

# Item 11d - M2021-02 Mediation Summary



Ryan Micik, Chair  
Charlotte Hill, Vice Chair  
Alea Gage  
Arvon Perteet  
Vincent Steele  
Francis Upton IV

Suzanne Doran, Acting Executive Director

---

TO: Public Ethics Commission  
FROM: Chris Nardi, Law Clerk  
Jelani Killings, Ethics Analyst  
DATE: May 11, 2023  
RE: *In the Matter of the Public Works Department (Case No. M2021-02); Mediation Summary*

---

## I. INTRODUCTION

On January 25, 2021, the Commission received a request for mediation alleging the Public Works Department was failing to provide a responsive record to a public records request made by the Requester on October 5, 2020. Staff initiated its mediation program on January 29, 2021, pursuant to the Oakland Sunshine Ordinance.

Because the Public Works Department provided the Requester with one additional record on January 28, 2021, and the Requester is satisfied with that response, this mediation was closed with no further action.

## II. SUMMARY OF LAW

One of the primary purposes of the Oakland Sunshine Ordinance is to clarify and supplement the California Public Records Act (CPRA), which requires that all government records be open to inspection by the public unless there is a specific reason not to allow inspection.<sup>1</sup> The CPRA requires each agency to make public records promptly available to any person upon request.<sup>2</sup>

Any person whose request to inspect or copy public records has been denied by any City of Oakland body, agency, or department, may demand mediation of their request by Commission Staff.<sup>3</sup> A person may not file a complaint with the Commission alleging the failure to permit the timely inspection or copying of a public record unless they have requested and participated in the Commission's mediation program.<sup>4</sup>

Once the Commission's mediation program has concluded, Commission Staff is required to report the matter to the Commission by submitting a written summary of the issues presented, what efforts were made towards resolution, and how the dispute was resolved or what further efforts Commission Staff would recommend to resolve the dispute.<sup>5</sup>

---

<sup>1</sup> Oakland Municipal Code § 2.20.010(C); Government Code § 7920.000 et seq.

<sup>2</sup> Government Code § 7922.530(a).

<sup>3</sup> O.M.C. § 2.20.270(C)(1).

<sup>4</sup> O.M.C. § 2.20.270(F).

<sup>5</sup> Complaint Procedures § IV (C)(5).

# Item 11d - M2021-02 Mediation Summary

## III. SUMMARY OF FACTS

On October 15, 2020, the City received the following records request via NextRequest (20-6899):

Please provide all reports, photos & videos taken by Pacific Trenchless of the Lincoln main sewer easement from MH 56-014-62 to MH 56-014-53, from 5-6-20 to current.

Thank you

On November 19, 2020, the Public Works Department provided the Requester with 16 video files and 4 PDFs. It subsequently closed the request, stating, "We released all of the requested documents."

On November 29, 2020, the City received two records requests via NextRequest containing the following identical text (20-8482 and 20-8483):

Request #20-6899 (below) was closed without providing all records known to exist and is thus incomplete. Therefore, please provide the missing video and documents: CCTV taken from 56-014-53 (upstream) to 56-014-54. David King (Pacific Trenchless) told me personally he took this video on 9-23-20.

WinCan (Pipe Graph) Inspection Reports for the following:

56-014-57 to 56-014-58

56-014-57 to 56-014-56

56-014-53 to 56-014-54

Thank you

Request #20-6899

CLOSED

Please provide all reports, photos & videos taken by Pacific Trenchless of the Lincoln main sewer easement from MH 56-014-62 to MH 56-014-53, from 5-6-20 to current.

On November 30, 2020, the Public Works Department closed request 20-8483, stating:

This is a duplicate request it is the same and PRR #20-8482. If any responsive documents are located they will be provided under PRR #20-8482.

On December 1, 2020, the Public Works Department closed request 20-8482 without releasing any records, stating:

56-014-57 to 56-014-58 Due to obstruction, only a Push Cam video was taken and is included in the records provided under PRR #20-6899. (No Report available)

56-014-57 to 56-014-56 Due to obstruction, only a Push Cam video was taken and is included in the records provided under PRR #20-6899. (No Report available)

56-014-53 to 56-014-54 Due to obstruction, only a Push Cam video was taken and is included in the records provided under PRR #20-6899. (No Report Available)

The Oakland Public Works Dept. has provided all the information currently available.

Later that day, the City received the following records request via NextRequest (20-8557):

## Item 11d - M2021-02 Mediation Summary

This is my THIRD attempt to have this Public Records Request fulfilled. Prior PRR #20-6899 and now current PRR #20-8483 have both been closed WITHOUT providing the records I asked for. Despite the External Message claim that I have been provided everything I requested, NO WHERE in PRR #20-6899 was there a Push Cam video of 56-014-53 to 56-014-54 provided to me. Please provide this video ASAP. Thank you

On December 2, 2020, the Public Works Department released 12 video files to the Requester (6 of which were duplicates of the other 6 files). All 12 video files were previously released to the Requester in request 20-6899. The Public Works Department subsequently closed the request by including the same message as it did when closing request 20-8482, while also adding the following text:

There is no further information or responsive documents to provide. Please refer the the message sent providing an explanation regarding the videos. This is the same information that has been provided under #20-6899 and #20-8483. OPW has provided all the responsive information and documents currently available.

On January 25, 2021, the Commission received a mediation request from the Requester, alleging that the Public Works Department had failed to provide the Requester with a video that would be responsive to their request. The Requester alleged that they had been told by a City contractor that the contractor had taken this video.

On January 28, 2021, the Public Works Department reopened request 20-6899 and provided the Requester with one additional video file. It subsequently closed the request, stating that all requested records had been released.

On January 29, 2021, Staff initiated its mediation program and notified the Public Works Department of the mediation request.

On April 10, 2023, Staff communicated with the Requester via phone and email and discussed the additional video file that the Public Works Department had provided. The Requester informed Staff that they would view the video file to confirm whether this satisfied their mediation request.

Staff followed up with the Requester on April 25 and 27, 2023. On April 28, 2023, the Requester notified Staff that the additional video file satisfied their mediation request. Staff subsequently notified the Requester on May 1, 2023, that their mediation was closed.

#### **IV. RECOMMENDATION**

Because the Public Works Department provided the Requester with one additional video file, satisfying the Requester's mediation request, the mediation has been closed with no further action.