

Date: Jan. 20, 2011

Item No. 5 & 6
File No. 10054

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Ray Hartz v Library Commission**
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Completed by: Chris Rustom

Date: Jan. 14, 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

December 29, 2010

RAY HARTZ VS. LIBRARY COMMISSION (10054)

COMPLAINT

THE COMPLAINANT ALLEGES THE FOLLOWING:

Complainant Ray Hartz alleges that the Library Commission (the "Commission") violated the Sunshine Ordinance by failing to include in the text of the official minutes of its September 16, 2010 meeting his written statement of not more than 150 words. Mr. Hartz alleges that the Commission instead included a summary that did not accurately reflect his testimony. Mr. Hartz's complaint identifies Administrative Code Section 67.16 as having been violated.

In his supplemental complaint, Mr. Hartz alleges that the above actions constituted a violation of Section 67.15 of the Ordinance by abridging his public testimony.

COMPLAINANT FILES COMPLAINT:

On October 14, 2010, Mr. Hartz filed a complaint with the Task Force alleging a violation of the Ordinance. On October 20, 2010, Mr. Hartz amended his complaint with supplemental allegations of a another violation of the Ordinance.

JURISDICTION

The Commission does not contest jurisdiction to hear the complaint.

APPLICABLE STATUTORY SECTION(S):

Administrative Code Sections, 67.15, 67.16

APPLICABLE CASE LAW:

None.

ISSUES TO BE DETERMINED

Uncontested Facts: Mr. Hartz requested that the Commission include in its minutes a written statement of less that 150 words that he provided. The Commission failed to include that statement in the text of its minutes, but instead included it as an attachment at the end of the minutes.

Memorandum

DATE: December 29, 2010
PAGE: 2
RE: Hartz v. Library Commission

QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS:

- Did the testimony provided by Mr. Hartz at the September 16, 2010 Commission meeting differ in any way from that included in the 150 word statement provided by him.
- Did the written statement Mr. Hartz submitted for inclusion in the Rent Board minutes accurately summarize his oral comments during the meeting?
- Did the summary of Mr. Hartz's testimony included by the Commission in the text of the meeting minutes accurately reflect his testimony?
- Was Mr. Hartz prevented in any way from providing his public testimony during the Commission meeting?

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 text of the minutes specifically under that agenda item?
- Does including the 150 word summary as an attachment to the meeting minutes abridge the public testimony of a speaker, in violation of Section 67.15?

SUGGESTED ANALYSIS**Under Section 67.15 of the Ordinance:**

- Determine whether the Commission's summarizing of complainant's testimony in the text of the meeting minutes and the inclusion of his statement as an attachment to those same minutes "abridged" his public testimony.

Under Section 67.16 of the Ordinance:

- Determine whether the Commission's summarizing of complainant's testimony in the text of the meeting minutes and the inclusion of his statement as an attachment to those same minutes violated the requirement that the 150-word statement be included in the meeting minutes.

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: December 29, 2010
PAGE: 3
RE: Hartz v. Library Commission

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

SEC. 67.15. PUBLIC TESTIMONY

(d) A policy body shall *not abridge or prohibit public criticism* of the policy, procedures, programs or services of the City, or of any other aspect of its proposals or activities, or of the acts or omissions of the body, on the basis that the performance of one or more public employees is implicated, or *on any basis other than reasonable time constraints* adopted in regulations pursuant to subdivision (c) of this section.

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.*



RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2010 OCT 14 AM 8:05

BY AK

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 LIBRARY COMMISSION

Name of individual contacted at Department or Commission SUE BLACKMAN

Alleged violation public records access
 Alleged violation of public meeting. Date of meeting SEPT 16, 2010

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.

THE SECTION CLEARLY STATES THAT A BRIEF WRITTEN SUMMARY OF PUBLIC COMMENTS SHALL, IF NO MORE THAN 150 WORDS, BE INCLUDED IN THE MINUTES. IT SEEMS THAT THE COMMISSION

POLICY IS TO SUBSTITUTE THE COMMISSION SECRETARY'S CENSORED VERSION IN PLACE OF THE SPEAKER'S PROVIDED SUMMARY

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 WHARTZ JR Address 839 LEAVENWORTH ST #304 SAN FRANCISCO CA 94109

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

Date 10/10/10 Signature Ray Whartz Jr

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).

Wednesday, October 20, 2010

Sunshine Ordinance Task Force

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco CA 94102

Re: Complaint 10054

Commissioners:

I wish to amend the above listed complaint to include the following:

A violation of Section 67.15 PUBLIC TESTIMONY

In accordance with **Section 67.15 PUBLIC TESTIMONY**, subsection (d) which states: "A policy body shall not abridge or prohibit public criticism of the policy, procedures, programs or services of the City, or of any other aspect of its proposals or activities, or of the acts or omissions of the body, on the basis that the performance of one or more public employees is implicated, or on any basis other than reasonable time constraints adopted in regulations pursuant to Subdivision (c) of the Section."

I submit that the substitution of an interpretation of my statement in place of the supplied written summary is an abridgement of public testimony.

Sincerely,



Ray W. Hartz, Jr.

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 OCT 20 PM 4:56
BY

Friday, October 29, 2010

Sunshine Ordinance Task Force

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco CA 94102

Re: Complaint 10054

Honorable members of the Task Force:

I wish to add to this complaint regarding violations of the Sunshine Ordinance a parallel complaint of violating the Brown Act. The following is an excerpt from that act:

Public meetings of governmental bodies have been found to be limited public fora. As such, members of the public have broad constitutional rights to comment on any subject relating to the business of the governmental body. Any attempt to restrict the content of such speech must be narrowly tailored to effectuate a compelling state interest. Specifically, the courts found that policies that prohibited members of the public from criticizing school district employees were unconstitutional. (Leventhal v. Vista Unified School Dist. (1997) 973 F.Supp. 951; Baca v. Moreno Valley Unified School Dist. (1996) 936 F.Supp. 719.) These decisions found that prohibiting critical comments was a form of viewpoint discrimination, and that such a prohibition promoted discussion artificially geared toward praising (and maintaining) the status quo, thereby foreclosing meaningful public dialogue.

The Sunshine Ordinance clearly states:

“Any person speaking during a public comment period they supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes.”

I submit that this provision was included to prevent a City body from prohibiting critical comments. Refusing to allow a member of the public to express their own words, literally, in their own words, is a prohibition promoted to artificially foreclose meaningful public dialogue. The substitution by a policy body of their interpretation of public comment is clearly an attempt geared toward restricting public comment to praising (and maintaining) the status quo. This is especially true in cases where the member of the public is willing to provide, and has provided, a written summary of their comments. Including such a statement places absolutely no burden, whatsoever, on the policy body. While some persons, appearing before a public body may be satisfied with someone else's “interpretation” of their comments being placed in the public record, others may not! This is especially true in the event that the person feels that the “interpretation” does not reflect accurately, their public statement in the public record. As stated in the Brown act, **“any attempt to restrict the content of such speech must be narrowly tailored to effectuate a compelling state interest.”**

The Sunshine Ordinance includes the following in Article I:

Sec 67.1. FINDINGS AND PURPOSE (f) The people of San Francisco enact these amendments to assure that the people of the City remain in control of the government they have created.

The attempt by the Library Commission, under the guidance of the City Attorney's office, to negate the clear wording of the Sunshine Ordinance regarding written summaries is an attempt to circumvent both the Sunshine Ordinance and the Brown act. The use of the Good Government Guide is an attempt by the City Attorney's office to overlay a more restrictive interpretation on both the Sunshine Ordinance and the Brown act, with the purpose of restricting the rights of the citizens of the City and County of San Francisco, and limiting their power to control the government they have created. The City Attorney's office and various public bodies simply rely on the fact that many members of the public are not aware of their rights under either the Sunshine Ordinance or the Brown act. They rely on the truly burdensome requirements for filing a complaint and participating in the complaint process with either the Sunshine Ordinance Task Force or the Ethics Commission. They rely on the inability of the Task Force to enforce its determinations. They rely on the likelihood that the Ethics Commission, another branch of City government, is unlikely to find any violation or effect punishment for a violation. They rely on the truly costly, time-consuming, and totally prohibitive final recourse to the courts. **In summary, I submit this shows a lack of "good faith" by both the City Attorney's office and the Library Commission. I further submit, this shows an attempt by both bodies to restrict the control by the citizens of the City and County of San Francisco over the government they have created.**

Sincerely

Ray W. Hartz, Jr.

Director, San Francisco Open Government



"Sue A. Blackman"
<sblackman@sfpl.org>
10/27/2010 10:05 AM

To "soft@sfgov.org" <soft@sfgov.org>
cc
bcc

Subject Complaint #10043 Ray W. Hartz v. Library Commission

Please see attached letter to the Sunshine Task Force requesting that Complaint #10054 Ray W. Hartz v. Library Commission be dismissed without merit. Thank you for your attention to this matter.

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

Official SFPL use only



10.10.10 response.doc



final 9 16 10.pdf

October 26, 2010

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 #10054 Ray W. Hartz v. Library Commission

Dear Task Force Members:

This letter responds to Complaint #100054, which was filed by Ray Hartz on October 10, 2010 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 and describes the alleged violation as "The Section clearly states that a brief written summary of public comments 'Shall, if no more than 150 words, be included in the Minutes.' It seems that the Commission Policy is to substitute the Commission Secretary's censored version in place of the speakers provided summary."

Additionally, an amendment to the Complaint wished to add a violation of Section 67.15 (d) Public Testimony, which states "A policy body shall not abridge or prohibit public criticism of the policy, procedures, programs or services of the City or any other aspect of its proposals or activities, or of the acts or omissions of the body, on the basis that the performance of one or more public employees is implicated, or on any basis other than reasonable time constraints adopted in regulations pursuant to Subdivision (c) of the Section."

The Library Commission did not violate Administrative Code 67.16 or 67.15 because the Library Commission provided a brief summary of Complainant's public comment and attached his own summary of 150 words or less to the meeting minutes.

Section 67.16 of the Administrative Code sets forth the requirements for meeting minutes. Charter commissions are required to include a number of requirements in the meeting minutes, including "a brief summary of each person's statement during the public comment period for each agenda item." In addition "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. The Library Commission provided a brief summary of the Complainant's remarks. The Library Commission did not censor Complainant's comments. While the Complainant may wish for a dictated transcript of his remarks, the law requires the Library to provide a summary. Please see attached Minutes which include a summary of Complainant's statements within the body of Minutes.

In addition, the Complainant erroneously believes that the Library Commission is required to officially approve his comments within the meeting 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." Please see attached Minutes that includes Complainant's 150 word summary submitted and attached to the Minutes as indicated by the City Attorney's Good Government Guide.

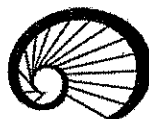
Conclusion

Nothing in the Library Commission Minutes of September 16, 2010 violated the law. To the contrary, the Minutes reflect a brief summary of Complainant's public testimony and his 150 word written summary with the Minutes. Accordingly, the Task Force should dismiss Mr. Hartz's complaint.

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

SAN FRANCISCO PUBLIC LIBRARY COMMISSION

Minutes of the Regular Meeting of September 16, 2010

(As approved at the regular meeting of October 7, 2010)

The San Francisco Public Library Commission held a regular meeting on Thursday, September 16, 2010, in the Koret Auditorium, Main Library.

The meeting was called to order at 4:33 pm.

Commissioners present: Breyer, Gomez, Kane, Munson and Nguyen

Commissioners Ono and Hayon entered the meeting at 4:35 pm.

AGENDA ITEM NO. 1 PUBLIC COMMENT

An anonymous citizen said one of the principles of libraries is that history matters. He said there have been many scandals in the history of the library but the fundamental scandal is the privatization scandal which mandates there can't be honesty, decency or justice, because it might interfere with fund-raising. He said a handful of individuals who are more important than the truth are not just the enemy of democracy, it is the enemy of everything that benefits the society as a whole.

Peter Warfield, Library Users Association, said it is sometimes rather sad to know that the Park Library's historic value will be greatly diminished. He said the library has lacked respect of its history with its pursuit to demolish the North Beach Branch and its demolition of the Ortega Branch library. Destruction of the past should be added as one of the scandals of the library.

Anne Wintroub, Friends of the Library, invited the Commissioners to visit the Readers Café at Fort Mason Center adjacent to the Book Bay Bookstore with all proceeds benefiting the library. She said the Big Book Sale begins Tuesday September 21 and will have over 500,000 books and she invited everyone to attend.

Sue Cauthen said there have been some newspaper articles recently about the North Beach Branch Library. She said one article in the Chronicle was written by the head of Architectural Heritage and a woman

for the National Trust for Historic Preservation supporting the landmarking of the branch. She said they have looked into some of the reasons why the Chronicle in general has been so negative about the landmarking. She said the Chronicle owns 41 properties in San Francisco and 29 are commercial properties of historic value.

Ray Hartz, Director San Francisco Open Government, said there are times when he has sensed a sort of hostility towards certain people making public comment. He said he recommends that the Commissioners go back and look at the Constitution as it relates to public speech. He said on at least three occasions the City Librarian has made public comment. He said he thinks it is inappropriate because he is not a member of the public. He said upstairs in the lobby there are books for sale and a number of those are advanced reading copies and they state not for resale so it is illegal to sell those books.

AGENDA ITEM NO. 2. CITY LIBRARIAN'S REPORT

Luis Herrera, City Librarian, said over the last 8-9 months staff has been engaged in looking at streamlining in certain areas. He said today we would like to report on Delivery Operations.

Robert Lombardi, Facilities Director, and management liaison to the Area Focus Team on Delivery Operation said the charge of the group was to increase efficiencies in the delivery stream.

Terry Gwiazdowski, North East District Manager, and Chair of the Area Focus Team said materials are sorted and moved by people on vehicles. She said these materials include new materials, reserved materials and Link+ materials. She said the items are being sent back and forth because they are sent to one location but owned by another. She said in the last three years circulation has increased by 30%, holds have increased by 40% and Link+ over 300%. She said the committee wanted to reduce the delivery stream and their recommendation was to incorporate downstream deliveries into the routes. She described the additional recommendations and implementation process.

Luis Herrera, City Librarian said they did not go into a lot of detail on Delivery Operations but the bottom line is we want to improve and expedite service to the public. He said other members of the team are also present if you have additional questions. He said he would like to give the Commission some background on the Civic Center Community Benefit District (CBD) and then bring the item back at the next meeting for action on the item. He said it will require Commission approval in terms of the Library's participation in the CBD.

Roberto Lombardi, Facilities Director, said the CBD is a proposed special assessment district. He said the goal of the CBD is to improve coordination and communication around the management, image, safety, beautification and cleanliness of the greater Civic Center area. He said the 25 member Steering Committee has held nine meetings with property

owners since May 2009. He said based on the feedback received the Steering Committee on August 4, 2010 unanimously voted to select an assessment formula and to move forward with the establishment of a District. This marked the end of the investigative phase and is the beginning of the formation stage. He described the zones in the CBD and the services the CBD will provide. He said the general timeline shows that the Commission will take action on a resolution of support on October 7. On October 12, 2010 a Resolution of intent with final documents will go to the Board of Supervisors with the final hearing at the Board on December 14, 2010. If approved, the formation of the District would begin July 1, 2011. He said the proposed annual operating budget is \$743,970 and the Library's portion of that is \$21,397.01. He said that is approximately 2.19% of the overall budget. He said he believes the assessment is a very fair formula. He said future budgets are capped by law at 3%.

Toni Bernardi, Chief of Children and Youth Services, gave a presentation on the Summer Reading Program. She said that Summer Reading Matters and helps to stop summer learning loss and summer brain drain. She said the Children's Summer Read program was Water Your Imagination and she went over the highlights and the weekly special programs. She said the Kid Power program was for students 10 – 15 years of age. She said 630 kids volunteered and the number of hours volunteered was 7,563. She said the theme for Teen Summer Read program was Go with the Flow. She said 861 teens registered and 170 teens attended a teen summer reading party. She said the Library continues to work with schools and other organizations to make summer learning a community wide, inter-agency priority. She said none of this would be possible without the support of the Friends of the Library.

Terry Carlson, Manager Richmond Branch, said this is the first year the Library has had an Adult Summer Reading program. She said there are no prizes for the adult reading program. She said there are many types of programming at the Main and the branches. She gave the statistics and said there were 4057 books read and 1253 people attended programs. She said the Bayside (East) won the challenge between the Oceanside and the Bayside libraries.

Michelle Jeffers, Public Relations Officer, said the One City One Book Selection this year is Zeitoun by Dave Eggers. She said there are 30 programs this month and next. She said the main event: Dave Eggers in conversation with Beth Lisick will be Thursday, October 14 in the Koret. She said there are a number of sponsors for the program. She said the second annual Tricycle Music Fest West is coming up in October. She said Read for the Record will be on October 7.

Lisa Vestal, Chief Curator, said there are many upcoming exhibits in the Library including Singgallot (The Ties that Bind) in the Jewett Gallery. She said there are related displays in the African American and Filipino American center and the Filipino American Center. She said there have already been seven related programs and three more will take place in

October. She said another wonderful exhibit will be opening on Saturday in the Skylight Gallery and the Hormel Center. She said it is Celebrating Fabulous/Activist Bay Area Lesbians with Disabilities a 40 Year Retrospective and will run through November 21, 2010.

Public Comment

An anonymous citizen said the agenda item lists four specific topics. He said that specificity is there because of one of his lawsuits. He said the City Librarian has tried to bypass the requirements in the past by using "public comment". He said the City Librarian is a policy officer and the public has a right to notice of topics for discussion. He asked about future deliberations and discussion by the Commission and said that those should be made public. He said with respect to the Community Benefit District the word stakeholder was used, and this is another example of the gated community syndrome.

Peter Warfield, Library Users Association, said the update on Delivery Operations sounds like a radical change to the whole delivery process and that was not reflected on the agenda. He said where is the respect for the completeness of the collection for a magazine run. He said it sounds like a radical change. He said this should be further described and discussed as a separate agenda item. He said the CBD has serious question marks. He said the costs should be documented.

Ray Hartz, San Francisco Open Government, said very often a lot of technical jargon is used and the language should be clear for the public to understand. He said he has not heard how the Library will benefit from the CBD. He said the report on the Summer Reading Program was beneficial.

Melissa Riley said she is a librarian and on the Executive Board of the Union for the library. She said the Adult Summer Reading Program was great and there was a party. She said it was great hearing about the special programs and exhibits and it would be nice if the library shared with you some of the greatest reference questions some of the librarians receive. She said the Union members and the Board will want to hear more about the CBD.

Commission Discussion

Commissioner Ono asked if the cost of the Delivery Operations recommendations is provided for in the current budget or will they be part of next year's budget.

Luis Herrera, City Librarian said there are short term recommendations that are not incurring any costs. He said there are long term recommendations that have to be further analyzed.

Commissioner Ono asked if there are more recent studies on summer reading programs.

Toni Bernardi, Chief of Children and Youth Services said they will report back on current studies.

Commissioner Ono said that the cost of the Community Benefit District (CBD) will be included in next year's budget.

Roberto Lombardi, Facilities Director, said the Board of Supervisors have the right to vote for the Library on the CBD but they very much would like to hear from the Library. He said it will be brought back to the Commission at the October 7 meeting for action.

Commissioner Munson said it is useful for the staff to bring to the Commission information prior to the time action is requested.

Commissioner Breyer said it would be helpful to get information ahead of time on technical items such as delivery operations. He asked for further clarification on several issues relating to the program.

Roberto Lombardi, Facilities Director, said the goal of downstream delivery is to get materials to patrons more quickly.

Terry Gwiazdowski, North East District Manager, said the idea of having a branch sorting machine would make it easier to move materials around more quickly. She said there is not currently the space or the money to have the sorting machines at the branches. She said the circulation numbers are the items circulating around.

Luis Herrera, City Librarian, said we will continue to report back to the Commission on operations processes.

Commissioner Hayon said in general she supports Community Benefit Districts (CBD). She said she would like to hear the specific advantages to the Library from the CBD.

Luis Herrera, City Librarian, said they will bring back additional information on the CBD at the next meeting when action will be taken.

Toni Bernardi, Chief of Children and Youth Services, responded to a question from Commissioner Breyer and said they are looking at ways to expand the Kids Power volunteer program to a year round program.

AGENDA ITEM NO. 3 LIBRARY CITIZEN'S ADVISORY COMMITTEE (LCAC) ANNUAL REPORT

Luis Herrera, City Librarian, said they have been asked to table this item to a future meeting.

AGENDA ITEM NO. 4. BOND PROGRAM MANAGER'S REPORT

Lena Chen, Bond Program Manager, said this month there will be the regular budget and schedule reports. She said this month's budget report shows the approved budget as \$188,910,119. She said the Bayview Branch is in the Bid/Award process and the North Beach Branch is in the EIR/Design Development phase. She said eight branches are in construction. She said they are working closely with the contractors and they will report back to the Commission by the end of the year to update the opening dates for each project. She said a schedule change for the Visitacion Branch library will be brought back to the Commission in October. She said schedule changes for Anza, Ortega and Golden Gate Valley will be brought back by the end of the year. She said by this time next year all eight of the projects in construction should be complete. She showed photographs and gave reports on projects in construction including: Parkside; Visitacion Valley; Ortega; Anza; Merced; Golden Gate Valley; Presidio and Park. She said the construction contract was awarded to Liberty Builders for the Bayview Branch on August 31, 2010. She said they are awaiting documentation from Liberty Builders before we can certify the contract. She said they anticipate issuing a Notice to Start Pre-construction Services in early October. She said the Draft Environmental Impact Report (DEIR) for the North Beach Branch Library was published on August 25, 2010. She said the Planning Commission hearing will be October 7. She said the comments on the DEIR are due on October 12. She said the Historic Preservation Commission recommended landmarking the building and the next step will be the Land Use Committee of the Board of Supervisors.

Luis Herrera, City Librarian, said the comments on the DEIR for the North Beach Library and Joe DiMaggio playground are due to the Planning Department by October 12. He said the document is available at the Planning Department or through their website and anyone is allowed to make comments.

Jill Bourne, Deputy City Librarian, said the Historic Preservation Commission voted 4-3 on September 1 to recommend landmarking the North Beach Branch Library. She said that will be introduced to the Board of Supervisors and then heard by the Land Use Committee.

Lena Chen, Bond Program Manager, gave a summary of public outreach for the program.

Public Comment

An anonymous citizen said the slide covering the Presidio Branch shows a one-year delay and it took him a while to figure out that it was a typographical error. He said he recently visited the Visitacion Valley Branch and said the building is much larger and dominates its site more than he had been led to believe. He said he was disappointed they did not hear more about the community controversy about the North Beach Branch.

Peter Warfield, Library Users Association, said there is a partial picture of the vandalism of the wonderful formerly uninterrupted space at the Park Branch with the area carved out for the staff. He said he would have liked to know more about the Adult Summer Reading Program and there was no notification at the closed Park Branch about the program. He said the construction site at the Park Branch looks like a mess and it is very difficult to see signage.

Ray Hartz, Director San Francisco Open Government, said he attended several of the Historic Preservation Commission meetings and he expressed concern to them because at the meeting where they were going to take the vote, the agenda had indicated that Public Comment had been closed. He said public comment was then allowed. He said the meeting times to these public meetings are not always convenient for the public to come.

Commission Discussion

Commissioner Nguyen asked about the partial funding for the North Beach Branch Library.

Jill Bourne, Deputy City Librarian, said we do not have a construction estimate for the building since the EIR has not been certified. She said once the design is complete after the EIR is approved, the Commission will have the opportunity to adopt the design and fully fund the project, which time we will need to identify the funding.

AGENDA ITEM NO. 5. APPROVAL OF THE MINUTES OF AUGUST 19, 2010

Public Comment

An anonymous citizen said if you look at the discussion on page 8, President Gomez's comments that the Minutes are required to give a summation of what has been said are not appropriate because her remarks go to the policy of the minutes, which was not listed on the agenda. He said his comments on page one do not accurately reflect his comments. He said his comments regarding the Chinatown Branch are reflected accurately.

Ray Hartz, San Francisco Open Government, said he asked that the following Section of the Sunshine Ordinance Section 67.16 be included in the Minutes: "Any person speaking during a public comment period may supply a brief written summary of the comments that person made to the policy body, which shall if not more than 150 words be included in the Minutes."

Peter Warfield, Library Users Association, said he was glad to see some of the positive comments that were made about former Commissioner Carlota Del Portillo included in the minutes. He said Commissioner

Munson had some positive comments to make about correcting some comments in the Minutes of the July 15, 2010 meeting.

Commission Discussion

There was no commission discussion on this item.

Motion: By Commissioner Munson, seconded by Commissioner Hayon to approve the minutes of August 19, 2010.

Action: AYES 6-0: (Breyer, Gomez, Hayon, Munson, Nguyen and Ono).

AGENDA ITEM NO. 6. ADJOURNMENT

Public Comment

There was no public comment on this item.

Motion: By Commissioner Munson, seconded by Commissioner Hayon to adjourn the regular meeting of September 16, 2010.

Action: AYES 6-0: (Breyer, Gomez, Hayon, Munson, Nguyen and Ono).

The meeting adjourned at 6:35 pm.

Sue Blackman
Commission Secretary

Explanatory documents: Copies of listed explanatory documents are available as follows: (1) from the commission secretary/custodian of records, 6th 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).

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.

Comments submitted by Ray Hartz under Approval of the Minutes, Item No. 5:

It would seem the Library Commission has a rather restrictive view on the purpose for minutes. It is a negative view that the minutes are an onerous task to be performed only because of the requirement in law. It

would be more positive to understand the possibility that minutes can serve. Good minutes allow members of the public to participate in a Library Commission meeting which they cannot attend. It helps give members of the public an understanding of the decisions made by the Commission. It also allows members of the public with concerns about Commission decisions to express those concerns. If done properly, minutes cannot simply inform the public, but, can encourage interest and even participation in the ongoing operations of the Commission and the San Francisco Public Library in general. This is something, I feel, is a basic responsibility of any city commission or board.

The following comments were submitted by the Anonymous Citizen:

Item 1: General Public Comment

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

Do you remember all of the scandals? Anywhere else it would have been Library Privatization Gate.

There was the book dumping scandal, the card catalog scandal, the Fuhrman Fund scandal and many others. Underlying them all were numerous Sunshine violation scandals.

The fundamental scandal is the privatization scandal which mandates there can't be honesty, decency or justice, because it might interfere with fund-raising.

All decent people donate to the Friends, and you can prove it. Lies and ridicule are what private influence pays for.

Lies and ridicule only protect you from the truth. If your status cannot coexist with the truth how valuable could it be?

A handful of individuals who are more important than the truth are not just the enemy of democracy; it is the enemy of everything that benefits the society as a whole.

Item 2: City Librarian'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.

This agenda item lists four specific topics. That specificity is there because of one of my lawsuits to promote the access required by the Sunshine Ordinance and the Brown Act. It is true that the City Librarian thinks it is a joke to bypass those requirements by using "public comment." He is your policy officer and the public has a right to notice of topics for discussion.

Now the City Librarian stated that he will give you the details "afterward." After the public has gone home? The public is entitled to hear your deliberations as a commission.

So what are the details of the "floating collection"?

With respect to the "Community Benefit District" you used the magic word "stakeholders" which separates those with power.

Item 4: Bond Program Manager's Report

Anonymous Citizen: Stop the corporate rape of the public library – Don't give or accept money from the Friends & Foundation.

The red line in the schedule report indicates the current month, which is good news.

The slide covering the delays shows the Presidio Branch with a one-year delay. It took a while to figure out that this was a typographic error, but I did finally figure it out.

I recently visited the Visitacion Valley construction and it is larger and dominates its site more than I had been led to believe.

I am disappointed we did not hear more about the controversies swirling around the North Beach Branch. Many people are drawing the proverbial line in the sand. Advocates for the library's position have not only been maligning landmark designation for North Beach Branch but maligning the idea of historic preservation itself which may be problematic.

We will all be watching this closely.

Item 5: Approval of the Minutes (August 19, 2010)

Anonymous Citizen: Stop the hate, stop the ignorance – Don't give money to the Friends & Foundation.

Approval of minutes on page 8 quotes the president, "[minutes] are required to give a summation of what has been said." The president actually said the opposite, that minutes reflect commission action and do what the commission asks them to do.

First, agenda requirements include notice of topics. Approval of minutes is not notice of a discussion of commission policy. Agenda requirements are so that you cannot be misinformed without the public being able to address it.

Second, the contents of the minutes are set by the San Francisco Sunshine Ordinance which requires that the minutes contain a summary of what the public says and is not subject to your discretion.

Public comment on page one regarded the mechanism connecting the contempt for the public with the planning disasters.

The Chinatown comments are accurate and I appreciate it.

Friday, October 29, 2010

Sunshine Ordinance Task Force

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco CA 94102

Re: Complaint 10054

The above mentioned complaint should **NOT** be dismissed as requested by Ms. Blackman, Secretary of the Library Commission, in her response dated October 26, 2010!

Ms. Blackman repeats the language of **both** the Sunshine Ordinance and the Good Government Guide regarding the inclusion of the submitted summary "in the minutes" if less than 150 words. She then includes a statement from the Good Government Guide (only) that is the City Attorney's **interpretation** of the Sunshine Ordinance. The City Attorney is no friend to open government, being the most frequent violator of Sunshine with more complaints and determinations finding that office in violation than any other City agency, board or commission. The City Attorney is also at the nexus of most, if not all Sunshine complaints, by assisting other City departments, agencies, elected officials, boards and commission to deny/evade their responsibilities under Sunshine.

How could anyone reading the excerpts from the minutes and attachments below, consider the Commission Secretary's "summary", in any way, an accurate reflection of my comments?

This is especially true considering that my public testimony included reading my 150 word summary verbatim and then using the remainder of my time to expand on the subject.

From the response to Complaint # 10054

From the minutes of the Library Commission meeting:

AGENDA ITEM NO 5. APPROVAL OF THE MINUTES OF AUGUST 19,2010

Public Comment

Ray Hartz, San Francisco Open Government, said he asked that the following Section of the Sunshine Ordinance Section 67.16 be included in the Minutes: "Any person speaking during a public comment period may supply a brief written summary of the comments that person made to the policy body, which shall if not more than 150 words be included in the

Minutes.”

Is Ms. Blackman’s summary a reflection of my statement below?

From the attachment to the minutes:

Comments submitted by Ray Hartz under Approval of the Minutes, Item No. 5:

It would seem the Library Commission has a rather restrictive view on the purpose for minutes. It is a negative view that the minutes are an onerous task to be performed only because of the requirement in law. It would be more positive to understand the possibility that minutes can serve. Good minutes allow members of the public to participate in a Library Commission meeting which they cannot attend. It helps give members of the public an understanding of the decisions made by the Commission. It also allows members of the public with concerns about Commission decisions to express those concerns. If done properly, minutes cannot simply inform the public, but, can encourage interest and even participation in the ongoing operations of the Commission and the San Francisco Public Library in general. This is something, I feel, is a basic responsibility of any city commission or board.

Further:

Ms Blackman and the Library Commission take the position that approving the minutes is an “endorsement” of the contents. This is a totally specious argument, since even the summary of a person’s comments included in the minutes by the Commission Secretary would under their position be “endorsed” by the vote to approve the minutes! Minutes are simply an reasonably accurate reflection of what occurs. Endorsing the minutes is **NOT** an endorsement of all of the contents. If this were true, their vote would also “endorse” the summaries of Public Comment, which are supposed to be a reasonably accurate reflection of what a member of the public says. Library Commissioners, themselves, will disagree on matters considered by the Commission, with both sides reflected in the minutes. Approving the minutes does NOT endorse of any expressed opinions! Including the 150 word statements “in the minutes” stating that an individual submitted the following statement as a summary of their comments would be a similar statement of fact, not an endorsement of the statement.

Sincerely,

Ray W. Hartz, Jr.

Director, San Francisco Open Government