

Date: August 23, 2011

Item No. 12 & 13  
File No. 11054

## SUNSHINE ORDINANCE TASK FORCE

### AGENDA PACKET CONTENTS LIST\*

- Ray Hartz against Luis Herrera of the Public Library**
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Completed by: Chris Rustom

Date: August 19, 2011

**\*This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

\*\* The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.



DENNIS J. HERRERA  
City Attorney

JERRY THREET  
Deputy City Attorney

DIRECT DIAL: (415) 554-3914  
E-MAIL: jerry.threet@sfgov.org

## MEMORANDUM

TO: Sunshine Task Force  
FROM: Jerry Threet  
Deputy City Attorney  
DATE: August 17, 2011  
RE: Complaint No. 11054: Ray Hartz v. Library, et al.

### THE COMPLAINANT ALLEGES THE FOLLOWING:

Complainant Ray Hartz alleges that the San Francisco Public Library (the "Library"), as well as City Librarian Luis Herrera, violated the Sunshine Ordinance by failing to include in the body of the official minutes written statements of not more than 150 words supplied by members of the public during public testimony, with regard to the minutes of the May 19, 2011 and June 16, 2011 general meetings of the Library Commission. Mr. Hartz further alleges that this violation occurred at the July 21, 2011 meeting of the Commission when it approved the above minutes. Mr. Hartz further alleges that the violation is that of the Library and Herrera, as the Library employs the Commission Secretary and Mr. Herrera supervises here. Mr. Hartz's complaint identifies Administrative Code Section 67.16 as having been violated. Mr. Hartz further alleges that the above violation occurred after the Task Force had referred a previous identical violation, in complaint 10054, to the Ethics Commission.

### COMPLAINANT FILES COMPLAINT:

On July 26, 2011, Mr. Hartz filed a complaint with the Task Force alleging a violation of Section 67.16 of the Ordinance.

### JURISDICTION

The Library has not contested jurisdiction to hear the complaint.

### APPLICABLE STATUTORY SECTION(S):

#### Sunshine Ordinance (S.F. Administrative Code Section 67.1, et seq.)

- Section 67.16 governs the inclusion in the minutes of an 150-word statement of a member of the public summarizing their public comment made during a meeting.

### APPLICABLE CASE LAW:

None.

**Memorandum**

DATE: August 17, 2011

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RE: *Complaint No. 11054: Ray Hartz v. Library, et al.*

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**ISSUES TO BE DETERMINED**

**Uncontested/Contested Facts:** Mr. Hartz alleges that Commission Secretary Sue Blackman created drafts minutes of the May 19, 2011 and June 16, 2011 general meetings of the Library Commission, which were presented to the Commission during their July 21, 2011 meeting. Hartz further alleges that these draft minutes did not include in the body of the minutes several written statements of not more than 150 words that had been supplied by members of the public summarizing their public testimony during the May 19, 2011 and June 16, 2011 general meetings. Hartz further alleges that, instead of including these 150-word statements in the body of the meeting minutes, the draft minutes included them in an addendum at the end of the minutes, with a short reference in the body of the minutes that directed the reader to the addendum for the commenter's full statement. Mr. Hartz further alleges that this violation occurred at the time that the Commission approved the above minutes on July 21, 2011. Mr. Hartz further alleges that the violation is that of the Library and Herrera, rather than that of Ms. Blackman, because the Library employs the Commission Secretary and Mr. Herrera supervises her. Mr. Hartz's complaint identifies Administrative Code Section 67.16 as having been violated. Mr. Hartz further alleges that the above violation occurred after the Task Force had referred a previous identical violation, in complaint 10054, to the Ethics Commission.

The Library and Herrera, through Ms. Blackman, do not contest the above facts, but do contest whether their actions constitute a violation of the Ordinance. According to the Library, the Ordinance requires only that the 150 word statement summarizing public comment be included in the minutes; it does not require that the summary be in the body of the minutes in the same location as the public comment which the statement summarizes. The Library further alleges that it has determined that the manner in which it includes the summary statements in its minutes comply with the ordinance and that the City Attorney has so advised them.

**LEGAL ISSUES/LEGAL DETERMINATIONS:**

- Does the requirement of Section 67.16 that the Commission include a 150 word summary of testimony in its minutes, further require the Commission to include that summary in the body of the minutes specifically under that agenda item?
- Does including the 150 word summary as an addendum to the meeting minutes, with a reference in the body of the minutes, violate Section 67.16?
- Does the action of the Ms. Blackman in doing so, knowing that the Task Force has previously ruled that summary must be included in the body of the minutes, constitute willful failure under Section 67.34?
- Does Mr. Herrera's failure to instruct Ms. Blackman to follow the instructions of the previous order of the Task Force in creating the minutes in question constitute "willful failure"?

**Memorandum**

DATE: August 17, 2011

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RE: *Complaint No. 11054: Ray Hartz v. Library, et al.*

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**SUGGESTED ANALYSIS**

**Under Section 67.16 of the Ordinance:**

- Determine whether Ms. Blackman's summarizing of complainant's testimony in the body of the meeting minutes, and the inclusion of his statement as an addendum to those same minutes with a reference to the summary in the body of the minutes, violated the requirements of Section 67.16.

**Under Section 67.34 of the Ordinance:**

- Determine whether this failure is a "willful failure" under Section 67.34.
- Determine whether this failure can be attributed to Mr. Herrera, and/or whether his failure to instruct Ms. Blackman to follow the previous order of the Task Force is a "willful failure" under Section 67.34.

**CONCLUSION**

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

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

**Memorandum**

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**ATTACHED STATUTORY SECTION FROM CHAPTER 67 OF THE SAN FRANCISCO ADMINISTRATIVE CODE UNLESS OTHERWISE SPECIFIED****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.*

**SEC. 67.34. WILLFUL FAILURE SHALL BE OFFICIAL MISCONDUCT.**

The willful failure of any elected official, department head, or other managerial city employee to discharge any duties imposed by the Sunshine Ordinance, the Brown Act or the Public Records Act shall be deemed official misconduct. Complaints involving allegations of willful violations of this ordinance, the Brown Act or the Public Records Act by elected officials or department heads of the City and County of San Francisco shall be handled by the Ethics Commission.



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 SAN FRANCISCO PUBLIC LIBRARY

Name of individual contacted at Department or Commission LUIS HERRERA, CITY LIBRARIAN

Alleged violation public records access  
 Alleged violation of public meeting. Date of meeting JULY 21, 2011

Sunshine Ordinance Section SECTION 67.16 MINUTES  
 (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.

PLEASE SEE ATTACHED

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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) Name RAY W HARTZ JR Address 839 LEAVENWORTH ST, #304 SAN FRANCISCO CA 94109

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

Date 7/26/11 Signature Ray W Hartz

I request confidentiality of my personal information.  yes  no

<sup>1</sup> 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).

**Tuesday, July 26, 2011**

**At a meeting of the San Francisco Public Library Commission on July 21, 2011 the commission approved minutes for the regular meeting of May 19, 2011 and the regular meeting of June 16, 2011 (copies attached). Both documents were prepared by Ms. Sue Blackman, the Library Commission secretary. In both sets of minutes, 150 word summaries provided by myself and others were not included in the body of the minutes in accordance with the determination issued by the Sunshine Ordinance Task Force (Determination #10054 Ray Hartz vs Library Commission). That case has already been referred to the Ethics Commission for willful failure to comply. The two sets of meeting minutes approved at the July 21, 2011 meeting are two additional violations of the ordinance. Ms. Blackman is a city employee under the direct supervision of Luis Herrera, City Librarian. As her supervisor, Mr. Herrera is responsible for ensuring that Ms. Blackman performs her duties in accordance with applicable law. Mr. Herrera has either directed Ms. Blackman to ignore the task force ruling or has failed to ensure that she complies with that ruling in her preparation of the minutes submitted for approval. As a managerial employee, it is the responsibility of Mr. Herrera to ensure that all employees of the San Francisco Public Library comply with applicable laws, in this instance, the Sunshine Ordinance.**



*San Francisco Public Library Commission*

100 Larkin Street, San Francisco, CA 94102-4733

Phone 415.557.4233, Fax 415.557.4240

**DRAFT**

**SAN FRANCISCO PUBLIC LIBRARY COMMISSION**

**Minutes of the Regular Meeting of May 19, 2011**

Edwin M. Lee  
*Mayor*

The San Francisco Public Library Commission held a regular meeting on Thursday, May 19, 2011, in the Koret Auditorium, Main Library.

Jewelle Gomez  
*President*

The meeting was called to order at 4:38 pm.

A. Lee Munson  
*Vice-President*

Commissioners present: Breyer, Gomez, Munson, Ono and Randlett.

Michael C. Breyer

Commissioners excused: Kane, and Nguyen.

Larry Kane

Michael Nguyen

Teresa Ono

Lorna Randlett

*Commissioners*

Jill Bourne, Deputy City Librarian, said that Luis Herrera, City Librarian, is not present because he flew to Santa Monica to appear before the State Historical Resources Commission to oppose the nomination of the North Beach Branch Library to the National Register of Historic Places.

Luis Herrera  
*City Librarian*

**AGENDA ITEM NO. 1 PUBLIC COMMENT**

Sue Blackman

*Commission Secretary*

An anonymous citizen said this is the meeting you will approve the Minutes of April 7. He said the history of the human mind is an attempt to be free from the tyranny of injustice. He said the idea of a public library is that knowledge should not be limited to wealth and power. He said the President of the Commission makes a big display of not listening, and then accuses the public of not listening. He said this is a cheap trick to enforce the barriers of exclusion, called the "Veranda Factor." (See Addendum for a summary of this comment submitted by the speaker.)



Peter Warfield, Executive Director, Library Users Association, said he appreciates the explanation of why the City Librarian is not at the meeting but he is disappointed in the fact that he will be opposing the nomination of the Historic designation for the North Beach Branch. He said the San Francisco Weekly says the best place to get drunk is at the San Francisco Public Library at the Friends' Imbibe event. He said you are not able to save a word document on a library computer.

Ray Hartz, Director San Francisco Open Government, said that he would like the following statement to be entered into the Minutes. "Sunshine



Ordinance of 1999, Section 67.16 Minutes. Any person speaking during the public comment period may supply a brief written summary of their comments, which shall, if not more than 150 words, be included in the minutes." He said there are serious deficiencies in the way the Commission goes about its business. He said the primary purpose of the Commission is to oversee the operations of the Library and other bodies such as Friends to ensure that the operations benefit the library with maximum effect. He said the Commission should become a body focused on its fiduciary responsibility to oversee matters within its area of oversight. He said this Commission provides little real oversight, acting as a rubber stamp for recommendations placed before it and this is far distant from what most members of the public would expect. He said the Commission does not talk about the money in the BLIP program or how much the Friends take in and how much they contribute to the Library. He said it is rude to the public when the Commissioners do not look the speaker in the eye. (See Addendum for a summary of this comment submitted by the speaker.)

Mindy Linetzky, Public Affairs, Department of Public Works (DPW), said as part of DPW work week they opened up the Visitacion Valley branch for a tour while the branch is still in construction. She said the feedback was fantastic and she wanted to thank the Commission for its partnership with DPW.

## **AGENDA ITEM NO. 2. BOND PROGRAM MANAGER'S REPORT**

Lena Chen, Bond Program Manager, said this month there will be a special report on the State of California Department of Finance Reports on the Ingleside Branch Library Grant Audit and the Richmond Branch Library Expansion and Renovation Audit.

Jill Bourne, Deputy City Librarian, said the State of California has completed its audit of the Ingleside Branch Library Grant and the Richmond Branch Library Expansion and Renovation Grant under the Proposition 14 Bond Program. She said both projects have been successfully completed. She said the audit findings determined that the projects met all their fiscal requirements and that there were no observations or questioned costs identified.

Lena Chen, Bond Program Manager, said the approved budget is \$188,910,119. She said there are copies of the budget report and the Quarterly Report in the back of the room. She said the Bayview Branch is in the pre-construction stage and the North Beach Branch is in the EIR/Design Development phase. She said four branches are in construction. She said 18 branches are complete and open. She showed photographs and gave reports on projects in construction including: the Anza Branch scheduled to reopen on June 18; Visitacion Valley; Ortega; and Golden Gate Valley. She said the Planning Commission has certified the Environmental Impact Report (EIR) for the North Beach Branch Library.

Jill Bourne, Deputy City Librarian, said in addition to the Planning Commission approving the EIR, we had the joint Library Commission/Recreation and Park Commission meeting on April 25 where each unanimously approved the North Beach Branch project. She said later that day the Land use Committee of the Board of Supervisors forwarded a Street Vacation to the full Board with a recommendation to approve. She said the EIR has been appealed and we expect the appeal to be heard at the Board of Supervisors in June. She said on May 2 the Land Use Committee held a separate hearing on the historic designation process and how it affects other city priorities mainly, libraries, parks, transit and affordable housing. She said the City Librarian was asked to testify about the experience of the library in the past year and the impacts of the historic preservation processes on our projects. She said the North Beach Library was nominated to be listed on the national register. She said the Historic Preservation Commission discussed this issue and was not able to reach consensus and forwarded a resolution reflecting the lack of consensus to the California State Historic Preservation Commission. She said unfortunately the State HPC did vote to forward that nomination so we will continue to track that and report back when we get more information. She said to clarify the State Commission's role; this is not a landmark issue since the Board of Supervisors has already voted that it will not be landmarked.

Lena Chen, Bond Program Manager, gave a summary of public outreach activities. She said the Mission Bay and Richmond Branches received an Honorable Mention as a new Landmark Library by the Library Journal. She showed slides of the reopening of the Merced Branch Library. She said she looks forward to seeing everyone at the reopening of the Anza Branch on Saturday, June 18.

#### Public Comment

An anonymous citizen said he regrets that he missed the tour of Visitacion Valley. He said regarding the nomination of the North Beach Branch on the National Registry, the City Librarian testified at a hearing before the Board of Supervisors that he found it a waste of time and resources to oppose concerns about historical preservation. He said this undermines his credibility on the historical preservations issue. He said maybe some concern at the national level will wake us up to the historical value of the building. He said he attending the Merced Branch opening. (See addendum for a 150 word statement submitted by the speaker.)

Peter Warfield, Library Users Association, said he attended the Merced Branch opening. He said he is disappointed the agenda today does not specifically mention the Merced Branch opening. He said the Quarterly Report is referenced by the Bond Manager's Report. He said this particular item is never listed as an explanatory document on the agenda. He said there are very big questions regarding the budget. He said the North Beach Branch has been praised by many as being landmark worthy.

Ray Hartz, Director San Francisco Open Government, said he got a package and the Quarterly Report was not in there and the Bond Manager's Report was not in it. He said the issue is what the public was told when the bond was passed about the costs of these projects. He asked what the long term problems for the library are going to be because of these over expenditures.

#### Commission Discussion

Commissioner Breyer said the Quarterly Report says that we do not expect an additional sale of revenue bonds and that is terrific news. He asked about the impact if the North Beach Branch is listed on the National Register.

Jill Bourne, Deputy City Librarian, said the listing would have no legal impact and that the local decision would take precedence.

Commissioner Breyer asked about the Friends contributions to the BLIP.

Jill Bourne, Deputy City Librarian, said the amount listed as Friends' contributions does not include money the Friends have spent directly on Furniture and Fixtures.

Mindy Linetzky, DPW, said that the public tour of the Visitacion Valley Branch was done through DPW and was part of tours of five buildings DPW is involved with.

Commissioner Randlett said it appears that some of the projects remaining have been the most difficult to execute and therefore significant funds may be in reserve to use on those projects. She said it sounds like the team was prudent in making sure that there were funds in reserve. She said she is not surprised with the size of the projects and the number of change orders there has been. She said it looks like Visitacion Valley and Ortega seem to have many more than the others.

Lena Chen, Bond Program Manager, said these amounts reflect pending change orders that are coming. She said Visitacion Valley is one of the largest and complex of the branches. She said the contractor did not have as much experience with these types of projects.

Commissioner Randlett said the City has an obligation to the public to meet the highest quality and this may have been a challenge to the construction team that was awarded the bid.

Jill Bourne, Deputy City Librarian, said all of these changes are within the project contingencies so we are not anticipating any budget change.

Lena Chen, Bond Program Manager, said they have had difficulty in working with the contractor on the Ortega Branch.

President Gomez said we are getting near to the end of the process and there have been a number of lessons learned. The new Commissioners are seeing the benefits of the process.

Commissioner Breyer said the Auditor's Report encouraged the Library to look at the contracts with the contractors and get compensation from contractors who cause delays.

Jill Bourne, Deputy City Librarian, said it is an ongoing process and that DPW works closely with the contractors.

### **AGENDA ITEM NO. 3. APPROVAL OF THE MINUTES OF APRIL 7, 2011**

#### **Public Comment**

An anonymous citizen said during the item on the naming of the Him Mark Lai Branch on page 4 he had asked about what sort of funding would be done and said that the library would have responsibility for the funding. He said the President later made comments and said she hoped members of the audience would not take offense by any members of the public's comments about the fundraising. He said his comment contained no offense to the people in the community. (See Addendum for a summary of this comment submitted by the speaker.)

Peter Warfield, Library Users Association, said on page 4 his comments are summarized but it left out his comments about what arrangements were being made with respect to the way the money was raised and his concern about the financial issues. He said on page 1 the Minutes state that he said the Friends have contributed less than \$1 Million to BLIP and he did not say that and would like to have that corrected.

Ray Hartz, Director San Francisco Open Government, said some of the questions not asked by this Commission would cause you to be fired in the private sector. He said his complaint regarding the Minutes will be going back again to the full Sunshine Task Force referred back by the Education and Outreach Committee. He said the issue of the 150 word summary being included in the body of the Minutes has never been on the agenda for the Commission to discuss.

#### **Commissioner Comments**

Commissioner Breyer said he thought we were following what the Sunshine Task Force suggested for the Minutes.

Sue Blackman, Commission Secretary, said the Sunshine Task Force issued an Order of Determination finding the Library Commission not in compliance with the Sunshine Ordinance, but they sent the issue to the Education and Outreach Committee. She said the two members of the Committee who were in attendance referred the issue back to the Task Force for further review.

President Gomez said we are continuing to do the Minutes in the way in which we have been and within our legal rights.

Sue Blackman, Commission Secretary, said the City Attorney is preparing a memo to address the issue.

Commissioner Breyer said his suggestion is to follow what the Sunshine Task Force suggests.

President Gomez asked the Secretary to check the tape for the statement by Peter Warfield on page 1 and to correct that statement if necessary.

Commissioner Randlett said she appreciated the statement from President Gomez trying to clarify the comments regarding the Him Mark Lai fundraising.

Motion: By Commissioner Munson, seconded by Commissioner Randlett to approve the Minutes of April 7, 2011 with a correction to page 3 to read "Jill Bourne responded to a question from Commissioner Breyer." Also with a clarification as needed to Peter Warfield's remarks on page 1.

Action: AYES 5-0: (Breyer, Gomez, Munson, Ono, and Randlett).

#### **AGENDA ITEM NO. 4. ADJOURNMENT**

##### Public Comment

There was no public comment on this item.

Motion: By Commissioner Ono, seconded by Commissioner Munson to adjourn the regular meeting of May 19, 2011.

Action: AYES 5-0: (Breyer, Gomez, Munson, Ono and Randlett).

The meeting adjourned at 5:48 pm.

Sue Blackman  
Commission Secretary

Please note: These are draft minutes subject to revision by the Public Library Commission. Copies of commission minutes and handouts are available in the office of the secretary of the San Francisco Public Library Commission, 6th floor, Main Library, 100 Larkin Street, San Francisco, CA 94102-4733.

Explanatory documents: Copies of listed explanatory documents are available as follows: (1) from the commission secretary/custodian of records, 6<sup>th</sup> floor, Main Library; (2) in the rear of Koret Auditorium immediately prior to, and during, the meeting; and (3), to the extent possible, on the Public Library's website <http://sfpl.org>. Additional

materials not listed as explanatory documents on this agenda, if any, that are distributed to library commissioners prior to or during the meeting in connection with any agenda item will be available to the public for inspection and copying in accordance with Government Code Section 54954.1 and Sunshine Ordinance Sections 67.9, 67.28(b), and 67.28(d).

#### ADDENDUM

**These summary statements are provided by the speaker: Their contents are neither generated by, nor subject to approval or verification of accuracy by, the San Francisco Public Library Commission.**

Library Commission Meeting of May 19, 2011

Item 1: General Public Comment

Anonymous Citizen: Stop the Corporate Rape of the Library – Don't give or accept money from the Friends & Foundation

The history of the human mind is an attempt to be free from the tyranny of injustice.

Essential to that freedom is mankind is equal before the truth. Religions teach that we are all equal before God, and laws and literature teach us that knowledge belongs even to the poor.

Some people were not born to be our masters. The idea of the public library is that knowledge should not be limited to wealth and power.

Your president makes a big display of not listening, then accuses the public of not listening, a cheap trick to enforce the barriers of exclusion, called the "Veranda Factor."

You maintain the fiction that our access to the truth doesn't merit your attention, when this commission was created as a public forum.

"The lies cost more than the money."

Ray Hartz, Director San Francisco Open Government: Having attended most of the Library Commission meetings over the last year, I have come to the conclusion that there are serious deficiencies in the way the commission goes about its business. The primary purpose of this commission is to oversee the operations of the library and other bodies such as Friends of the Library, to ensure not only that the operations benefit the library, but, that they do so to maximum effect. To perform their function in an appropriate manner this

commission needs to modify its behavior. The move needs to be from what it is, a mutual admiration society, toward becoming a body focused on its fiduciary responsibility to oversee matters within its area of oversight. At the present time, the commission provides little real oversight, acting primarily as a rubber stamp for recommendations placed before it. This is far, far distant from what most members of the public would expect.

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#### Item 2: Bond Program Manager's Report

Anonymous Citizen: Stop the Hate, Stop the Ignorance – Don't give or accept money from the Friends & Foundation.

It would be nice if the citizens had access to the graphics. I have some nice shots of branch openings which you might enjoy.

I regret that I missed the tour of Visitacion Valley. I guess I missed the announcement.

Regarding North Beach Branch on the National Registry, the City Librarian testified before the Board of Supervisors that he found it a waste of resources to be required to oppose concerns about historical preservation. This undermines his credibility on historical preservation issues.

The North Beach Branch is not resolved and national recognition might wake us up to the significance of that branch.

I was at the Merced Branch Opening and missed the band that had played at Presidio and Park Branches, which I hesitate to mention that because it was probably paid for by the Friends.

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#### Item 3: Approval of the Minutes (April 7, 2011)

Anonymous Citizen: Stop the Hate and Ignorance – Don't accept money from the Friends & Foundation.

Regarding naming opportunities for the Him Mark Lei Branch, I questioned the library's responsibility if people hung out on street corners raising thousands of dollars, which was answered by selling names on the plaque.

Eight and one-half minutes later, your president said, "I hope you will not take offense at any members of the public's implication that people from the Chinatown

community would be raising funds in an alley. I hope you will not take offense at that."

My comment contained no offense and didn't mention alleys.

Mr. Coulter would misquote and mischaracterize me, then impute some motive to me to expose me to general obloquy and ridicule – a week later.

This sleazy game to prevent discussion shows no obligation to recognize a non-donor's right to decency and truth.

You're attempting to fill Steve Coulter's shoes? "I knew Steve Coulter. You're no Steve Coulter."



San Francisco Public Library  
100 Larkin Street Room 680  
San Francisco, CA 94102

June 27, 2001

To whom it may concern-

Pursuant to California Public Records Act, Government Code Section 6250, and the San Francisco Sunshine Ordinance, San Francisco Administrative Code Section 67.1 and all other applicable laws, I am writing to request copies of the following documents:

1. A list of any contracts awarded without competitive bids from 2009 to present, including no-bid contracts and sole-source contracts.

I understand that certain costs might be associated with this request. Please contact me if payment is required prior to releasing copies.

Should the requested information be unavailable, please respond stating the reasons for denial of the request. Additionally, should the requested information be available from another agency please provide me with information regarding who to contact to obtain the requested documentation.

Documents can be e-mailed to me at [VA.Holliday@gmail.com](mailto:VA.Holliday@gmail.com). I may also be reached by phone at 415-308-7342 should you have any questions in regards to this request. Thank you for your time and consideration of this request.

Sincerely,  
Victoria Holliday



*San Francisco Public Library Commission*

100 Larkin Street, San Francisco, CA 94102-4733

Phone 415.557.4233, Fax 415.557.4240

**DRAFT**

**SAN FRANCISCO PUBLIC LIBRARY COMMISSION**

**Minutes of the Regular Meeting of June 16, 2011**

The San Francisco Public Library Commission held a regular meeting on Thursday, June 16, 2011, in the Koret Auditorium, Main Library.

The meeting was called to order at 4:32 pm.

Commissioners present: Breyer, Gomez, Munson, and Ono

Commissioners excused: Nguyen and Randlett

Commissioner Kane arrived at 4:40 pm.

President Gomez announced that item number 4 the Bond Program Manager's Report will be trailed to the end of the meeting.

**AGENDA ITEM NO. 1 PUBLIC COMMENT**

An anonymous citizen said his essay on the Community Benefit District was published by Counterpoise, a national library publication. He said Commissioners Kane and Breyer have made suggestions regarding the Minutes that the Library Commission might be reasonable. He said Commissioner Kane asked if the Commission was following the Sunshine Task Force's recommendation and was told that it was when you were not. He said later Commissioner Kane suggested that the wording be changed to read "See Addendum in the minutes." He said that was followed once and then ignored. He said Commissioner Breyer was told the Library Commission adopted this policy when it did not. He said the Commission resists change that would benefit the public. (See Addendum for a summary of this comment submitted by the speaker.)

Sue Cauthen said she wanted to thank Commissioner Breyer and the new Commissioners for their insightful questions. She said she is a member of the Sunshine Task Force and she has volunteered her time all these years because she truly believes in public participation and our first amendment rights. She said she is disappointed when she sees a

Edwin M. Lee  
*Mayor*

Jewelle Gomez  
*President*  
A. Lee Munson  
*Vice-President*

Michael C. Breyer  
Larry Kane  
Michael Nguyen  
Teresa Ono  
Lorna Randlett  
*Commissioners*

Luis Herrera  
*City Librarian*

Sue Blackman  
*Commission Secretary*



member of the Commission speaking contemptuously of the Sunshine Ordinance and she hopes it was an anomaly.

Peter Warfield, Executive Director, Library Users Association, said he appreciates the questions that have been asked by some of the Commissioners but it is unfortunate that they do not receive straight answers. He said an example is the question of the time limits on computers and saving documents from the computer. He said when you don't have computers that allow saving on them that is a problem.

Ray Hartz, Director San Francisco Open Government, said the common definition of fiduciary duty is 'the legal duty of a fiduciary to act in the best interests of the beneficiary.' He said despite numerous calls for a clear accounting of the funds raised by the Friends no such accounting has been produced. He said either the Commission knows the numbers or those numbers do not reflect well on either the Friends or the Commission or worse they don't know the exact numbers. He said if the numbers were a real benefit to the Library they would have been produced. He said the Commission should ask for a complete accounting from the Friends or the Commission should admit its failure to live up to its fiduciary responsibility to oversee the Friends. He said the last accounting by the Friends listed a gross income of over \$5 million. (See Addendum for a summary of this comment submitted by the speaker.)

#### **AGENDA ITEM NO. 2 BERNAL HEIGHTS BRANCH LIBRARY ARTWORK PROJECT**

Luis Herrera, City Librarian, said there is a memo to the Commission describing the background and he gave a presentation on the Bernal Mural. He said the community had a mediation process initiated by Supervisor Campos. He said the Statement of Consensus from that group is also available as well as a Presentation of the Bernal Heights Branch Library. He introduced Gia Grant who has been leading the project conversation.

Gia Grant said she came on as project manager late last year and put out a call for artists. She said they received six applications and three were chosen. She said subsequently one has dropped out. She said Precita Eyes took the lead on the Cortland side and Reuben Rude on the Moultrie side, but they are working together so that it would be unified. She said they are also working on the backside of the building as well. She said the project will be done in mosaic and tile.

Larry Cruz said he was representing the Bernal Heights Neighborhood Center on the Task Force. He said there were two community meetings attended by more than 100 people.

Gia Grant said they heard from people in the community that it was very important to have some of the images from the original mural in the new artwork. She said there are no design drawings yet for the back side

because it was a phased project and that it will be brought back to the Library Commission and Art Commission once it is finalized.

Luis Herrera, City Librarian, said that this meeting is informational and it will be brought back for action at the July 21, 2011 meeting. He said the Commission's role is to endorse this project but ultimately the approval of the artwork will be done by the Arts Commission in August. He said this will be paid for primarily through private fundraising and grants and a commitment for up to \$25,000 from the paint portion of the building for the project.

#### Public Comment

An anonymous citizen said this has been a long and interesting controversy. He said there is a mural that is not part of the library although it looks like it is. He said there is a hopeful statement in the Consensus that fifty years from now people will honor our contribution. He said an essential aspect of that is that you have to honor what people did fifty years ago because they had the same hope. He said he is pleased this had a happy resolution, and my thanks to all concerned. (See Addendum for a 150 word statement submitted by the speaker.)

Ellen Egbert, Bernal resident and Bernal Library user. She said nobody is going to be happier to see this resolved than she is. She said it has been going on for years and years. She said most residents are ecstatic about the beautiful new interior of the branch but she thinks most residents are embarrassed by the exterior. She said communication in the community has been very limited. She said the artwork and the description only went up two days ago. She said she is concerned about how the building prep will be handled. She had questions about the quantity and quality of the tiles. She said the bronze relief of the book is to be 12' long and that will be very heavy but she hopes it does not get stolen.

Peter Warfield, Library Users Association, said he is surprised to hear from the previous speaker that the public has only seen the artwork two days ago. He said he is disappointed that the front of the building is missing some elements from the previous mural. He said the Spanish language on the front has been noted in the past as a highlight to the mural. He said he hopes the Commission will ask specific questions and get some specific answers.

Ray Hartz, Director San Francisco Open Government, said he would hope the Commission would not take any action on this item today. He said the drawings have only been available to the public within the last couple days. He said the process has been long and contentious. He said he understood that the Friends of the Library have committed \$16,000 to the project and he would like to see if that will be included in the total budget for the project.

Beth Roy said she was the mediator for the process. She said for her it was the best of San Francisco and the controversy was heated and went

beyond issues that had to do with art such as class and race. She said the outcome has produced the artwork before the Commission. She said she is glad there will be a second meeting and glad that the community has had an opportunity to come together and discuss some of these issues.

Rosanne Liggett said the committee worked under a great deal of duress. She said the committee had some flaws that it was heavily weighted from people from the neighborhood center and excluded people who had worked in the library as volunteers. She said the artwork is a result of that imbalance. She said the artwork needs some adjusting and she hopes the committee will be open to hearing criticism and comment. She would like to see more than one choice and possibly different artists. She said she does not like the artwork for the front of the building and said it is incongruent with the design of the building.

Sheila Chung Hagen, Legislative Aide to Supervisor David Campos, said she is also a Bernal Heights resident. She said when this issue first came to the Supervisor's office it was clear as Beth Roy said that it was about much more than art work. She said Supervisor Campos spent dozens of hours involved in the mediation. She said what is important is that the process has been inclusive. She said we will be able to add additional input from the community and she hopes the Commission will continue to support the project and they hope that the Arts Commission will as well.

A woman from the audience said she does not see any women in the artwork. She said she thinks it is ugly.

#### Commission Discussion

Commissioner Kane thanked everyone who has been involved in this effort. He said his understanding is that it is the Arts Commission that will approve the artwork going on the library and the Library Commission will approve the expenditure of \$25,000 from the painting budget towards the project.

Luis Herrera, City Librarian, said he thinks the Arts Commission will look to an endorsement by the Library Commission of the project before they take action. He said yes the Commission will have to approve the expenditure. He said the action of the Library Commission would be to allow or endorse the project going on the building.

Commissioner Kane said he would defer to the community and the Arts Commission on the artwork. He asked if the Library would have to maintain whatever artwork is on the building.

Luis Herrera, City Librarian, said maintenance is an issue that should be discussed.

Gia Grant said the mosaic tile will last twice as long as a mural. She said as part of the grants to fund the project there is a built in maintenance

plan and the Bernal Business Association have committed to taking an active role in maintaining the artwork.

Commissioner Munson had questions about the artwork. He said if the community really wants this, that is fine, but he thinks it is a little strange.

Commissioner Ono said she is concerned about the process. She said it looks like there has not been a lot of time for the community to look at it. She asked about the committee and how the outreach about the public meetings was done.

Gia Grant said over 100 people participated in the process. She said the artists were selected by the committee. She said the prep work is largely built into the budget for the project.

Larry Cruz responded to comments from Commissioner Munson and said there was a tremendous amount of acrimony on both sides of the issue. One side wanted no mural on the building and the other side felt that their own history was being erased. He said there was a decision to have both side represented. He said this mediation was an incredible way of bringing people together. He said the committee is still meeting every two weeks to discuss all of the issues.

President Gomez said it is not clear that any women are incorporated in the artwork. She said she would like to know more about security.

Gia Grant said they will be working with the library on how the book will be affixed and the security for it. She said there are mechanisms for people to respond with there comments.

Commissioner Breyer said all of the neighborhood groups should be contacted.

Gia Grant said it will come back to the Commission in July and then go to the Arts Commission on August 1.

President Gomez said she commends the committee, Beth Roy and everyone involved in this process for their hard work.

### **AGENDA ITEM NO. 3. BRANCH LIBRARY IMPROVEMENT PROGRAM SCHEDULE CHANGE**

Jill Bourne, Deputy City Librarian, said that there is a memo before the Commission asking for a schedule change for the Golden Gate Valley Branch Library. She said the approved schedule shows the opening June 2011. She said they are requesting a three month schedule change so that the branch will open in September 2011 due to unforeseen site conditions requiring additional excavation, shoring and foundation work.

#### **Public Comment**

An anonymous citizen said it would be nice to know more details about the soil conditions that caused the delay and why exactly it has caused a three month delay.

Peter Warfield, Library Users Association, said further specificity would be helpful. He said the memo says one of the causes of the delay is "the demolition of the existing foundation discovered during construction." He said this does not make sense to him. He said the memo does not say what the cost impacts are that are being covered by the project contingency budget. He said he hopes the Commission will ask some questions

Ray Hartz, Director San Francisco Open Government, said Commissioner Ono in the past has asked whether we are learning anything when these changes occur. He said either we will learn something in this process that will help us in this process or not and to do that we need more specificity. He said it would be nice to know what the contingency fund is and how these changes are affecting the funds.

#### Commission Discussion

Commissioner Munson said there is a contingency fund for each branch and asked about the amount.

Jill Bourne, Deputy City Librarian, said that the contingency is usually between 10 and 15%. She said the contingency has been raised to cover any unforeseen expenditures.

Luis Herrera, City Librarian, said that as projects are closed out money left over from the contingencies will be transferred into the reserve.

Commissioner Munson said he would like more information on the contingency for each project.

Motion: By Commissioner Kane, seconded by Commissioner Munson to approve the schedule change of three months for the Golden Gate Valley Branch Library.

Action: AYES 5-0: (Breyer, Gomez, Kane, Munson, and Ono).

#### **AGENDA ITEM NO. 5. CITY LIBRARIANS'S REPORT**

Luis Herrera, City Librarian, said there is a memo from Alicia Cabrera, Deputy City Attorney, in response to a question from the Commission regarding the 150 word summary in the Minutes. He said the memo quotes the language from the City Attorney's Good Government Guide. He said the Commission is following the advice of the City Attorney in preparing its Minutes. He said he wanted to give a recap on the FY 11-12 Budget. He said there will be two meetings before the Board of Supervisors Budget and Finance Committee. He said the changes are highlighted. He said there has been a total of \$2.1million increase in the

actual revenue. He said that means we will be drawing less from the Library Preservation Fund balance. He said on the expenditure side for Personnel Services it shows a slight increase of 1%. He said most of that comes from the retiree health benefit subsidy and there were other reductions in positions. He said the overall increase is about \$567,022. He said his message to the Board of Supervisors is that we are pleased with the budget because it maintains our service levels. He said related to the budget is print notices.

Jill Bourne, Deputy City Librarian, gave a presentation on print notices and the plan to reduce costs, paper use, and waste. She said one of the items in the FY 12 Budget proposal was to reduce print notices and costs for direct mail with a target annual savings of \$100,000. She said the Commission endorsed that budget in February, 2011. She said a plan was developed to implement the strategy. She said a major focus has been communications to notify patrons and staff about the change. She said Patron Assistance is and will continue to be a priority through the process. She explained the timeline for implementing the change.

Luis Herrera, City Librarian, said there is a memo from the Department of Technology regarding a new program which enables all Commissions to comply with the amended Sunshine Ordinance Section 67.14C which directs that Commissions record their meetings and make the audio content available on SFGov.org. He said we are one of the Departments to move forward on this.

Jon Worona, Digital Initiatives Manager, said Meetings on Demand is up and running. He said it is effective now. He showed a demonstration of how you can access recordings of the meetings through our website. He said you can also post the minutes of the meeting on the same site.

Sue Blackman, Library Commission Secretary, said that if you click on the agenda posted with the audio streaming there are links to the various explanatory documents being discussed.

President Gomez left the meeting and Vice-President Munson took over as Chair.

#### Public Comment

An anonymous citizen said the overarching issue is the abandonment of overdue notices and the budget. He said he was at the Board of Supervisors meeting of May 24 where they approved an expenditure of \$360,000 from the Library Preservation Fund's Available Fund Balance or what we call the reserve. He said this is expenditure for the City Attorney's office and he doesn't think this has been done before. He said this should have come before the Commission at least as an informational item. He said at the Ethics Commission on May 9, the Ethics Commission received a request from your library administration to change the Incompatible Activities policy, which has never been approved by you. He said the Incompatible Activities policy you approved on July



15, 2004, was never rescinded or superseded. He said Jill Bourne told the Ethics Commission that there was not enough input from the library staff and too much input from the public.

Peter Warfield, Library Users Association, said in order to save a supposed \$100,000 a year which is less than .8% of your budget you are chopping out a core function of this library, which is getting back the books which are borrowed. He said there are many people who do not have email or computer access. He said this will hurt those who are least able to afford it. He said some people will have overdue books that they don't know about and could get in such trouble that they will never come back to the library. He said it is a major change and is shocking that the Commission has not discussed this. He said the City Attorney's memo is a shameful evasion of your responsibility to the public and without regard to any specific law. He said the amount of time and effort you are taking to avoid putting the 150 word summaries in the minutes is appalling.

Ray Hartz, Director San Francisco Open Government, said the memorandum from the City Attorney's Office is not a legal opinion and not even a well written memorandum. He said it is simply a restatement of the City Attorney's self-serving interpretation of the Sunshine Ordinance from the Good Government Guide. He said like it or not the Sunshine Ordinance is a law and the law states that the Sunshine Ordinance Task Force is the body that has the authority and responsibility for determining what the law means. He said the reason the Ordinance does not require a cross reference in the minutes is because the actual wording of the law directs that the statement "If no more than 150 words, be included in the minutes." He said it's that simple. He said this is a dance. He said he has no problem with having his comments fact checked.

Sue Cauthen said she is a member of the Sunshine Task Force. She said the Good Government Guide is just that a guide, she said it is not the law. She said she does not believe that a court of law would consider it the law.

Val Pescador said she would like to request a review for a pay hike for all your staff. She said they are the best staff and most friendly and she cannot even begin to tell this Commission how helpful they have been. She said she wants a pay hike for the maintenance people and others on the staff.

#### Commission Discussion

Commissioner Kane said he didn't understand the increase in the budget for health care subsidies. He said his understanding is that there are proposals to actually reduce those numbers so he said he was hoping those numbers would go down.

Luis Herrera, City Librarian, said the assumptions that are made are already built into the budget. He said any savings from pension or

retirement benefits would be long term. He said there are different labor groups involved in negotiations. He said the bulk of our employees are SEIU and to this point they have not been part of this conversation. He said the amount has gone up because the Controller's numbers have gone up.

Commissioner Kane asked about the allocation from the reserve that the anonymous citizen mentioned in public comment.

Luis Herrera, City Librarian, said they are aware of litigation going on right now that involves several departments including the library regarding ADA accessibility, so Departments are required to pay their share for that. He said that is our portion. He said he would find out more about that for the Commission.

Commissioner Kane said he is all for electronic notices in all forms but he does not understand the default notification.

Jill Bourne, Deputy City Librarian, said the default will no longer be a paper notice and they are working to make sure individuals choose the type of notice they would like to receive.

Commissioner Kane said to him the notice should be paper by default and he would rather pay extra unless the patron chooses otherwise.

Commissioner Munson said he supports Commissioner Kane's position that paper notice should be the default.

Commissioner Breyer asked about the process.

Jill Bourne, Deputy City Librarian, explained the process for changing patrons over to electronic notices.

Commissioner Ono said her understanding is that as of July 1 the notices would automatically go to email or phone number and the patron would no longer receive print notices.

Luis Herrera, City Librarian, said it is a proactive approach to saving money by virtue of moving away from mail notices with the option to opt into the mail notices. He said we will go back and revisit this but it has been a proactive approach.

Commissioner Breyer said it is a good idea to change the vast majority of people to electronic noticing and he would commend the staff on this effort. He asked about the Sunshine Task Force's action regarding the minutes.

Sue Blackman, Commission Secretary, said the Sunshine Task Force found that the Library was not in compliance with the Sunshine Ordinance regarding the minutes and referred it to their Education and Outreach

Committee who has referred it back to the full Sunshine Ordinance Task Force to hear it again.

Commissioner Breyer said the Commission should do what the Sunshine Task Force determines with the Minutes.

Commissioner Munson said we should wait for the full determination from the Sunshine Task Force.

Commissioner Breyer said he wondered what the Commission thought of having the video of the Commission meetings available on the website. He asked about the costs to the library of making the video available on the web in addition to the audio.

Commissioner Munson asked if we could bring the discussion about the video back to the Commission at a later date.

#### **AGENDA ITEM NO. 7. APPROVAL OF THE MINUTES OF APRIL 25, 2011**

##### **Public Comment**

An anonymous citizen said this meeting was a joint meeting and so there should be joint minutes. He said I suppose there is some concern by the Recreation and Park Commission about having citizen summaries attached to joint minutes, but that is their problem. He said the minutes are pretty good. He said Commissioner Kane's wording for citizen summaries are not there and his nice reference to Ray Clary is also missing. (See Addendum for a summary of this comment submitted by the speaker.)

Peter Warfield, Library Users Association, said the comments he has made are incomplete and misleading. He said he was objecting to the planned plaque not having to be in or on the new library. He requested that the language be corrected. He said Library Users Association (LUA) has been one of the most active opponents of North Beach Branch demolition and supporters of renovation and that it was why it was inappropriate that Mr. Herrera's memo would leave the LUA off the list of organizations opposed to the new library. He said the email notices from the last item are very privacy threatening.

##### **Commissioner Comments**

Commissioner Breyer said at the bottom of page 4 it says "she" instead of "he".

Commissioner Ono said on page 5 Library Commission President Gomez said "I believe I speak for" and that should be "she believes she speaks". She said on page 3 she was confused by Mr. Warfield's remarks and would like it to read "He **objected that the planned plaque. . .**"

Commissioner Munson said he would like the word new to be inserted to Mr. Warfield's statements so that it reads "He said Mr. Herrera's memo lists a number of organizations opposed to the new library, but does not include the Library Users Association."

Motion: By Commissioner Kane, seconded by Commissioner Ono to approve the Minutes of April 25, 2011 with corrections to the Minutes as noted by the Commissioners above.

Action: AYES 4-0: (Breyer, Kane, Munson, and Ono).

**AGENDA ITEM NO. 8. APPROVAL OF THE MINUTES OF MAY 5, 2011**

Public Comment

An anonymous citizen said these minutes are a little more problematic. He said at the beginning of the meeting Commissioner Randlett is listed as excused, but it was announced at the meeting that she was expected. He said one cannot be expected and excused at the same time. He said the terminology used to be "asked to be excused." He said his comment under public comment is backward. He said he told the story about Commission Chin first and then the comment fund was after that. He said on page 3 it says Commissioner Breyer asked about "two last questions" but those questions were not addressed. He said on page 8 Mr. Kane had asked that going forward the 150 word summaries should be referenced by a statement "see addendum included at the end of the minutes." He said this was followed once on May 19 and never followed again. (See Addendum for a summary of this comment submitted by the speaker.)

Peter Warfield, Library Users Association (LUA), said he talked about the Library's rewriting of history. He said the LUA was one of the active organizations in opposition to a new North Beach Library as opposed to a renovated one. He said on page 5 Commissioner Breyer asked about the use of 15 minute terminals and there was not a complete answer to his question and that was not included in the Minutes.

Ray Hartz, Director San Francisco Open Government, said he is the party to the case before the Sunshine Ordinance Task Force (SOTF) he would like to make sure you clearly understand what went on. He said the SOTF found the Commission in violation of the Sunshine Ordinance for not including the summary statements in the body of the minutes. He said in the determination they referenced the fact that they had found in the past that referencing them and attaching them was appropriate. He said when he challenged them they admitted that they had never had such a discussion. He said the Education and Outreach Committee said that the summaries should be included in the body of the Minutes and sent the issue back to the SOTF and that is where it stands today. He said he would like to see an open and honest discussion about this by the

Commission. He said the Brown Act is there to protect the right of the people.

#### Commission Discussion

Commissioner Breyer said on page 4 there is a typo in the remarks of the anonymous citizen and the word "crasheds" should be changed to "crashes".

Commissioner Kane asked about the language that was in the Minutes about the summary statements.

Sue Blackman, Commission Secretary, said the City Attorney had suggested that the language be changed to "See Addendum for a summary of this comment submitted by the speaker."

Commissioner Kane said he supported the City Attorney's suggestion.

Commissioner Ono said on page 2 under public comment it should say the "An anonymous citizen said" instead of "He said".

Commissioner Munson said on page 4 there is a vertical line that should be taken out. He said on page 8 under the motion it says that the motion was seconded by Commissioner Munson and it should read "Commissioner Kane".

Motion: By Commissioner Kane, seconded by Commissioner Ono to approve the Minutes of May 5, 2011 with corrections to the Minutes as noted by the Commissioners above.

Action: AYES 4-0: (Breyer, Kane, Munson, and Ono).

Vice-President Munson said Item No. 4 Bond Program Manager's Report would be trailed to the next meeting.

#### **AGENDA ITEM NO. 9. ADJOURNMENT**

##### Public Comment

There was no public comment on this item.

Motion: By Commissioner Breyer, seconded by Commissioner Ono to adjourn the regular meeting of June 16, 2011.

Action: AYES4-0: (Breyer, Kane, Munson, and Ono).

The meeting adjourned at 7:01 pm.

Sue Blackman  
Commission Secretary

Please note: These are draft minutes subject to revision by the Public Library Commission. Copies of commission minutes and handouts are available in the office of the secretary of the San Francisco Public Library Commission, 6th floor, Main Library, 100 Larkin Street, San Francisco, CA 94102-4733.

Explanatory documents: Copies of listed explanatory documents are available as follows: (1) from the commission secretary/custodian of records, 6<sup>th</sup> floor, Main Library; (2) in the rear of Koret Auditorium immediately prior to, and during, the meeting; and (3), to the extent possible, on the Public Library's website <http://sfpl.org>. Additional materials not listed as explanatory documents on this agenda, if any, that are distributed to library commissioners prior to or during the meeting in connection with any agenda item will be available to the public for inspection and copying in accordance with Government Code Section 54954.1 and Sunshine Ordinance Sections 67.9, 67.28(b), and 67.28(d).

#### ADDENDUM

**These summary statements are provided by the speaker: Their contents are neither generated by, nor subject to approval or verification of accuracy by, the San Francisco Public Library Commission.**

Library Commission Meeting of June 16, 2011

Item 1: General Public Comment

Anonymous Citizen: Stop the Hate & Ignorance – Don't give or accept money from the Friends & Foundation

You will be happy to learn that my essay on the Community Benefit District was published by Counterpoise, a national library publication.

Your handling of the minutes is instructive. Commissioners Kane and Breyer have made suggestions that the Library Commission might be reasonable. They ran into the same stone wall that I would.

Commissioner Kane was told the Commission was following the Sunshine Task Force's recommendation, when you weren't. Commissioner Kane suggested the wording, going forward, "See Addendum in the minutes." That was followed once, and then ignored.

Regarding not following the Sunshine Task Force, Commissioner Breyer was told the Library Commission adopted this policy, when it didn't.

You resist any change that would benefit the public as a defense to your arbitrary and capricious authoritarianism.

“The lies cost more than the money.”

Ray Hartz, Director San Francisco Open Government: A common definition of fiduciary duty is “the legal duty of a fiduciary to act in the best interests of the beneficiary.” Despite numerous and continuous calls for a clear accounting of the funds raised by the Friends and how much of those funds actually reach the Library coffers, no such accounting has been produced. Either the Library Commission knows the exact numbers and those numbers do not reflect well on either the Friends or the Library Commission or, perhaps worse, they don't know the exact numbers! By now, if the numbers were truly reflective of a real benefit to the Library, they would have been produced. I call for a complete and responsible accounting for all such funds, or, in the alternative for the Library Commission to admit their failure to live up to the fiduciary responsibilities they have to oversee the Friends of the San Francisco Public Library.

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#### Item 2: Bernal Heights Branch Library Artwork Project

Anonymous Citizen: Stop the Hate, Stop the Ignorance – Don't give or accept money from the Friends & Foundation.

This has been a long controversy. I hope you recognize that the statement of consensus was not arrived with ease or mutual cooperation. It was worked out with antagonism and adversarial confrontations. One wishes that you had recognized some of the principles before you were forced to.

There is a mural in some dilapidation that is not included and is probably not part of the library although it looks like it is.

There is a hopeful statement that fifty years from now people will honor our contribution. An essential aspect of that is that you have to honor what people did fifty years ago because they had the same hope.

I am pleased this had a happy resolution, and my thanks to all concerned.

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#### Item 5: City Librarian's Report

Anonymous Citizen: Stop the Hate, Stop the Ignorance – Don't give or accept money from the Friends & Foundation.

The overarching issue is abandonment of overdue notices.

The Supervisors at their meeting of May 24, approved \$360,000 from the Library Preservation Fund's "Available Fund Balance," what we call the "reserve." While not much money, it will seem a lot when you can't keep up Sunday hours, the book budget, or overdue notices. It should have come before you just in terms of public notice.

On May 9, the Ethics Commission received a request from your library administration to change the Incompatible Activities policy never approved by you. The Incompatible Activities policy you approved on July 15, 2004, was never rescinded or superseded.

Jill Bourne explained that the 2004 policy had insufficient input from the library staff and too much input from the public, as if the process was not exclusive enough. The issue is public notice and due consideration.

Ray Hartz, Director San Francisco Open Government: The memorandum from City Attorney's Office is NOT A LEGAL OPINION! In fact, it's not even a well worded memorandum! This memo is simple a restatement of the City Attorneys self-serving interpretation of the Sunshine Ordinance from the Good Government Guide. Like it or not the Sunshine Ordinance is a law and the law states that the Sunshine Ordinance Task Force is the body that has the authority and responsibility for determining what the law means. In the tortured wording of the memorandum: "While not the Sunshine Ordinance does not require the cross reference, it will facilitate public access to written summaries of comments." The reason the ordinance does not require the cross reference is because the actual wording of the law, appearing earlier in the same memorandum, directs that the statements "If no more than 150 words, be included in the minutes." It's that simple!

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Item 7: Approval of the Minutes (April 25, 2011)

Anonymous Citizen: Stop the Hate and Ignorance – Don't give money to, or accept money from the Friends & Foundation.

This was the joint meeting with the Recreation and Park Commission and there should be joint minutes. There is a caveat that this is only showing library commission actions. I don't know what rationalization that could have. I suppose there is some concern by the Recreation and Park Commission about having citizen summaries attached to joint minutes, but that is their problem.



The minutes are pretty good. The request of Commissioner Kane that the wording for citizen summaries "See addendum included in the minutes" is no longer there.

My nice reference to Ray Clary is also missing, but otherwise not so bad.

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Item 8: Approval of the Minutes (May 5, 2011)

Anonymous Citizen: Stop the Hate and Ignorance – Don't accept money from the Friends & Foundation.

Commissioner Randlett is listed as excused, but it was announced that she was expected. One cannot be expected and excused at the same time. The terminology used to be "asked to be excused."

The comment of the anonymous citizen is backwards. The story about Commissioner Chin saying "shut up" was first and the dismissive purposes of the public comment fund was after that.

Page 3 states that Commissioner Breyer asked about the "last two questions." What two questions? This is an example of Mr. Breyer not getting an answer. He asked about pornography visible to school children, not censorship on the terminals.


Page 8 is where Commissioner Kane asked that going forward the wording for reference to the citizen summaries should be "see addendum included at the end of the minutes." This was followed once on May 19, and not again.



"Sue A. Blackman"  
<sblackman@sfpl.org>  
08/16/2011 01:56 PM

To "sotf@sfgov.org" <sotf@sfgov.org>, Luis Herrera  
<lherrera@sfpl.org>, "rwhartzjr@sbcglobal.net"  
<rwhartzjr@sbcglobal.net>  
cc  
bcc

Subject Complaint # 11055

History:  This message has been forwarded.

August 16, 2011

Members, Sunshine Ordinance Task Force  
c/o Chris Rustom  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**Re: Complaint #11055 Ray W. Hartz v. Library Commission**

Dear Task Force Members:

This letter responds to Complaint #11055, which was signed by Ray Hartz on July 26, 2011 and sent to the San Francisco Public Library ("SFPL" on August 2, 2011. For the reasons set forth below, the complaint is without merit and should be dismissed.

**The Complaint**

The complaint alleges that Luis Herrera, the SFPL Librarian, violated Section 67.21 (c) of the Administrative Code for failure to assist a member of the public's request for assistance in identifying documents in the Library's custody and for failure to respond appropriately or on a timely basis.

On Thursday evening, July 21, 2011 at the Library Commission an Immediate Disclosure Request (IDR) was handed to the City Librarian by Mr. Hartz. SFPL acknowledged Mr. Hartz' request on Monday, July 25, 2011 and provided Mr. Hartz with two separate PowerPoint presentations and the Public-Private Support and Cooperation Framework for Branch Library Improvement Program (Framework document). We also identified another document, the Annual Report for 2007-08 and 2008-09 by SFPL and the Friends of SFPL, which he might be interested in perusing. While SFPL requested a 14-day extension to identify additional types of documents that SFPL might have, SFPL did in fact respond to Mr. Hartz' request in an appropriate and timely manner.

Mr. Hartz responded on July 26, 2011 stating that our response was non-responsive. We replied on July 16, 2011 and disagreed with Mr. Hartz' characterization of our timely response. Notwithstanding Mr. Hartz' allegations, SFPL continued to research his request.

Based on documents SFPL provided i.e. the two PowerPoint presentations and Framework document, Mr. Hartz submitted a subsequent IDR on July 28, 2011. Mr. Hartz' July 28, 2011 IDR referred to the Framework document and requested the Friends' "independently prepared audits" for years 2008, 2009 and 2010. We responded to his request following day on July 29,

2011, with the "independently prepared audits" documents: The Friends and Foundation of the San Francisco Public Library/Financial Statements for the Years Ended June 30, 2010 and 2009/Report of Independent Auditors," and "The Friends and Foundation of the San Francisco Public Library/Financial Statements for the Years Ended June 30, 2009 and 2008/Report of Independent Auditors."

On August 4, 2011, (see attached) we followed up again and listed four additional documents which might be responsive to his first request.

### **Conclusion**

The Library believes it has fully complied with Administrative Code Section 67.21(c) in assisting Mr. Hartz to identify records and information that are responsive to his request or purpose of his request and we believe this Complaint should be dismissed.

We hope this letter will be of assistance to the Task Force. If I can be of further assistance with respect to this Complaint, please do not hesitate to contact me.

Sincerely,

Sue Blackman  
Custodian of Records,  
Library Commission Secretary  
San Francisco Public Library  
100 Larkin Street  
San Francisco, CA 94102-4733  
415.557.4233

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8.4.11 response.pdf

## Sue A. Blackman

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**From:** Sue A. Blackman  
**Sent:** Thursday, August 04, 2011 1:38 PM  
**To:** rwhartzjr@sbcglobal.net  
**Subject:** IDR response

August 4, 2011

Ray W. Hartz, Jr.  
839 Leavenworth Street, Apt. 304  
San Francisco, CA 94109-6131  
Via email: [rwhartzjr@sbcglobal.net](mailto:rwhartzjr@sbcglobal.net)

Re: Immediate Disclosure Request

Dear Mr. Hartz:

I am writing in response to your immediate disclosure request hand delivered at the Library Commission meeting on Thursday, July 21, 2011. On July 25, 2011 we responded and provided you with several documents: two PowerPoint presentations given by the Friends to the Library Commission on March 5, 2009 and February 3, 2011 and the Public-Private Support and Cooperation Framework for Branch Library Improvement Program and Neighborhood Library Campaign. We also asked for a 14 day extension to allow us time to identify additional documents, which would be responsive to your request.

In your request you ask for assistance in accordance with Sunshine Ordinance Sec. 67.21 in identifying "documents regarding the financial relationship of the San Francisco Public Library (SFPL) with the Friends (Friends) of the San Francisco Public Library. Specifically the amounts raised by the Friends during the fiscal years 2008 to 2009 and 2009 to 2010 and the amounts received by the SFPL from the Friends during those same periods. The figures relating to receipts by the SFPL should contain enough information to ascertain the exact value, either in cash or in kind of all monies and/or materials actually received by the library during the two fiscal years indicated."

You followed up with another Immediate Disclosure Request on July 28, 2011 requesting the "independently prepared audits" for fiscal years 2008-09 and 2009-10." We responded to your request on July 29, 2011 with the documents you requested.

The Library has conducted a diligent search and has identified four additional documents which may be responsive to your request. These documents are the Friends Grant Funding Report; Check Voucher Register; Temporary Restricted Fund Balance and Traditionally Funded Grants.

If you have further questions about this matter, please feel free to contact me.

Sincerely,

Sue Blackman  
Library Commission Secretary/ Custodian of Records

San Francisco Public Library  
100 Larkin Street

San Francisco, CA 94102-4733  
415.557.4233