshine Ordinance Section Transparency in lease negotiations
(if known, please cite specific provision(s) being violated)
- Select Process -

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

I WILL EMAIL TO YOU MY FILE. PLEASE ADVISE IF YOU DO NOT RECEIVE MY EMAIL.

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

(Optional) Name Cal Tilden Address San Francisco CA
Telephone No. 415 221-7773 E-Mail Address CBTMAIL@EARTHLINK.NET
Date Aug 2 2010 Signature [Handwritten Signature]

I request confidentiality of my personal information. [] yes [X] no

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).



"Cal T.."
<cbtmail@earthlink.net>
08/02/2010 03:59 PM

To <sotf@sfgov.org>
cc
bcc
Subject SUNSHINE ORDINANCE COMPLAINT

TO: SUNSHINE ORDINANCE TASK FORCE
DATE: AUGUST 2, 2010
SUBJECT: STOW LAKE CONCESSION LEASE
FROM: CAL TILDEN

I had a problem filing my complaint electronically. Therefore, please accept this email as part of the complaint I filed [cover sheet only] today via a fax transmission.

Here is the background. The Recreation and Park Department issued a request for RFQ for the Stow Lake Concession lease and the responses were due April 6, 2010. On July 22, 2010, they announced that Ortega Family Enterprises (d/b/a Cloudless Skis) had been selected as the prospective lessee based on the information they presented in their response. On August 19, 2010, the Recreation and Park Commission will receive that staff recommendation and vote to authorize the staff to enter into lease negotiations with the Ortega group. A step in the process before the actual lease is presented to the Commission for approval at a future meeting.

There were 3 responses to the RFQ. At this point the R & P Department will not release the Ortega response to the RFQ although much of what appears to have been in that response has been "leaked" onto the blog as you will note below. I am unable to confirm the accuracy of the information as it is mixed in with spin and misleading statements.

The request being made by this complaint is the release of the Ortega response to the RFQ. Without access to their response, there is no way to participate in public testimony at the August 19th Recreation and Park Commission meeting. No input relating to the public's opinion as to the Ortega proposal will be possible. Why have a public meeting with time for public comment when such comment

is not possible? What is there to hide? Total lack of any transparency in this process! Makes a mockery out of the intent of the Sunshine Ordinance for disclosure to help avoid any back room deals.

Below is my file on this matter. You can see the various requests I have made. Also, you will see a full disclosure as to my connection with Stow Lake, although as a lifelong resident, I assume I have rights as a taxpaying/voting citizen of San Francisco.

Thank you for your review of this matter.

Sincerely,

Cal Tilden
cbtmail@earthlink.net

SUMMARY OF EFFORT TO OBTAIN INFORMATION

----- Original Message -----

From: Cal T.

To: olive.gong@sfgov.org

Sent: Thursday, July 29, 2010 5:45 PM

Subject: URGENT SUNSHINE ORDINANCE REQUEST

OLIVE: I understand that to comply with the legal procedures relating to the Sunshine Ordinance, I need to make a formal request through you...so here goes.

Please provide to me via email [cbtmail@earthlink.net] or physical access at McLaren Lodge to the response submitted by the Ortega group to the RFQ for the Stow Lake Concession lease.

Thank you.

Cal Tilden

----- Original Message -----

From: Cal T..
To: Nicholas.Kinsey@sfgov.org
Cc: Sarah.Ballard@sfgov.org ; Elton.Pon@sfgov.org ;
Olive.Gong@sfgov.org
Sent: Wednesday, July 28, 2010 9:51 AM
Subject: Re: Stow Lake Concession

NICK: Thank you for your answer to my request to have access to Ortega's original response to the RFQ for the Stow Lake Concession lease in Golden Gate Park submitted in April, 2010. I have read the Admin Code you provided and you are wrong in hiding behind it. That ordinance states what **MUST** take place after a lease is awarded but has no reference or prohibition to disclosure prior to award. It neither requires or forbids disclosure prior to the award. Just what good are public hearings [Commission and Supervisor's] if a lease can go all the way through to final approval without any public access as to its terms. Without knowledge of the terms, any and all public testimony along the way would just be a charade.

I have been involved with the Stow Lake Concession for 61 years. First as an employee [my 1st paycheck was dated June 18, 1949], then upon my father's death as the sole owner for 35 years, and now just Bruce's Uncle without any economic interest. Over those years, I negotiated many leases with the Recreation and Park Department. Always, there was full disclosure every step of the way. Bids would remain sealed and opened in the Commission room at McLaren Lodge at a specified date and time. Then each and every bid package would be passed around for everyone in the room to read. Full transparency. There was absolutely no opportunity for bid shopping, RFQ or RFP submission "adjustments", or improper disclosure to a favored bidder. Staff would then analyze all proposals and select the party for lease negotiations. The proposed/negotiated lease presented to the Commission for approval had full public disclosure prior to the Commission meeting during which it was voted on. No muzzling of the public with two minute bongos. I assure you there were some lively discussions at Commission meetings. Far more valuable to Commissioners than your window-dressed community meetings which are not attended by the Commissioners voting on staff recommendations. The record indicates the Commission has turned into a rubber stamp for staff

recommendations.

Quite frankly, the current leasing process has been shrouded in secrecy and has had a total lack of disclosures. Absolute control by staff without any public oversight. From someone on the outside looking in, the handling of the Stow Lake Concession lease award activity over the past six (6) years does not pass the smell test.

Cal

----- Original Message -----

From: Nicholas.Kinsey@sfgov.org

To: Cal T..

Cc: Sarah.Ballard@sfgov.org ; Elton.Pon@sfgov.org ;

Olive.Gong@sfgov.org

Sent: Tuesday, July 27, 2010 6:13 PM

Subject: Stow Lake Concession

Cal,

Section 67.24(e)1 of the SF Admin Code (the Sunshine Ordinance) states that "**Contracts, contractors' bids, responses to requests for proposals and all other records of communications between the department and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded.**" In the instance of the Stow Lake Concession, the final contract award will come when the Board of Supervisors approves the contract. At that time, the Department will make available all required documentation (I have attached the relevant code section below for your review).

As to your request for supplemental notes provided to the selection panel, the Department provided no such materials. The sole materials provided to the panel were the three submissions, the RFQ and blank scoring sheets. In order to meet the spirit of your request, I have attached a blank scoring sheet. Unfortunately the size of the RFQ file is too large for it to be sent via email, but I would be happy to mail it to you if you provide a mailing address. Please note that each respondent received three copies of the blank scoring sheet (one for each respondent).

The Department shares your concern about soliciting the input of San Francisco citizens regarding the potential lease of the concession to a new vendor. In order to facilitate that goal the Department has already convened two community meetings attended by dozens of neighborhood residents, met individually with the leaders of the Save Stow Lake organization and responded as appropriate to all requests and queries from the public. Moving forward this item will be the subject to numerous, mandated public meetings including, but not limited to, the Commission hearing on 8/19 regarding the selection panels recommendation. Should the Recreation and Park Commission accept the selection panels recommendation, future public meetings would include a hearing before the Commission to approve the lease, a hearing before a Board of Supervisors Committee regarding the lease and a hearing

at the full Board of Supervisors to approve the lease. In addition, should the lease be approved and the Department and vendor undertake capital improvement, plans for such improvements would require a hearing before the Rec-Park Commission and potentially hearings before the City's Planning and Historic Preservation Commission.

In addition to the meetings outlined above, should the Rec-Park Commission approve the selection of Ortega Family Enterprises, the Department intends to hold community meetings to present the vendor and to receive public input as the contract is negotiated. Additionally, the Department would convene public meetings to help develop and present the capital improvement plan including those for any indoor cafe that may be created.

In total, we believe that this is a significantly more robust community outreach plan than was undertaken the last time the concession was awarded. We firmly believe that this extensive level of community input will ensure that the charm and character of the Stow Lake Boathouse is retained during this transition. Lastly, I want to thank you and your family for their continued contributions to RPD and Stow Lake as concession operators.

Thanks,
Nick

San Francisco Administrative Code, Section 67.24(e)

Contracts, Bids and Proposals.

(1)

Contracts, contractors' bids, responses to requests for proposals and all other records of communications between the department and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. All bidders and contractors shall be advised that information provided which is covered by this subdivision will be made available to the public upon request. Immediately after any review or evaluation or rating of responses to a Request for Proposal ("RFP") has been completed, evaluation forms and score sheets and any other documents used by persons in the RFP evaluation or contractor selection process shall be available for public inspection. The names of scorers, graders or evaluators, along with their individual ratings, comments, and score sheets or comments on related documents, shall be made immediately available after the review or evaluation of a RFP has been completed.

Nicholas A. Kinsey
Assistant Director of Property and Concession Management
San Francisco Recreation and Park Department
McLaren Lodge
501 Stanyan Street
San Francisco, CA 94117

Tel. (415) 831-2774
Fax (415) 831-2099

----- Original Message -----

From: Cal T.
To: sotf@sfgov.org
Sent: Wednesday, July 28, 2010 1:39 PM
Subject: STOW LAKE CONCESSION LEASE

TO: Sunshine Task Force:

Earlier in the day I sent to you my complaint that the Recreation and Park Department was refusing to share the Ortega RFQ with me.

I have now discovered [as you will note below] that some of the requested information has been released specifically for the purpose of influencing public opinion.

Please add this email to my complaint and advise me if there is in San Francisco Government an ethics review board?

Cal Tilden
cbtmail@earthlink.net

----- Original Message -----

From: Cal T.
To: recrepark.commission@sfgov.org
Sent: Wednesday, July 28, 2010 1:27 PM
Subject: STOW LAKE

Please send to all Recreation and Park Commissioners

Dear Commissioners:

This is an example of your staff out of control. Totally unacceptable

behavior. Below is information and a sketch from the Ortega RFQ. The same RFQ that your staff refuses to release as I requested. So, one has to wonder how much of the information in the Stow Lake Corporation's RFQ was shared with Ortega. There needs to be an audit comparing the Ortega RFQ submitted in early April to the actual RFQ submitted to the evaluators.

Unfortunately, the article also contains misleading information. The Stow Lake Corp RFQ offered all new boats. The article reads like the old fleet would continue. There are presently many healthy foods available; more proposed. As to the condition of the boathouse, the Corporation has been on a month to month lease for six (6) years while the staff kept desperately trying to change the nature and purpose of the concession. During the fixed lease term, the boathouse was maintained in top condition. What sane business person would spend many thousands of dollars on painting a building when they were on a month to month lease?

As to the comment.. "non-historic intrusions" that is just yellow journalism. The Concession is a boat venue. Not a food or gift shop venue. The building was designed for boats and boats need a shop for maintenance. So, it is accurate to say the building has been utilized exactly as proposed when it was designed. My father paid for the plans and presented them to the Commission. Also, it was built [I believe] in 1950, not 1946. When I first worked there in 1949, there was no boathouse. There are hundreds of food cafes in San Francisco, but only one recreational boat rental facility. Just what is behind your staff's push to change what has worked for 67 years under my family's guidance and also in the late 1800's/early 1900's before the original boathouse burnt to the ground. From day one, the single purpose of Stow Lake was to provide a recreational outlet for citizens of San Francisco and its visitors.

As Commissioners, you have a fiduciary responsibility to assure your staff is operating in an ethical manner. It appears you have failed.

Cal Tilden
cbtmail@earthlink.net

San Francisco Citizen

aka The Citizen editor@sfcitizen.com Puedo Sentir tu Halo, Halo,
Halo/ Puedo Ver tu Halo, Halo, Halo



Stow Lake Boat House Renderporn – OMG, Swan Paddle Boats Coming to Golden Gate Park!

[UPDATE: Suzie, the self-appointed head cheerleader for the current boathouse tenant, thinks she's *treed the fox* - see the comments. *Woof woof*:

"We always thought "SFCitizen" was a paid media operative right out of City Hall... this story proves it. There is information here that no one else has, in spite of directives from the Sunshine Ordinance Task Force for Rec & Park to reveal it." Suzanne Dumont

Moving on...]

Stow Lake Boat House Renderporn! Stow Lake Boat House Renderporn! It's here, it's finally here.

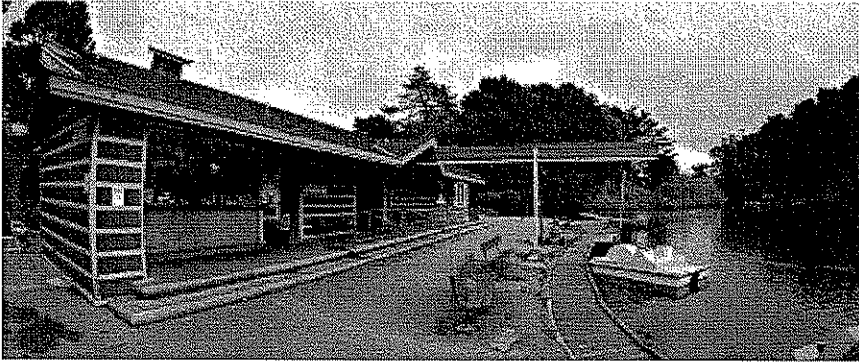
Now I'll tell you, there's some law or something that says there needs to be a hearing before a new tenant comes in at the Boat House at Stow, so there'll be a meeting on August 19th to let the full board of Rec and Park vote on the new tenant.

Word on the street is that Ortega Family Enterprises will bring in San Francisco food celebrity Frank Klein (the "helper of dreams"(!) per Eater SF) to lend a hand getting a locally-sourced food program set up the way he done recently at the cafe over there in Muir Woods. [Update: Paolo Lucchesi has the full Inside Scoop on the proposed menu - a \$3.95 Boat House Hot Dog - well, that's a lot cheaper than what some people were worried about, that's a lot less than the much-discussed \$8.50 figure that was being bandied

about, is what I'm saying...]

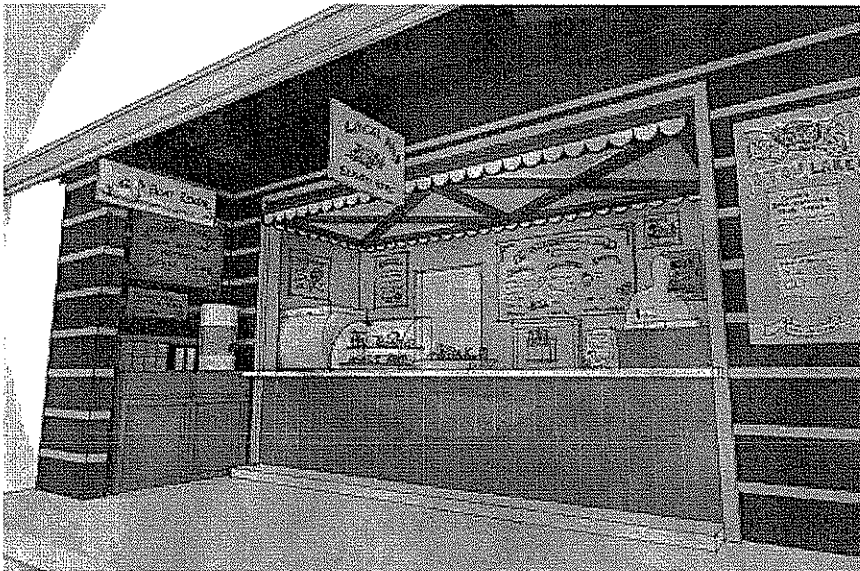
Anyway, do you see a lot of difference in the building as it is today and the building as it might be?

Present:

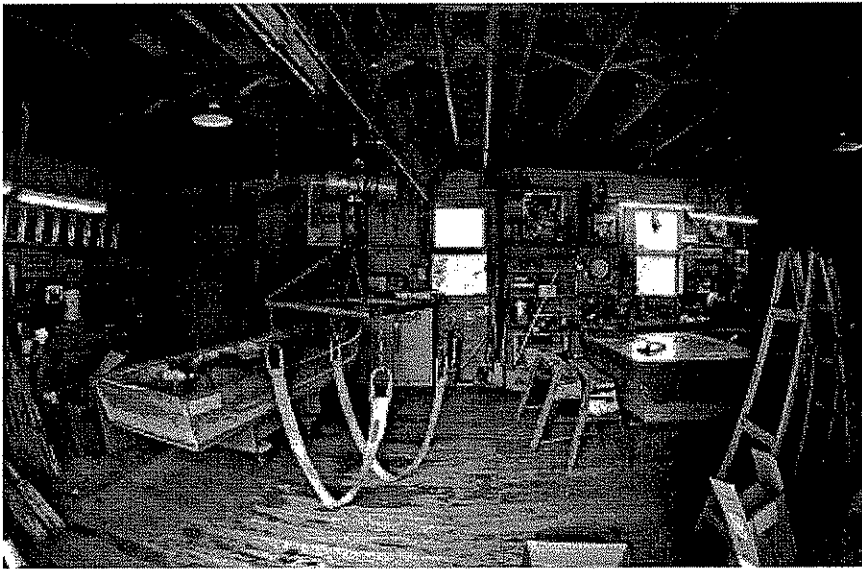


Click to expand

Possible future, assuming the Board votes in the Ortega family as tenant, and assuming The Community gives a positive response. This proposal is not set in stone:



Present:



Future. Note swan boats:



So there you have it.

Actually, that was the windup, now *here's* the pitch, or a pitch, anyway, written by somebody wants the OFE bid to get approved on August 19th. (That meeting could get emotional, as elements of at least one *hysterical* society are sure to attend. *Aint that America?*)

In closing, swan boats!

The deets, proposed:

“Benefits of Stow Lake Revitalization Project

Conditions of today’s Stow Lake:

The wooden boathouse has undergone few renovations since it was built in 1946.

The building is in need of a paint job. Mold is growing in the windows, sills and awnings. Broken wood panels need replacement. The building seal (roof, windows, walls, and doors) is compromised and is allowing the building interior to become damaged. The roof eventually needs to be replaced and re-shingled.

The building interior is highly compromised through rough use (tools, oils, machinery), non-historic intrusions, storage overload, and lack of maintenance.

An old, metal fleet of pedal and rowboats are available for rent at \$19 per hour (pedal) and \$14 per hour (row) plus a \$1 ticket deposit.

A vintage walk-up concession counter sells basics, including hot dogs, pink popcorn, soda and other packaged snacks.

The new Stow Lake will feature:

A renovated and stabilized boathouse while re-claiming its historic charm with the help of a \$233,000 investment from Ortega Family Enterprises for interior and exterior renovations.

Ortega has further committed 2% of annual revenues (more than \$18,000) toward regular maintenance and repair.

An improved exterior will NOT change the building’s character – retaining, for example, the walk-up concession counter — but WILL make the building a safe place to work and visit.

The improved interior will convert the current boat repair area into a simple café space. Natural fixtures, light fixtures and decorations from old boats and furniture made from reclaimed wood, including mostly fallen piers and boats, will pay homage to the building's seafaring theme.

A revamped menu of organic and seasonal-ingredient sandwiches and salads along with tasty baked goods, quick-to-prepare hot dishes, eco-friendly boxed lunches and café beverages. Favorites — pink popcorn and animal crackers included— will still be available.

Menu items will range from \$1.00 to \$11.75 with the majority of items available for \$4.95 to \$8.95.

A comfortable indoor space where visitors can relax and take refuge.

The heated indoor area will include a coffee house lounge with soft seating, and a meeting space for small gatherings.

For visitors' convenience, the indoor space will also feature a single-stall bathroom, free wireless Internet and extended hours. Proposed hours are 9 a.m. to 5 p.m. in the fall, 10 a.m. to 5 p.m. in the winter, 9 a.m. to 6 p.m. in the spring and 9 a.m. to 7 p.m. in the summer months.

A new fleet of 50 boats that will include , pontoon, swan-themed pedal and rowboats. Ortega will invest \$152,000 in the new fleet with plans to reduce rental rates in coming years.”

----- Original Message -----

From: Cal T..

To: phil.ginsburg@sfgov.org

Sent: Wednesday, July 28, 2010 11:06 AM

Subject: Fw: Stow Lake Concession

I had intended to also send you a copy of my response to Nick. Here is your copy.

Cal

----- Original Message -----

From: Cal T.

To: Nicholas.Kinsey@sfgov.org

Cc: Sarah.Ballard@sfgov.org ; Elton.Pon@sfgov.org ;

Olive.Gong@sfgov.org

Sent: Wednesday, July 28, 2010 9:51 AM

Subject: Re: Stow Lake Concession

NICK: Thank you for your answer to my request to have access to Ortega's original response to the RFQ for the Stow Lake Concession lease in Golden Gate Park submitted in April, 2010. I have read the Admin Code you provided and you are wrong in hiding behind it. That ordinance states what **MUST** take place after a lease is awarded but has no reference or prohibition to disclosure prior to award. It neither requires or forbids disclosure prior to the award. Just what good are public hearings [Commission and Supervisor's] if a lease can go all the way through to final approval without any public access as to its terms. Without knowledge of the terms, any and all public testimony along the way would just be a charade.

I have been involved with the Stow Lake Concession for 61 years. First as an employee [my 1st paycheck was dated June 18, 1949], then upon my father's death as the sole owner for 35 years, and now just Bruce's Uncle without any economic interest. Over those years, I negotiated many leases with the Recreation and Park Department. Always, there was full disclosure every step of the way. Bids would remain sealed and opened in the Commission room at McLaren Lodge at a specified date and time. Then each and every bid package would be passed around for everyone in the room to read. Full transparency. There was absolutely no opportunity for bid shopping, RFQ or RFP submission "adjustments", or improper disclosure to a favored bidder. Staff would then analyze all proposals and select the party for lease negotiations. The proposed/negotiated lease presented to the Commission for approval had full public disclosure prior to the Commission meeting during which it was voted on. No muzzling of the public with two

minute bongs. I assure you there were some lively discussions at Commission meetings. Far more valuable to Commissioners than your window-dressed community meetings which are not attended by the Commissioners voting on staff recommendations. The record indicates the Commission has turned into a rubber stamp for staff recommendations.

Quite frankly, the current leasing process has been shrouded in secrecy and has had a total lack of disclosures. Absolute control by staff without any public oversight. From someone on the outside looking in, the handling of the Stow Lake Concession lease award activity over the past six (6) years does not pass the smell test.

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----- Original Message -----

From: Nicholas.Kinsey@sfgov.org

To: [Cal T.](#)

Cc: Sarah.Ballard@sfgov.org ; Elton.Pon@sfgov.org ;
Olive.Gong@sfgov.org

Sent: Tuesday, July 27, 2010 6:13 PM

Subject: Stow Lake Concession

Cal,

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As to your request for supplemental notes provided to the selection panel, the Department provided no such materials. The sole materials provided to the panel were the three submissions, the RFQ and blank scoring sheets. In order to meet the spirit of your request, I have attached a blank scoring sheet. Unfortunately the size of the RFQ file is too large for it to be sent via email, but I would be happy to mail it to you if you provide a mailing address. Please note that each respondent received three copies of the blank scoring sheet (one for each respondent).

The Department shares your concern about soliciting the input of San Francisco citizens regarding the potential lease of the concession to a new vendor. In order to facilitate that goal the Department has

already convened two community meetings attended by dozens of neighborhood residents, met individually with the leaders of the Save Stow Lake organization and responded as appropriate to all requests and queries from the public. Moving forward this item will be the subject to numerous, mandated public meetings including, but not limited to, the Commission hearing on 8/19 regarding the selection panels recommendation. Should the Recreation and Park Commission accept the selection panels recommendation, future public meetings would include a hearing before the Commission to approve the lease, a hearing before a Board of Supervisors Committee regarding the lease and a hearing at the full Board of Supervisors to approve the lease. In addition, should the lease be approved and the Department and vendor under take capital improvement, plans for such improvements would require a hearing before the Rec-Park Commission and potentially hearings before the City's Planning and Historic Preservation Commission.

In addition to the meetings outlined above, should the Rec-Park Commission approve the selection of Ortega Family Enterprises, the Department intends to hold community meetings to present the vendor and to receive public input as the contract is negotiated. Additionally, the Department would convene public meetings to help develop and present the capital improvement plan including those for any indoor cafe that may be created.

In total, we believe that this is a significantly more robust community outreach plan than was undertaken the last time the concession was awarded. We firmly believe that this extensive level of community input will ensure that the charm and character of the Stow Lake Boathouse is retained during this transition. Lastly, I want to thank you and your family for their continued contributions to RPD and Stow Lake as concession operators.

Thanks,
Nick

San Francisco Administrative Code, Section 67.24(e)

Contracts, Bids and Proposals.

(1)

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the review or evaluation of a RFP has been completed.

Nicholas A. Kinsey
Assistant Director of Property and Concession Management
San Francisco Recreation and Park Department
McLaren Lodge
501 Stanyan Street
San Francisco, CA 94117

Tel. (415) 831-2774
Fax (415) 831-2099

----- Original Message -----

From: Cal T.
To: sotf@sfgov.org
Sent: Wednesday, July 28, 2010 10:54 AM
Subject: Stow Lake Concession Lease

SUNSHINE TASK FORCE:

I am not familiar with your procedures but have noted you next meet on August 26th. That is too late to help as the next Recreation and Park Commission meeting is August 19, 2010.

The emails pasted below tell the whole story. It is inconceivable to me that a lease can go through the whole process of approvals (Commission and Supervisors) before a taxpaying citizen of San Francisco can have access to the provisions of that lease and the RFQ leading to the selection of the lessee.

The sunshine does not shine at McLaren Lodge! Can you be of any help?

Thanks

Cal Tilden
cbtmail@earthlink.net

----- Original Message -----

From: Cal T.
To: recpark.commission@sfgov.org

Sent: Wednesday, July 28, 2010 10:20 AM
Subject: Stow Lake Concession

TO: Recreation and Park Commission
FROM: Cal Tilden
DATE: July 28, 2010
SUBJECT: Stow Lake Concession Lease.

Dear Commissioners:

Over the past several months, I have heard President Buell and G. M. Ginsburg express their commitment to transparency at Commission meetings and at the two hearings relating to Supervisors Mirkarimi's proposed Charter amendment changing the selection of Commission members. As you will note below, your staff has continued to present a brick wall with zero transparency.

Please accept this email as a request to instruct your staff to immediately release the original response to the RFQ submitted by Ortega in April, 2010 and in the future release the proposed lease before it is presented to the Commission for approval.

Thank you.

Cal Tilden
cbtmail@earthlink.net

----- Original Message -----

From: Cal T.
To: Nicholas.Kinsey@sfgov.org
Cc: Sarah.Ballard@sfgov.org ; Elton.Pon@sfgov.org ; Olive.Gong@sfgov.org
Sent: Wednesday, July 28, 2010 9:51 AM
Subject: Re: Stow Lake Concession

NICK: Thank you for your answer to my request to have access to Ortega's original response to the RFQ for the Stow Lake Concession lease in Golden Gate Park submitted in April, 2010. I have read the Admin Code you provided and you are wrong in hiding behind it. That ordinance states what **MUST** take place after a lease is awarded but has no reference or prohibition to disclosure prior to award. It neither requires or forbids disclosure prior to the award. Just what good are public hearings [Commission and

Supervisor's] if a lease can go all the way through to final approval without any public access as to its terms. Without knowledge of the terms, any and all public testimony along the way would just be a charade.

I have been involved with the Stow Lake Concession for 61 years. First as an employee [my 1st paycheck was dated June 18, 1949], then upon my father's death as the sole owner for 35 years, and now just Bruce's Uncle without any economic interest. Over those years, I negotiated many leases with the Recreation and Park Department. Always, there was full disclosure every step of the way. Bids would remain sealed and opened in the Commission room at McLaren Lodge at a specified date and time. Then each and every bid package would be passed around for everyone in the room to read. Full transparency. There was absolutely no opportunity for bid shopping, RFQ or RFP submission "adjustments", or improper disclosure to a favored bidder. Staff would then analyze all proposals and select the party for lease negotiations. The proposed/negotiated lease presented to the Commission for approval had full public disclosure prior to the Commission meeting during which it was voted on. No muzzling of the public with two minute bongs. I assure you there were some lively discussions at Commission meetings. Far more valuable to Commissioners than your window-dressed community meetings which are not attended by the Commissioners voting on staff recommendations. The record indicates the Commission has turned into a rubber stamp for staff recommendations.

Quite frankly, the current leasing process has been shrouded in secrecy and has had a total lack of disclosures. Absolute control by staff without any public oversight. From someone on the outside looking in, the handling of the Stow Lake Concession lease award activity over the past six (6) years does not pass the smell test.

Cal

----- Original Message -----

From: Nicholas.Kinsey@sfgov.org

To: Cal T..

Cc: Sarah.Ballard@sfgov.org ; Elton.Pon@sfgov.org ; Olive.Gong@sfgov.org

Sent: Tuesday, July 27, 2010 6:13 PM

Subject: Stow Lake Concession

Cal,

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As to your request for supplemental notes provided to the selection panel, the Department provided no such materials. The sole materials provided to the panel were the three submissions, the RFQ and blank scoring sheets. In order to meet the spirit of your request, I have attached a blank scoring sheet. Unfortunately the size of the RFQ file is too large for it to be sent via email, but I would be happy to mail it to you if you provide a mailing address. Please note that each respondent received three copies of the blank scoring sheet (one for each respondent).

The Department shares your concern about soliciting the input of San Francisco citizens regarding the potential lease of the concession to a new vendor. In order to facilitate that goal the Department has already convened two community meetings attended by dozens of neighborhood residents, met individually with the leaders of the Save Stow Lake organization and responded as appropriate to all requests and queries from the public. Moving forward this item will be the subject to numerous, mandated public meetings including, but not limited to, the Commission hearing on 8/19 regarding the selection panels recommendation. Should the Recreation and Park Commission accept the selection panels recommendation, future public meetings would include a hearing before the Commission to approve the lease, a hearing before a Board of Supervisors Committee regarding the lease and a hearing at the full Board of Supervisors to approve the lease. In addition, should the lease be approved and the Department and vendor under take capital improvement, plans for such improvements would require a hearing before the Rec-Park Commission and potentially hearings before the City's Planning and Historic Preservation Commission.

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Thanks,
Nick

San Francisco Administrative Code, Section 67.24(e)

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Nicholas A. Kinsey
Assistant Director of Property and Concession Management
San Francisco Recreation and Park Department
McLaren Lodge
501 Stanyan Street
San Francisco, CA 94117

Tel. (415) 831-2774
Fax (415) 831-2099

----- Original Message -----

From: Cal T.
To: nicole.avril@sfgov.org
Sent: Wednesday, July 28, 2010 10:30 AM
Subject: Fw: Stow Lake Concession

I have received an automated message that Nick is out of the office and you are accepting his email traffic.

Accordingly, I am forwarding my email to Nick to you.

Cal

----- Original Message -----

From: Cal T.
To: Nicholas.Kinsey@sfgov.org
Cc: Sarah.Ballard@sfgov.org ; Elton.Pon@sfgov.org ; Olive.Gong@sfgov.org
Sent: Wednesday, July 28, 2010 9:51 AM
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To: Cal T.

Cc: Sarah.Ballard@sfgov.org ; Elton.Pon@sfgov.org ; Olive.Gong@sfgov.org

Sent: Tuesday, July 27, 2010 6:13 PM

Subject: Stow Lake Concession

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Tel. (415) 831-2774
Fax (415) 831-2099

----- Original Message -----

From: Cal T.
To: recpark.commission@sfgov.org
Sent: Wednesday, July 28, 2010 10:20 AM
Subject: Stow Lake Concession

TO: Recreation and Park Commission
FROM: Cal Tilden
DATE: July 28, 2010

SUBJECT: Stow Lake Concession Lease.

Dear Commissioners:

Over the past several months, I have heard President Buell and G. M. Ginsburg express their commitment to transparency at Commission meetings and at the two hearings relating to Supervisors Mirkarimi's proposed Charter amendment changing the selection of Commission members. As you will note below, your staff has continued to present a brick wall with zero transparency.

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Thank you.

**Cal Tilden
cbtmail@earthlink.net**

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Cc: Sarah.Ballard@sfgov.org ; Elton.Pon@sfgov.org ; Olive.Gong@sfgov.org

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Quite frankly, the current leasing process has been shrouded in secrecy and has had a total lack of disclosures. Absolute control by staff without any public oversight. From someone on the outside looking in, the handling of the Stow Lake Concession lease award activity over the past six (6) years does not pass the smell test.

Cal

----- Original Message -----

From: Nicholas.Kinsey@sfgov.org

To: Cal T..

Cc: Sarah.Ballard@sfgov.org ; Elton.Pon@sfgov.org ; Olive.Gong@sfgov.org

Sent: Tuesday, July 27, 2010 6:13 PM

Subject: Stow Lake Concession

Cal,

Section 67.24(e)1 of the SF Admin Code (the Sunshine Ordinance) states that "Contracts, contractors' bids, responses to requests for proposals and all other records of

communications between the department and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded." In the instance of the Stow Lake Concession, the final contract award will come when the Board of Supervisors approves the contract. At that time, the Department will make available all required documentation (I have attached the relevant code section below for your review).

As to your request for supplemental notes provided to the selection panel, the Department provided no such materials. The sole materials provided to the panel were the three submissions, the RFQ and blank scoring sheets. In order to meet the spirit of your request, I have attached a blank scoring sheet. Unfortunately the size of the RFQ file is too large for it to be sent via email, but I would be happy to mail it to you if you provide a mailing address. Please note that each respondent received three copies of the blank scoring sheet (one for each respondent).

The Department shares your concern about soliciting the input of San Francisco citizens regarding the potential lease of the concession to a new vendor. In order to facilitate that goal the Department has already convened two community meetings attended by dozens of neighborhood residents, met individually with the leaders of the Save Stow Lake organization and responded as appropriate to all requests and queries from the public. Moving forward this item will be the subject to numerous, mandated public meetings including, but not limited to, the Commission hearing on 8/19 regarding the selection panels recommendation. Should the Recreation and Park Commission accept the selection panels recommendation, future public meetings would include a hearing before the Commission to approve the lease, a hearing before a Board of Supervisors Committee regarding the lease and a hearing at the full Board of Supervisors to approve the lease. In addition, should the lease be approved and the Department and vendor under take capital improvement, plans for such improvements would require a hearing before the Rec-Park Commission and potentially hearings before the City's Planning and Historic Preservation Commission.

In addition to the meetings outlined above, should the Rec-Park Commission approve the selection of Ortega Family Enterprises, the Department intends to hold community meetings to present the vendor and to receive public input as the contract is negotiated. Additionally, the Department would convene public meetings to help develop and present the capital improvement plan including those for any indoor cafe that may be created.

In total, we believe that this is a significantly more robust community outreach plan than was undertaken the last time the concession was awarded. We firmly believe that this extensive level of community input will ensure that the charm and character of the Stow Lake Boathouse is retained during this transition. Lastly, I want to thank you and your family for their continued contributions to RPD and Stow Lake as concession operators.

Thanks,
Nick

San Francisco Administrative Code, Section 67.24(e)

Contracts, Bids and Proposals.

(1)

Contracts, contractors' bids, responses to requests for proposals and all other records of communications between the department and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is

awarded the contract or benefit. All bidders and contractors shall be advised that information provided which is covered by this subdivision will be made available to the public upon request. Immediately after any review or evaluation or rating of responses to a Request for Proposal ("RFP") has been completed, evaluation forms and score sheets and any other documents used by persons in the RFP evaluation or contractor selection process shall be available for public inspection. The names of scorers, graders or evaluators, along with their individual ratings, comments, and score sheets or comments on related documents, shall be made immediately available after the review or evaluation of a RFP has been completed.

Nicholas A. Kinsey
Assistant Director of Property and Concession Management
San Francisco Recreation and Park Department
McLaren Lodge
501 Stanyan Street
San Francisco, CA 94117

Tel. (415) 831-2774
Fax (415) 831-2099

----- Original Message -----

From: Cal T.
To: recpark.commission@sfgov.org
Sent: Wednesday, July 28, 2010 10:20 AM
Subject: Stow Lake Concession

TO: Recreation and Park Commission
FROM: Cal Tilden
DATE: July 28, 2010
SUBJECT: Stow Lake Concession Lease.

Dear Commissioners:

Over the past several months, I have heard President Buell and G. M. Ginsburg express their commitment to transparency at Commission meetings and at the two hearings relating to Supervisors Mirkarimi's proposed Charter amendment changing the selection of Commission members. As you will note below, your staff has continued to present a brick wall with zero transparency.

Please accept this email as a request to instruct your staff to immediately release the original response to the RFQ submitted by Ortega in April, 2010 and in the future release the proposed

lease before it is presented to the Commission for approval.

Thank you.

Cal Tilden
cbtmail@earthlink.net

----- Original Message -----

From: Cal T.

To: Nicholas.Kinsey@sfgov.org

Cc: Sarah.Ballard@sfgov.org ; Elton.Pon@sfgov.org ; Olive.Gong@sfgov.org

Sent: Wednesday, July 28, 2010 9:51 AM

Subject: Re: Stow Lake Concession

NICK: Thank you for your answer to my request to have access to Ortega's original response to the RFQ for the Stow Lake Concession lease in Golden Gate Park submitted in April, 2010. I have read the Admin Code you provided and you are wrong in hiding behind it. That ordinance states what **MUST** take place after a lease is awarded but has no reference or prohibition to disclosure prior to award. It neither requires or forbids disclosure prior to the award. Just what good are public hearings [Commission and Supervisor's] if a lease can go all the way through to final approval without any public access as to its terms. Without knowledge of the terms, any and all public testimony along the way would just be a charade.

I have been involved with the Stow Lake Concession for 61 years. First as an employee [my 1st paycheck was dated June 18, 1949], then upon my father's death as the sole owner for 35 years, and now just Bruce's Uncle without any economic interest. Over those years, I negotiated many leases with the Recreation and Park Department. Always, there was full disclosure every step of the way. Bids would remain sealed and opened in the Commission room at McLaren Lodge at a specified date and time. Then each and every bid package would be passed around for everyone in the room to read. Full transparency. There was absolutely no opportunity for bid shopping, RFQ or RFP submission "adjustments", or improper disclosure to a favored bidder. Staff would then analyze all proposals and select the party for lease negotiations. The proposed/negotiated lease presented to the Commission for approval had full public disclosure prior to the

Commission meeting during which it was voted on. No muzzling of the public with two minute bongs. I assure you there were some lively discussions at Commission meetings. Far more valuable to Commissioners than your window-dressed community meetings which are not attended by the Commissioners voting on staff recommendations. The record indicates the Commission has turned into a rubber stamp for staff recommendations.

Quite frankly, the current leasing process has been shrouded in secrecy and has had a total lack of disclosures. Absolute control by staff without any public oversight. From someone on the outside looking in, the handling of the Stow Lake Concession lease award activity over the past six (6) years does not pass the smell test.

Cal

----- Original Message -----

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To: Cal T..

Cc: Sarah.Ballard@sfgov.org ; Elton.Pon@sfgov.org ; Olive.Gong@sfgov.org

Sent: Tuesday, July 27, 2010 6:13 PM

Subject: Stow Lake Concession

Cal,

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As to your request for supplemental notes provided to the selection panel, the Department provided no such materials. The sole materials provided to the panel were the three submissions, the RFQ and blank scoring sheets. In order to meet the spirit of your request, I have attached a blank scoring sheet. Unfortunately the size of the RFQ file is too large for it to be sent via email, but I would be happy to mail it to you if you provide a mailing address. Please note that each respondent received three copies of the blank scoring sheet (one for each respondent).

The Department shares your concern about soliciting the input of San Francisco citizens regarding the potential lease of the concession to a new vendor. In order to facilitate that goal the Department has already convened two community meetings attended by dozens of neighborhood residents, met individually with the leaders of the Save Stow Lake organization and responded as appropriate to all requests and queries from the public. Moving forward this item will be the subject to numerous, mandated public meetings including, but not limited to, the Commission hearing on 8/19 regarding the selection panels recommendation. Should the Recreation and Park Commission accept the

selection panels recommendation, future public meetings would include a hearing before the Commission to approve the lease, a hearing before a Board of Supervisors Committee regarding the lease and a hearing at the full Board of Supervisors to approve the lease. In addition, should the lease be approved and the Department and vendor under take capital improvement, plans for such improvements would require a hearing before the Rec-Park Commission and potentially hearings before the City's Planning and Historic Preservation Commission.

In addition to the meetings outlined above, should the Rec-Park Commission approve the selection of Ortega Family Enterprises, the Department intends to hold community meetings to present the vendor and to receive public input as the contract is negotiated. Additionally, the Department would convene public meetings to help develop and present the capital improvement plan including those for any indoor cafe that may be created.

In total, we believe that this is a significantly more robust community outreach plan than was undertaken the last time the concession was awarded. We firmly believe that this extensive level of community input will ensure that the charm and character of the Stow Lake Boathouse is retained during this transition. Lastly, I want to thank you and your family for their continued contributions to RPD and Stow Lake as concession operators.

Thanks,
Nick

San Francisco Administrative Code, Section 67.24(e)

Contracts, Bids and Proposals.

(1)

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Nicholas A. Kinsey
Assistant Director of Property and Concession Management
San Francisco Recreation and Park Department
McLaren Lodge

501 Stanyan Street
San Francisco, CA 94117

Tel. (415) 831-2774
Fax (415) 831-2099



"Cal T.." <cbtmail@earthlink.net>
08/25/2010 12:42 PM

To <soft@sfgov.org>
cc "Cal Tilden" <cbtmail@earthlink.net>
bcc
Subject Sunshine Complaint #10042 Cal Tilden vs Recreation and Park Dept.

Below is the Recreation and Park's response to my request for information contained in my email dated August 24, 2010 (copy below) together with my rebuttal to their response. Please add this exchange of messages to my complaint file #10042.

Thank you.
Cal Tilden

----- Original Message -----

From: Cal T..
To: Olive.Gong@sfgov.org
Sent: Wednesday, August 25, 2010 11:51 AM
Subject: Stow Lake Concession Request

My new request is based on the changed status of the Stow Lake Concession Lease negotiations now that the vendor has been selected. Section 67.24(e)1 only states what is required after conclusion of the award. It in no way covers what may not be disclosed prior to contract award. Thus, Nick's response is nonsequitur and is a gross failure to be transparent.

Over my many years of multiple lease negotiations relating to the Stow Lake Concession, never has there been such reluctance to share information. In all prior lease transactions, the bids were all opened at McLaren lodge at a specified time and then immediately passed around for all the bidders to read. That is transparency.

Prevents any back room adjustments after submission.

To refuse to release the information denies interested parties any ability to comment or voice their views prior to the point of no return. Accordingly, I reject your response and my request remains active.

Cal Tilden

----- Original Message -----

From: Olive.Gong@sfgov.org

To: [Cal T.](#)

Sent: Wednesday, August 25, 2010 11:17 AM

Subject: Fw: Stow Lake Concession Request

Dear Cal,

Nick Kinsey had responded to your previous request for documents in his 7/27/10 email, and our response to your emailed request today remains the same, namely "Section 67.24(e)1 of the SF Admin Code (the Sunshine Ordinance) states that "Contracts, contractors' bids, responses to requests for proposals and all other records of communications between the department and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded." In the instance of the Stow Lake Concession, the final contract award will come when the Board of Supervisors approves the contract. At that time, the Department will make available all required documentation. "

Regards,
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 email

*

----- Original Message -----

From: Cal T.

To: olive.gong@sfgov.org

Cc: nicholas.kinsey@sfgov.org

Sent: Tuesday, August 24, 2010 4:52 PM

Subject: URGENT SUNSHINE ORDINANCE REQUEST

RE: ORTEGA FAMILY ENTERPRISES /STOW LAKE

At the Recreation and Park Commission meeting held August 19, 2010, The Ortega group was selected to enter into lease negotiations with the Recreation and Park Department & the City and County of San Francisco to be the lessee at Stow Lake. As the selection of RFQ respondents has now been made, please accept this email as a formal request to provide to me via email [cbtmail@earthlink.net] the response submitted last April by the Ortega group to the RFQ for the Stow Lake Concession lease.

As responses to RFQs were required to be submitted electronically, your effort to comply with this request only requires one click of your mouse.

Thank you.

Cal Tilden

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

BRIEF # 1042 {Page 1 of 2}

RE: Complaint # 10042

Calvin B. Tilden vs. Recreation and Park Department and Commission

HEARING DATE: September 28, 2010

DATE: September 20, 2010

TO: Sunshine Ordinance Task Force

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 SEP 20 PM 2:42
BY [signature]

COMPLAINT: The Recreation and Park Department and Commission, after multiple written requests [Attachment #1], have refused to release the Ortega Family Enterprise [dba Cloudless Skies Park Company LLC] response to the RFQ (Request for Qualification) submitted by them relating to the Stow Lake Concession Lease. This refusal violates the Sunshine Ordinance that requires City operations to be open to people's review.

The refusals were based on Section 67.24(e) of the SF Admin Code. As you will note in my August 25, 2010 email to Olive Gong, I pointed out that Section 67 did not prohibit disclosure; it only set forth what was required after an award was made. Of greater significance, I have now just discovered that Section 67.24(e) (1) **ONLY applies to RFPs, NOT to RFQs.** Nick and Olive certainly should have known this fact. A RFQ significantly differs from a RFP. The RFQ is only a conceptual proposal {not a bid} but it was the document used by the evaluators to select the Ortegass.

REQUEST: Release immediately the Ortega Family Enterprises response to the RFQ for the Stow Lake Concession Lease. Release to be electronic as was the submission. Also, require the Recreation and Park Department to release electronically the concession lease currently being negotiated at least 5 full days prior to submitting it to the Recreation and Park Commission for approval. Please note in the rejections received, it is stated that only after the Board of Supervisors approves the lease will it become public. If only made available after those two approvals, how can there be any meaningful public input at the Recreation and Park Commission meeting or at the Board of Supervisors meeting?

BACKGROUND: After rejecting over a 5 year period four responses to Requests for Proposals [RFP] stating only that the submissions were "non-responsive" and giving no additional detail, the Recreation and Park Department issued a Request of Qualification [RFQ], a procedure giving the department far more subjective latitude than a RFP.

FURTHER INFORMATION: A lot more information can be found by reviewing Sunshine Ordinance complaint # 10022...*Suzanne Dumont vs. Recreation and Parks Department*. This complaint also involved this Stow Lake RFQ. At your June 22, 2010 hearing, your Order of Determination was in favor of Ms Dumont and against the Recreation and Park Department. Please log onto www.savestowlake.org for a lot more information.

REASON FOR DOCUMENT REQUEST: From the selective information released to date on an internet blog, posting of a notice at the boathouse, and at the Commission meeting, it appears the Ortega's have proposed a full floor Cafe. This is a dramatic change from the historic design and use of the Stow Lake Boathouse and is in violation of the Golden Gate Park Master Plan. So dramatic a change, that public access to their proposal is essential. There has been a tremendous amount of spin, selected information releases and outright lies connected with this matter. The Ortegas hired **GROUND FLOOR** to represent them and conduct a public relations campaign. **GROUND FLOOR** calls themselves "A Public Interest Strategy Firm" and states "We open doors that are closed to many people" Founder of **GROUND FLOOR** is Alex Tourk, Ex Deputy Chief of Staff and Campaign Manager for Mayor Newsom.

The enclosed memo dated August 16, 2010 [Attachment #2] was presented to the Commission with copies to the staff and others. It contains significant questions. Absolutely no response has been received to this memo. Nothing! Total silence.


Although the Commission called for and received public testimony at their 8/19/10 meeting, such testimony was really a charade because the Ortega's response to the RFQ had been and still is being kept secret from both the public and also from the Commission. Commissioner Lee asked Nick Kinsey several times for details as to the rent the Ortegas would be paying and never got a straight answer. He was the only Commissioner voting no. He recognized the Commissioners were being asked to vote on moving ahead and that such vote was based on inadequate and withheld information.

The Stow Lake Corporation has provided 67 years of continuous boat rentals to the citizens of San Francisco and its visitors. Always paid its rent and has never been involved in a law suit. They offered 85 new boats, a 70% increase over the Ortega's 50. Also, offered to fully refurbish the building and keep it maintained in first class shape.

DISCLOSURES: The President of the Stow Lake Corporation is Bruce McLellan. He is my nephew. My Father reintroduced boats to Stow Lake on June 20, 1943...over 67 years ago. I received my first ever paycheck working there on June 18, 1949 and have been involved ever since as an employee, owner and now a helpful Uncle in my retirement. I have negotiated every lease for the Stow Lake Concession for over the past 53 years and have never experienced such lack of transparency as is now taking place. All past lease bids were sealed and opened in front of all bidders and passed around for everyone to read. No opportunity for back room deals and post-submission adjustments for a favored bidder. No spin! No secrecy! Honest evaluation of bids! Full transparency! The opposite of what is going on currently.

Thank you for taking the time to review all of this information.

Sincerely,



Calvin B. Tilden

ATTACHMENT #1 {page 1 of 2}

----- Original Message -----

From: Olive.Gong@sfgov.org

To: Cal T.

Cc: sotf@sfgov.org

Sent: Thursday, September 09, 2010

Subject: Complaint: 10042: Stow Lake Concession Request

Hi Cal,

Just wanted to update you on the processes involved before we release the documents that you requested.

If/when the Board of Supervisors approves the vendor, we can then release the documents you request. This has not happened yet.

A rough estimate would be sometime in November or December--again, this is just an estimate.

Regards,
Olive

.....
Olive Gong
San Francisco Recreation and Park Department
McLaren Lodge
501 Stanyan St., SF CA 94117
415.831-2708 direct
olive.gong@sfgov.org email

----- Original Message -----

From: Cal T.

To: Olive.Gong@sfgov.org

Sent: Thursday, September 09, 2010

Subject: Re: Complaint: 10042: Stow Lake Concession Request

OLIVE:

I earlier requested the Ortega's response to the RFQ. Access at this time has been denied. Again, let me state that I disagree with the Department's position and am appalled at the total lack of transparency.

I would now like to officially request that the Recreation and Park Department agrees and commits to provide me with a copy of the proposed Stow Lake Concession Lease at least five (5) full working days prior to the Commission meeting where the vote will be taken to approve the lease. This will allow time to review its terms prior to the meeting. Without the opportunity to review the lease, public testimony at the meeting would not be meaningful and a waste of everyone's time. Certainly a document as complex and important as a long term lease needs release to the Commission members at least five days in advance of their meeting to allow sufficient review time so they can understand what they are voting on.

Sincerely,
Cal Tilden

ATTACHMENT #1 {page 2 of 2}

Original Message -----

From: Olive.Gong@sfgov.org

To: Cal T..

Sent: Wednesday, August 25, 2010

Subject: Fw: Stow Lake Concession Request

Dear Cal,

Nick Kinsey had responded to your previous request for documents in his 7/27/10 email, and our response to your emailed request today remains the same, namely "Section 67.24(e)1 of the SF Admin Code (the Sunshine Ordinance) states that "Contracts, contractors' bids, responses to requests for proposals and all other records of communications between the department and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded." In the instance of the Stow Lake Concession, the final contract award will come when the Board of Supervisors approves the contract. At that time, the Department will make available all required documentation. "

Regards,

Olive

Olive Gong

San Francisco Recreation and Park Department

olive.gong@sfgov.org email

From: "Cal T.." <[cibtmail@earthlink.net](mailto:cbtmail@earthlink.net)>

To: <Olive.Gong@sfgov.org>

Date: 08/25/2010 11:51 AM

Subject: Stow Lake Concession Request

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To refuse to release the information denies interested parties any ability to comment or voice their views prior to the point of no return. Accordingly, I reject your response and my request remains active.

TO: RECREATION AND PARK COMMISSION [recpark.commission@sfgov.org]
FROM: STOW LAKE CORPORATION
DATE: AUGUST 16, 2010
RE: ITEM #7 STOW LAKE BOAT CONCESSION LEASE- AUGUST 19, 2010 MEETING.
PLEASE FORWARD THIS MEMO TO ALL COMMISSIONERS. ALSO, PLEASE INCLUDE IT IN
THE MINUTES OF THE AUGUST 19, 2010 COMMISSION MEETING.

The comments that follow are based on the supporting documents for agenda item #7 prepared for the Commission meeting in justification of the staff recommendation to select Ortega Family Enterprises as the lessee for the Stow Lake Boat Concession. The Ortega response to the RFQ remains secret.

SUMMARY: There are many open questions relating to negotiating a lease with Ortega Family Enterprises. This matter needs to be reviewed by an independent source such as Harvey Rose's Budget Analyst Office and let them make a recommendation to the Commission. The document contains spin and disingenuous statements such as..."No parties have come forward specifically opposing the selection of the Ortega Family Enterprises" Such opposition was impossible as staff and the Commission denied multiple requests to release the Ortega's response to the RFQ. In June, The Recreation and Park Department was found in violation of San Francisco's Sunshine Ordinance [10 to 0 vote] relating to Stow Lake Boat Concession leasing matters and additional complaints [relating to the withholding of Ortega's response to the RFQ] have been recently filed with the Sunshine Task Force and are pending a hearing. There has been total secrecy up to this point. No basis on which to oppose the Ortega selection.

1. BOATING EXPERIENCE: In the supporting document, your staff states that the Ortega Family Enterprises have 22 years managing Carlsbad Cruise Lines. There is no evidence presented to support this statement. No indication that this representation has been validated. The web page for Carlsbad [www.carlsbadcruiselines.com] has contrary information. It states that the Carlsbad Cruise Lines has been ***"owned and operated for many years by the friendly Balzano Family."*** This needs clarification as the Stow Lake RFQ requires boating experience. In what manner has Ortega Family Enterprises managed Carlsbad Cruise Lines? Does the Ortega's tax return show any income relating to managing the Carlsbad Cruise Lines? Is the Balzano family a partner of the Ortegas? Just being a "partner" in name is insufficient. Will they have a financial interest in the Stow Lake Concession? Will they be signing with the Ortegas on the lease? Will they be registered with the California Secretary of State as a Corporation, LLC, Partnership, or other legal entity to do business in California? Will they appear on the San Francisco records as qualified to do business in San Francisco? What will be their hands-on/day to day management involvement with the Stow Lake Concession.....an essential question relating to water safety? Do they have any incentive for the successful execution of the lease terms? Do they have any liability exposure in the event of a boating accident? Will they be a named insured on the liability policy? Will they be responsible for the guaranteed rent payments if the Ortegas default? What information was considered relating to the Balzano Family when scoring the responses to the RFQ? Was the statement of 22 years experience just taken at face value? Is Balzano just a shell so the Ortegas qualify to bid on the Stow Lake Concession? So many questions with no answers currently available. Safety is the primary issue here as the Ortega Family Enterprises appears not to have any rental boating experience and not qualified to operate the Stow Lake Concession thus making their proposal non-responsive due to the lack of meeting specified qualifications.

2. SERVICE TO CITIZENS AND VISITORS: Since the park was built, Stow Lake has been designated a boat recreational venue. The Ortegas propose 50 boats and "more if demand dictates" Just who makes the determination as to what constitutes "demand"? Fifty (50) boats are inadequate to support the current demand for rentals on a nice weekend. The Stow Lake Corporation currently has 85 boats in its fleet and proposed to replace all of them with 85 new boats. That is a 70% larger fleet than offered by the Ortegas to service those who want to recreate at Stow Lake. Even 85 boats are inadequate to fully serve the public

with nice weekend weather but 85 boats is the practical carrying capacity of the lake. Any more boats on the lake and the experience is diminished as the lake turns into bumper-boats. The lease must specify 85 boats to avoid any debate in the future as to what "demand dictates" means. No need to see what the future brings. This is currently an operating venue and has been for 67 years. The demand is well established. The reduction of the fleet to 50 boats is evidence that the boat rental activity will be taking a back seat to the cafe and gift shop operation. There are thousands of cafes and gift shops in San Francisco offering espresso, post cards, key chains and T shirts but only one lake for recreational boating.

3. **MINIMUM GUARANTEED RENT TO THE CITY:** The supporting document is silent as to the guaranteed minimum annual rent to be paid. Projections of 40 to 50% increases in revenue are meaningless and can amount to nothing more than marketing hype. Projections need to be backed up with financial commitment. The old saying...put your money where your mouth is! There needs to be a guaranteed annual minimum rent specified in the lease. The Stow Lake Corporation offered a minimum guaranteed rent in its response to the RFQ in the amount of \$215,000/year. This is a conservative number and we have always exceeded our guaranteed minimum rent. The City has a 67 year track record of the Stow Lake Corporation paying its rent. Has a professional credit check been made on the Ortega's finances and history of rent payments? How about the Balzano family? What will be required as a performance bond to guarantee payment of the minimum rent and compliance with the other lease terms?

4. **HISTORIC PRESERVATION:** There is a lot of chatter about "Historic Preservation" but the opposite is taking place. The building was designed and built to be a boat house with a major shop for boat repairs to support the rental fleet. Conversion of the top floor to a cafe and gift shop with the boat shop in the basement is clearly a departure from the historic purpose and use.

5. **CAPITAL IMPROVEMENTS:** Here we are comparing apples and oranges and there is lots of spin and erroneous information. Conversion of the boathouse to a different use certainly results in a higher capital expenditure. As to boats, the Stow Lake Corporation would be spending significantly more for 85 new boats than Ortega would spend for 50 boats. As indicated above, the larger fleet clearly is of benefit to those who wish to enjoy the use of the lake for an outing without having to wait in line 2 hours to have a boat available. Also, the Stow Lake Corporation agreed to bring up the exterior of the boat house to standards equal to what Ortega offered. Therefore, the only difference in capital commitment between the two parties relates to the conversion of the building from a functional boat house to a cafe-gift shop. The reporting of \$23,000 in total value of proposed improvements by the Stow Lake Corporation is inaccurate and misleading. **Summary:** Capital expenditure is the same for both parties relating to the refurbishing of the exterior. We have a 70% higher capital investment in new boats...85 vs. 50 boats. The only difference is we were only converting a portion of the boat repair shop into an indoor sitting area and Ortega is converting the whole upper floor. Under the Stow Lake Corporation's proposal, the basement was available for use by non-profit groups at no cost.

6. **PUBLIC SUPPORT:** Independent of the Stow Lake Corporation, there is a citizens group [www.savestowlake.org] with 2,370 signatures to preserve the boating operation in its present form and opposed to converting the entire lake level floor space into a cafe and gift shop with boat repair moved to the basement. The Stow Lake Corporation had no part in the establishment of this group. Truly grass roots. The Ortegas have hired the high powered P R firm [GROUND FLOOR] to solicit persons to come forward to support their plan. Up to this point, there was no public support for the conversion of the boat house into a cafe and gift shop.... a plan totally hatched at McLaren Lodge.

CC: Phil Ginsburg
Nick Kinsey
Nicole Avril
Harvey Rose
Save Stow Lake Boathouse Coalition



Mayor Gavin Newsom
Philip A. Ginsburg, General Manager

Honorable Members, Complaint Committee
Sunshine Ordinance Task Force
c/o Frank Darby, Administrator
1 Dr. Carlton B. Goodlett Place
Room 244
San Francisco, CA 94102-4689

September 21, 2010

Re: #10042_Cal Tilden vs Recreation and Parks Dept.

Dear Honorable Members of the Sunshine Ordinance Task Force:

This letter is in response to Complaint #10042 filed by Mr. Cal Tilden on August 2, 2010 against the San Francisco Recreation and Park Department. The Department received a copy of the Complaint on August 24, 2010. The Department does not contest jurisdiction.

The Complaint concerns a request sent by Mr. Tilden in an email dated July 23, 2010 (See Exhibit A) for the Ortega response to the Request for Qualification (RFQ). Mr. Nicholas Kinsey, Assistant Director of Property and Concession Management, responded to the request in an email dated July 27, 2010. (See Exhibit B)

The Department is withholding documents per Section 67.24(e)1 of the SF Admin Code, his response, in part, is quoted below:

Section 67.24(e)1 of the SF Admin Code (the Sunshine Ordinance) states that "Contracts, contractors' bids, responses to requests for proposals and all other records of communications between the department and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded." In the instance of the Stow Lake Concession, the final contract award will come when the Board of Supervisors approves the contract. At that time, the Department will make available all required documentation (I have attached the relevant code section below for your review)...

The San Francisco Administrative Code, Section 67.24(e):

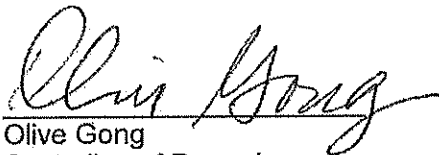
Contracts, Bids and Proposals.
(1)

Contracts, contractors' bids, responses to requests for proposals and all other records of communications between the department and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. All bidders and contractors shall be advised that information provided which is covered by this subdivision will be made available to the public upon request. Immediately after any review or evaluation or rating of responses to a Request for Proposal ("RFP") has been completed, evaluation forms and score sheets and any other documents used by persons in the RFP evaluation or contractor selection process shall be available for public inspection. The names of scorers, graders or evaluators, along with their individual ratings, comments, and score sheets or comments on related documents, shall be made immediately available after the review or evaluation of a RFP has been completed.

To reiterate, the Department will make available all required documents once the Board of Supervisors approves the contract for the Stow Lake Concession.

We hope this letter will be of assistance to the Complaint Committee. If we can be of further assistance to the Committee with respect to Mr. Tilden's complaint, please do not hesitate to contact me.

Very truly yours,



Olive Gong
Custodian of Records
San Francisco Recreation and Park Department

Exhibit A for Complaint 10042 – Cal Tilden vs Rec and Park

From: Cal T.
To: elton.pon@sfgov.org ; nicholas.kinsey@sfgov.org
Sent: Friday, July 23, 2010 8:57 AM
Subject: STOW LAKE CONCESSION

TO: NICHOLAS KINSEY
ELTON PON

DATE: July 23, 2010

SUBJECT: Stow Lake Concession Lease

Now that the vendor has been selected and approval to negotiate the lease terms will come before the Commission on August 19, 2010, please consider this email as a formal request for access to the response to the RFQ submitted by Ortega Family Enterprises together with any supplemental notes given to the evaluators by the Recreation and Park staff.

Clearly public input is essential prior to negating the lease terms as such terms will set the tone and operation of the concession for the next 20 years. The final lease should reflect and take into consideration the thoughts of the Citizens of San Francisco. To facilitate such public input at the Commission meeting, the Ortega proposal needs to be made public. Such release would be consistent with your obligation of being transparent in your actions.

Please Email to me the Ortega response to the Request for Qualification (RFQ) that was submitted to you. As the RFQs responses were submitted via email, its forwarding to me is only a mouse click away and not an unreasonable request.

Thank you for your attention to my request.

Cal Tilden
cbtmail@earthlink.net

From: Nicholas Kinsey/RPD/SFGOV
To: Cal T.. <cbtmail@earthlink.net>
Cc: Sarah Ballard/RPD/SFGOV@SFGOV, Elton Pon/RPD/SFGOV@SFGOV,
Olive Gong/RPD/SFGOV@SFGOV
Date: 07/27/2010 06:13 PM
Subject: Stow Lake Concession

Cal,

Section 67.24(e)1 of the SF Admin Code (the Sunshine Ordinance) states that "Contracts, contractors' bids, responses to requests for proposals and all other records of communications between the department and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded." In the instance of the Stow Lake Concession, the final contract award will come when the Board of Supervisors approves the contract. At that time, the Department will make available all required documentation (I have attached the relevant code section below for your review).

As to your request for supplemental notes provided to the selection panel, the Department provided no such materials. The sole materials provided to the panel were the three submissions, the RFQ and blank scoring sheets. In order to meet the spirit of your request, I have attached a blank scoring sheet. Unfortunately the size of the RFQ file is too large for it to be sent via email, but I would be happy to mail it to you if you provide a mailing address. Please note that each respondent received three copies of the blank scoring sheet (one for each respondent).

The Department shares your concern about soliciting the input of San Francisco citizens regarding the potential lease of the concession to a new vendor. In order to facilitate that goal the Department has already convened two community meetings attended by dozens of neighborhood residents, met individually with the leaders of the Save Stow Lake organization and responded as appropriate to all requests and queries from the public. Moving forward this item will be the subject to numerous, mandated public meetings including, but not limited to, the Commission hearing on 8/19 regarding the selection panels recommendation. Should the Recreation and Park Commission accept the selection panels recommendation, future public meetings would include a hearing before the Commission to

approve the lease, a hearing before a Board of Supervisors Committee regarding the lease and a hearing at the full Board of Supervisors to approve the lease. In addition, should the lease be approved and the Department and vendor undertake capital improvement, plans for such improvements would require a hearing before the Rec-Park Commission and potentially hearings before the City's Planning and Historic Preservation Commission.

In addition to the meetings outlined above, should the Rec-Park Commission approve the selection of Ortega Family Enterprises, the Department intends to hold community meetings to present the vendor and to receive public input as the contract is negotiated. Additionally, the Department would convene public meetings to help develop and present the capital improvement plan including those for any indoor cafe that may be created.

In total, we believe that this is a significantly more robust community outreach plan than was undertaken the last time the concession was awarded. We firmly believe that this extensive level of community input will ensure that the charm and character of the Stow Lake Boathouse is retained during this transition. Lastly, I want to thank you and your family for their continued contributions to RPD and Stow Lake as concession operators.

Thanks,
Nick

San Francisco Administrative Code, Section 67.24(e)

Contracts, Bids and Proposals.

(1)

Contracts, contractors' bids, responses to requests for proposals and all other records of communications between the department and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. All bidders and contractors shall be advised that information provided which is covered by this subdivision will be made available to the public upon request. Immediately after any review or evaluation or rating of responses to a Request for Proposal ("RFP") has been completed, evaluation forms and score sheets and any other documents used by persons in the RFP evaluation or contractor selection process shall be available for public inspection. The names of scorers, graders or evaluators, along with their individual ratings, comments, and score sheets or comments on related documents, shall be made immediately available after the review or evaluation of a RFP has

been completed.
(See attached file: scoring template.doc)

Nicholas A. Kinsey
Assistant Director of Property and Concession Management
San Francisco Recreation and Park Department
McLaren Lodge
501 Stanyan Street
San Francisco, CA 94117

Tel. (415) 831-2774
Fax (415) 831-2099