

Date: August 23, 2011

Item No. 14 & 15

File No. 11055

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. 11055: 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 appropriately respond to his July 21, 2011 Immediate Disclosure Request ("IDR") pursuant to Ordinance section 67.21(c) for assistance in identifying the existence form and nature of documents related to the financial relationship of the Library with the Friends of the San Francisco Public Library ("Friends").

COMPLAINANT FILES COMPLAINT:

On July 26, 2011, Mr. Hartz filed a complaint with the Task Force alleging a violation of Section 67.21 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 67.21 governs responses to a public records request, including assistance to a requester of records.
- Section 67.25 governs immediacy of response.

APPLICABLE CASE LAW:

None.

ISSUES TO BE DETERMINED

Uncontested/Contested Facts: Mr. Hartz alleges that on July 21, 2011, he made an Immediate Disclosure Request TO Luis Herrera, City Librarian, for assistance under Section 67.21(c) of the Ordinance in identifying the existence, form, nature, and location of documents

Memorandum

DATE: August 17, 2011

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RE: *Complaint No. 11055: Ray Hartz v. Library, et al.*

related to the financial relationship of the Library with the Friends, including whether those records are exempt from disclosure, with enough specificity to enable a requester to identify records and make a request for them. Specifically, Mr. Hartz alleges he made this request with regard to amounts raised by Friends during fiscal years 2008-2009 and 2009-2010 and the amounts received by the Library from Friends during those same periods. Mr. Hartz further alleges that his request specified that the records should have sufficient specificity to allow the reader to ascertain the exact monetary value of any donations involved.

Mr. Hartz provided the letter response of the library to his IDR, which was dated July 25, 2011. The Library's response stated that Mr. Hartz's request did not meet the criteria for an IDR and therefore would be treated like a standard request. The Library further stated that the request would require it to do a search of voluminous and off-site records and therefore it was invoking a 14-day extension of the normal 7-day response time. This letter also included several identified documents which it asserted were responsive to the IDR.

Mr. Hartz alleges that the July 25, 2011 response of the Library "provided nothing of substance responsive to the request." Mr. Hartz further alleges that the invocation of a 14-day extension was improper because Ms. Blackman had failed to assist him in limiting the request. Finally, Mr. Hartz specifically alleges that the complaint is against Mr. Herrera, who remains responsible for Ms. Blackman's response since he delegated responsibility to her for it.

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. Specifically, the Library notes that it provided documents to Mr. Hartz on July 25, 2011 which would help him identify documents related to his proposed request: two separate PowerPoint presentations; the Public-Private Support and Cooperation Framework for Branch Library Improvement Program (Framework document); and the Annual Report for 2007-08 and 2008-09 by the Library and the Friends. The Library further notes that, after providing these documents, it continued to search for other documents that might prove helpful to Mr. Hartz in his request. While that search was occurring, Mr. Hartz made a public records request on July 28, 2011, for records that were identified in some of the documents the Library provided to Mr. Hartz on July 25, 2011.

The Library further alleges that

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."

Based on these allegations, the Library argues that it has complied with Section 67.21(c), and that it has appropriately assisted Mr. Hartz in identifying documents that might be responsive to his area of interest. The Library therefore requests the Complaint be dismissed.

Memorandum

DATE: August 17, 2011

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RE: *Complaint No. 11055: Ray Hartz v. Library, et al.*

LEGAL ISSUES/LEGAL DETERMINATIONS:

- Was the July 25, 2011 response of the Library timely?
- Did the Library or Mr. Herrera violate Section 67.21(c) of the Ordinance?

SUGGESTED ANALYSIS

Under Section 67.21(c) of the Ordinance:

- Determine whether Ms. Blackman's July 25, 2011 letter response assisted Complainant in the manner required by Section 67.21(c).
- If not, determine whether Mr. Herrera is legally responsible under the Ordinance for Ms. Blackman's failure.

Under Section 67.21 and 67.25 of the Ordinance:

- Determine whether the Library timely responded to any records request.

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

DATE: August 17, 2011

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RE: *Complaint No. 11055: Ray Hartz v. Library, et al.*

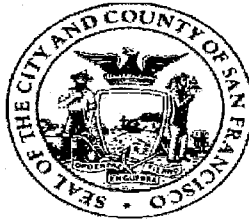
ATTACHED STATUTORY SECTION FROM CHAPTER 67 OF THE SAN FRANCISCO ADMINISTRATIVE CODE UNLESS OTHERWISE SPECIFIED**SEC. 67.21. PROCESS FOR GAINING ACCESS TO PUBLIC RECORDS; ADMINISTRATIVE APPEALS.**

(b) A custodian of a public record shall, as soon as possible and within ten days following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered to the office of the custodian by the requester orally or in writing by fax, postal delivery, or e-mail. If the custodian believes the record or information requested is not a public record or is exempt, the custodian shall justify withholding any record by demonstrating, in writing as soon as possible and within ten days following receipt of a request, that the record in question is exempt under express provisions of this ordinance.

(c) A custodian of a public record shall assist a requester in identifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within seven days following receipt of a request, a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request under (b). A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person.

SEC. 67.25. IMMEDIACY OF RESPONSE.

(a) Notwithstanding the 10-day period for response to a request permitted in Government Code Section 6256 and in this Article, a written request for information described in any category of non-exempt public information shall be satisfied no later than the close of business on the day following the day of the request. This deadline shall apply only if the words "Immediate Disclosure Request" are placed across the top of the request and on the envelope, subject line, or cover sheet in which the request is transmitted. Maximum deadlines provided in this article are appropriate for more extensive or demanding requests, but shall not be used to delay fulfilling a simple, routine or otherwise readily answerable request.



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 7/25/11

Sunshine Ordinance Section 67.21(c) FAILURE TO ASSIST
(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

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 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

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).

Tuesday, July 26, 2011

On Thursday, July 21, 2011 an Immediate Disclosure Request was filed with Luis Herrera, City Librarian. The request was for assistance in identifying documents in Mr. Herrera's custody which would provide information relating to the financial relationship between the Friends of the San Francisco Public Library and the San Francisco Public Library. On Monday, July 25, 2011, I contacted Ms. Blackman, Secretary of the Library Commission regarding this request which was delegated to her by Mr. Herrera. I attempted to clarify that my request was specifically for assistance in identifying documents, which would enable me to make a specific request for specific documents.

Ms. Blackman responded by close of day on Monday, July 25, 2011. Her response contained nothing of substance responsive to the request. Documents provided were for time periods not requested and included other information not requested. In addition, Ms. Blackman invoked a 14 day extension to answer the request without making any good-faith effort to assist me in limiting the request. My intent was, and remains, acquiring public records in the least demanding and/or complicated way possible. It was never my intent to ask for everything, but to get assistance in identifying documents which would provide needed information with minimal use of city resources.

This complaint is specifically against Luis Herrera, to whom the request was submitted. Mr. Herrera delegated the response to Ms. Blackman and she subsequently failed to respond appropriately or on a timely basis.

IMMEDIATE DISCLOSURE REQUEST

Thursday, July 21, 2011

Luis Herrera, City Librarian

Mr. Herrera,

In accordance with Sunshine Ordinance Sec 67.21, I am requesting your assistance in "identifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within seven days of a request, a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request under (b). A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person."

This request is for documents regarding the financial relationship of the San Francisco Public Library with the Friends of the San Francisco Public Library. Specifically the amounts raised by the Friends of the San Francisco Public Library during the fiscal years 2008 to 2009 and 2009 to 2010 and the amounts received by the San Francisco Public Library from the Friends of the San Francisco Public Library during those same periods. The figures relating to receipts by the San Francisco Public Library 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.

Sincerely,

Ray W. Hartz, Jr.

839 Leavenworth St, Apt 304

San Francisco CA 94109-6131

(415) 345-9144

rwhartzjr@sbcglobal.net

IMMEDIATE DISCLOSURE REQUEST

San Francisco, CA 94102-4733
415.557.4233

Official SFPL Use Only

Official SFPL use only

From: Sue A. Blackman (sblackman@sfpl.org)
To: rwhartzjr@sbcglobal.net;
Date: Mon, July 25, 2011 4:24:43 PM
Cc:
Subject: IDR response

July 25, 2011

Ray W. Hartz, Jr.
839 Leavenworth Street, Apt. 304
San Francisco, CA 94109-6131
Via email: 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. In order for the Library to more efficiently respond to any requests in the future, please see the attached Procedures for Public Records Request.

Your request is not "simple, routine or otherwise readily answerable" and does not meet the criteria for "immediate disclosure" under the San Francisco Sunshine Ordinance. (S.F. Adm. Code Sec. 67.25(a).) Accordingly, it is a standard public records request not subject to the expedited time limit for response that applies to an immediate disclosure request. Further, we must invoke an extension of 14 days because your request is voluminous, and we will have to retrieve records from off-site storage to respond to the request (Cal. Gov. Code Sec. 6253(c)).

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 case or in kind of all monies and/or materials actually received by the library during the two fiscal years indicated."

The Library is conducting a diligent search to identify documents responsive to your request. We have located two PowerPoint presentations given by the Friends to the Library Commission on March 5, 2009 and February 3, 2011, which are attached. Also attached is the Public-Private Support and Cooperation Framework for Branch Library Improvement Program and Neighborhood Library Campaign, "Framework" between SFPL and Friends. Other documents available for review are the 2007-08, 2008-09 Annual Report of the SFPL and Friends.

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

<http://us.mg201.mail.yahoo.com/dc/launch?.partner=sbc&.gx=0&.rand=8ppn98lv00hgu>

7/26/2011

Home > About > Rules and Procedures > Procedures for Public Records

Procedures for Public Records Requests

The San Francisco Public Library has issued these procedures to improve its ability to provide public records under the San Francisco Sunshine Ordinance, SF Administrative Code Chapter 67, and the California Public Records Act, Government Code Section 6250 et seq. These procedures ensure that all persons seeking Library records will receive prompt, accurate and courteous service without disrupting Library staff's other operational duties.

Procedures for Public Records Requests

- All public records requests shall be directed to the Library's Custodian of Records who will coordinate the Library's response. Members of the public should not enter nonpublic staff areas or direct a public records request to staff other than the designated Custodian of Records.
- Requests shall be directed to the Custodian of Records in the following ways:
 - By voice mail: 415-557-4233;
 - By email: sblackman@sfppl.org;
 - By fax: 415-557-4240;
 - or in person at the Main Library, 100 Larkin Street, Room 681.
- Written requests may be made on the Library's Public Records Request Form (PDF 91K) or by self-drafted inquiry. Requests must include a telephone number or other method for the Custodian of Records to contact the requesting party to clarify a request and/or advise the requesting party when records are ready.
- Records may ordinarily be reviewed and copies picked up in the Main Library, Room 681, Monday through Friday, from opening of the Main Library (opening hours vary) until 4 P.M., or by appointment. Requests received after 4 P.M. will be processed on the following business day.
- Records will be made available for reviewing in a library-designated area. Responsive records will be held for review for 5 business days after the requesting party has been notified (unless other arrangements are made in advance) and will then be returned to the appropriate files or to storage.
- The requesting party will be notified as soon as copies are available. Payment is required before releasing copies of requested records.

Costs

- *Reviewing Documents:* There is no charge to review records.
 - *Copying:* 10 cents per page, 20 cents per page for 2-sided copies, or 1 cent per page for records routinely produced in multiple copies for public distribution. Copies of unusual format records may be obtained at the cost of reproduction.
 - *Recordings:* \$3.00 per videotape or DVD or \$1.50 per audiotape.
 - *Postage:* Requesting party shall prepay all postage or delivery costs.
-

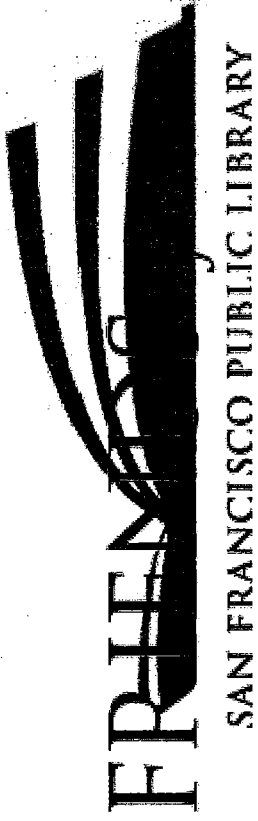
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SAN FRANCISCO PUBLIC LIBRARY

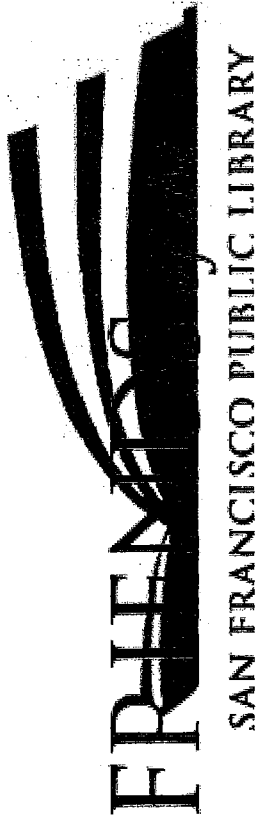
Budget Presentation
to the
San Francisco Library Commission

March 5, 2009



Annual Budget FY 07/08

Total Revenue: \$4,069,999



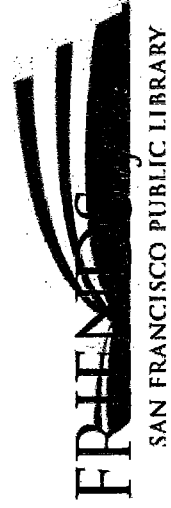
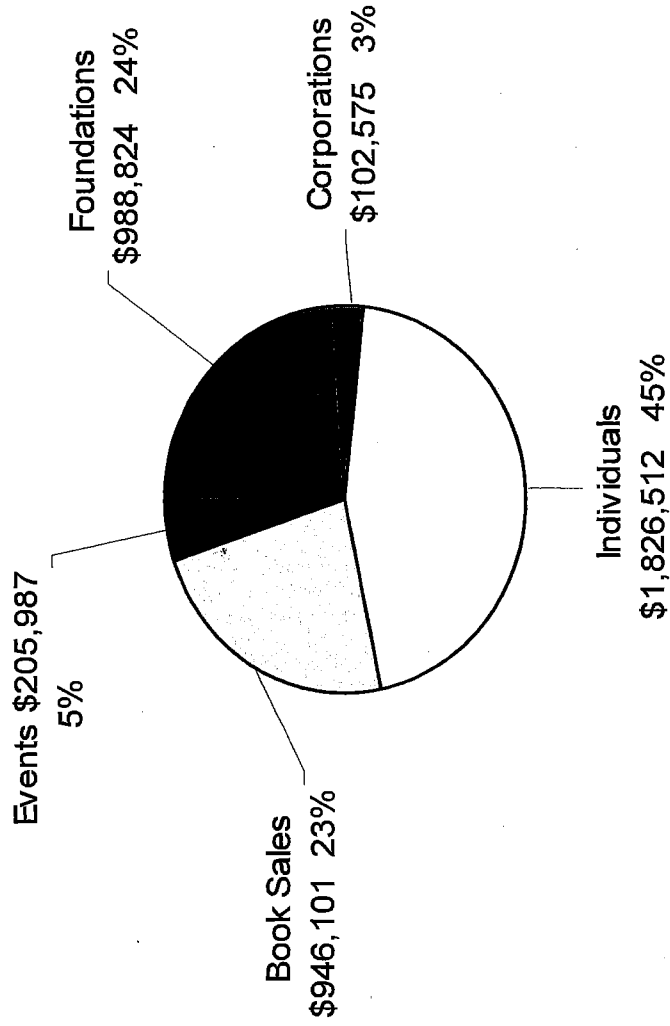
Annual Budget FY 07/08

Total Revenue: \$4,069,999

Total Expenses: \$7,201,597

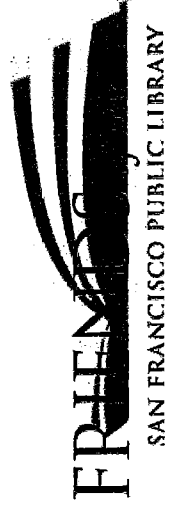
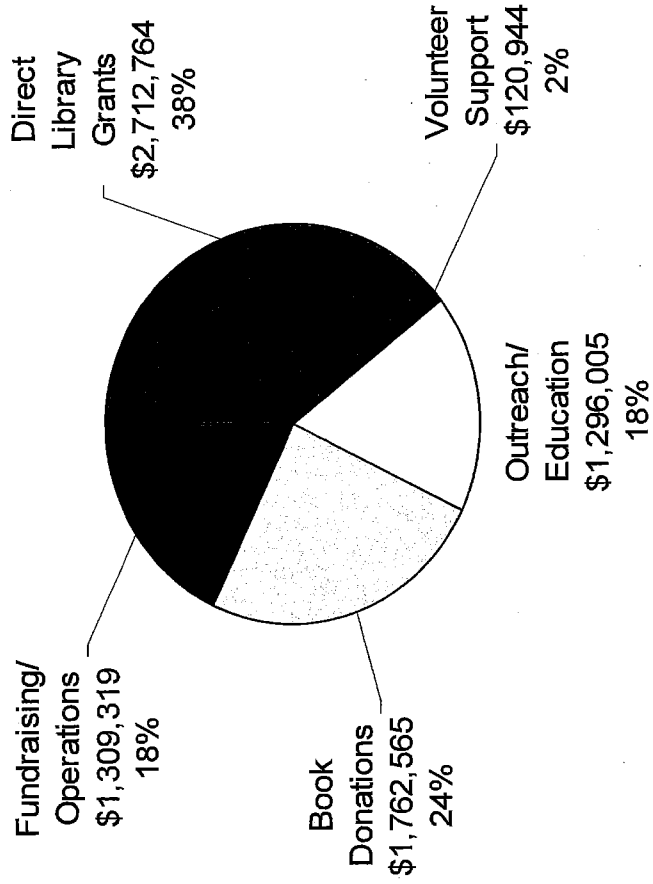
Where it comes from...

Revenue Composition



Where it goes...

Expense Composition



SAN FRANCISCO PUBLIC LIBRARY

Breakdown of Library Support

□ Direct Library Capital Support:

□ \$1,361,609

□ Direct Library Program Support:

□ \$1,351,155

Programs we support at the Library

- Summer Reading Program
- One City, One Book
- At the Library Publication
- Children's Programming
- Teen Services and Programs
- Affinity Centers and Departments
 - Hormel GLBT Center
 - Blind Services
 - African American Center
 - Wallace Stegner Center
 - Project Read
- And many more

Other Friends Programs and Activities

□ **International Poetry Festival**

□ **Big Book Sale**

□ **Poets Eleven**

□ **Author events and lectures**

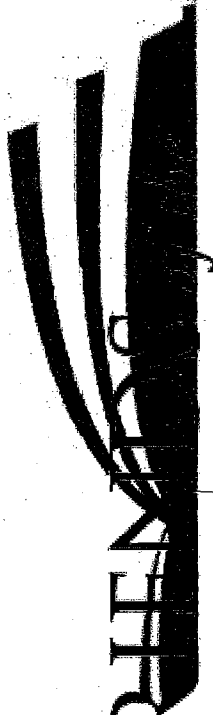
□ **Partnerships**

■ Litquake, Porchlight, Grotto, 826 Valencia

■ Independent Bookstores

■ Evolve 2009

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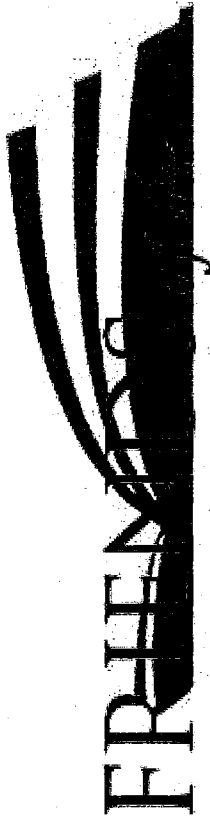
SAN FRANCISCO PUBLIC LIBRARY

Presentation

to the

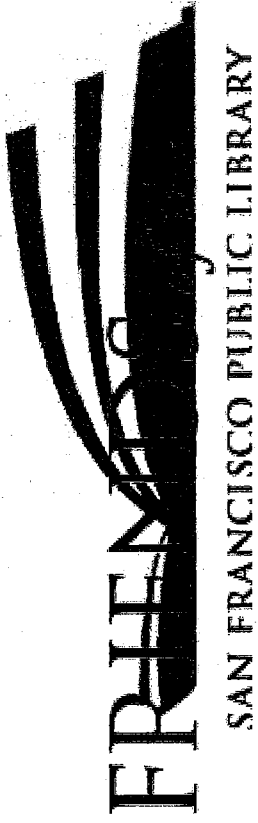
**San Francisco Public Library
Commission**

February 3, 2011



SAN FRANCISCO PUBLIC LIBRARY

Friends of the San Francisco Public Library supports the free public libraries of San Francisco. We provide funding and conduct advocacy and outreach to ensure that all people have equal access to the information, resources and support that our libraries provide. We believe that libraries are anchors for thriving neighborhoods, and that an excellent public library system is critical to the health of our city.

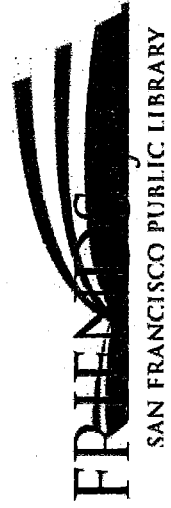
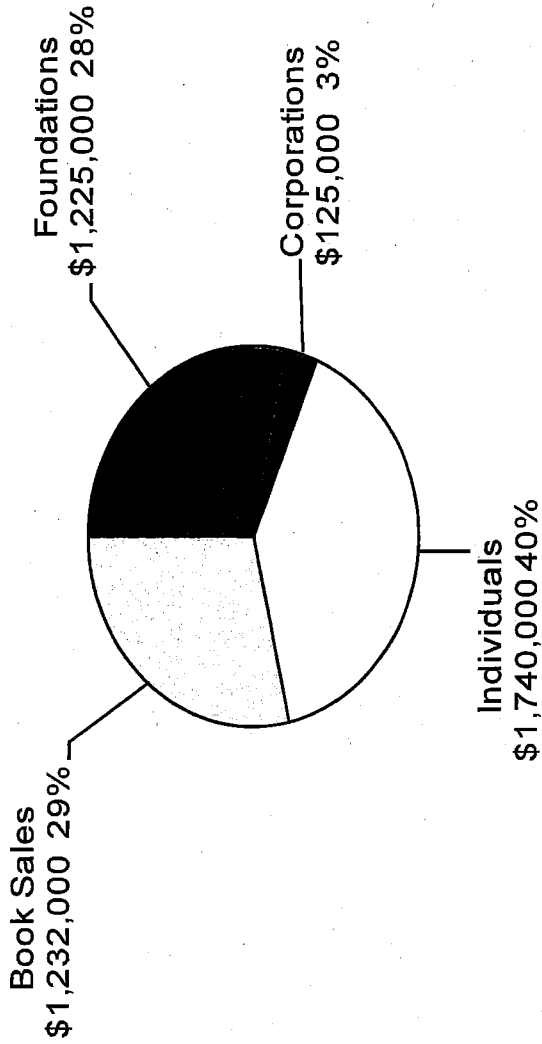


Annual Budget FY 10/11

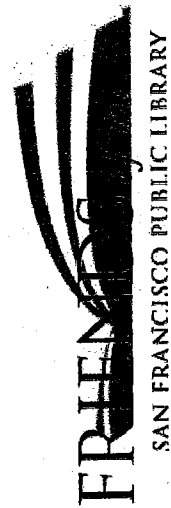
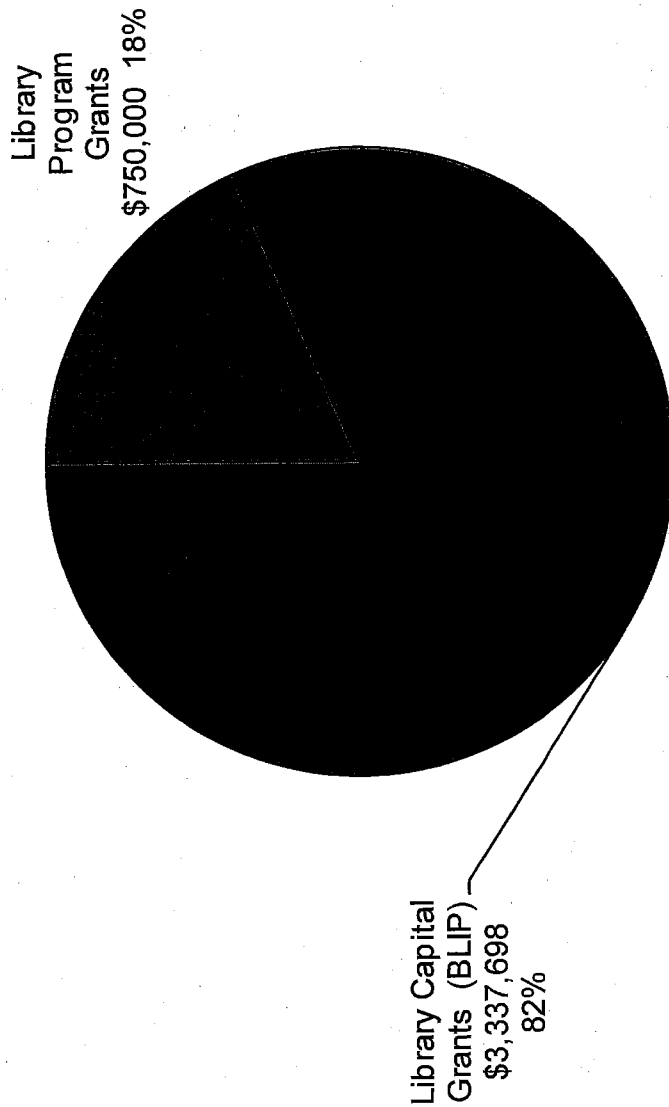
**Total Grant Support:
\$4,087,698.00**

Where our funding comes from...

Revenue Composition



What it Supports...



Breakdown of Library Support

□ Library Capital Support:

□ \$3,337,698.00

□ Library Program Support:

□ \$ 750,000.00

Grant Funding 2005 - 2010

□ Direct library support grants

- Capital (BLIP) \$2,959,186
- Program \$ 280,436

□ Indirect library support grants

- Capital (BLIP) \$4,112,438
- Program \$3,561,075

□ Total: \$10,913,135

Programs we support at the Library

- Summer Reading Program
- One City, One Book
- At the Library Publication
- Children's Programming
- Teen Services and Programs
- Senior Programs
- Affinity Centers and Departments
 - Hormel LGBT Center
 - Blind Services
 - African American Center
 - Wallace Stegner Environmental Center
 - Project Read
- And many more

More ways Friends gives to SFPL

- Volunteers**
- Books and Materials for Collections**
- Expertise and Support**

Other Friends Programs and Activities

□ Advocacy and Community Outreach

□ Big Book Sale

□ Poets Eleven

□ Author Events and Lectures

□ Partnerships

- Literary Community
- Schools and Education
- Environment, Recreation, Arts and Culture

Thank You!!!



SAN FRANCISCO PUBLIC LIBRARY

PUBLIC-PRIVATE SUPPORT AND COOPERATION FRAMEWORK FOR
BRANCH LIBRARY IMPROVEMENT PROGRAM AND NEIGHBORHOOD
LIBRARY CAMPAIGN

This PUBLIC-PRIVATE SUPPORT AND COOPERATION FRAMEWORK ("Framework") is entered into as of September 30, 2005, by and between the San Francisco Public Library ("Library") and the Friends of the San Francisco Public Library ("Friends"), a California non-profit public benefit corporation (each of the foregoing, a "party," and collectively, the "parties").

RECOGNIZING the history of cooperation between the parties on capital and operational projects, and desiring to set forth their understanding for their mutual undertakings in furtherance of the Branch Library Improvement Program and Neighborhood Library Campaign, the parties desire to enter into this Framework as follows:

ARTICLE 1

Background

1.1 Library Department. The Library is a City and County of San Francisco, California ("City") Department under the management and control of the San Francisco Public Library Commission ("Commission") and its executive director, the City Librarian. The Library's mission is to provide free and equal access to information, knowledge, independent learning and to promote the joys of reading for the City's diverse community.

1.2 Friends of the San Francisco Public Library. Friends is a non-profit 501(c)(3) corporation, created from the merger of the Friends of the San Francisco Public Library and the Library Foundation of San Francisco. The Friends' mission is to create, steward and support a superior, free public library system in San Francisco by funding programs and services beyond what is allocated in the City's budget in order to ensure free and equal access to information for all. Friends' fundraising is intended to supplement the funding for the San Francisco Public Library and not to replace traditional sources or levels of City funding.

1.3 Statement of Common Purpose. The parties share the common objectives of developing and maintaining the highest level of Library service for all of the City's residents, ensuring an adequate level of finance to maintain equipment and programming at appropriate levels, and making and keeping Library facilities seismically safe, in good repair, and fully accessible to all persons (the "Common Purpose"). The parties, through Friends' predecessor organizations, have worked together for over forty years in many capacities in furtherance of the Common Purpose. For instance, each year Friends donates over \$750,000 to support the Library's on-going projects and new initiatives that benefit a wide public interest. Friends, through its predecessor organizations, raised and donated more than thirty million dollars for furniture, fixtures, equipment and other costs associated with the New Main Library.

1.4 Contemplated Project. In furtherance of its mission, the Library is undertaking the Branch Library Improvement Program ("BLIP") which will seismically reinforce, make accessible and renovate nineteen branch library facilities, replace four rented facilities with new, City-owned facilities, add a branch in the new Mission Bay neighborhood, and relocate its technical services division from the New Main into a separate facility. BLIP is funded by voter approved general obligation bonds in the

amount of \$105.9 million, and additional state matching grants totaling \$9.7 for the Richmond and Ingleside Branch Library improvements. City approved funding may not be used for furniture, fixtures and equipment and many other costs necessary to complete the BLIP. The Library and the Board of Supervisors developed and approved the BLIP budget and bond measure with the expectation that program costs ineligible for bond or state matching grant funding would be paid for by private donations solicited by the Friends. In furtherance of this mission, the Friends announced at the Commission's February 20, 2003 meeting that the Friends would undertake the Neighborhood Library Campaign to raise \$16 million for campaign costs and for the furniture, fixtures, and equipment and other unfunded BLIP costs. Hereinafter "Project" shall refer to the renovation and construction of twenty-four branch libraries and the support services building, including the furniture, fixtures and equipment and many other costs necessary to complete the BLIP that are either ineligible for bond or state matching grant funding or for which such funding is inadequate.

ARTICLE 2

Roles and Responsibilities

2.1 Joint Responsibilities. The parties shall develop a written budget and project funding and execution plan for the furniture, fixtures and equipment for each of the Library Facilities to be renovated or constructed as part of the Project (as may be amended from time to time, the "Project Plan"). The Parties shall meet regularly to refine and amend the Project Plan.

2.2 The Library Responsibilities. The Library shall have the primary responsibility to oversee and manage the Project including the following responsibilities:

(i) The selection of and contracting with consultants and contractors as necessary to complete the conceptual design and final design and construction of all facilities comprising the Project.

(ii) The selection of and contracting with consultants and contractors as necessary to complete the conceptual design and final design and specifications for furniture, fixtures, equipment and other unfunded costs of the Branch Library Improvement Program.

(iii) Development and implementation of regular maintenance schedules for all Project facilities, furniture, fixtures and equipment.

(iv) All public review and comment requirements with respect to the Project, obtaining all necessary governmental approvals in connection with the Project and the acceptance of gifts of funds, services or materials from Friends.

(v) The Library (or such other representative of the City as shall be designated by the Library) shall use all reasonable efforts to obtain allocations of public funds from the City, state and federal sources for use in connection with the Project.

(vi) The Library shall, upon request from Friends, assist Friends with private fundraising efforts to the extent reasonable.

2.3 Friends Responsibilities. The Friends shall have the primary responsibility to support and fund furniture, fixtures and equipment and other costs that are ineligible or

unavailable and are necessary to complete the Project up to a value of \$16 million, including the following responsibilities:

(i) Friends shall identify, solicit and provide private funds, goods or services as contemplated by the Project Plan. Subject to the Project Plan, Friends may, from time to time, (a) make direct purchases of goods, services and materials for, and related to, the Project and (b) deliver funds to the Library by commercially reasonable means acceptable to both parties or cause to be deposited such amounts into an account or accounts established for the Project in accordance with Article 3 below, in each instance in furtherance of the Project.

(ii) Friends shall recruit, train, organize and supervise volunteers in furtherance of the Neighborhood Library Campaign.

2.4 Reservation of Activities. The parties acknowledge that each of Friends and the Library has a distinct role and identity separate from the other. For instance, Friends has in the past advocated and intends in the future to advocate positions regarding matters of public interest independently from the Library. The parties, in the pursuit of their respective missions and goals and even in furtherance of the Common Purpose, recognize that each will foster relationships, pursue projects and enter into agreements with unrelated third parties without the participation of the other party.

2.5 Approval of Fundraising Materials. Friends shall obtain in advance the approval of the City Librarian of fundraising materials distributed on behalf of or in the name of the Library, which approval shall not be unreasonably withheld.

ARTICLE 3

Administration, Accounting and Use of Funds.

3.1 Establishment of Accounts. Friends shall account separately for funds held in respect of the Neighborhood Library Campaign, and may keep separately identified "sub-accounts" if such funds are further disaggregated pursuant to the Project Plan or for Neighborhood Library Campaign purposes. Funds designated for specific Project purposes shall only be used for such purposes.

3.2 Disbursement of Funds. Friends and the City Librarian shall establish a reasonable payment schedule for each element of the Project Plan. The Friends shall grant such funds to the Library or pay such costs directly to the vendor, as agreed upon by the Friends and City Librarian.

3.3 Instruments of Credit. The parties acknowledge that, under current provisions of the City's Charter, the City may not award a contract unless and until the Controller of the City certifies that funds are available to support such contract. The parties agree to cooperate to satisfy such requirements of the City's Charter, as may be amended from time to time, including the establishment of separately identified accounts, the provision of letters or instruments of credit or other supporting documentation from Friends.

3.4 Friends' Administration of Funds. In order to offset administrative costs and expenses in connection with the Neighborhood Library Campaign, Friends shall, subject to the conditions of any grant, donation or law to the contrary, have the right to assess and collect a reasonable administrative fee on funds received or expended in connection with the Neighborhood Library Campaign. Nothing in this Framework shall require

Friends to pay interest earned on any funds held in respect of the Neighborhood Library Campaign or this Framework.

3.5 Acceptance of Gifts by the City. Friends shall provide the Library with reasonable advance written notice of the terms and conditions of any proposed pledges or gifts that could impose financial or other obligations or liabilities on the City. With respect to disclosure of gift and donor information, both parties agree to comply with all applicable laws, including any applicable provision of Chapter 67 of the San Francisco Administrative Code (the "Sunshine Ordinance"). The City's final acceptance of funds raised by Friends shall be subject to approval by the Library and, if and only to the extent required by Chapter 10 of the City's Administrative Code, the Board of Supervisors of the City.

3.6 City Right to Audit. Friends shall keep and maintain standard accounting controls and procedures. Friends will provide the Library or its designee with quarterly reports of its cash, pledges and other sources of funding. On an annual basis, Friends shall deliver to the City's Controller and the Library's City Librarian an independently prepared audit of all Friends' operations. Upon reasonable prior written notice to Friends, the City shall have the right to audit and inspect Friends' records and accounts with respect to the Project Plan or the Neighborhood Library Campaign; provided, however, that such right to audit or inspection may be exercised not more frequently than once every 12 months. The parties acknowledge that, in acting as fiscal agent within the scope of the Project Plan, Friends may agree to more restrictive or onerous provisions than those provided in this Section 3.6 and, in such instance, as between the parties, the terms of such fiscal agency agreement shall supersede the provisions hereof.

3.7 Use of Library Facilities for Fundraising Events. Subject to the Library's rules and policies and any permit, license or other requirements imposed by the City, the Library shall make Library Facilities generally available upon prior reasonable approval by the City Librarian or his designee for use by Friends free of charge for the purpose of fundraising. The parties agree that Friends' fundraising pursuant to this Section may be for the benefit of Friends, the Library, the Neighborhood Library Campaign or the Project Plan and that any proceeds of such fundraising, net of direct costs for such fundraising, direct costs paid to the Library for such event and Friends' reasonable administration fee, shall be used (i) if advertised, represented or marketed as being held for a specific purpose, for such express purpose, or if no such purpose is expressed, then (ii) in furtherance of the Common Purpose.

3.8 Use of Library Facilities for Non-Fundraising Events. Subject to the Library's rules and policies and any permit, license or other requirements imposed by the City, the Library shall make Library Facilities generally available upon prior reasonable approval by the City Librarian or his designee and, as applicable, by the Commission for use by Friends for purposes other than fundraising, such as training, receptions, meetings or events. The parties anticipate that such usage would not exceed four (4) times per year. The Library may, but is not obligated to, charge Friends a fee equal to the direct costs to the Library for such use of the Library Facilities, but shall not charge any other fee for such use.

ARTICLE 4

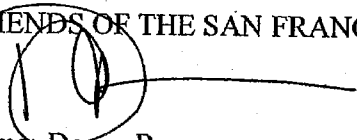
General

4.1 Term and Termination. This Framework shall commence on the date first set forth above and continue until the completion of the BLIP and Neighborhood Library Campaign, whichever occurs first, unless sooner terminated by written notice by either party to the other party.

4.2 Further Assurances. Each party agrees, subject to any limitations in the City's charter, ordinances or rules, to do such other acts and things as the other party may reasonably request for the purpose of carrying out the intent of this Framework. Without limitation to the foregoing, the parties contemplate that the City, acting through the City Librarian and/or the Commission, and Friends shall enter into appropriate agreements from time to time in conformity with the understandings set forth in this Framework.

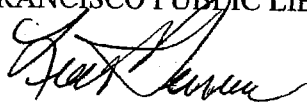
IN WITNESS WHEREOF, the parties have executed this Framework as of the date first above written.

FRIENDS OF THE SAN FRANCISCO PUBLIC LIBRARY



Name: Donna Bero
Title: Executive Director

SAN FRANCISCO PUBLIC LIBRARY



Name: Luis Herrera
Title: City Librarian




"Sue A. Blackman"
<sblackman@sfpl.org>
08/16/2011 11:50 AM

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

cc

bcc

Subject Response to Complaint #11054 Ray W. Hartz v. Library
Commission

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 #11054 Ray W. Hartz v. Library Commission

Dear Task Force Members:

This letter is in response to Complaint #110054 ("Complaint"), which was filed by Ray Hartz on August 2, 2011 against the San Francisco Public Library Commission (the "Commission"). For the reasons set forth below, the complaint is without merit and should be dismissed.

The Complaint

The Complaint alleges that the Commission violated Section 67.16 of the Administrative Code when it approved the meeting minutes for May 19, 2011 and June 16, 2011. The complainant states that "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 (SOTF) (Determination #10054 Ray Hartz vs. Library Commission)."

SOTF Order of Determination #10054 noted that "placing the 150 word statement as an addendum was acceptable if it was mentioned in the body of the minutes." Specifically, the Order of Determination #10054 found that the Commission violated Section 67.16 "for attaching the statement as an addendum and not placing it within the body of the minutes."

The Commission accepted the Order of Determination and places the 150 word statement as an addendum with a reference in the body of the minutes. This issue was referred to the Compliance and Amendments Committee and referred back to the full SOTF on June 28, 2011. A letter of referral for enforcement of Order of Determination No. 10054 was sent to the Ethics Commission on August 15, 2011.

The Library Commission continues to maintain that its current practice does not violate Administrative Code Section 67.16, which sets forth the requirements for meeting minutes. Charter commissions are required to include a number of requirements in the meeting minutes, including "any person speaking during a public comment period may supply a brief written

summary of the comments which shall, if no more than 150 words, be included in the minutes.” Consistent with the SOTF previous rulings, the Commission “plac(es) the 150 word statement as an addendum with a reference in the body of the minutes.

The Complainant erroneously believes that the Library Commission is required to include the summaries “in the body of the minutes.” The Good Government Guide 2010-11 Edition page 134 states: “The Sunshine Ordinance allows any person who spoke during a public comment period at a meeting of a Charter board or commission to supply a brief written summary of the comments to be included in the minutes if it is 150 words or less. Admin. Code Sec. 67.16. The summary is not part of the body’s official minutes, nor does the body vouch for its accuracy; and the minutes may expressly so state. The summary may be included as an attachment to the minutes. The policy body may reject the summary if it exceeds the prescribed word limit or is not an accurate summary of the speaker’s public comment.”

In addition to following the Good Government Guide, the Library Commission requested a legal opinion from the City Attorney’s Office as to whether the Library Commission is legally required to include the 150 word summary in the body of the minutes. The City Attorney’s Office reiterated that including the 150 word summary in the body of the minutes was not a legal requirement. But, recommended that the text of the minutes cross-reference the attachment so as to direct the reader to the attachment the commenter’s summary. While the Sunshine Ordinance does not require the cross-reference, the City Attorney’s Office believes the practice will facilitate public access to written summaries of comments.

Conclusion

Nothing in the Commission Minutes of May 19, 2011 or June 16, 2011 violates the law. To the contrary, the Commission places the 150 word statement as an addendum and mentions it in the body of the minutes in accordance with SOTF previous determinations and advice of the City Attorney’s Office. Since the SOTF has previously ruled on a similar issue, we see no reason why this issue should be heard again.

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

Official SFPL use only



150 summary CA memo.doc



DENNIS J. HERRERA
City Attorney

ALICIA CABRERA
Deputy City Attorney

DIRECT DIAL: (415) 554-4673
E-MAIL: alicia.cabrera@sfgov.org

MEMORANDUM

TO: Library Commission
FROM: Alicia Cabrera
Deputy City Attorney
DATE: June 1, 2011
RE: 150 Word Summary

You have asked the City Attorney's Office to for advice on the following sentence in Section 67.16 of the Sunshine Ordinance: "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." (S.F. Admin. Code § 67.16.)

The City Attorney's Good Government Guide, which is available on the City Attorney's website (under "Resources"), addresses this provision. The Good Government Guide states, at page 134:

The Sunshine Ordinance allows any person who spoke during a public comment period at a meeting of a Charter board or commission to supply a brief written summary of the comments to be included in the minutes if it is 150 words or less. Admin. Code § 67.16. The summary is not part of the body's official minutes, nor does the body vouch for its accuracy; and the minutes may expressly so state. The summary may be included as an attachment to the minutes. The policy body may reject the summary if it exceeds the prescribed word limit or is not an accurate summary of the speaker's public comment.

In addition, if the commenter's summary is included as an attachment to the minutes, we recommend that the text of the minutes cross-reference the attachment so as to direct the reader to the attachment. While the Sunshine Ordinance does not require the cross-reference, it will facilitate public access to written summaries of comments.