

File No. 12017

SOTF Item No. 15
CAC Item No. _____

SUNSHINE ORDINANCE TASK FORCE
AGENDA PACKET CONTENTS LIST

Sunshine Ordinance Task Force

Date: June 6, 2012

Compliance and Amendments Committee

Date: _____

CAC/SOTF

Memorandum

Complaint and Supporting documents

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Completed by: Andrea Ausberry Date May 31, 2012

Completed by: _____ Date _____

*An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document is in the file.



DENNIS J. HERRERA
City Attorney

JERRY THREET
Deputy City Attorney

Direct Dial: (415) 554-3914
Email: jerry.threet@sfgov.org

MEMORANDUM

TO: Sunshine Ordinance Task Force
FROM: Jerry Threet
Deputy City Attorney
DATE: May 24, 2012
RE: Complaint 12017 – Hartz v. Supervisor Campos

BACKGROUND

Complainant Ray Hartz ("Complainant") alleges that Supervisor David Campos (the "Supervisor") violated the Sunshine Ordinance by "instigat[ing] the Bernal Library Art Project (BLAP)" which "met on multiple, unannounced occasions for meetings about which the public was not notified to allow attendance or participation. These meeting had no agendas, no minutes, no recorded votes, and the list goes on and on. They made their decisions completely out of sight of the public in contravention of the Sunshine Ordinance and the Brown Act."

COMPLAINT

On March 16, 2012, Mr. Hartz filed a complaint with the Task Force alleging multiple violations of the Ordinance.

JURISDICTION

The Supervisor has not contested jurisdiction to hear the complaint.

APPLICABLE STATUTORY SECTION(S):

Section 67 of the San Francisco Administrative Code:

- Section 67.3 defines policy bodies and passive meeting bodies.
- Section 67.4 governs passive meetings.
- Section 67.5 provides that meetings of policy bodies shall be open and public and subject to the requirements of the Brown Act.
- Section 67.6 governs the establishment of regular public meetings, their time and place; notice of special meetings; and procedures for cancelation of a meeting.
- Section 67.7 governs descriptions of agenda items for a public meeting.
- Section 67.7-1 deals with the notice to be provided by City agencies to residents regarding any activity that may affect their property or the neighborhood.
- Section 67.9 provides requirements for agendas for public meetings.
- Section 67.13 governs accessibility of public meetings to the disabled.
- Section 67.14 governs audio and video recording of public meetings.
- Section 67.15 deals with requirements for public comment on items on an agenda.
- Section 67.16 governs minutes of public meetings of boards and commissions enumerated in the Charter.

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APPLICABLE CASE LAW:

None.

ISSUES TO BE DETERMINED

Uncontested/Contested Facts: Complainant alleges the following¹:

Supervisor Campos colluded with the Library Commission to instigate the Bernal Library Art Project (BLAP). The BLAP was set-up to make decisions about public art on a public building, for which public funds are to be expended. The Supervisor selected, for unknown reasons an individual who proceeded to select a number of others to serve in what he has continually misrepresented as a "community process," which for most of their dealings, was anything but open to the community or the public. Members (names unknown) met on multiple, unannounced occasions for meetings about which the public was not notified to allow attendance or participation. These meeting had no agendas, no minutes, no recorded votes, and the list goes on and on. They made their decisions completely out of sight of the public in contravention of the Sunshine Ordinance and the Brown Act. The total cost of this project currently exceeds \$180,000 in cost and includes monies from the San Francisco Arts Commission, The Friends of the San Francisco Public Library, and funds from the Branch Library Improvement Project (BLIP). It was initially presented as a "restoration project" estimated at just over \$18,000 and has ballooned to more than ten times the original figure.

The Library Commission attempted to reach agreement over the art on the Bernal Heights Library. When this was not accomplished including the public, they simply worked with Supervisor Campos to set-up a secretive process, through which they could push the desired outcome of members of the Library Commission and the Friends of the San Francisco Public Library.

I have asked for any documents from Supervisor Campos, the Public Library, the Library Commission and the Arts Commission to indicate whether those persons/bodies made any attempt to comply with the requirements for public meetings. From what they have provided me, they made no attempt to do so. Quite the contrary, the decisions were made out of sight of the public, and presented to the Library Commission as a "fait accompli."

¹ These detailed allegations were provided in an email from Complainant dated April 17, 2012, which was in response to a request by the Administrator for additional detail about the complaint. The addressees of this email did not include the Supervisor or his staff. Given that the Supervisor's response to the complaint predates these detailed allegations, it is unclear whether they had an opportunity to address these additional details.

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I would contend that Supervisor Campos, as member of the Board of Supervisors representing the Bernal neighborhood and an attorney, should have worked with the Library Commission to ensure the public business was conducted in full sight of the public. He should also taken necessary steps to ensure the records of all proceedings were accessible to citizens interested in considering the actions of the BLAP and the Library Commission in their handling of the Bernal Library art project.

In short, my review has raised the question as to whether ANY of the requirements of the Sunshine Ordinance and/or the Brown Act were followed.

The Supervisor responded to the complaint through his aide, Hillary Ronen, in a letter dated March 21, 2012. In that response, the Supervisor states that he attempted to help create a community process to mediate a dispute among Bernal Heights neighbors about artwork at the local library. The Supervisor states that the individuals who participated in this process were not members of a policy body, nor were they members of a body formed to advise the Supervisor on any policy matter (i.e., a "passive meeting body"). The Supervisor therefore concludes that the group of neighbors meeting about this issue were not subject to the requirements of the Sunshine Ordinance governing public meetings.

QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS:

- How was the group in question formed?
- How were the members of the group in question chosen?
- What was the role of Supervisor Campos in the formation, meetings, and maintenance of the group?
- What was the purpose of the group?
- Did the group make formal recommendations as to how to resolve the dispute over artwork at the Library?
- Did the group advise Supervisor Campos with regard to how the dispute over artwork at the Library should be resolved?
- Did Supervisor Campos advise or direct the group with regard to whether its meetings should be public or how those meetings should be conducted?
- In what way or on what basis does Complainant allege that the Supervisor is responsible for the conduct of the BLAP?
- In what way or on what basis does Complainant allege that the Supervisor violated Section §67.7-1 of the Ordinance?
- In what way or on what basis does Complainant allege that the Supervisor violated Section §67.13 of the Ordinance?
- In what way or on what basis does Complainant allege that the Supervisor violated Section §67.14 of the Ordinance?
- In what way or on what basis does Complainant allege that the Supervisor violated Section §67.16 of the Ordinance?

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LEGAL ISSUES/LEGAL DETERMINATIONS:

- Under §67.3(d), is the BLAP a "policy body" under the Ordinance? Is it an "advisory committee" created at the initiative of the Board of Supervisors, under §67.3(d)(4)?
- Under §67.3(c), is the BLAP a "passive meeting body" under the Ordinance? Is it an "advisory committee" created by the initiative of Supervisor Campos, under §67.3(c)(1)?
- If a passive meeting body, did the BLAP violated the requirements of §67.4 for passive meetings?
- If a policy body, were its meetings open and public as required by § 67.5?
- If a policy body, were its meetings open and public as required by § 67.5?
- If a policy body, was it an advisory body so as to be exempt from the requirements of §67.6(a)?
- If not an advisory policy body, did it comply with the requirements of §67.6(a) as to establishing regular meeting times and places?
- If a passive meeting body, did it comply with the requirements of §67.6(e) for meetings and notice?
- If a policy body, did it comply with the requirements of §67.7 regarding agendas for its meetings?
- If the BLAP was required to provide notice to neighbors under some other provision of law, did that notice comply with the requirements of §67.7-1?
- If a policy body, did it comply with the requirements of §67.9 regarding making available to the public those documents provided to members of the policy body as part of their agenda packet?
- If a policy body, did it comply with the requirements of §67.13(a), regarding accessibility of meeting to the disabled and prohibitions on excluding others on the basis of class characteristics?
- If a policy body, did it comply with those requirements of §67.14 that apply to such bodies, regarding video or audio recording of meetings?
- If a policy body, did it comply with the requirements of §67.15, regarding public testimony at public meetings?

CONCLUSION

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

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

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CHAPTER 67, SAN FRANCISCO ADMINISTRATIVE CODE (SUNSHINE ORDINANCE)**SEC. 67.3. DEFINITIONS.**

Whenever in this Article the following words or phrases are used, they shall have the following meanings:

- (a) "City" shall mean the City and County of San Francisco.
 - (b) "Meeting" shall mean any of the following:
 - (1) A congregation of a majority of the members of a policy body at the same time and place;
 - (2) A series of gatherings, each of which involves less than a majority of a policy body, to hear, discuss or deliberate upon any item that is within the subject matter jurisdiction of the City, if the cumulative result is that a majority of members has become involved in such gatherings; or
 - (3) Any other use of personal intermediaries or communications media that could permit a majority of the members of a policy body to become aware of an item of business and of the views or positions of other members with respect thereto, and to negotiate consensus thereupon.
 - (4) "Meeting" shall not include any of the following:
 - (A) Individual contacts or conversations between a member of a policy body and another person that do not convey to the member the views or positions of other members upon the subject matter of the contact or conversation and in which the member does not solicit or encourage the restatement of the views of the other members;
 - (B) The attendance of a majority of the members of a policy body at a regional, statewide or national conference, or at a meeting organized to address a topic of local community concern and open to the public, provided that a majority of the members refrains from using the occasion to collectively discuss the topic of the gathering or any other business within the subject matter jurisdiction of the City; or
 - (C) The attendance of a majority of the members of a policy body at a purely social, recreational or ceremonial occasion other than one sponsored or organized by or for the policy body itself, provided that a majority of the members refrains from using the occasion to discuss any business within the subject matter jurisdiction of this body. A meal gathering of a policy body before, during or after a business meeting of the body is part of that meeting and shall be conducted only under circumstances that permit public access to hear and observe the discussion of members. Such meetings shall not be conducted in restaurants or other accommodations where public access is possible only in consideration of making a purchase or some other payment of value.
 - (C-1)* The attendance of a majority of the members of a policy body at an open and noticed meeting of a standing committee of that body, provided that the members of the policy body who are not members of the standing committee attend only as observers.
 - (D) Proceedings of the Department of Social Services Child Welfare Placement and Review Committee or similar committees which exist to consider confidential information and make decisions regarding Department of Social Services clients.
- (c) "Passive meeting body" shall mean:
- (1) Advisory committees created by the initiative of a member of a policy body, the Mayor, or a department head;
 - (2) Any group that meets to discuss with or advise the Mayor or any Department Head on fiscal, economic, or policy issues;
 - (3) Social, recreational or ceremonial occasions sponsored or organized by or for a policy body to which a majority of the body has been invited.

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(4) "Passive meeting body" shall not include a committee that consists solely of employees of the City and County of San Francisco created by the initiative of a member of a policy body, the Mayor, or a department head;

(5) Notwithstanding the provisions of paragraph (4) above, "Passive meeting body" shall include a committee that consists solely of employees of the City and County of San Francisco when such committee is reviewing, developing, modifying, or creating city policies or procedures relating to the public health, safety, or welfare or relating to services for the homeless;

(d) "Policy Body" shall mean:

(1) The Board of Supervisors;

(2) Any other board or commission enumerated in the charter;

(3) Any board, commission, committee, or other body created by ordinance or resolution of the Board of Supervisors;

(4) Any advisory board, commission, committee or body, created by the initiative of a policy body;

(5) Any standing committee of a policy body irrespective of its composition.

(6) "Policy Body" shall not include a committee which consists solely of employees of the City and County of San Francisco, unless such committee was established by charter or by ordinance or resolution of the Board of Supervisors.

(7) Any advisory board, commission, committee, or council created by a federal, state, or local grant whose members are appointed by city officials, employees or agents. (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 129-98, App. 4/17/98; Proposition G, 11/2/99)

[Editor's note: The drafters of Proposition G (November 2, 1999) inadvertently omitted section 67.3(b)(4)(C-1), formerly section 67.3(b)(4)(D), from the text of the ordinance submitted to the voters.]

SEC. 67.4. PASSIVE MEETINGS.

(a) All gatherings of passive meeting bodies shall be accessible to individuals upon inquiry and to the extent possible consistent with the facilities in which they occur.

(1) Such gatherings need not be formally noticed, except on the City's website whenever possible, although the time, place and nature of the gathering shall be disclosed upon inquiry by a member of the public, and any agenda actually prepared for the gathering shall be accessible to such inquirers as a public record.

(2) Such gatherings need not be conducted in any particular space for the accommodation of members of the public, although members of the public shall be permitted to observe on a space available basis consistent with legal and practical restrictions on occupancy.

(3) Such gatherings of a business nature need not provide opportunities for comment by members of the public, although the person presiding may, in his or her discretion, entertain such questions or comments from spectators as may be relevant to the business of the gathering.

(4) Such gatherings of a social or ceremonial nature need not provide refreshments to spectators.

(5) Gatherings subject to this subsection include the following: advisory committees or other multimember bodies created in writing or by the initiative of, or otherwise primarily formed or existing to serve as a non-governmental advisor to, a member of a policy body, the Mayor, the City Administrator, a department head, or any elective officer, and social, recreational or ceremonial occasions sponsored or organized by or for a policy body to which a majority of the body has been invited. This subsection shall not apply to a committee which consists solely of employees of the City and County of San Francisco.

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(6) Gatherings defined in subdivision (5) may hold closed sessions under circumstances allowed by this Article.

(b) To the extent not inconsistent with state or federal law, a policy body shall include in any contract with an entity that owns, operates or manages any property in which the City has or will have an ownership interest, including a mortgage, and on which the entity performs a government function related to the furtherance of health, safety or welfare, a requirement that any meeting of the governing board of the entity to address any matter relating to the property or its government related activities on the property, or performance under the contract or grant, be conducted as provided in subdivision (a) of this section. Records made available to the governing board relating to such matters shall be likewise available to the public, at a cost not to exceed the actual cost up to 10 cents per page, or at a higher actual cost as demonstrated in writing to such governing board. (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 287-96, App. 7/12/96; Proposition G, 11/2/99)

SEC. 67.5. MEETINGS TO BE OPEN AND PUBLIC; APPLICATION OF BROWN ACT.

All meetings of any policy body shall be open and public, and governed by the provisions of the Ralph M. Brown Act (Government Code Sections 54950 et. seq.) and of this article. In case of inconsistent requirements under the Brown Act and this article, the requirement which would result in greater or more expedited public access shall apply. (Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

SEC. 67.6. CONDUCT OF BUSINESS; TIME AND PLACE FOR MEETINGS.

(a) Each policy body, except for advisory bodies, shall establish by resolution or motion the time and place for holding regular meetings.

(b) Unless otherwise required by state or federal law or necessary to inspect real property or personal property which cannot be conveniently brought within the territory of the City and County of San Francisco or to meet with residents residing on property owned by the City, or to meet with residents of another jurisdiction to discuss actions of the policy body that affect those residents, all meetings of its policy bodies shall be held within the City and County of San Francisco.

(c) If a regular meeting would otherwise fall on a holiday, it shall instead be held on the next business day, unless otherwise rescheduled in advance.

(d) If, because of fire, flood, earthquake or other emergency, it would be unsafe to meet at the regular meeting place, meetings may be held for the duration of the emergency at some other place specified by the policy body. The change of meeting site shall be announced, by the most rapid means of communication available at the time, in a notice to the local media who have requested written notice of special meetings pursuant to Government Code Section 54956.

Reasonable attempts shall be made to contact others regarding the change in meeting location.
(e) Meetings of passive meeting bodies as specified in Section 67.6(d)(4) of this article shall be preceded by notice delivered personally or by mail, e-mail, or facsimile as reasonably requested at least 72 hours before the time of such meeting to each person who has requested, in writing, notice of such meeting. If the advisory body elects to hold regular meetings, it shall provide by bylaws, or whatever other rule is utilized by that advisory body for the conduct of its business, for the time and place for holding such regular meetings. In such case, no notice of regular meetings, other than the posting of an agenda pursuant to Section 67.7 of this article in the place used by the policy body which it advises, is required.

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(f) Special meetings of any policy body, including advisory bodies that choose to establish regular meeting times, may be called at any time by the presiding officer thereof or by a majority of the members thereof, by delivering personally or by mail written notice to each member of such policy body and the local media who have requested written notice of special meetings in writing. Such notice of a special meeting shall be delivered as described in (e) at least 72 hours before the time of such meeting as specified in the notice. The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the presiding officer or secretary of the body or commission a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Each special meeting shall be held at the regular meeting place of the policy body except that the policy body may designate an alternate meeting place provided that such alternate location is specified in the notice of the special meeting; further provided that the notice of the special meeting shall be given at least 15 days prior to said special meeting being held at an alternate location. This provision shall not apply where the alternative meeting location is located within the same building as the regular meeting place.

(g) If a meeting must be canceled, continued or rescheduled for any reason, notice of such change shall be provided to the public as soon as is reasonably possible, including posting of a cancellation notice in the same manner as described in section 67.7(c), and mailed notice if sufficient time permits. (Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

SEC. 67.7: AGENDA REQUIREMENTS; REGULAR MEETINGS.

(a) At least 72 hours before a regular meeting, a policy body shall post an agenda containing a meaningful description of each item of business to be transacted or discussed at the meeting. Agendas shall specify for each item of business the proposed action or a statement the item is for discussion only. In addition, a policy body shall post a current agenda on its Internet site at least 72 hours before a regular meeting."

(b) A description is meaningful if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item. The description should be brief, concise and written in plain, easily understood English. It shall refer to any explanatory documents that have been provided to the policy body in connection with an agenda item, such as correspondence or reports, and such documents shall be posted adjacent to the agenda or, if such documents are of more than one page in length, made available for public inspection and copying at a location indicated on the agenda during normal office hours."

(c) The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.

(d) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a policy body may respond to statements made or questions posed by persons exercising their public testimony rights, to the extent of asking a question for clarification, providing a reference to staff or other resources for factual information, or requesting staff to report back to the body at a subsequent meeting concerning the matter raised by such testimony.

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SEC. 67.7-1. PUBLIC NOTICE REQUIREMENTS.

(a) Any public notice that is mailed, posted or published by a City department, board, agency or commission to residents residing within a specific area to inform those residents of a matter that may impact their property or that neighborhood area, shall be brief, concise and written in plain, easily understood English.

(b) The notice should inform the residents of the proposal or planned activity, the length of time planned for the activity, the effect of the proposal or activity, and a telephone contact for residents who have questions.

(c) If the notice informs the public of a public meeting or hearing, then the notice shall state that persons who are unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing, that these comments will be made a part of the official public record, and that the comments will be brought to the attention of the person or persons conducting the public meeting or hearing. The notice should also state the name and address of the person or persons to whom those written comments should be submitted. (Added by Ord. 185-96, App. 5/8/96; amended by Proposition G, 11/2/99)

SEC. 67.9. AGENDAS AND RELATED MATERIALS: PUBLIC RECORDS.

(a) Agendas of meetings and any other documents on file with the clerk of the policy body, when intended for distribution to all, or a majority of all, of the members of a policy body in connection with a matter anticipated for discussion or consideration at a public meeting shall be made available to the public. To the extent possible, such documents shall also be made available through the policy body's Internet site. However, this disclosure need not include any material exempt from public disclosure under this ordinance.

(b) Records which are subject to disclosure under subdivision (a) and which are intended for distribution to a policy body prior to commencement of a public meeting shall be made available for public inspection and copying upon request prior to commencement of such meeting, whether or not actually distributed to or received by the body at the time of the request.

(c) Records which are subject to disclosure under subdivision (a) and which are distributed during a public meeting but prior to commencement of their discussion shall be made available for public inspection prior to commencement of, and during, their discussion.

(d) Records which are subject to disclosure under subdivision (a) and which are distributed during their discussion at a public meeting shall be made available for public inspection immediately or as soon thereafter as is practicable.

(e) A policy body may charge a duplication fee of one cent per page for a copy of a public record prepared for consideration at a public meeting, unless a special fee has been established pursuant to the procedure set forth in Section 67.28(d). Neither this section nor the California Public Records Act (Government Code sections 6250 et seq.) shall be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, whether or not distributed to a policy body. (Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

SEC. 67.13. BARRIERS TO ATTENDANCE PROHIBITED.

(a) No policy body shall conduct any meeting, conference or other function in any facility that excludes persons on the basis of actual or presumed class identity or characteristics, or which is inaccessible to persons with physical disabilities, or where members of the public may not be

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present without making a payment or purchase. Whenever the Board of Supervisors, a board or commission enumerated in the charter, or any committee thereof anticipates that the number of persons attending the meeting will exceed the legal capacity of the meeting room, any public address system used to amplify sound in the meeting room shall be extended by supplementary speakers to permit the overflow audience to listen to the proceedings in an adjacent room or passageway, unless such supplementary speakers would disrupt the operation of a City office.

SEC. 67.14. TAPE RECORDING, FILMING AND STILL PHOTOGRAPHY.

(a) Any person attending an open and public meeting of a policy body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera, or to broadcast the proceedings, in the absence of a reasonable finding of the policy body that the recording or broadcast cannot continue without such noise, illumination or obstruction of view as to constitute a persistent disruption of the proceedings.

(Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

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 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.

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SEC. 67.16. MINUTES.

The clerk or secretary of each board and commission enumerated in the charter shall record the minutes for each regular and special meeting of the board or commission. The minutes shall state the time the meeting was called to order, the names of the members attending the meeting, the roll call vote on each matter considered at the meeting, the time the board or commission began and ended any closed session, the names of the members and the names, and titles where applicable, of any other persons attending any closed session, a list of those members of the public who spoke on each matter if the speakers identified themselves, whether such speakers supported or opposed the matter, a brief summary of each person's statement during the public comment period for each agenda item, and the time the meeting was adjourned. Any person speaking during a public comment period may supply a brief written summary of their comments which shall, if no more than 150 words, be included in the minutes.

The draft minutes of each meeting shall be available for inspection and copying upon request no later than ten working days after the meeting. The officially adopted minutes shall be available for inspection and copying upon request no later than ten working days after the meeting at which the minutes are adopted. Upon request, minutes required to be produced by this section shall be made available in Braille or increased type size. (Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)



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 BOARD OF SUPERVISORS

Name of individual contacted at Department or Commission DAVID CAMPOS

Alleged violation public records access
 Alleged violation of public meeting. Date of meeting VARIOUS

Sunshine Ordinance Section ALL RELATING TO PUBLIC MEETINGS
 (If known, please cite specific provision(s) being violated)

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

SUPERVISOR DAVID CAMPOS INVESTIGATED AND PARTICIPATED IN THE SET-UP AND OPERATION OF THE BERNAL LIBRARY ART PROJECT (BLAP) IN WAYS THAT VIOLATED ALL RIGHTS OF CITIZENS TO ATTEND AND PARTICIPATE IN THE WORKINGS OF GOVERNMENT.

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

(Optional)¹ Name RAY WHARTZ, JR Address 839 LEAVENWORTH ST #304 SAN FRANCISCO CA 94109

Telephone No. (415) 345-9144 E-Mail Address RWHARTZJR@SBCGLOBAL.NET

Date MARCH 16, 2012 Ray Whartz
 Signature

I request confidentiality of my personal information. yes 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).



Fw: STATEMENT OF INTENTIONS
Ray Hartz Jr
to:
SOTF
05/16/2012 10:38 AM
Cc:
MSW Bruce Wolfe, david.campos, sean.elsbernd
Show Details

Dear Ms. Ausberry,

Would you please include this email chain in the documents for the SOTF hearing #12017 Hartz v Supervisor David Campos.

Sincerely,

Ray W. Hartz, Jr.
Director, San Francisco Open Government

----- Forwarded Message -----

From: "david.campos@sfgov.org" <david.campos@sfgov.org>
To: Ray Hartz Jr <rwhartzjr@sbcglobal.net>
Sent: Wed, February 15, 2012 6:09:59 PM
Subject: Re: STATEMENT OF INTENTIONS

Mr. Hartz,

I have nothing to hide and would be proud and honored to appear before any body to defend my record. Thank you for your message.

David Campos
District 9 Supervisor

On Feb 15, 2012, at 5:35 PM, "Ray Hartz Jr" <rwhartzjr@sbcglobal.net> wrote:

Supervisor Campos,

I don't want anything from you.

Why you have let yourself become involved in this is beyond me. How you can possibly continue to voice that this was a "community process" when only a very small group of carefully selected people had anything to do with it or any knowledge of it is beyond me.

I'm looking at a series of actions involving \$20,000 of Public Library Funds and \$50,000 from an Arts Commission grant, and other monies which are being used for a project over which there was no public oversight. If you don't see that as a problem, then, maybe that's the problem.

Since I don't expect you would dare show your face before the Sunshine Ordinance Task Force, I'm certain I will find myself fascinated by whatever attempt your staff makes to defend this debacle.

Sincerely,

Ray W. Hartz, Jr.
Director, San Francisco Open Government

From: "david.campos@sfgov.org" <david.campos@sfgov.org>
To: Ray Hartz Jr <rwhartzjr@sbcglobal.net>
Sent: Wed, February 15, 2012 5:18:37 PM
Subject: Re: STATEMENT OF INTENTIONS

Mr. Hartz,

My staff sent you a series of emails giving you the information we have. I have forwarded those emails to you again sir. What else do you want from me?

David Campos
District 9 Supervisor

On Feb 15, 2012, at 5:02 PM, "Ray Hartz Jr" <rwhartzjr@sbcglobal.net> wrote:

Supervisor Campos,

I've seen enough!

I'm filing a series of complaints with the Sunshine Ordinance Task Force against you, the Library Commission, the Public Library and the Arts Commission for this "community process" which is nothing but a knowing and willful series of actions done with the intention to evade every single requirement regarding public meetings laid down in the Brown Act and the Sunshine Ordinance. These actions involve a public building, public art and public money and is being done without ANY public oversight and/or participation, meaningful or otherwise. The limited presentations at the Library Commission and/or the Arts Commission served as nothing but lip service to the legal requirements.

I am extremely surprised that, with an election coming up, you would have chosen to be a part of this deception, and continue to defend it.

Sincerely,

Ray W. Hartz, Jr.
Director, San Francisco Open Government



Re: Request for Additional Info - Case No. 12017 Hartz v Supervisor Campos, Board of Supervisors
Ray Hartz Jr

to:

sotf

04/17/2012 08:21 PM

Cc:

Hope Johnson, Jerry Threet, James Chaffee, Peter Warfield, MSW Bruce Wolfe, jsabatini
Show Details

To all members of the Sunshine Ordinance Task Force,

Supervisor Campos colluded with the Library Commission to instigate the Bernal Library Art Project (BLAP). The BLAP was set-up to make decisions about public art on a public building, for which public funds are to be expended. The Supervisor selected, for unknown reasons an individual who proceeded to select a number of others to serve in what he has continually misrepresented as a "community process," which for most of their dealings, was anything but open to the community or the public. Members (names unknown) met on multiple, unannounced occasions for meetings about which the public was not notified to allow attendance or participation. These meetings had no agendas, no minutes, no recorded votes, and the list goes on and on. They made their decisions completely out of sight of the public in contravention of the Sunshine Ordinance and the Brown Act. The total cost of this project currently exceeds \$180,000 in cost and includes monies from the San Francisco Arts Commission, The Friends of the San Francisco Public Library, and funds from the Branch Library Improvement Project (BLIP). It was initially presented as a "restoration project" estimated at just over \$18,000 and has ballooned to more than ten times the original figure.

The Library Commission attempted to reach agreement over the art on the Bernal Heights Library. When this was not accomplished including the public, they simply worked with Supervisor Campos to set-up a secretive process, through which they could push the desired outcome of members of the Library Commission and the Friends of the San Francisco Public Library.

I have asked for any documents from Supervisor Campos, the Public Library, the Library Commission and the Arts Commission to indicate whether those persons/bodies made any attempt to comply with the requirements for public meetings. From what they have provided me, they made no attempt to do so. Quite the contrary, the decisions were made out of sight of the public, and presented to the Library Commission as a "fait accompli."

I would contend that Supervisor Campos, as member of the Board of Supervisors representing the Bernal neighborhood and an attorney, should have worked with the Library Commission to ensure the public business was conducted in full sight of the public. He should also taken necessary steps to ensure the records of all proceedings were accessible to citizens interested in considering the actions of the BLAP and the Library Commission in their handling of the Bernal Library art project.

In short, my review has raised the question as to whether ANY of the requirements of the Sunshine Ordinance and/or the Brown Act were followed.

Just for sake of clarity, the "community process" evaded each of the below listed sections of the Sunshine Ordinance:

Sunshine Ordinance Sec. 67.5 MEETINGS TO BE OPEN AND PUBLIC; APPLICATION OF THE BROWN ACT;
Sunshine Ordinance Sec. 67.6 CONDUCT OF BUSINESS; TIME AND PLACE FOR MEETINGS;
Sunshine Ordinance Sec. 67.7 AGENDA REQUIREMENTS; REGULAR MEETINGS;
Sunshine Ordinance Sec. 67.7.1 PUBLIC NOTICE REQUIREMENTS;
Sunshine Ordinance Sec. 67.9 AGENDAS AND RELATED MATERIALS; PUBLIC RECORDS;
Sunshine Ordinance Sec. 67.13 BARRIERS TO ATTENDANCE PROHIBITED;
Sunshine Ordinance Sec. 67.14 TAPE RECORDING, FILMINS AND STILL PHOTOGRAPHY;
Sunshine Ordinance Sec. 67.15 PUBLIC TESTIMONY;
Sunshine Ordinance Sec. 67.16 MINUTES.

The very worst aspect is that Supervisor Campos has stated that this method of dealing with public business should serve as "a model" for future projects. If this is permitted it would sound a "death knell" for public participation in public meeting regarding many matters in which "private interests" would then be allowed to push private agendas contrary to public policies and the public interest.

Sincerely,

Ray W. Hartz, Jr.
Director, San Francisco Open Government

From: "sotf@sfgov.org" <sotf@sfgov.org>
To: Ray Hartz Jr <rwhartzjr@sbcglobal.net>
Cc: Hope Johnson <hopeannette@earthlink.net>; Jerry.Threet@sfgov.org
Sent: Tue, April 17, 2012 6:59:08 PM
Subject: Request for Additional Info - Case No. 12017 Hartz v Supervisor Campos, Board of Supervisors

Mr. Hartz,

The SOTF Office is requesting additional details about your complaint (referenced above) or specific examples of violations with respect to specific sections of the ordinance.

Thank you,

Andrea S. Ausberry
Administrator
Sunshine Ordinance Task Force
Office 415.554.7724 | Fax 415.554.5163
sotf@sfgov.org | www.sfbos.org
City Hall, 1 Dr. Carlton B. Goodlett Place, Rm. 244
San Francisco, CA 94102
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From: SOTF/SOTF/SFGOV@SFGOV
To: Ray Hartz Jr <rwhartzjr@sbcglobal.net>, David Campos/BOS/SFGOV@SFGOV, Sheila Chung Hagen/BOS/SFGOV@SFGOV, Hillary Ronen/BOS/SFGOV@SFGOV

4/23/2012

Cc: Hope Johnson <hopeannette@earthlink.net>, Jerry Threet/CTYATT@CTYATT, dsnyder@sheppardmullin.com
Date: 03/20/2012 09:10 AM
Subject: Sunshine Complaint Received: Case No. 12017 Ray Hartz, Jr. v Supervisor David Campos, Board of Supervisors
Sent by: Andrea Ausberry@SFGOV

Good Morning,

This e-mail is to confirm that the attached complaint has been received. The Department is required to submit a response to the charges to the Task Force within five business days of receipt of this notice. Please refer to **complaint number 12017** when submitting any new information and/or supporting documents pertaining to this complaint.

Both parties will be contacted once a hearing date is determined.

Complainants: Your attendance is required at this meeting/hearing.

Respondents/Departments: Pursuant to Section 67.21 (e) of the Ordinance, attendance by the custodian of records or a representative of your department, who can speak to the matter, is required at the meeting/hearing.

Also, attached is the Sunshine Ordinance Task Force's complaint procedures.

Thank you,

Andrea S. Ausberry

Administrator

Sunshine Ordinance Task Force

Office 415.554.7724 | Fax 415.554.5163

sotf@sfgov.org | www.sfbos.org

City Hall, 1 Dr. Carlton B. Goodlett Place, Rm. 244

San Francisco, CA 94102

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Re: Sunshine Complaint Received: Case No. 12017 Ray Hartz, Jr. v Supervisor David Campos, Board of Supervisors
Ray Hartz Jr

to:
Hillary.Ronen, sotf
03/23/2012 10:52 AM

Cc:
Andrea.Ausberry, david.campos, dsnyder, Hope Johnson, Jerry.Threet, Sheila.Chung.Hagen, James Chaffee, Peter Warfield, sean.elsbernd, Luis Herrera, Jill Bourne, Almer Castillo, "sue.a.blackman@sfgov.org", Doug Comstock, Allen Grossman, kimo, Pmonette-shaw
Show Details

Members of the Sunshine Ordinance Task Force,

I am glad to see the response from Supervisor Campos' office. I am also glad that the supervisor will personally defend his actions in this case before the SOTF.

From an email exchange between myself and Supervisor Campos:

Mr. Hartz,

I have nothing to hide and would be proud and honored to appear before any body to defend my record. Thank you for your message.

**David Campos
District 9 Supervisor**

It will enable the Task Force to get some direct and complete answers, rather than explanations from persons sent to defend what someone else did or said. That, in and of itself, will be new and refreshing.

Sincerely,

Ray W. Hartz, Jr.

Director, San Francisco Open Government

From: "Hillary.Ronen@sfgov.org" <Hillary.Ronen@sfgov.org>

To: sotf@sfgov.org

Cc: Andrea.Ausberry@sfgov.org; david.campos@sfgov.org; dsnyder@sheppardmullin.com; Hope Johnson <hopeannette@earthlink.net>; Jerry.Threet@sfgov.org; Ray Hartz Jr <rwhartzjr@sbcglobal.net>; Sheila.Chung.Hagen@sfgov.org

Sent: Wed, March 21, 2012 5:14:38 PM

Subject: Re: Sunshine Complaint Received: Case No. 12017 Ray Hartz, Jr. v Supervisor David Campos, Board of Supervisors

Please find this office's response to Complaint No, 12017. Feel free to contact me with any questions.

Sincerely,
Hillary Ronen

Hillary Ronen
Legislative Aide
Supervisor David Campos
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Phone: 415-554-7729
Email: hillary.ronen@sfgov.org

From: SOTF/SOTF/SFGOV
To: Ray Hartz Jr <rwhartzjr@sbcglobal.net>, David Campos/BOS/SFGOV@SFGOV, Sheila Chung Hagen/BOS/SFGOV@SFGOV, Hillary Ronen/BOS/SFGOV@SFGOV
Cc: Hope Johnson <hopeannette@earthlink.net>, Jerry Threet/CTYATT@CTYATT, dsnyder@sheppardmullin.com
Date: 03/20/2012 09:09 AM
Subject: Sunshine Complaint Received: Case No. 12017 Ray Hartz, Jr. v Supervisor David Campos, Board of Supervisors
Sent by: Andrea Ausberry

Good Morning,

This e-mail is to confirm that the attached complaint has been received. The Department is required to submit a response to the charges to the Task Force within five business days of receipt of this notice. Please refer to **complaint number 12017** when submitting any new information and/or supporting documents pertaining to this complaint.

Both parties will be contacted once a hearing date is determined.

Complainants: Your attendance is required at this meeting/hearing.

Respondents/Departments: Pursuant to Section 67.21 (e) of the Ordinance, attendance by the custodian of records or a representative of your department, who can speak to the matter, is required at the meeting/hearing.

Also, attached is the Sunshine Ordinance Task Force's complaint procedures.

[attachment "1_Complaint Procedures_4-28-09_Final.pdf" deleted by Hillary Ronen/BOS/SFGOV] [attachment "12017_Complaint form_031612.pdf" deleted by Hillary Ronen/BOS/SFGOV]

Thank you,

Andrea S. Ausberry

Administrator

Sunshine Ordinance Task Force

Office 415.554.7724 | Fax 415.554.5163

sott@sfgov.org | www.sfbos.org

City Hall, 1 Dr. Carlton B. Goodlett Place, Rm. 244

San Francisco, CA 94102

3/23/2012

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Member, Board of Supervisors
District 9



City and County of San Francisco

DAVID CAMPOS

March 21, 2012

Honorable Members
Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

RE: Complaint filed by Mr. Ray W. Hartz, Jr.

Dear Honorable Task Force Members:

Please consider this letter a response to Mr. Ray W. Hartz, Junior's March 16, 2012 complaint against this office. Mr. Hartz alleges, "Supervisor David Campos instigated and participated in the set-up and operation of the Bernal Library Art Project (BLAP) in ways that violated all rights of citizens to attend and participate in the workings of government." Mr. Hartz also claims that this office violated all sections of the Sunshine Ordinance that relate to public meetings.

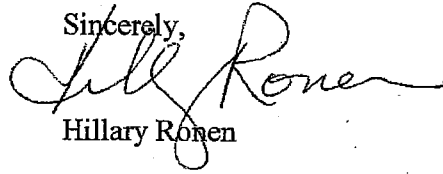
The Sunshine Ordinance requires that meetings of any *policy body* be open and public. San Francisco Administrative Code §67.5 (emphasis added) The Sunshine Ordinance also requires that officials make every effort to provide public access to "passive meeting bodies." San Francisco Administrative Code §67.4(a) A "passive meeting body" is defined as an *advisory committee* created by the initiative of a member of a policy body, including the Board of Supervisors. San Francisco Administrative Code §67.3(c)(1) (emphasis added)

Supervisor Campos helped create a community process in order to resolve a neighborhood dispute over a mural on the Bernal Heights library building. One group of neighbors wanted to preserve the existing mural while another group wanted to replace the existing mural with a new piece of artwork. Supervisor Campos offered to help mediate and facilitate a resolution to the conflict. The individuals involved in this effort were not a policy body and were not formed in order to advise Supervisor Campos on any policy matters. Therefore, this office does not believe it violated any section of the Sunshine Ordinance.

District Supervisors perform dispute resolution services for their constituents all the time. It is a core function of the job and works to save the City and its residents time, money, and frustration.

I hope that this letter responds to Mr. Hartz' concerns and obviates the need for a hearing on the matter. We are happy to answer any questions you may have about the complaint. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Hillary Ronen". The signature is written in black ink and is positioned above the printed name.

Hillary Ronen

