

E-Mail Number 1 to Mr. Johnston

Subject: Immediate Disclosure Request: Status of Union Negotiations
Date: Thu, 15 May 2003 21:12:26 -0700
From: Patrick Monette-Shaw <pmonette-shaw@earthlink.net>
To: PJ.Johnston@sfgov.org
CC: PJ_Johnston@sfgov.org

P. J. Johnston
 Press Spokesperson to the Mayor
 City and County of San Francisco
 City Hall
 1 Dr. Carlton B. Goodlett Place
 San Francisco, CA 94102

Dear Mr. Johnston,

This is an Immediate Disclosure Request under CA Government Code §6253 and §6255 and the San Francisco Sunshine Ordinance. The State citation requires that if this material is available electronically, it be provided within 10 days under CA statutes in electronic format. Both citations require a response within 10 days.

To save you some work, I have attached an Excel spreadsheet listing 34 of the City's approximate 40 Unions. I seek the status of the Union contract negotiations as of today's date. If you have information on the remaining unions not listed in the Excel file I am attaching, I would appreciate it being updated with the additional union names.

After we spoke today, I realize that Union contracts are in a fluid state, and that the situation with them may change from day to day. Therefore, I am seeking in the disclosure request the status of the contracts as of today's date.

I ask that the Mayor's office simply update the columns in the attached file, from left to right. Some data will not be required depending on the columns that precede them.

Thank you for your time this afternoon.

Sincerely,

Patrick Monette-Shaw

First E-Mail Response from Mr. Johnston

Subject: **Re: Immediate Disclosure Request: Status of Union Negotiations**
Date: Fri, 16 May 2003 17:01:33 -0700
From: PJ.Johnston@sfgov.org
To: Patrick Monette-Shaw <pmonette-shaw@earthlink.net>

Mr. Monette-Shaw:

I am not privvy to contract negotiations, but I will follow up on your request.

As you have requested I will respond no later than 10 days from today.

PJ Johnston
 Press Secretary to the Mayor

NOTE: Mr. Johnston appears to be, at best, disingenuous in his reply, because prior to my May 15 public records request, Johnston had been quoted in the media describing the status of contract negotiation, and I had written to him precisely because I had seen his quotes about how many unions had already agreed to the Mayor's demand that all unions comply with the 7.5% retirement giveback. To be fair, he may not have been privvy to all of the *details* of each contract under negotiation, but he was certainly privvy to which unions had agreed to go along with the Mayor.

Second E-Mail Response from Mr. Johnston

Subject: Re: Immediate Disclosure Request: Status of Union Negotiations
Date: Fri, 23 May 2003 11:53:36 -0700
From: PJ.Johnston@sfgov.org
To: Patrick Monette-Shaw <pmonette-shaw@earthlink.net>

Mr. Monette-Shaw,

You have asked for information regarding the status of the union contract negotiations as of the date you sent your request by email (May 15, 2003 at 9:12 p.m.) and you further ask for this information be provided to you electronically within 10 days. You provided an Excel spreadsheet listing 14 of the City's 40 unions and asked that this office update the columns of the spreadsheet.

I am forwarding with this e-mail three documents. One is a "Summary of Settled MOU's" listing the status of 31 unions which was provided in an arbitration proceeding. I understand that this document shows the status as of Monday, May 12. The second is "Settled and Ratified MOUs Sent to Board of Supervisors (7.5% Pick-Up)." I am not sure of the date of this document but understand that it shows the status as of May 14 or 15. The third is current as of today (I assume you would prefer a current update rather than an old one -- if you prefer an older one, please let me know).

With respect to your request that we provide information on the spreadsheet, we decline to do so. The Sunshine laws require an agency to make available a copy of an "identifiable record or records" in its possession, unless the record is exempt from disclosure. Government Code §6253(b); S.F. Admin. Code § 67.20(b). There is no requirement that a department or officer construct a document.

Sincerely,

PJ Johnston
Press Secretary to the Mayor

(See attached file: CHART3.DOC)(See attached file: CHART2.DOC)(See attached file: CHART1.DOC)

NOTE: As requested, Mr. Johnston provided documents in electronic format.

E-Mail Number 2 to Mr. Johnston

Subject: Immediate Disclosure Request: Updated Status of Union Negotiations
Date: Sat, 07 Jun 2003 15:53:08 -0700
From: Patrick Monette-Shaw <pmonette-shaw@earthlink.net>
To: P.J.Johnston@sfgov.org

June 7, 2003

P. J. Johnston
 Press Secretary to the Mayor
 City and County of San Francisco
 City Hall
 1 Dr. Carlton B. Goodlett Place
 San Francisco, CA 94102

Dear Mr. Johnston,

This is an Immediate Disclosure Request under CA Government Code §6253 and §6255 and the San Francisco Sunshine Ordinance.

Would you kindly send me an update to the CHART2.DOC and CHART3.DOC showing the status of Union contracts that you had forwarded me on May 23rd? I'd appreciate the most recent version of both documents showing the current status of contract negotiations.

Thank you.

Sincerely,

Patrick Monette-Shaw

NOTE: Note that I had submitted two separate records requests to Mr. Johnston dated the same date: one for the status of Union Contracts, and a second request for information about the Mayor's staff. Johnston responded with two e-mails (below) consolidating the two records requests into a single reply.

E-Mail Number 3 to Mr. Johnston

Subject: Immediate Disclosure Request: Mayor's Staff Information
Date: Sat, 07 Jun 2003 17:42:07 -0700
From: Patrick Monette-Shaw <pmonette-shaw@earthlink.net>
To: P.J.Johnston@sfgov.org

June 7, 2003

P. J. Johnston
 Press Secretary to the Mayor
 City and County of San Francisco
 City Hall
 1 Dr. Carlton B. Goodlett Place
 San Francisco, CA 94102

Dear Mr. Johnston,

This is an Immediate Disclosure Request under CA Government Code §6253 and §6255 and the San Francisco Sunshine Ordinance.

1. Attached is an Excel file sent to me by Peg Stevenson in the Controller's City Projects Group. The worksheet "Mayor Current Payroll" lists 30 employees earning more than \$90,000 annually (through row 31) in Department 25, the Mayor's Office. Please provide me with the job description for each of those 30 employees.

2. Artfully, the Controller's Office did not supply me with a worksheet for Department 28, Business and Economic

Development, which reports to the Mayor. Please provide me with a similar worksheet for Department 28, listing all employees regardless of their salary levels, in the same format outlined in Item 4 below, which had been my initial request. Again, please provide job descriptions for only those employees in Department 28 who earn in excess of \$90K.

3. If there are other Department code numbers assigned to the Mayor beyond Departments 25 and 28, please include the same information as requested in Item 2 above, including the job descriptions for only those employees earning in excess of \$90K.

4. Please provide me with a similar list of all employees in other Department numbers who are detailed to work in the Mayor's office but are on the payroll of another City department, regardless of their salary (i.e., include both those making in excess of \$90K and those who are not). Please provide the following information as column headings:

- City Department
- City Sub-Department Name
- Job Classification Code
- Job Classification Title
- Date of Hire
- Current Salary Step
- Current Salary paid per hour
- Current Salary paid annually (*actual salary paid*, not an estimated guess based on a faulty calculation)
- Employee Name (Last and First)
- FTE Status
- Union Representing the Employee
- Source of Funding (i.e., Discretionary General Funds, other required funding sources, etc.)

Notably, when I first asked DHR on May 11 for the list of employees in Department 25, Ms. Sandra Favale neglected in her reply (the "Query" worksheet in the attached Excel file) to comply with the initial Sunshine request in which I specifically asked for both Job Classification Title, FTE, and Funding Source. Please be sure to include each of the data elements above in your reply.

For those employees from other Department numbers detailed to work in the Mayor's office, please provide job descriptions for only those employees earning more than \$90K.

5. Separately from Items 1 through 4, please provide the exact same column heading information as that requested in Item 4 for each and every political appointee the Mayor appoints, regardless of their salary level or departments. Please do not include duplicates for Item 5 that were supplied in Items 1 through 4. Again, please provide job descriptions only for those making in excess of \$90K. Included in this item, please include each and every department head, and deputy department heads and all other department employees who are appointed by, and serve at the pleasure of, the Mayor, including direct-reports who may not have been included in item 1 or item 2 above.

6. Ms. Stevenson indicated that I should contact the Mayor's Office on another matter, as the Controller's office does not have this level of detail: Please provide a list of all RFPs, contracts, and/or MOU's that the Mayor's Office has awarded across the eight years of his tenure for which contracts and MOU's were issued to provide any manner of management, consulting, administrative, or any and all other consulting work performed for the Mayor's office.

- Consulting Project Name of RFP
- Consulting Project RFP Number
- Consulting Project RFP Date
- Consulting Project Total Contract Amount
- Consulting Project Description (brief description will work)
- Period of Contract (start date, ending date)

Do not provide copies of actual RFP's or MOU's. Based on the list you provide, should I require those documents, I will submit a separate FOIA request.

7. Separately from Item 6, please provide a list of any outsourced functions that have been awarded for administrative, managerial, or other functional task for the Mayor, which is comparable to the outsourced function of the Board of Supervisor's Budget Analyst, including any and all non-Civil Service positions that the Department of Human Resources and the Controller's office would not have previously supplied or were not included in Items 1 through 5 of this request. In

response to this item (#7), please provide a response listing for each outsourced or non-Civil Service positions, regardless of salary amount:

Project or Function Name

Job Title

Current Salary paid annually (*actual salary paid*, not an estimated guess based on a faulty calculation)

Incumbent Name (Last and First), when known

FTE Status

Source of Funding (i.e., Discretionary General Funds, other required funding sources, etc.)

Whether Outsourced/Non-Civil Service Contract

8. The Mayor's Office budget for his first year in office (FY' 96-97?), FY's 01-02 and 02-03, and the proposed FY 03-04 budget listing line-item detail. Also provide the budgets for Business and Economic Development for the same four FY's years requested for the Mayor's Office. I find it quite interesting that between Departments 25 and 28, the City and County budgeted a combined \$54.318 million for just Departments 25 and 28 in FY 02-03.

While not a part of this disclosure request, I also find it interesting (without editorializing) to note that the total for various City departments under the "General Administration and Finance" category, plus Department 28 – Department 28 being included in the "Public Works, Transportation and Commerce" category (which later category accounts for nearly half of the City's \$4.9 billion budget) -- that the City budgeted \$345.16 million for FY-02-03 across General Admin/Finance and Business and Economic Development. Combined with the additional \$318 million for "General City Responsibilities" that's two-thirds of a billion dollars to administer and manage (however well or not), or be "responsible for" City government. That's a lot of bucks. But then, I don't make \$90K.

Thank you.

Sincerely,

Patrick Monette-Shaw

First E-Mail Response from Mr. Johnston

Subject: R e: Immediate Disclosure Request: Mayor's Staff Information

Date: Mon, 9 Jun 2003 10:59:30 -0700

From: PJ.Johnston@sfgov.org

To: Patrick Monette-Shaw <pmonette-shaw@earthlink.net>

Mr. Monette-Shaw:

I am in receipt of your voluminous request. I will see if I have any documents responsive to your request. I will respond no later than June 19, 2003.

PJ Johnston

NOTE: Artfully, Mr. Johnston moved the 10-day period (above) in which to respond back by two days to June 19, by tacking on two days from the date of his *reply*. Johnston should have added ten days from the date of my *request*, and he should have responded to both disclosure requests by June 17, not on June 19.

My e-mail to him on the next page did not seek new information; it was simply an acknowledgement that I had received his June 9 e-mail.

E-Mail Number 4 to Mr. Johnston

Subject: Immediate Disclosure Request: Mayor's Staff Information
Date: Mon, 09 Jun 2003 19:19:18 -0700
From: Patrick Monette-Shaw <pmonette-shaw@earthlink.net>
To: P.J.Johnston@sfgov.org

Mr. Johnston,

Thanks for acknowledging receipt of my disclosure request.

I would prefer receiving whatever documents you have in your possession in one fell swoop, so I'm not invoking the "rolling basis" provision of the Sunshine Ordinance that requires agencies to provide documents as soon as they are discovered. To save myself time from multiple visits to City Hall, I prefer to receive whatever documents you discover in response in one batch.

That said, let me remind you that my request is not merely for whatever documents you may personally have that are responsive to this public records request. The Sunshine Ordinance requires that you coordinate with other City agencies who may possess whatever balance of documents that might likely exist that are not in your personal possession; the spirit of the Ordinance is that you will not only direct me to a point person in another agency, but communicate to that agency that they remain responsible for complying with the original request, and that they are to do so within 10 days, unless my understanding of the Ordinance is sadly mistaken.

And with *that* said, let me modify my willingness to not invoke the "rolling basis" with this Caveat: I Prefer to receive whatever you have personally in one batch, but if other City agencies are to provide any outstanding documentation, I expect that I will receive on a rolling basis material from each agency in a single batch the documents in their possession. In other words, I do not grant that you may delay providing me the information in your possession while other agencies continue searching their records; rather I expect you to provide on a rolling basis what you do have, while other agencies peruse their files.

Thank you for having acknowledged this request, Mr. Johnston.

Patrick Monette-Shaw

NOTE: Mr. Johnston then responded, as he promised to by June 19, rolling both disclosure requests into a single reply.

Second E-Mail Response from Mr. Johnston Consolidating Two Disclosure Requests into a Single Response

Subject: R e: Immediate Disclosure Request: Mayor's Staff Information
Date: Thu, 19 Jun 2003 16:25:55 -0700
From: P.J.Johnston@sfgov.org
To: Patrick Monette-Shaw <pmonette-shaw@earthlink.net>

Mr. Monette-Shaw:

I have compiled a number of documents in response to your voluminous records request. Because the information was compiled from a variety of files, I am making hard copies rather than electronic documents for you. If you would like to schedule a time to pick them up from my office, or give me an address to mail them to, please advise.

Given the extremely detailed instructions you included in your request, I would also like to remind you that under the Sunshine Ordinance I am required to make reasonable efforts to locate documents and provide you with EXISTING documents, not create new ones according to your parameters, or attempt to recreate documents that may have existed at one time. Therefore I have no intention of creating "column headings" or new documents of any kind.

Thank you,

P.J. Johnston
 Press Secretary for the Mayor

NOTE: By the time Johnston consolidated the two distinct records requests into a single reply, he had missed the ten-day deadline because of his artful tactic of tacking on ten days from the date of his first reply on June 9. This, in itself, was a violation of the Sunshine Ordinance, as he had not responded within the ten-day period. As well, rather than simply updating the electronic files concerning the Union contract negotiations status that he had previously supplied me with on May 23, Mr. Johnston provided me with hardcopy documents rather than documents in electronic format, as had been requested. This was a second violation of open records laws, but this violation of CA Government Code §6253 and §6255 is potentially outside of the scope of San Francisco's Sunshine Ordinance, which needs to be changed to match California statutes.

Notably, the hardcopy documents I picked up on June 20 bore little resemblance to the electronic documents provided on May 23. I am making no accusation, but for budding accountability activists out there, you should note that this is a common government and non-profit organization tactic frequently used to make it difficult to compare similar data across time periods: Simply change the document format to make it difficult for accountability researchers to compare apples to apples.

My e-mail response below to his June 19 e-mail did not request new public records, it was an e-mail to arrange pick up of the hardcopy material. I used that opportunity to discuss Sunshine processes with Mr. Johnston to educate him that he was not in compliance with either the Sunshine Ordinance or the CA Code. That discussion was *not* political back and forth, it was a germane discussion about his failure to comply with two separate open government/ records laws.

E-Mail Number 5 to Mr. Johnston

Subject: Immediate Disclosure Request: Mayor's Staff Information
Date: Thu, 19 Jun 2003 19:28:14 -0700
From: Patrick Monette-Shaw <pmonette-shaw@earthlink.net>
To: PJ.Johnston@sfgov.org

June 19, 2003

Dear Mr. Johnston,

Thank you for your reply to my request for information regarding staffing in the Mayor's office. I would like to pick up the documents tomorrow, June 20, if at all possible, between 4:45 and 5:00 p.m. If that is at all possible, please call my home number (###-####), and leave me a message, as I check my machine throughout the day.

When you call, please advise me of associated fees, and what room I should pick them up in. If you or your staff will be unavailable, is it possible to leave them at the Clerk of the Board's office?

As you must know, now matter the variety of source material, California Code §6253 and §6255 requires that you provide electronic copies within 10 days, when electronic documents are available. While you **responded** today within the ten day limit (since I sent this on Saturday June 7 and you may not have received it until the following Monday on June 9), I note that I was not provided actual information within 10 days, and that by the time we arrange for pick up of these materials, the Mayor's office will have exceeded the 10-day statute. The spirit of the law is that people actually **receive** FOIA material within the stipulated period, not merely a notice that the material is available and additional days to coordinate pick up of the material.

With that said, for the interim, I will allow you to provide hardcopy documents, but I expect you will waive any photocopying charges for those documents which **could** have been provided free of charge by supplying the electronic copy required under for those documents that you have decided to provide in hardcopy format rather than in electronic format. And after I review the material in hardcopy form, I may subsequently ask that documents which are clearly available electronically be provided, as I had asked, and is within my rights under California Code §6253 and §6255. Therefore, you may want to ensure you hang on to those materials so that they are immediately Available electronically when I may request them, so that we don't have to do this boogey two-step all over again, Mr. Johnston. As it is, I am accepting hardcopy, which is less than I had asked for, rather than electronic copies, which surely you and the Mayor know is required of you under state statute.

I look forward to a message on my answering machine tomorrow, not later, Mr. Johnston.

Thank you.

Patrick Monette-Shaw

E-Mail Number 6 to Mr. Johnston

Subject: Immediate Disclosure Request: SF Mayor's FY 03-04 Budget Unavailable on Internet
Date: Sat, 21 Jun 2003 15:33:18 -0700
From: Patrick Monette-Shaw <pmonette-shaw@earthlink.net>
To: P.J. Johnston@sfgov.org
CC: "Brad Benson, Aide to Supervisor Ammiano" <brad_benson@ci.sf.ca.us>, Harvey Rose <budget_analyst@ci.sf.ca.us>, Supervisor Aaron Peskin <aaron_peskin@ci.sf.ca.us>, Supervisor Chris Daly <chris_daly@ci.sf.ca.us>, Supervisor Gavin Newsom <gavin_newsom@ci.sf.ca.us>, Supervisor Gerardo Sandoval <gerardo_sandoval@ci.sf.ca.us>, Supervisor Jake McGoldrick <jake_mcgoldrick@ci.sf.ca.us>, Supervisor Matt Gonzalez <matt_gonzalez@ci.sf.ca.us>, Supervisor Sophie Maxwell <sophie_maxwell@ci.sf.ca.us>, Supervisor Tom Amiano <tom_ammiano@ci.sf.ca.us>, Supervisor Tony Hall <tony_hall@ci.sf.ca.us>, "Larry Roberts, Aide to Matt Gonzoalez" <Larry_Roberts@ci.sf.ca.us>, "Gloria L. Young" <gloria_young@ci.sf.ca.us>, Supervisor Bevan Dufty <Bevan.Dufty@sfgov.org>, Supervisor Fiona Ma <Fiona.Ma@sfgov.org>

June 21, 2003

P. J. Johnston
 Press Secretary to the Mayor
 City and County of San Francisco
 City Hall
 1 Dr. Carlton B. Goodlett Place
 San Francisco, CA 94102

Dear Mr. Johnston,

This is an Immediate Disclosure Request under CA Government Code §6253 and §6255 and the San Francisco Sunshine Ordinance.

I appreciated meeting you briefly yesterday. I went to the Mayor's web site as you suggested to view the FY 03-04 budget he has proposed and is being considered by the Board of Supervisor's..

1. The hyperlink for the document entitled "Budget Summary Tables (pdfsize:2.3MB)" is broken and does not work; it yields an internet error message 404 (page not found).

Additionally, I was able to save the file to disk by right-mouse clicking on; however, Adobe Acrobat returns an error saying " There was an error opening this document; file does not begin with '%PDF.'" Please have that PDF file regenerated correctly so it will open in Acrobat Reader. Please advise me when both the hyperlink is fixed and functions and the PDF file is properly output.

2. I noted that the hardbound copy you provided me of the document identified in paragraph 1 contains a glaring error. Page 30 of the Summary is a duplicate of page number 43, and what should have been on page 30 -- the "Expendiures by Area, Department, and Program" for a) The Juvenile Probation department, b) the Police Department, and c) the Public Defenders office is nowhere to be found in the bound hardcopy of the Summary Budget.

If this same mistake exists in the on-line version of the Summary document, please have the PDF file corrected and uploaded; when that is done, please advise me, as I am keenly interested in viewing that missing page.

3. Additionally the hyperlink for the document entitled "Budget Overview (pdfsize:428K)" is also broken and does not work for both of the same reasons noted in paragraph 1. The same is also true for the documents titled "Mayor's Proposed Budget 2203-2004 (pdfsize:17.9M)" and "All Department Budgets (pdfsize:12.9M)."

Please advise me when all of the disgracefully broken hyperlinks are fixed and functioning, and when all of the PDF files that are toast are also returned to a viewable state.

4. The immediate disclosure request of this e-mail is in reference to the "perfect bound" (glued) hardcopy of the Budget Summary document. Please provide:

a. The number of copies of the bound hardcopy version of this document that were produced.

- b. The line-item cost for embossing (bas relief imprinting) of the City Seal on the front cover of the glossy cover stock.
- c. The separate line costs for printing; editing/writing and production; and distribution of the Summary document (not the full budget).
- d. The total budgeted expenses for the Budget Summary document.
- e. Whether the Summary was produced by the City's Reproduction Services Department, or whether it was outsourced to a commercial printer. If it was the latter, please provide the name of the commercial printer and the total contract award paid to them.

Thank you.

Patrick Monette-Shaw

First E-Mail Response from Mr. Johnston

Subject: Re: Immediate Disclosure Request: SF Mayor's FY 03-04 Budget Unavailable on Internet
Date: Mon, 23 Jun 2003 09:50:15 -0700
From: P.J.Johnston@sfgov.org
To: Patrick Monette-Shaw <pmonette-shaw@earthlink.net>

Mr. Monette-Shaw:

I'm sorry, but I am not a member of the Department of Telecommunications and have documents responsive to your request. I will not create or change documents, nor will I attempt to perform duties that are outside of my area of expertise. Meanwhile, I will remind you that all existing budget summaries are on file and available at the public library.

Sincerely,

P.J. Johnston

NOTE: Four-and-a-half hours later, Johnston sent a second response, and this time he added the Board of Supervisor's, possibly because I had alerted the Supervisor's that the Budget Summary document they had been handed on June 2 was not operating correctly on the Internet.

Second E-Mail Response from Mr. Johnston

Subject: Re: Immediate Disclosure Request: SF Mayor's FY 03-04 Budget Unavailable on Internet
Date: Mon, 23 Jun 2003 14:32:38 -0700
From: P.J.Johnston@sfgov.org
To: Patrick Monette-Shaw <pmonette-shaw@earthlink.net>
CC: "Brad Benson, Aide to Supervisor Ammiano" <brad_benson@ci.sf.ca.us>, Harvey Rose <budget_analyst@ci.sf.ca.us>, Supervisor Aaron Peskin <aaron_peskin@ci.sf.ca.us>, Supervisor Chris Daly <chris_daly@ci.sf.ca.us>, Supervisor Gavin Newsom <gavin_newsom@ci.sf.ca.us>, Supervisor Gerardo Sandoval <gerardo_sandoval@ci.sf.ca.us>, Supervisor Jake McGoldrick <jake_mcgoldrick@ci.sf.ca.us>, Supervisor Matt Gonzalez <matt_gonzalez@ci.sf.ca.us>, Supervisor Sophie Maxwell <sophie_maxwell@ci.sf.ca.us>, Supervisor Tom Amianno <tom_ammiano@ci.sf.ca.us>, Supervisor Tony Hall <tony_hall@ci.sf.ca.us>, "Larry Roberts, Aide to Matt Gonzoalez" <Larry_Roberts@ci.sf.ca.us>, "Gloria L. Young" <gloria_young@ci.sf.ca.us>, Supervisor Bevan Dufty <Bevan.Dufty@sfgov.org>, Supervisor Fiona Ma <Fiona.Ma@sfgov.org>

For your information: Staff tested the links and PDFs on three separate computers (one Apple and two PCs) and found the links and PDFs working properly, using recent versions of both Netscape and Explorer. Also, if anyone wants to save the PDFs to disk all they need to do is click on the disk icon in the upper left side of the Adobe Acrobat Reader/browser window, once the PDF is displayed in the window.

I'm a terrible computer guy, so that's all I'm going to attempt to be helpful on this issue.

Sincerely,

P.J. Johnston

NOTE: This answer didn't wash then, and it doesn't wash now. I have been opening or saving documents from the Internet for years using my home computer, and it was quite odd that I was unable to access these PDF files when I have previously accessed other PDF files on both the Mayor's and Board of Supervisor's web sites. I have enough experience to know what is meant by the error messages I had described to Johnston in my June 21 e-mail, Johnston's implication was that there was something wrong with my computer, when in fact there was, and is, nothing wrong with my computer. Johnston had no way of knowing this, but I already knew how to save PDF files to disk, and have been doing so for years.

For all I know, after I reported the problem, his staff may have tested the files, discovered that I was correct that they were damaged, and simply repaired the files without admitting that there had been a problem with them, and simply told Johnston that they worked fine. I say this because before I had reported the problem, I had a friend check out the files, and he, too, was unable to open them.

NOTE: In the first paragraph in the e-mail below, the reply I thought “brazen” is his first e-mail, dated June 23, above. I thought it brazen precisely because 1) He attempted to send me to the Public Library, which as everyone knows is *not* the custodian of records for the Mayor’s office, and 2) when a one version of a public contains an error and it is suspected that a different version of the same document does not contain that error, a public servant simply can’t blow off citizens by saying they won’t “fix” (he said changed) a document to correct an error. His job was not to fix the mistake himself, his job was to have directed me to the person who had the version of the document that did *not* contain an error. In that regard, he “brazenly,” stated that he was not going to direct me to the record holder who had the original, intact document.

E-Mail Number 7 to Mr. Johnston

Subject: Immediate Disclosure Request: Mayor's Office Failure to Provide Sunshine Documents
Date: Tue, 24 Jun 2003 22:21:11 -0700
From: Patrick Monette-Shaw <pmonette-shaw@earthlink.net>
To: P.J.Johnston@sfgov.org
CC: Donna Hall <Donna.Hall@sfgov.org>

June 24, 2003

P. J. Johnston
 Press Secretary to the Mayor
 City and County of San Francisco
 City Hall
 1 Dr. Carlton B. Goodlett Place
 San Francisco, CA 94102

Dear Mr. Johnston,

Your brazen, flippant reply below my signature block simply doesn't wash. Here's why:

Let me restate my public records request in language you might understand. I assume English is not your second language. This time, I'm using very precise language that appears to have gone over your antennae the first time 'round:

1. In your response below, you direct me to the Public Library. Wrong! As far as I understand things, the Sunshine Ordinance contains no provision that any City agency can get off the open government/open accountability hook by sending anyone, including me, to the Public Library on a fishing expedition, which agency [the Library] may also have been sent the same incorrect information, assuming the Mayor's Office sent them the same mistaken information that you provided me in hardcopy format on Friday, June 20, and not a different version containing various spin control. Why should I go to the Library to get a duplicate of incorrect information? The Sunshine Task Force may, eventually, ask you the same question.
2. The Sunshine Ordinance requires that you put me in touch with the proper agency that can provide the information I have sought. Telling me that the Department of Telecommunication and Information Technology is to blame for the incorrect posting of public records to the Mayor's web site won't work. If the Mayor's Office provided DTIS the same bad apple as you provided me, why should I expect that contacting DTIS will yield an orange, not a rotten apple? The information I requested emanates from the Mayor's Office; unless I'm horribly mistaken, it is the Mayor's Office who contracts with a printing company to print his Budget Summary, not DTIS. Why should DTIS' budget contract to print documents for the Mayor's Office out of DTIS funds, rather than from the Mayor's funds?
3. Therefore, I amend my first request to make my disclosure request language more precise, and hopefully, something you will comprehend:
 - a. Please provide each and every contract and subcontract with the production team who pulled together the glossy, perfect-bound "Mayor's Budget Summary for 2003-2004." This development team includes:

Nancy Schlesinger and Associates, Nancy Schlesinger, the Sieorthy Creative Group, Denise Siegel, and Patrol South worth, all of whom are listed on the Acknowledgments Page (pre-page "i") in the hardcopy document you handed me on June 20.

I'm talking, here, Mr. Johnston, about **each** and every contract and subcontract used to produce this flawed publication. **All** contracts and subcontract are part and parcel of this disclosure request.

b. If there was no formal contract for each and every "Budget Book Contractor", please indicate why not, by way of citing the applicable City Charter citation, or other applicable City ordinance, that requires no contract for printing and production of said document.

c. Please provide each and every signature page for each and every page of the 46-page document which the Mayor's office signed off for approval authority granting that commercial printer could proceed with printing of the Budget Summary document in question. I'm aware of the 10-cents per page cost for providing the signature or "initials" approval documents in question, and I'm quite prepared to pay the \$4.60 cents extra to see each and every signature page telling the printer to proceed. If fax machines were used to transmit the approval signatures, they are part and parcel of this disclosure request, and must be provided. Alternatively, other methods of providing and sending the commercial printer permission to proceed are also part and parcel of this disclosure request.

d. As I initially requested, this disclosure request specifically seeks any and all documents that may provide additional information regarding:

- (1) The number of copies of the bound hardcopy version of this document that were produced.
- (2) The line-item cost for embossing (bas relief imprinting) of the City Seal on the front cover of the glossy cover stock.
- (3) The separate line costs for printing; editing/writing and production; and distribution of the Summary document (not the full budget).
- (4) The total budgeted expenses for the Budget Summary document.
- (5) Whether the Summary was produced by the City's Reproduction Services Department, or whether it was outsourced to a commercial printer. If it was the latter, please provide the name of the commercial printer and the total contract award paid to them.

e. Please provide any documents that shed light on the editing, proofreading, and/or production timeline involved in producing the Budget Summary. I don't expect you to re-create a timeline if none existed (which I seriously doubt, and which would be inexplicable, given the Mayor's penchant for micro-managing), but if one exists, it is part and parcel of this open government request.

If the documents requested in items 3-a through 3-c do not provide complete information regarding item 3-d to provide sufficient information, please provide other extant documentation, in whatever form it currently exists in, to provide answers to questions 3-d and 3-e; otherwise direct me to the proper agency who *can* provide me that information, as you are required to do under current language in the Sunshine Ordinance, whether you are aware of that language or not. Do *not* tell me to go to the Public Library for this information, unless the Mayor's Office has sent the Library the signature and sign-off approval permission, and don't refer me to DTIS [unless] DTIS picked up the nickel -- err, tab -- to print this document.

This time, don't blow me off with a flippant retort; if I wanted one, I know where to look.

Instead, I look forward to hearing from you promptly with a more precise, accurate response, given your wrong answers yesterday.

Thank you.

Patrick Monette-Shaw

cc: Sunshine Ordinance Task Force

E-Mail Response from Mr. Johnston

Subject: Re: Immediate Disclosure Request: SF Mayor's FY 03-04 Budget Unavailable on Internet
Date: Wed, 25 Jun 2003 17:26:38 -0700
From: P.J.Johnston@sfgov.org
To: Patrick Monette-Shaw <pmonette-shaw@earthlink.net>

Mr. Monette-Shaw:

I am in receipt of your latest e-mail. English is, in fact, my first language, but I will not continue a dialogue with someone abusing the Sunshine Ordinance for the purpose of insulting city employees and wasting valuable staff time.

I have already provided you with documents in my possession, directed you to the appropriate location of others and made good-faith efforts to locate others myself. As I have repeatedly stated, I will not create new documents nor will I attempt to recreate old documents which may have once existed.

Moreover, I addressed your concerns regarding the technical trouble you had opening documents to the best of my ability; it would seem the problem opening pages was YOURS, not inherent to the document. In any case, I have no MIS expertise and will not presume to.

I will not spend my time at work on wild goose chases for you, nor will I subject myself to anymore insults. This is my final reply to your queries; whether you consider it a "wrong answer" is of no concern to me. I did not "blow you off" in previous responses; in fact I tried to be courteous and in fact helpful. Your correspondences have become increasingly unreasonable and offensive. My "antennae" are working fine; I'm simply tuning you out. Do not contact me again; I will not respond.

Sincerely,

P.J. Johnston
 Press Secretary to the Mayor

NOTE: Johnston's response displayed a complete lack of understanding of what his role is as Public Information Office for the Office of the Mayor. His job is not to provide documents in his possession; his job is to locate which other staff members in the Mayor's Office had the original undamaged document(s), and it was those documents he should have supplied. If he had in his "possession" a document containing an error making it an incomplete public record, his job was to have located, and provided me with, a version of the document that *did not* contain the same error. So here Johnston is being completely disingenuous about whether he had actually provided help to the "best of his ability."

The answer of course to that question was determined by the Sunshine Ordinance Task Force when they ruled on October 28 that Mr. Johnston had violated the ordinance precisely because he had not referred me to the proper location to obtain the complete document. And it was Johnston's having referred me to the Public Library and to DTIS which was, in fact the "wild goose chase" ... and it was him sending *me* on such a chase, not the other way around.

And of course, his "final" reply to me above *should* have been of concern to him, because it was eventually determined that it was, in fact, another "wrong answer" when the Sunshine Task Force finally ruled that there was no provision in the Ordinance to permit him to simply stop answering my public records requests.

And, as such, he in fact not only blew me off once, he did it twice!

Finally, he's entirely mistaken: My motive was never to have abused the Sunshine Ordinance; my motive was to have obtained a public record within ten days, not the four full months it eventually took to finally receive the documents.

As noted in the transcript of the October 28 hearing, one of the Sunshine Task Force members understood that Johnston was blackballing me. When a citizen is clearly being blackballed, is it any wonder that they aren't always "*sufficiently polite*" to government hacks when their frustration level mounts over endless stonewalling?

E-Mail Number 8 to Mr. Johnston

Subject: **Immediate Disclosure Request: Mayor's HIV Scientific Advisory Committee; Mayor's Office on AIDS/HIV Policy**
 Date: Sun, 06 Jul 2003 14:32:48 -0700
 From: Patrick Monette-Shaw <pmonette-shaw@earthlink.net>
 To: "Public Records SF, DPH" <PublicRecords.dph@sfdph.org>, PJ.Johnston@SFGOV.ORG
 CC: Eileen Shields <eileen_shields@dph.sf.ca.us>, Donna Hall <Donna.Hall@sfgov.org>

July 6, 2003

P. J. Johnston
 Press Secretary to the Mayor
 City and County of San Francisco
 City Hall
 1 Dr. Carlton B. Goodlett Place
 San Francisco, CA 94102

Eileen Shields
 Public Information Officer
 Department of Public Health
 101 Grove Street, Room 316
 San Francisco, CA 94102

Dear Mr. Johnston and Ms. Shields,

Given the Mayor's "personal commitment as well as his administration's commitment to addressing the complexities of HIV in San Francisco," as stated on the Mayor's web site and included for your convenience in the attached PDF file, this is an Immediate Disclosure Request under the San Francisco Sunshine Ordinance and California Government Code §6253 and §6255, the latter of which requires documents be provided in electronic format whenever so available.

The Bay Area Reporter published an article titled "Mayor's AIDS office dormant" on June 26; the article stated that the job duties of Mike Shriver have been farmed out to other City employees, possibly to other employees in both the Mayor's Office and in the Department of Public Health. Therefore, this public records request is made to both agencies in order to be provided a coordinated response. If one of your two agencies does not have an answer to a particular item below, I trust that you will coordinate with one another to direct me to the person who is the custodian of the record(s) sought.

Notably, the Scope of Work contained in the first contract specified written quarterly reports would be issued to Monique Zmuda in the Department of Public Health.

1. Mayor's HIV Scientific Advisory Committee. The Scope of Work states that "As part of this project, regular meetings of scientific experts on AIDS from UCSF and the Health Department will be convened by the investigator to evaluate progress towards these recommendations." Therefore, please provide:

- a. The meeting schedule for the Mayor's HIV Scientific Advisory Committee for calendar years 2001, 2002, and 2003, and the public notices announcing each meeting.
- b. The agenda for each meeting scheduled.
- c. Minutes of each meeting held; for scheduled meetings not held, please provide the meeting cancellation notice instead.
- d. A list of current members of the Scientific Advisory Committee.
- e. Instructions on where I can obtain the meeting announcements on-line, or alternatively how I can be added to either an e-mail or U.S. mail distribution list so that I can receive the meeting notices and agendas 72 hours in advance of meeting dates.

2. Regarding the Scope of Work contained in the first contract between the City and UCSF hiring Mike Shriver as "AIDS Czar," and the following language on the Mayor's web site:

"Quarterly, beginning Spring 2002, the Mayor's Office on AIDS & HIV Policy will publish a report on legislative, budget, programmatic and policy activities which are germane to HIV prevention, care, treatment, research, housing and other ancillary services in San Francisco. These reports will be available on this [web] site [original emphasis]."

Therefore, please provide:

a. A reasonable person assumes that since first quarter 2002 that there would be five or six quarterly reports. Please provide each and every quarterly report. The first contract stipulated written reports would be delivered to Ms. Zmuda, whether or not they were subsequently posted to the Mayor’s web site. Astoundingly, the second contract changed the requirement to “oral reports.” For reports issued under the first contract, provide preferably an electronic version of the report in Microsoft Word or PowerPoint, whichever may have been used. For reports issued under the second contract, please provide an audiotape of the meeting at which it was presented to Ms. Zmuda.

b. If additional status reports in addition to quarterly reports were issued, please provide them as well.

3. The Scope of Work in the contract between UCSF and the City also stated:

“The investigator funded under this project will assess progress being made at all levels of civic government, analyze and assess their potential for attaining the recommendations outlined from the Mayor’s Summit in 1998, as well as identify any emerging issues not covered by the Summit which need to be addressed.”

Please provide any and all written assessments analyzing the progress made at all levels of City government.

4. The Mayor’s web page also states the Mayor’s Office on AIDS & HIV Policy will:

“Review and prioritize the recommendations from the Mayor’s Summit on AIDS and HIV, identify budgetary requirements and possible sources of funding, create timelines and action plans, and recommend assignments of responsibility for the successful execution of these recommendations.”

Please provide any and all such reviews, particularly documents that show how the recommendations were prioritized. Also provide any reports showing both budgetary requirements and sources of funding. Also provide any and all timelines and Action plans, and the recommended assignments of responsibility.

5. The Mayor’s web page also states the Mayor’s Office on AIDS & HIV Policy will:

“Monitor implementation of these recommendations by the Department of Public Health, other relevant City departments and City-funded contractors.”

Please provide any and all monitoring and implementation analyses of the recommendations, for all City departments and for the City-funded contractors.

As always, before photocopying of documents begins, please provide an estimate of the photocopy charges involved for any Documents under this disclosure request that are not available electronically.

I look forward to hearing from you promptly.

Thank you.

Patrick Monette-Shaw
ICO/AARI (Independent Community Observer/AIDS Accountability Research Investigator)

cc: Sunshine Ordinance Task Force

E-Mail Response from Mr. Johnston

Mr. Johnston never failed to respond to this Immediate Disclosure Request for fully four months. He responded only once the Sunshine Task Force found him guilty of having violated the Ordinance and he was Ordered on October 28 to comply!!

E-Mail Number 9 to Mr. Johnston

Subject: Immediate Disclosure Request: Mayor's Refusal to Reappoint Mark Dunlop
Date: Sat, 27 Sep 2003 17:24:00 -0700
From: Patrick Monette-Shaw <pmonette-shaw@earthlink.net>
To: Undisclosed Recipients <pmonette-shaw@earthlink.net>, PJ.Johnston@SFGOV.ORG
CC: "Brad Benson, Aide to Supervisor Ammiano" <brad_benson@ci.sf.ca.us>, Supervisor Aaron Peskin <aaron_peskin@ci.sf.ca.us>, Supervisor Chris Daly <chris_daly@ci.sf.ca.us>, Supervisor Gavin Newsom <gavin_newsom@ci.sf.ca.us>, Supervisor Gerardo Sandoval <gerardo_sandoval@ci.sf.ca.us>, Supervisor Jake McGoldrick <jake_mcgoldrick@ci.sf.ca.us>, Supervisor Matt Gonzalez <matt_gonzalez@ci.sf.ca.us>, Supervisor Sophie Maxwell <sophie_maxwell@ci.sf.ca.us>, Supervisor Tom Amianno <tom_ammiano@ci.sf.ca.us>, Supervisor Tony Hall <tony_hall@ci.sf.ca.us>, "Larry Roberts, Aide to Matt Gonzoalez" <Larry_Roberts@ci.sf.ca.us>, Supervisor Bevan Dufty <Bevan.Dufty@sfgov.org>, Supervisor Fiona Ma <Fiona.Ma@sfgov.org>

September 27, 2003

P. J. Johnston
 Press Secretary for the Mayor
 City and County of San Francisco
 City Hall
 1 Dr. Carlton B. Goodlett Place
 San Francisco, CA 94102

Dear Mr. Johnston,

This is an Immediate Disclosure Request under the San Francisco Sunshine Ordinance and California Government Code §6253 and §6255, the latter of which requires documents be provided in electronic format whenever so available.

I understand that by law Mayor Brown is required to submit a written justification for not reappointing Mark Dunlop to the HIV Health Services Planning Council (a.k.a., the CARE Council). Please provide me immediately with an electronic copy of that written justification, as required by California's Government Code.

I look forward to hearing from you promptly.

Yours in the struggle for greater accountability,

Patrick Monette-Shaw
 ICO/AARI (Independent Community Observer/AIDS Accountability Research Investigator)
 www.thelastwatch.com

E-Mail Response from Mr. Johnston

Mr. Johnston never failed to respond to this Immediate Disclosure Request for over a month. He responded only once the Sunshine Task Force found him guilty of having violated the Ordinance and he was Ordered on October 28 to comply!!