Purnell, Daniel

From: Marleen Sacks [r[redacted]
Sent: Tuesday, November 17, 2009 2:45 PM
To: Morodomi, Mark; Baker, Jeff
Cc: Russo, John; Purnell, Daniel; Lindheim, Dan; Brunner, Jane; David@donahue.com
Subject: Failure to Comply With Deadline To Provide Documents

Mark and Jeff:

At the mediation on my Ethics Complaint, the parties agreed that City officials would provide responsive documents by yesterday, November 16, 2009. I followed up with a confirming email documenting our understanding. As of today, November 17, 2009, I have received NO responsive documents, nor have I received ANY explanation as to why the documents were not provided. This is unacceptable and illegal. As you are well aware, compliance with the California Public Records Act is required by statute, by City ordinance, and by the California Constitution. I find it outrageous that despite my status as a lawyer, and current litigant, you would so deliberately violate well established laws as well as the agreements reached during the mediation. As mediation appears not to be working, I have requested that my complaints be placed on the January, 2010 agenda of the Public Ethics Commission. In the meantime, I reiterate my ongoing request that the records I have requested be transmitted to me immediately.

Marleen L. Sacks

Purnell, Daniel

From: Marleen Sacks [redacted]
Sent: Tuesday, November 24, 2009 10:08 AM
To: Purnell, Daniel; Morodomi, Mark; Baker, Jeff
Cc: David@donahue.com; Russo, John; Lindheim, Dan
Subject: Re: Records Mediation

Dan and Mark:

Below is the email I sent out following our mediation. As you know, more than a week later, I had received no documents at all, and I wrote again to express my unhappiness at the City's failure to comply with the commitments made during the mediation. I received no acknowledgement or apology or request for additional time. I did, however, start receiving dribs and drabs of responsive documents. To date, some of the documents have been produced; others have not. Below I have highlighted in bold which categories of documents are still outstanding. Please let me know if and when I will receive responsive documents, and what is the explanation for the delay. Thanks.

Marleen

From: Marleen Sacks <[redacted]>
To: "Purnell, Daniel" <DPurnell@oaklandnet.com>; "Morodomi, Mark" <MMorodomi@oaklandcityattorney.org>; "Abney, Michelle" <MAbney@oaklandcityattorney.org>; "Baker, Jeff" <jbaker@oaklandnet.com>; "Garcia, Gilbert" <GGarcia@oaklandnet.com>; "Bedford, Sara" <SBedford@oaklandnet.com>; "Hom, Donna" <DHom@oaklandnet.com>
Cc: David@donahue.com
Sent: Sat, November 7, 2009 3:42:25 PM
Subject: Re: Records Mediation

Dan et al:

This is to memorialize the understandings that were reached at our mediation, as I understand them:

Request # 11: Mark had originally provided an estimate of over $1000 to "extract" the records. I then modified my request and had not heard back from the City since I submitted an amended request. Gil Garcia agreed to provide the requested documents at the end of the mediation. (I forgot to remind him at the end of the meeting, so it would be fine if these documents could be provided along with the rest, by November 16, 2009). **I have still not received responsive documents.**

Request #10: Gil Garcia stated that he had not yet asked the Police Chief of Assisant Chief for any memos or emails related to scheduling of academies for 2009 or 2010. In addition, no inquiry had yet been made of Cheryl Taylor to see if there were responsive documents related to budget appropriations for 739 officers. Jeff Baker and Gil Garcia agreed to perform a search and respond back with responsive documents and/or a statement as to whether responsive documents exist by November 16, 2009. **I have still not received responsive documents from Cheryl Taylor.**

Request #9: Ms. Hom was not present at the mediation, so there was no City representative available to provide information regarding the status of my requests as they related to mentorship programs and expansion of paramedic services. Dan Purnell agreed to contact Ms. Hom on Monday and provide

responsive documents by November 16, 2009. **I have received responsive documents.**

With respect to documents related DHS, and supporting the amount of funds awarded to various organizations, as well as number of persons served by the Measure Y programs, I reviewed the additional information provided by Ms. Bedford. One of the documents was very helpful. It was a document outlining the costs for the "Second Step" program for 05/06, outlining that personnel and "refreshment" costs totalled $235,782, as well as the cost of "curriculum kits," parent education etc. This is exactly the type of document I am looking for. One problem is that the total amount awarded to OUSD was $510,862; no documentation was provided as to how the remaining money (over $250,000) was arrived at. Ms. Bedford also provided a list of various resolutions, and the first page of each document listed. However, the entire documents were not provided. If any of these documents refer or relate to how the amounts awarded were calculated, or to the number of individuals served, then those documents should have been provided.

In reviewing all of the documents provided by Ms. Bedford, I could not find any that actually specified the number of persons served. "Attachment A" to the "Summary of all VPPSA/Measure Y Program Strategies" does indicate numerous agencies and program types, and "projected # served." Therefore, this is an estimate of how many people the programs were anticipated to serve. However, I could not find any documents produced that indicate the actual number of people served. Therefore, please let me know if any responsive documents exist, and if they do, I would expect them to be produced by November 16 as well as any other documents responsive to my request as it relates to documents in the possession of DHS.
I have received responsive documents.
The City confirmed that there were no CRTs in 05/06.

Request #8: Responsive documents were produced. My issues relate to the City's failure to respond witin 10 days, redactions, and compliance with the Sunshine Ordinance regarding footnoting and justifying redactions. These issues will be addressed later.

Request # 7: Email addresses: I explained, after Jeff Baker left, that one of the addresses provided appeared not to be valid, as an email to that address had bounced. I explained I had written to Jeff about this and I had not heard back. I explained that my concern about being provided email addresses related not only to my right to the actual email addresses provided by member of the MYOC but the public's right to this information in general, given the provisions of the CPRA. This issue will be dealt with later. **I still have not received an updated email address for the member to whom the email bounced.**

Request #6: I have received responsive documents.

Request #4: Jeff Baker will conduct additional research to verify that there are no emails, memos or other corrspondence to the various auditors (e.g. Macias and local subcontractor) and/or correspondence between Osborne Solitei and his supervisors and various departments in collecting the information necessary for preparation of the official "audit" (purported to comply with Measure Y auditing requirements) submitted to the City Council. Responsive documents and/or a status report on the existence of responsive documents will be provided by November 16, 2009. **I still have not received responsive documents.**

Request #3: I have received responsive documents.

If this does not accurately summarize your understanding of the agreements reached at the meeting, please let me know. Thanks.

Attachment 12B

Marleen

From: "Purnell, Daniel" <DPurnell@oaklandnet.com>
To: Marleen Sacks <[redacted]; "Morodomi, Mark" <MMorodomi@oaklandcityattorney.org>; "Abney, Michelle" <MAbney@oaklandcityattorney.org>; "Baker, Jeff" <jbaker@oaklandnet.com>; "Garcia, Gilbert" <GGarcia@oaklandnet.com>; "Bedford, Sara" <SBedford@oaklandnet.com>; "Hom, Donna" <DHom@oaklandnet.com>
Sent: Thu, November 5, 2009 4:57:53 PM
Subject: Records Mediation

The meeting will take place tomorrow, Friday, November 6 on the 4th floor conference room of City Hall. Thanks for your cooperation. dp

Attachment 12B