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Janani Ramachandran
Joseph Tuman
Jerett Yan

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Kellie Johnson, Enforcement Chief
DATE: July 20, 2020
RE: *In the Matter of City Councilmen Loren Taylor. (Case No. M2020-05);* Mediation
Summary for the August 3, 2020, PEC Meeting

I. INTRODUCTION

On February 20, 2020, the Commission received a request for mediation from the requestor alleging that a Staff employee in the Office of City Councilmember Loren Taylor failed to provide responsive documents to a public records request. More than seven months had passed since the request was filed and the requester had not received a response.

Staff initiated the Mediation process in March 2020. On July 17, 2020, Pamela Ferran, Chief of Staff with Councilmen Loren Taylor's office released responsive documents to the requester and the request was closed. Staff recommends that the Commission close the mediation without 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.¹ The CPRA requires each agency to make public records promptly available to any person upon request.²

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 his or her request by Commission Staff.³ 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.⁴

Once the Commission's mediation program has been 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.⁵

¹ Oakland Municipal Code § 2.20.010(C); California Government Code § 6250 et seq.

² Government Code § 6253(b).

³ O.M.C. § 2.20.270(C)(1).

⁴ O.M.C. § 2.20.270(F).

⁵ Complaint Procedures § IV (C)(5).

III. SUMMARY OF FACTS

In October 16, 2019, the Requester made a public records requests for the following:

“emails from or to Loren Taylor pertaining to proposed Howard Terminal Ballpark January 1, 2019 to October 16, 2019. ”

The complete text of the NextRequest timeline is as follows:

Request #19-5117

Closed

Details

emails from or to Loren Taylor pertaining to proposed Howard Terminal Ballpark January 1, 2019 to October 16, 2019.

Received

October 16, 2019 via web

Due

October 28, 2019

Departments

Council District 6 - Loren Taylor

Documents

[PRR re Howard Terminal .pdf](#)

[Link to View document](#)

Staff

Point of Contact

Susan A. Sanchez

- [**Add Message \(Sign in Required\)**](#)

Timeline

Request Closed Hide Public

We have redacted personal information, including but not limited to, telephone numbers, social security numbers, credit card numbers and other personal identifying information pursuant to the constitutional rights of privacy and to protect against identity theft pursuant to Government Code Section 6254(c).

July 17, 2020, 5:49pm

Document(s) Released Public

PRR re Howard Terminal .pdf

July 17, 2020, 5:42pm

Department Assignment Public

Council District 6 - Loren Taylor

October 16, 2019, 9:38am

Request Opened Public

Request received via web

October 16, 2019, 9:38am

The requestor made the request for records on October 16, 2019. On or around the same date, Susan Sanchez was noted as the "Point of Contact." Ms. Sanchez works for the City Council Office and is assigned the duties of the NextRequest liaison. The liaison to NextRequest generally receives a notice of the inquiry to NextRequest and routes it to the correct City Councilmember's Department.

Although assigned as the point of contact in October 2019, neither Susan Sanchez nor anyone else from City Hall responded to the requestor in NextRequest. The Brown Act Requires the following:

California Government Code §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 their 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...

Contrary to the requirements of the Brown Act, no information was uploaded to Next Request to inform the requestor which department would respond to the request, if the department had responsive documents and when or if the documents would be disclosed to the requestor.

Ms. Sanchez informed Staff that:

" all PPR come to me as point of contact from the entire Council office. However, NextRequest system send an email to the designated District Council's Point Person. They are responsible to comply with the request. It is my responsibility to

update the Council's PRR contact listing and to assist with Council's District offices with the functions of the NextRequest system and with the City of Oakland's Resources i.e. ITD.”

NextRequest did not contain any information, note or memorialization that the request was routed to Loren Taylor’s Office. Between October 2019 and July 2020, NextRequest does not note or reflect that any activity was conducted in response to the requester’s inquiry.

On July 17, 2020, Staff contacted Mark Forte with the City Attorney’s Office (Mr. Forte is the City’s contact person within the City Attorney’s Office that coordinates NextRequest and provides trainings on NextRequest) to inquiry which department would be responsible for responding to NextRequest and what is the name of the contact person who could address the request. Mr. Forte confirmed that Councilmen Loren Taylor’s Department was responsible for uploading any responsive documents once they received the request and that Taylor’s Chief of Staff Pamela Ferran was the person to contact. Staff contacted Ms. Ferran on July 17, 2020 around 2:30 p.m.

Ms. Ferran could not confirm whether the NextRequest notice was sent to her office back in October 2019. Nonetheless around 5:30 p.m. on that same day, Ms. Ferran uploaded responsive documents on NextRequest for release to the requester and closed the request. Next request was also updated to reflect that the request was routed to Loren Taylor’s Office.

IV. RECOMMENDATION

Albeit delayed, the requester received all responsive documents, Staff recommends that the Commission close the mediation without further action.