



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

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LEEANN PELHAM
EXECUTIVE DIRECTOR

Date: October 16, 2017

To: Members of the Ethics Commission

From: Jessica Blome, Deputy Director, Enforcement & Legal Affairs
Eric Willett, Senior Investigative Analyst

Subject: **Agenda Item 5: Staff memorandum regarding the Sunshine Ordinance Task Force referral of File No. 17048, *Ray Hartz v. Angela Calvillo, Clerk of the Board of Supervisors***

Summary This memorandum provides legal analysis for the handling of one referral from the Sunshine Ordinance Task for enforcement under the Sunshine Ordinance.

Action Requested Staff requests that the Commission vote to determine whether a violation of the Sunshine Ordinance occurred.

Section 27.30(c) of the Sunshine Ordinance provides that "the [Sunshine Ordinance] Task Force shall make referrals to a municipal office with enforcement power under this Ordinance or under the California Public Records Act and the Brown Act whenever it concludes that any person has violated any provisions of this Ordinance or the Acts." SF Admin. Code § 67.30 (c). On October 11, 2017, the Sunshine Ordinance Task Force (SOTF) referred Sunshine Ordinance Task Force File No. 17048 to the Ethics commission for enforcement. According to its Order of Determination, the SOTF found Angela Calvillo, Clerk of the Board of Supervisors, in violation of Administrative Code, Sections 67.16 and 67.34, by willfully failing to place a written summary of public comment, of no more than 150 words into the body of the March 14, 2017, and March 21, 2017, Board of Supervisors meeting minutes. The SOTF Order of Determination is attached.

Upon receipt of referrals from the SOTF, Staff reviews the SOTF's findings, evidence, and order. Staff may then prepare a memorandum for the Commission's consideration if it believes further analysis would prove beneficial. These matters must be considered by the Commission at its "next regular Commission meeting" during a "Show Cause Hearing" that is open to the public. Sunshine Regulations, Chap 2(II). The Respondent has the burden of proving that he/she did not commit a violation of the Sunshine Ordinance. Sunshine Regulations, Chap 2(II)(D)(2). In other words, the Respondent has the burden of proving that the SOTF was wrong to refer the matter to the Commission for enforcement of the Sunshine Ordinance.

When considering an SOTF Order of Determination, the Commission must conclude that, “based on a preponderance of the evidence, the respondent did not commit a violation of the Sunshine Ordinance” to overturn the SOTF’s decision. *Id.* The Commission must consider all relevant circumstances surrounding the case. *Id.* The votes of at least three Commissioners are required to affirm the SOTF’s finding that Ms. Calvillo has committed a violation of the Sunshine Ordinance. *Id.*

If the Commission finds that Ms. Calvillo committed a violation of the Sunshine Ordinance, the Commission may issue orders requiring Ms. Calvillo to cease and desist the violation; the Executive Director to post on the Ethics Commission’s website the Commission’s finding that Ms. Calvillo violated the Sunshine Ordinance; and/or the Executive Director to issue a warning letter to Ms. Calvillo and inform Ms. Calvillo’s appointing authority of the violation.

**SUNSHINE ORDINANCE
TASK FORCE**



**City Hall
1 Dr. Carlton B. Goodlett Place Room 244
San Francisco CA 94102-4689
Tel. No. (415) 554-7724
Fax No. (415) 554-7854
TDD/TTY No. (415) 554-5227**

October 11, 2017

LeeAnn Pelham
Executive Director
Ethics Commission
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102

Re: Referral to the Ethics Commission for Enforcement
Ray Hartz v. Angela Calvillo, Clerk of the Board of Supervisors (Sunshine Ordinance Task Force File No. 17048)

Dear Ms. Pelham,

The Sunshine Ordinance Task Force (Task Force) hereby refers the subject complaint to the Ethics Commission (Commission) for enforcement. This referral is made pursuant to San Francisco Administrative Code (Admin. Code), Section 67.30 (c), which provides that "the Task Force shall make referrals to a municipal office with enforcement power under this Ordinance or under the California Public Records Act and the Brown Act whenever it concludes that any person has violated any provisions of this Ordinance or the Acts."

In this case, the Task Force found Angela Calvillo, Clerk of the Board of Supervisors, in violation of Administrative Code, Sections 67.16 and 67.34, by willfully failing to place a written summary of public comment, if no more than 150 words, into the body of the minutes. Attached to this referral letter are the following documents:

- Order of Determination, File No. 17048
- Supporting documents submitted for the August 2, 2017, meeting of the Task Force available at the follow link:
https://sfgov.org/sunshine/sites/default/files/sotf080217_item8.pdf
- Order of Determination, File Nos. 16088, 16089 and 16111
- Order of Determination, File No. 12050

Agendas, minutes, and audio recordings of the August 2, 2017, meeting are available on the Task Force website at:

<http://sfgov.org/sunshine/sunshine-meeting-information>

The Order of Determination, issued on August 30, 2017, describes the complaint, the procedural history at the Task Force, and the Task Force's reasoning and findings.

Please note that Clerk of the Board Calvillo was aware of the proceedings before the Task Force and choose to not attend the hearings scheduled by the Task Force.

The Task Force takes this matter very seriously and believes strongly that Clerk of the Board Calvillo intentionally ignored the decision of the Task Force and refused to place the 150 word summary of public comment submitted by members of the public into the body of the meeting minutes where the comment occurred. Instead Ms. Calvillo placed the summary onto an Addendum located at the back of the meeting minutes.

Based on the testimony and evidence presented at the hearings and the Task Force's interpretation of the Ordinance and other applicable laws, the Task Force finds that the failure to place written summaries of public comment into the body of meeting minutes violated Section 67.16 of the Sunshine Ordinance and is willful non-compliance with the Sunshine Ordinance.

The motion to find violation and refer the matter to the Ethics Commission for enforcement was passed at the August 2, 2017, Task Force meeting by the following vote:

Ayes: 8 – Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland,
B. Wolfe
Noes: 0 – None
Absent: 2 – Chopra, Tesfai

It should be noted that the Task Force, on multiple occasions, previously issued similar Order of Determinations regarding the same issue. Ms. Calvillo appears to have chosen to not accept the previous decision of the Task Force.

Thank you for your careful attention to this matter. You may contact Task Force Administrator Victor Young at sotf@sfgov.org or (415) 554-7724 with any questions.

Sincerely,


Bruce Wolfe
Chair, Sunshine Ordinance Task Force

Attachments

c: Sunshine Ordinance Task Force Members
Nicholas Colla, Deputy City Attorney
Ray Hartz (Complainant)
Angela Calvillo, Clerk of the Board of Supervisors (Respondent)

**SUNSHINE ORDINANCE
TASK FORCE**



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**ORDER OF DETERMINATION
August 30, 2017**

DATE ISSUED
August 2, 2017

**CASE TITLE – Ray Hartz v. Angela Calvillo, Clerk of the Board of Supervisors
(File No. 17048)**

FACTS OF THE CASE

On May 15, 2017, the following petition/complaint was filed with the Sunshine Ordinance Task Force (SOTF):

File No. 17048: Complaint filed by Ray Hartz against Angela Calvillo, Clerk of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.16 and 67.34, by willfully failing to place a written summary of the public comment, if no more than 150 words, into the body of the minutes (March 14, 2017, and March 21, 2017, meetings).

HEARING ON THE COMPLAINT

On June 20, 2017, the Education, Outreach and Training Committee (Committee) acting in its capacity to hear petitions/complaints heard the matter and referred it to the SOTF for hearing.

Ray Hartz (Complainant) provided an overview of the complaint and requested the Committee to find violations. Mr. Hartz stated that the Task Force has previously found various departments including the Board of Supervisors in violation of the Sunshine Ordinance in regards to the placement of the 150 word public comment summary. There were no speakers in support of the Complainant. A representative from the Office of the Clerk of the Board (Respondent) was not present to present their position. There were no speakers in support of the Respondent. A question and answer period followed. The Complainant was provided the opportunity for rebuttals.

On August 2, 2017, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Ray Hartz (Petitioner) provided a summary of the complaint and requested the Task Force to find violations. Mr. Hartz provided a history of the various Task Force Orders of Determination over multiple hearings regarding the matter and stated that Ms. Calvillo is willfully violating the Sunshine Ordinance. There were no speakers in support of the Petitioner. The Respondent was not present. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Petitioner were provided the opportunity for rebuttals.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented the SOTF found that Angela Calvillo, Clerk of the Board of Supervisors, violated Administrative Code (Sunshine Ordinance), Sections 67.16 and 67.34.

ORDER OF DETERMINATION

Member J. Wolf, seconded by Member Maass, moved to find that Angela Calvillo, Clerk of the Board of Supervisors, violated Administrative Code (Sunshine Ordinance), Sections 67.16 and 67.34 by willfully failing to place a written summary of public comment, if no more than 150 words, into the body of the minutes.

The motion PASSED by the following vote:

Ayes: 8 – Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland,
B. Wolfe
Noes: 0 – None
Absent: 2 – Chopra, Tesfai

The Task Force referred the matter to the Ethics Commission.



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

- c. Ray Hartz (Petitioner/Complainant)
Angela Calvillo, Clerk of the Board of Supervisors (Respondent)

**SUNSHINE ORDINANCE
TASK FORCE**



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**ORDER OF DETERMINATION
December 16, 2016**

DATE ISSUED
December 7, 2016

CASE TITLE – Ray Hartz v. Angela Calvillo, Clerk of the Board (File No. 16088)
Ray Hartz v. Angela Calvillo, Clerk of the Board (File No. 16089)
Ray Hartz v. Angela Calvillo, Clerk of the Board (File No. 16111)

FACTS OF THE CASE

On September 13, 2016, Ray Hartz filed the following complaint:

File No. 16088: Complaint filed by Ray Hartz against Angela Calvillo, Clerk of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, by failing to place a written summary of the public comment, if no more than 150 words, in the minutes (September 6, 2016).

On September 20, 2016, Ray Hartz filed the following complaint:

File No. 16111: Complaint filed by Ray Hartz against Angela Calvillo, Clerk of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, by failing to place a written summary of the public comment, if no more than 150 words, in the minutes (September 13, 2016).

On September 27, 2016, Ray Hartz filed the following complaint:

File No. 16089: Complaint filed by Ray Hartz against Angela Calvillo, Clerk of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.16 and 67.34, by willfully failing to place a written summary of the public comment, if no more than 150 words, in the minutes (September 20, 2016).

HEARING ON THE COMPLAINTS

On November 14, 2016, the Compliance and Amendments Committee (Committee) heard the following complaints:

File No. 16088: Ray Hartz (Complainant) provided a summary of the complaint and requested the Committee to find violations. Mr. Hartz provided a summary of previous Task Force Order of Determinations regarding the 150 word written summary in the minutes and stated that a legal opinion has never been provided regarding the matter. Wilson Ng, Office of the Clerk of the Board (Respondent), provided a summary of the department's position. Mr. Ng stated that the 150 word summary is inserted into the meeting minutes paginated as one document in the Addendum. Mr. Ng stated that the 150 word summary is placed into the Addendum after the signature of the Clerk of the Board because the Clerk of the Board cannot validate written summaries submitted for inclusion into the meetings by members of the public. In addition, Mr. Ng stated that the Task Force has previously ruled both in favor and against the Clerk of the Board in regards to the requirements for placement of the 150 word summary in meeting minutes and that the Ethics Commission has previous ruled that the placement of the 150 word summary in an Addendum does not violate the Sunshine Ordinance. Mr. Ng suggested that the Task Force seek administrative remedy with a third party, such as the Ethics Commission or the City Attorney, in order to issue a determination regarding the matter. A question and answer period followed. The Complaint and the Respondent were provided the opportunity for rebuttals.

File No. 16089: Ray Hartz (Complainant) provided a summary of the complaint and requested the Committee to find violations. Mr. Hartz restated certain arguments previously presented during the hearing of File No. 16088. Wilson Ng, Office of the Clerk of the Board (Respondent), provided a summary of the department's position. Mr. Ng stated issues and arguments regarding the complaint are the same as those provided File No. 16088. A question and answer period followed. The Complaint and the Respondent were provided the opportunity for rebuttals.

Upon review of the testimony and supporting documents the Committee referred the matters to the Task Force for hearing and suggested that the Task Force review the following issues in regards to the placement of the 150 word written summary:

- The Task Force has previously provided conflicting rulings on the matter both in favor and against the Clerk of the Board and other city departments
- The Ethics Commission has previously reviewed the findings of the Task Force and ruled against the Task Force findings that the 150 word must be in the body of the minutes

- The Task Force has previously found other city departments in violation of the Sunshine Ordinance regarding the same matter and that the departments in question now place the 150 word written summary into the body of minutes

The Committee forwarded the Respondent's suggestion that the Task Force seek administrative remedy with a third party in order to set precedence for future Task Force decision in regards to the requirement which states that the 150 written summary shall be inserting 'in the minutes'.

On December 7, 2016, the Sunshine Ordinance Task Force (Task Force) called and heard File Nos. 16088, 16089, and 16111 together with the agreement of both the Complaint and Respondent.

Ray Hartz (Complainant) provided an overview of the complaint and requested that the Task Force find violations. Mr. Hartz stated that the Task Force has previously ruled that the 150 word summary of public comment should be included into the body of minutes and not in an Addendum and provided samples of compliance by other city agencies. Mr. Hartz stated that the placement of the 150 word summary into an Addendum is a violation of his rights to free speech. There were no speakers in support of the Complainant. Wilson Ng, Office of the Clerk of the Board (Respondent), provided a summary of the department's position. Mr. Ng stated that the Addendum is part of the minutes and therefore complies with Administrative Code, Section 67.16, which states that the 150 word summary shall be in the minutes. Mr. Wilson stated that the Task Force has provide conflicting rulings regarding the 150 word summary and suggested that a third party review the legal text. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the Task Force found that a violation of Administrative Code (Sunshine Ordinance), Section 67.16, occurred.

ORDER OF DETERMINATION

On December 7, 2016, the Task Force found that Angela Calvillo, Clerk of the Board of Supervisors, violated Administrative Code (Sunshine Ordinance), Section 67.16, by failing to include the written 150 word public comment summary submitted by Ray Hartz for the September 6, 13, and 20, 2016, Board of Supervisors meetings minutes, into the body of the minutes and not into an Addendum at the end of the minutes (File Nos. 16088, 16089, and 16111).

The motion to find the violation PASSED by the following vote:

Ayes: 9 - Baranetsky, Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer,
Hinze, B. Wolfe
Noes: 0 - None
Absent: 1 - Chopra
Excused: 1 - Hyland

Bruce Wolfe, Chair
Sunshine Ordinance Task Force

- c. Nicholas Colla, Deputy City Attorney
Ray Hartz, Complainant
Angela Calvillo, Clerk of the Board (Respondent)
Wilson Ng, Office of the Clerk of the Board (Respondent)



ORDER OF DETERMINATION

May 23, 2013

DATE THE DECISION ISSUED

April 3, 2013

RAY HARTZ VS. CLERK OF THE BOARD (CASE NO. 12050)

FACTS OF THE CASE

Complainant Ray Hartz ("Complainant") alleges that Angela Calvillo, Clerk of the Board of Supervisors (the "Clerk"), repeatedly violated section 67.16 of the Ordinance by failing to include his 150-word written statements, summarizing his public comments, in the body of the minutes of the Board's meetings held on March 6, 2012; April 17, 2012; May 8, 2012; June 5, 2012; July 24, 2012; September 4, 2012; and September 11, 2012.

COMPLAINT FILED

On October 23, 2012, Mr. Hartz filed a complaint with the Task Force.

HEARING ON THE COMPLAINT

On April 3, 2013, Complainant, Mr. Hartz appeared before the Task Force and presented his claim. Respondent, Rick Caldeira, Deputy Director, Office of the Clerk of the Board presented the Clerk of the Board's defense stating 150-word statements submitted are included in the Board's minutes as an addendum to the minutes.

The issue in the case is whether the Clerk of the Board violated Sections 67.16, 67.21, 67.30(c), 67.33, and 67.34 of the Ordinance.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented the Task Force finds the testimony of Mr. Hartz to be persuasive and finds that Section 67.16 of the Ordinance to be applicable in this case. The Task Force does not find the testimony provided by Mr. Caldeira persuasive to this case.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that Angela Calvillo, Clerk of the Board of Supervisors, violated Section 67.16 of the Sunshine Ordinance for failure to include Mr. Hartz's 150-word statement within the body of minutes at the point in the minutes where the speaker made his comments. The Clerk of the Board shall place 150-word statements submitted by members of the public within the minutes directly following the item addressed in public comment. Angela Calvillo, Clerk of the Board of Supervisors shall appear before the Education, Outreach and Training Committee on June 13, 2013.



This Order of Determination was adopted by the Sunshine Ordinance Task Force on April 3, 2013 by the following vote: (Hyland/Oka)

Ayes: Knee, Manneh, Washburn, Sims, Hyland, Oka, Fischer

Noes: Pilpel, Grant

Absent: David

A handwritten signature in cursive script that reads "Kitt Grant".

Kitt Grant, Chair
Sunshine Ordinance Task Force

c: Jerry Threet, Deputy City Attorney
Ray Hartz, Jr., Complainant
Angela Calvillo, Clerk of the Board of Supervisors, Respondent

**Sunshine Ordinance Task Force
Complaint Summary**

File No. 17048

Ray Hartz V Angela Calvillo, Clerk of the Board of Supervisors

Date filed with SOTF: 05/15/2017

Contacts information (Complainant information listed first):

rwhartzjr@comcast.net (Complainant)

Angela Calvillo, Wilson Ng (Respondent)

File No. 17048: Complaint filed by Ray Hartz against Angela Calvillo, Clerk of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, by failing to place a written summary of the public comment, if no more than 150 words, in the minutes (March 14, 2017 and March 21, 2017).

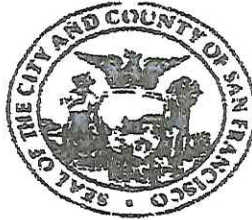
Administrative Summary if applicable:

Complaint Attached.

SEC. 67.16. MINUTES.

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

The draft minutes of each meeting shall be available for inspection and copying upon request no later than ten working days after the meeting. The officially adopted minutes shall be available for inspection and copying upon request no later than ten working days after the meeting at which the minutes are adopted. Upon request, minutes required.



RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2017 MAY 15 AM 11:31

BY [Signature]

SUNSHINE ORDINANCE TASK FORCE
1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102
Tel. (415) 554-7724; Fax (415) 554-7854
<http://www.sfgov.org/sunshine>

SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission BOARD OF SUPERVISORS

Name of individual contacted at Department or Commission ANGELA CALVILLO

Alleged violation public records access
 Alleged violation of public meeting. Date of meeting MARCH 14 & 21, 2017

Sunshine Ordinance Section Sec. 67.16. MINUTES & SEC 67.34*
(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.

DESPITE REPEATED RULINGS AND WRITTEN DIRECTIVES FROM THE SOTF, MS CALVILLO CONTINUES TO PLACE MY 150 WORD SUMMARIES AS AN ADDENDUM TO THE MINUTES AS OPPOSED TO "IN THE MINUTES."

*WITH FOUR PRIOR DETERMINATIONS THIS IS BOTH KNOWING & WILFUL

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  Mr. Ray W. Hartz Jr.
839 Leavenworth St. #304
San Francisco, CA 94109-6131 Address _____

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

Date MAY 15, 2017 [Signature]
Signature

I request confidentiality of my personal information. yes no

¹ NOTICE: PERSONAL INFORMATION THAT YOU PROVIDE MAY BE SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE, EXCEPT WHEN CONFIDENTIALITY IS SPECIFICALLY REQUESTED. YOU MAY LIST YOUR BUSINESS/OFFICE ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS IN LIEU OF YOUR HOME ADDRESS OR OTHER PERSONAL CONTACT INFORMATION. Complainants can be anonymous as long as the complainant provides a reliable means of contact with the SOTF (Phone number, fax number, or e-mail address).

07/31/06

ADDENDUM

The following information is provided by speaker(s), pursuant to Administrative Code, Section 67.16. The content is neither generated by, nor subject to approval or verification of accuracy by, the Clerk of the Board or the Board of Supervisors.

Ray Hartz submitted the following additional information during General Public Comment, as follows: Starting today and continuing through the remainder of the year I intend to talk to this body about a fraud that is being perpetrated on the citizens of San Francisco by the Office of the Mayor! That office has colluded with the SFPL, the City Librarian appointed by the mayor, and the Library Commission who are also appointed by the Mayor. Since 2000 The Friends and Foundation of the SFPL has had more than \$80 million pass through their hands without accounting to anyone! This month it will be four years since "The Friends" have made a financial presentation to the Library Commission and the public! A group of private individuals raising money in the name of the SFPL, an institution in its own right, but also a department of San Francisco City government. This fraud has been perpetrated for 18 years and is designed to continue in perpetuity!

ADDENDUM

The following information is provided by speaker(s), pursuant to Administrative Code, Section 67.16. The content is neither generated by, nor subject to approval or verification of accuracy by, the Clerk of the Board or the Board of Supervisors.

Ray Hartz submitted the following additional information during General Public Comment, as follows: So, we are talking about the ongoing fraud being perpetrated on the citizens of San Francisco by the Office of the Mayor! From the findings of the FPPC: "Respondent, Luis Herrera, while serving as City Librarian for the San Francisco Public Library, failed to report gifts received from The Friends of the San Francisco Public Library on annual Statements of Economic Interests for calendar years 2009, 2010, and 2011 in violation of government code section 87300." He signed those statements with the following declaration: "I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct." So, a City Department head, appointed by the Mayor, perjured himself by lying year, after year, after year! Almost \$15,000 over those three years! And, at that point, it had become a custom for more than a decade! Did he do this knowingly and willfully?

BOARD of SUPERVISORS



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September 28, 2016

Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
Attn: Victor Young, Administrator

Re: Sunshine Ordinance Complaint Nos. 16088 & 16089

Dear Task Force Members:

On September 27, 2016, our office received a request to respond to SOTF Complaint Nos. 16088 & 16089 filed by Mr. Ray Hartz (complainant). The complainant alleges violation of Sunshine Ordinance Section 67.16, as his 150-word written summaries were placed into an addendum and not the body of the September 6, 2016 and September 20, 2016 Board of Supervisors' minutes.

In response to the complaints, we ask that the Sunshine Ordinance Task Force reference Complaint Nos. 13054, 13055 and 13059 filed by the complainant, which are identical in nature to the subject complaints – alleging violation of Sunshine Ordinance Sec. 67.16 regarding the placement of his 150-word summaries in the addendum rather than the body of the minutes. On November 4, 2013, our office thoroughly and comprehensively responded to the complainant's allegations. A copy of the response letter is attached for your reference and review. The Sunshine Ordinance Task Force heard this same matter during the April 2, 2014 Task Force meeting, found no violations, and fully concluded the matter. A copy of the meeting minutes are attached for your reference.

Per our November 4, 2013 response:

The Sunshine Ordinance Task Force (Task Force) has previously referred similar alleged violations of Section 67.16 for administrative remedy to the Ethics Commission (Commission) (Ray Hartz vs. San Francisco Public Library City Librarian, Luis Herrera Ethics Complaint No. 03-120402 & 01-130307). Mr. Hartz' complaint stated that the Task Force had found that the 150-word written summaries of Public Comments must be placed within the body of the minutes. On both complaints, the Ethics Commissioners found for the City Librarian stating that, "the minutes provided were paginated as a single document, including the addendum and the Task Force cannot add or imply the words 'in the body of the minutes' into the Sunshine Ordinance." A motion was passed during the February 25, 2013 meeting that the Commission found no violation of the Sunshine Ordinance.¹ On June 24, 2013, the Ethics Commission again discussed the factual and legal issues of this matter and concluded that there was no violation of Sunshine Ordinance, section 67.16, because the written summaries appeared in the minutes, and that placing the summaries in an addendum that is part of the same

document satisfies the requirements of Section 67.16.² In each case, the Commission has been consistent and supportive that no violation existed, that the 150-word summary is not a part of the body's official minutes, nor does the body need to vouch for its accuracy; and the minutes may expressly so state. [...]

Authority

The Brown Act imposes no requirements on policy bodies regarding what is recorded within the meeting minutes. The Charter of the City and County of San Francisco requires that a record be kept of the proceeding, specifically indicating how each member voted on each question, and shall be made available to the public, but does not otherwise require any other information be kept.

Adopted by the voters in 1999, Administrative Code, Section 67.16, states the clerk or secretary shall record the minutes for each regular and special meeting, specifically the time the meeting begun and ended; names and titles if applicable of attendees; the roll call vote on each matter considered, and finally a list of the members of the public who spoke on each matter if the speakers identified themselves and if in support or opposition on a matter, to be listed under the public comment section. Additionally, if the public speaker submits a 150-word summary of their public comment, it is noted as such next to their name and the reader is referred to an appendix, with a page number, where the comment is captured as part of the same document.

Rationale

As referenced above, the 150-word summary is placed in the addendum for several reasons. The first is that an identifying list of members of the public who spoke on each matter in support or opposition on a matter is recorded under the public comment section of the minutes. A researcher would be able to find that person or subject matter by reviewing the public comment section of the minutes, and for the 150-word statement could then to the addendum for the actual transcript.


Secondly, the minutes must clearly record the action taken by the Board. A researcher trying to discover what actions were taken by the Board, must be able to review minutes that clearly and concisely confirm each action. If 150-word statements were placed in the public comment section, the minutes could be much longer and a researcher would have to cull through various 150-word statements before finding various actions taken by the Board. Specifically, Immediate Adoption or Imperative items are listed after the public comment section, and finding the actions taken for these items would be unduly burdensome if the 150-word statements were moved from the addendum to the body of the minutes.

Lastly, the minutes, consistent with Administrative Code Section 67.16 and the aforementioned points, reflect the Clerk's account of events during a Board proceeding to ensure the utmost accuracy and accountability per the chartered duty as Clerk of the Board (Charter Section 2.117). While the Clerk can validate whether public comment was made (the brief statement in the Public Comment section) the Clerk cannot attest to the content and relevance of the 150-word statement as part of the record. Therefore the statement must be placed in the appendices because the statements are not validated. Please also note that the Board minutes are not to be confused with meeting transcripts, which are word-for-word transcriptions of proceedings and have different requirements and protocols.

The subject complaints are duplicative and without merit; our office does not intend to allocate additional resources to respond to this matter further, as we believe the facts contained in our response dated November 4, 2013, and the determination reached by the SOTF on April 2, 2014 are sufficient for the Sunshine Ordinance Task Force to reach the same determination.

The Office of the Clerk of the Board conforms to all said requirements, and we hereby request that this matter be dismissed in order to conserve the resources of City staff and the Task Force. If the Sunshine Ordinance Task Force disagrees with the information already provided and determinations, we request that the Task Force seek administrative remedies with the City Attorney or the Ethics Commission.

Most Sincerely,



Angela Calvillo
Clerk of the Board

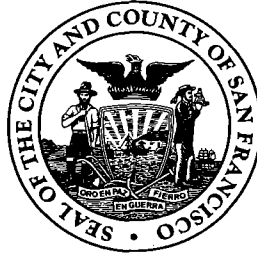
Attachments:

- September 10, 2013 (Rec'd) – Complaint Nos. 13054, 13055, 13059
- November 4, 2013 – Response to Complaint Nos. 13054, 13055, 13059
- April 2, 2014 – SOTF Meeting Minutes (Complaint Nos. 13054, 13055, 13059)

¹ Ethics Commission Motion 13-02-25-1 (Renne/Liu): Moved, seconded, and passed (4-0; Hayon excused) that the Commission find no violation of the Sunshine Ordinance with respect to Agenda Item III(a) – Ethics Complaint No. 03-120402 – regarding alleged willful violation of Sunshine Ordinance by department head (referred from the Sunshine Ordinance Task Force on April 2, 2012).

² Ethics Commission Motion 13-06-24-02 (Studley/Hur): Moved, seconded, and passed (5-0) that City Librarian Luis Herrera did not violate the Sunshine Ordinance because the 150-word summaries submitted by Complainant and others were included in the minutes of the Library Commission's meetings, as required under Administrative Code section 67.16.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

November 4, 2013

Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
Attn: Andrea Ausberry, Clerk,
Sunshine Ordinance Task Force

Re: Sunshine Ordinance Complaint Nos. 13054, 13055 and 13059

Dear Task Force Members:

This letter responds to the Sunshine Ordinance complaints filed by Mr. Ray Hartz on September 4, 2013, for the alleged violation of Section 67.16 (Minutes) and 67.34 (Willful Violation) of the Sunshine Ordinance.

Willful Violation

The Sunshine Ordinance Task Force (Task Force) has previously referred similar alleged violations of Section 67.16 for administrative remedy to the Ethics Commission (Commission) (Ray Hartz vs. San Francisco Public Library City Librarian, Luis Herrera Ethics Complaint No. 03-120402 & 01-130307). Mr. Hartz' complaint stated that the Task Force had found that the 150-word written summaries of Public Comments must be placed within the body of the minutes. On both complaints, the Ethics Commissioners found for the City Librarian stating that, "the minutes provided were paginated as a single document, including the addendum and the Task Force cannot add or imply the words 'in the body of the minutes' into the Sunshine Ordinance." A motion was passed during the February 25, 2013 meeting that the Commission found no violation of the Sunshine Ordinance.¹ On June 24, 2013, the Ethics Commission again discussed the factual and legal issues of this matter and concluded that there was no violation of Sunshine Ordinance, section 67.16, because the written summaries appeared in the minutes, and that placing the summaries in an addendum that is part of the same document satisfies the requirements of Section 67.16.² In each case, the Commission has been consistent and supportive that no violation existed, that the 150-word summary is not a part of the body's official minutes, nor does the body need to vouch for its accuracy; and the minutes may expressly so state.

Nevertheless, on a similar complaint filed by Mr. Ray Hartz against the Clerk of the Board (Case No. 12050), the Task Force directed on May 23, 2013 that I include 150-word summary "in the body of the minutes." The Office of the City Attorney, the City's legal advisor, has opined that "...the 150-word summary is not a part of the body's official minutes, nor does the body vouch for its accuracy; and the minutes may expressly so state" in the City Attorney's Good Government Guide for 2010-11, Chapter IV, Section G.2.b. In accordance with advice from the Office of the City Attorney, and decisions promulgated from the Ethics Commission, we believe the Office of the Clerk

of the Board fully complies with the policies and procedures adopted by the City's voters in 1999. The three complaints before you today are without merit as the 150-word summary is placed in the addendum as articulated by the Commission. The header and the footer of the Addendum references the Board of Supervisors, meeting minutes, date, and page number as ruled appropriate by the Ethics Commission. The addendum is part of the official Minutes which are maintained in the Office of the Clerk of the Board and on the website of the Board of Supervisors. Consistent with and supportive of the determinations made by the Ethics Commission, the Clerk of the Board acted in full compliance with the Sunshine Ordinance and has neither shown nor intended any willful violation.

Authority

The Brown Act imposes no requirements on policy bodies regarding what is recorded within the meeting minutes. The Charter of the City and County of San Francisco requires that a record be kept of the proceeding, specifically indicating how each member voted on each question, and shall be made available to the public, but does not otherwise require any other information be kept.

Adopted by the voters in 1999, Administrative Code, Section 67.16, states the clerk or secretary shall record the minutes for each regular and special meeting, specifically the time the meeting begun and ended; names and titles if applicable of attendees; the roll call vote on each matter considered, and finally a list of the members of the public who spoke on each matter if the speakers identified themselves and if in support or opposition on a matter, to be listed under the public comment section. Additionally, if the public speaker submits a 150-word summary of their public comment, it is noted as such next to their name and the reader is referred to an appendix, with a page number, where the comment is captured as part of the same document.

Rationale

As referenced above, the 150-word summary is placed in the addendum for several reasons. The first is that an identifying list of members of the public who spoke on each matter in support or opposition on a matter is recorded under the public comment section of the minutes. A researcher would be able to find that person or subject matter by reviewing the public comment section of the minutes, and for the 150-word statement could then to the addendum for the actual transcript.

Secondly, the minutes must clearly record the action taken by the Board. A researcher trying to discover what actions were taken by the Board, must be able to review minutes that clearly and concisely confirm each action. If 150-word statements were placed in the public comment section, the minutes could be much longer and a researcher would have to cull through various 150-word statements before finding various actions taken by the Board. Specifically, *Immediate Adoption* or *Imperative items* are listed after the public comment section, and finding the actions taken for these items would be unduly burdensome if the 150-word statements were moved from the addendum to the body of the minutes.

Lastly, the minutes, consistent with Administrative Code Section 67.16 and the aforementioned points, reflect the Clerk's account of events during a Board proceeding to ensure the utmost accuracy and accountability per the chartered duty as Clerk of the Board (Charter Section 2.117). While the Clerk can validate whether public comment was made (the brief statement in the Public Comment section) the Clerk cannot attest to the content and relevance of the 150-word statement as part of the record. Therefore the statement must be placed in the appendices because the statements are not validated. Please also note that the Board minutes are not to be confused with meeting transcripts, which are word-for-word transcriptions of proceedings and have different requirements and protocols.

The Task Force has significant powers to (1) determine whether a record requested is discloseable or not, (2) order compliance with the person's request, and if not, (3) conduct public hearings concerning the record denial, and (4) further recommend other administrative remedies to the Ethics Commission, Board or District Attorney's office or other State agencies. Additionally, Task Force duties comprise advising the Board of Supervisors and other City Departments on appropriate ways in which to implement the Sunshine Ordinance, and/or propose amendments to it.

As previously stated, the Task Force does not have authority to amend the Administrative Code and impose additional requirements, and cannot add or imply the words 'in the body of the minutes'. That legislative capacity resides with the voters of the City and the legislative body, the Board of Supervisors. Therefore, the Office of the Clerk of the Board conforms to all said requirements, and the complaints are, respectfully, without merit.

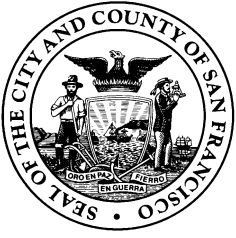
Most Sincerely,



Angela Calvillo
Clerk of the Board

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² Ethics Commission Motion 13-06-24-02 (Studley/Hur): Moved, seconded, and passed (5-0) that City Librarian Luis Herrera did not violate the Sunshine Ordinance because the 150-word summaries submitted by Complainant and others were included in the minutes of the Library Commission's meetings, as required under Administrative Code section 67.16.



SUNSHINE ORDINANCE TASK FORCE CITY AND COUNTY OF SAN FRANCISCO MINUTES

Hearing Room 408
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

April 2, 2014 – 4:00 PM

Regular Meeting

Members: Kitt Grant (Chair), Louise Fischer (Vice-Chair),
Richard Knee, Allyson Washburn, David Pilpel,
David Sims, Todd David, Chris Hyland, Bruce Oka

1. **Call to Order, Roll Call, and Agenda Changes.** (00:00:00 – 00:16:00)

The meeting was called to order at 4:12 p.m. Members Sims and David were noted absent. There was a quorum. Member Sims was noted present at 4:19 p.m.

Member Hyland, seconded by Member Washburn, moved to continue Item 8 (SOTF Annual Report) to May 7, 2014.

Public Comment:

Peter Warfield noted that since there is no draft annual report it is appropriate to continue the item, expressed his appreciation that items with no attachments were noted in the packet and suggested that the same be inserted into the online version. Mr. Warfield also inquired as to the status of membership on the SOTF and possible resignations.

Ray Hartz Jr. noted that public comment should be taken on Member Pilpel action to be proposed and expressed his concern regarding the lack of effort to fill the 2 vacant seats on the Sunshine Ordinance Task Force and the resulting lack of due process.

Thomas Picarello expressed concern that Mr. Hartz was not addressing the correct subject matter during public comment and request that discussion occur as soon as possible regarding the annual report.

The motion PASSED by the following vote:

Ayes: 7 – Knee, Washburn, Sims, Hyland, Oka, Fischer, Grant

Noes: 1 – Pilpel

Absent: 1 – David

2. **File No. 13058:** Complaint filed by Ray Hartz Jr. against Dennis Herrera, Office of the City Attorney, for allegedly violating Sunshine Ordinance Section 67.34 by advising City boards and commissions to abridge public comment by posting 150 word summaries of public comment as attachments to meeting minutes rather than including the summaries in the body of the minutes. (00:16:00 – 03:17:00)

Mr. Hartz declined to have Items 2 and 3 (File Nos. 13058 and 13061) heard together.

Member Knee, seconded by Member Fischer, moved to find jurisdiction.

Public Comment:

Peter Warfield stated his support that the SOTF find jurisdiction.

The motion PASSED by the following vote:

Ayes: 7 – Knee, Washburn, Sims, Hyland, Oka, Fischer, Grant

Noes: 1 – Pilpel

Absent: 1 – David

Ray Hartz Jr. (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Gabriel Zitrin, City Attorney's Office (Respondent), presented an overview of their defense. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent provided a rebuttal. The Complainant provided a rebuttal.

Deputy City Attorney Colla commented on the item.

Additional actions delayed until related complaint has been discussed (Item 3, File No. 13061).

Member Knee, seconded by Member Hyland, moved to find Dennis Herrera, Office of the City Attorney, in violation of Sunshine Ordinance Section 67.21(i).

Chair Grant found the motion to be out of order.

Member Knee moved to appeal the ruling of the Chair.

Chair Grant rescinded the finding that the motion is out of order.

Public Comment:

Patrick Monette-Shaw stated that the Respondent is incorrect and commented on whether or not the charter overrides the Sunshine Ordinance.

Thomas Picarello expressed opposition to the motion to find violation of Section 67.21(i) and stated that the Ethics Commission has previously overruled the SOTF decision regarding the placement of 150 word summary.

Peter Warfield expressed concern regarding the SOTF adding additional violations to a complaint. Mr. Hartz has split the complaint into two parts and public comment should be allowed on the complaint as a whole. Violation should be found as the City Attorney has found violations previously 6 times.

Member Pilpel, seconded by Member Sims, moved to delay/continue the vote on the motion concerning Item 2 (File No. 13058).

The motion PASSED by the following vote:

Ayes: 5 – Washburn, Pilpel, Sims, Fischer, Grant

Noes: 3– Knee, Hyland, Oka

Absent: 1 – David

Member Washburn, seconded by Member Hyland, moved to find Dennis Herrera, Office of the City Attorney, in violation of Sunshine Ordinance Section 67.34.

The motion was withdrawn by Member Washburn, seconded by Member Hyland.

The motion by Member Knee, seconded by Member Hyland, to find Dennis Herrera, Office of the City Attorney, in violation of Sunshine Ordinance Section 67.21(i) was amended by the mover and the second to apply to both Items Nos. 2 and 3 (File Nos. 13058 and 13061).

The action on the motion and speakers is listed under Item No 3, File No. 13061.

Member Washburn, seconded by Member Oka, moved to find Dennis Herrera, Office of the City Attorney, in violation of Sunshine Ordinance Section 67.34.

Public Comment:

Thomas Picarello stated his lack of support of the motion to find violation of Section 67.34.

The Motion was amended by Member Washburn, seconded by Member Oka, as follows:

Member Washburn, seconded by Member Oka, moved to find Dennis Herrera, Office of the City Attorney, in violation of Sunshine Ordinance Sections 67.16 and 67.34.

Member Knee requested that the question regarding the 67.16 be divided.

Public Comment:

Thomas Picarello stated his lack of support as the SOTF has already ruled that there was no violation of Section 67.21(i).

The motion to find violation of Sunshine Ordinance sections 67.16 and 67.34 was withdrawn by Member Washburn, seconded by Member Oka.

There being no additional motions the Task Force FOUND NO VIOLATIONS and concluded the matter.

3. **File No. 13061:** Complaint filed by Ray Hartz Jr. against Dennis Herrera, Office of the City Attorney, for allegedly violating Sunshine Ordinance Section 67.21(i) by advising City boards and commissions to abridge public comment by posting 150 word summaries of public comment as attachments to meeting minutes rather than including the summaries in the body of the minutes. (01:57:00 – 03:17:00)

Member Knee, seconded by Member Oka, moved to find jurisdiction.

Public Comment:

None.

The motion passed without objections.

Ray Hartz Jr. (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Gabriel Zitrin, City Attorney's Office (Respondent), presented an overview of their defense. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent provided a rebuttal. The Complainant provided a rebuttal.

Deputy City Attorney Colla commented on the item.

Member Knee, seconded by Member Hyland, moved to find Dennis Herrera, Office of the City Attorney, in violation of Sunshine Ordinance Section 67.21(i) for items Nos. 2 and 3 (File Nos. 13058 and 13061).

Patrick Monette-Shaw stated that the Ethics Commission should not be re-adjudicating cases. The Good Government Guide is not a legal document.

Thomas Picarello stated that the SOTF needs to have credibility that should be achieved through consistent decision that coincides with other current laws. The previous decisions by the SOTF were incorrect.

Paula Datesh stated that the SOTF needs to send a message to the departments and issue clear rulings.

The motion FAILED by the following vote:

Ayes: 5 – Knee, Washburn, Sims, Hyland, Oka

Noes: 3 – Pilpel, Fischer, Grant

Absent: 1 – David

There being no additional motions the Task Force FOUND NO VIOLATIONS and concluded the matter.

4. **Public Comment:** (01:40:00 – 01:57:00)

Patrick Monette-Shaw expressed concern over the removal of the SOTF interested persons e-mail list.

Ray Hartz Jr. expressed concern that the Ethics Commission expedited his hearing to coincide with Mr. Hartz's time out of town. The Ethics Commission held the hearing without the presence of Mr. Hartz.

Peter Warfield stated that the SOTF Administrator was aware of Mr. Hartz's schedule. Mr. Warfield agreed with the comments of Mr. Monette-Shaw regarding the interested persons e-mail list. Mr. Warfield expressed concern over the language used by the SOTF Administrator in regard to mediation and requirements for the Respondent to respond. Paula Datesh comment on the Arts Commission procedures and mishandling of various requests.

Thomas Picarello commented on the backlog of SOTF complaints and questions the scheduling of only 1 complainant and 1 subject matter. Mr. Picarello noted that some Members of the Board of Supervisors Staff are unaware of the requirements of the SOTF and suggested additional training.

MEETING RECESSED – 6:10 p.m. to 6:22 p.m.

Member Knee, seconded by Hyland, moved to consolidate the hearing on items Nos. 5, 6 and 7 (File Nos. 13054, 13055 and 13059) due to the similar subject matter.

Rick Caldeira, Clerk of the Board of Supervisors' Office (Respondent), agreed to the motions.

Mr. Hartz (Complainant) agreed to the motion with the provision that only the hearing would be consolidated and that each complaint will be provided a separate decision and violations.

Mr. Hartz requested that Member Pilpel recuse himself from the proceedings on items 5, 6 and 7.

Public Comment:

Thomas Picarello expressed his support to consolidate Items No. 5, 6 and 7 and that the agreement of the complainant is not requirement to combine files and concern regarding the lack of a process to deal with vexatious complaint.

The motion PASSED by the following vote:

Ayes: 8 – Knee, Washburn, Pilpel, Sims, Hyland, Oka, Fischer, Grant

Absent: 1 – David

- 5. File No. 13054: Complaint filed by Ray Hartz Jr. against Angela Calvillo, Clerk of the Board of Supervisors, for allegedly violating Sunshine Ordinance Sections 67.15(d) and 67.34 by posting Complainant's 150-word summary of his public comment as an addendum to the meeting minutes rather than including the summary into the body of the minutes of June 18, 2013. (03:17:00 – 04:40:00)**

The actions and speakers for Items 5, 6 and 7 (File Nos. 13054, 13055 and 13059) are listed under Item No. 7 (File No. 13059.)

6. **File No. 13055:** Complaint filed by Ray Hartz Jr. against Angela Calvillo, Clerk of the Board of Supervisors, for allegedly violating Sunshine Ordinance Sections 67.15(d) and 67.34 by posting Complainant's 150-word summary of his public comment as an addendum to the meeting minutes rather than including the summary into the body of the minutes of June 11, 2013. (03:17:00 – 04:40:00)

The actions and speakers for Items 5, 6 and 7 (File Nos. 13054, 13055 and 13059) are listed under Item No. 7 (File No. 13059.)

7. **File No. 13059:** Complaint filed by Ray Hartz Jr. against Angela Calvillo, Clerk of the Board of Supervisors, for allegedly violating Sunshine Ordinance Sections 67.15(d) and 67.34 by posting Complainant's 150-word summary of his public comment as an addendum to the meeting minutes rather than including the summary into the body of the minutes of June 25, 2013. (03:17:00 – 04:40:00)

The actions and speakers for Items 5, 6 and 7 (File Nos. 13054, 13055 and 13059) are listed under Item No. 7 (File No. 13059.)

Member Knee, seconded by Member Oka, moved to find jurisdiction on File Nos. 13054, 13055 and 13059.

Public Comment:

None.

The motion passed without objections.

Ray Hartz Jr. (Complainant) provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Angela Calvillo, Clerk of the Board of Supervisors' Office, (Respondent), presented an overview of their defense. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent provided a rebuttal. The Complainant provided a rebuttal.

Deputy City Attorney Colla commented on the item.

Member Oka stated that Member Pilpel should recuse himself from voting on complaints filed by Mr. Hartz.

(Each motion shall be considered to find a separate violation for each of the listed files).

Member Oka, seconded by Member Sims, moved to find Angela Calvillo, Clerk of the Board of Supervisors, in violation of Sunshine Ordinance Sections 67.16, 67.15(d) and 67.34 (File Nos. 13054, 13055 and 13059).

Member Knee requested that the question regarding 67.34 be divided.

Member Oka, seconded by Member Sims, moved to find Angela Calvillo, Clerk of the Board of Supervisors, in violation of Sunshine Ordinance Sections 67.16 and 67.15(d). (File Nos. 13054, 13055 and 13059).

Member Oka, seconded by Member Sims, moved to find Angela Calvillo, Clerk of the Board of Supervisors, in violation of Sunshine Ordinance Sections 67.34. (File Nos. 13054, 13055 and 13059).

Member Hyland, seconded by Member Washburn, moved to find Angela Calvillo, Clerk of the Board of Supervisors, in violation of Sunshine Ordinance Sections 67.21(e). (File Nos. 13054, 13055 and 13059).

Public Comment:

Thomas Picarello expressed opposition to the motions and does not agree that the First Amendment has been violated.

Paula Datesh stated that there have been previous cases decided by the SOTF with similar circumstances.

The motion concerning the violations of Sunshine Ordinance Section 67.16 and 67.15(d) FAILED by the following vote:

Ayes: 5 – Knee, Washburn, Sims, Hyland, Oka

Noes: 3 – Pilpel, Fischer, Grant

Absent: 1 – David

The motion concerning the violations of Sunshine Ordinance Section 67.21(e) FAILED by the following vote:

Ayes: 3 – Washburn, Hyland, Oka

Noes: 5 – Knee, Pilpel, Sims, Fischer, Grant

Absent: 1 – David

The motion concerning the violations of Sunshine Ordinance Section 67.34 FAILED by the following vote:

Ayes: 4 – Washburn, Sims, Hyland, Oka

Noes: 4 – Knee, Pilpel, Fischer, Grant

Absent: 1 – David

There being no additional motions the Task Force FOUND NO VIOLATIONS and concluded the matter in regards to File Nos. 13054, 13055 and 13059.

8. Sunshine Ordinance Task Force – Annual Report.

Item 8 continued to May 7, 2014, during Call to Order, Roll Call, and Agenda Changes.

MEETING RECESSED – 8:46 p.m. to 8:50 p.m.

Item No. 23 was hearing out of order without objection.

9. **Sunshine Ordinance Task Force Bylaws and Complaint Procedure – Review and Possible Amendments.** (04:40:00 – 05:01:00)

Chair Grant provided an overview of the proposed process to discuss and adopt changes to the SOTF bylaws and procedures. Discussion occurred.

Public Comment:

Thomas Picarello suggested that any enactments be delayed until new members of the SOTF are appointed and commented on proposed amendments.

Continued to the May 7, 2014, meeting of the Sunshine Ordinance Task Force without objections.

Member Pilpel, seconded by Member Knee, moved to continued Item Nos. 10 through 20 to the May 7, 2014, meeting of the Sunshine Ordinance Task Force.

Public Comment:

Thomas Picarello expressed his appreciation of Member Pilpel trying to be sure that the SOTF minutes are correct and encourages the SOTF to approve and post the minutes as soon as possible.

The motion was approved without objection.

10. **Approval of Minutes from the May 1, 2013, Regular Meeting.**

Continued to May 7, 2014.

11. **Approval of Minutes from the June 5, 2013, Regular Meeting.**

Continued to May 7, 2014.

12. **Approval of Minutes from the July 9, 2013, Special Meeting.**

Continued to May 7, 2014.

13. **Approval of Minutes from the August 7, 2013, Regular Meeting.**

Continued to May 7, 2014.

14. **Approval of Minutes from the September 4, 2013, Regular Meeting.**

Continued to May 7, 2014.

15. **Approval of Minutes from the October 2, 2013, Regular Meeting.**

Continued to May 7, 2014.

16. **Approval of Minutes from the November 6, 2013, Regular Meeting.**

Continued to May 7, 2014.

17. **Approval of Minutes from the December 4, 2013, Regular Meeting.**

Continued to May 7, 2014.

18. **Approval of Minutes from the January 30, 2014, Special Meeting.**

Continued to May 7, 2014.

19. **Approval of Minutes from the February 5, 2014, Regular Meeting.**

Continued to May 7, 2014.

20. **Approval of Minutes from the March 5, 2014, Regular Meeting.**

Continued to May 7, 2014.

21. **Report: Education, Outreach and Training Committee meetings of February 10, 2014.**

Member Pilpel provided a report on the Education, Outreach and Training Committee meeting of February 10, 2014, and stated pending issues before the committee.

Public Comment:

None.

22. **Administrator's Report.**

Administrator Young provided a report concerning the administration of the Sunshine Ordinance Task Force.

Public Comment:

Thomas Picarello expressed concern regarding the backlog of complaints and complying with the SOTF 45 day requirement. Mr. Picarello proposed changing the scheduling process to speed up the complaint process.

23. **Announcements, Comments, Questions, and Future Agenda Items.**

Member Pilpel provided information concerning a Court of Appeals Case regarding City of San Jose v. Ted Smith regarding public records on personal devices and request a future hearing regarding the matter.

Member Pilpel provided information concerning Court of Appeals Case A140308 regarding attorney client privileges and request a hearing on the matter.

Member Pilpel requested a hearing regarding e-mail notice of agenda being posted online.

Member Pilpel requested a hearing regarding the Clerk of the Board of Supervisors policy concerning SOTF referrals.

Member Pilpel requested that the SOTF adjourn the meeting in memory of Jean Lum, former Deputy Director with the San Francisco Board of Supervisors and Charlotte Burke, former President of the Sunshine Ordinance Task Force.

Member Knee provided an update on SOTF appointment by the Board of Supervisors Rules Committee. The meeting is anticipated to occur on April 17, 2014, or May 7, 2014. Members who are not reapplying to the SOTF shall continue to serve as holdover members until the seats are filled.

Public Comment:

Thomas Picarello suggested that the SOTF meeting schedule should continue to be provided to the public via email. Notice of upcoming meetings should be included in the agendas.

24. **ADJOURNMENT**

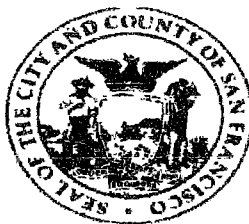
Member Pilpel, seconded by Member Hyland, moved to adjourn the meeting at the hour of 9:55 p.m. in memory of Jean Lum and Charlotte Burke.

The motion passed without objection.

APPROVED: April 30, 2014



Victor Young
Administrator
Sunshine Ordinance Task Force



SUNSHINE ORDINANCE TASK FORCE
1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102
Tel. (415) 554-7724; Fax (415) 554-7854
http://www.sfgov.org/sunshine

SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission BOARD OF SUPERVISORS

Name of individual contacted at Department or Commission ANGELA CALVILLO, CLERK


Alleged violation public records access
 Alleged violation of public meeting. Date of meeting 6/18/2013

Sunshine Ordinance Section 67.15(d) PUBLIC TESTIMONY & 67.34 WILLFUL FAILURE
(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.

Despite six rulings regarding placement of 150-word summaries, including # 12050 Ray Hartz v Clerk of the Board, Angela Calvillo continues to abridge public criticism in violation of the Sunshine Ordinance. The continued and repeated actions of the Clerk of the Board constitute a "willful failure" and should be considered "official misconduct" under the Ordinance.

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  **Mr. Ray W. Hartz Jr.**
839 Leavenworth St. #304
San Francisco, CA 94109-6131 Address _____

Telephone No. (415) 345-9144 E-Mail Address RWHARTZTR@SBCG.GLOBAL.NET

Date SEPTEMBER 4, 2013 
Signature

I request confidentiality of my personal information. yes no

¹ NOTICE: PERSONAL INFORMATION THAT YOU PROVIDE MAY BE SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE, EXCEPT WHEN CONFIDENTIALITY IS SPECIFICALLY REQUESTED. YOU MAY LIST YOUR BUSINESS/OFFICE ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS IN LIEU OF YOUR HOME ADDRESS OR OTHER PERSONAL CONTACT INFORMATION. Complainants can be anonymous as long as the complainant provides a reliable means of contact with the SOTF (Phone number, fax number, or e-mail address).

Tuesday, June 18, 2013

In accordance with the San Francisco Sunshine Ordinance of 1999, section 67.16 MINUTES, I ask the following statement be entered in the minutes of this meeting. From the above listed section: *"Any person speaking during the 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."*

Further, I request this 150 word summary be included in the body of the minutes in accordance with Sunshine Ordinance Task Force Order of Determination in Case #10054, which stated:

"The Task Force finds that the Commission violated Sunshine Ordinance Section 67.15 by altering Mr. Hartz's statement as it constituted an abridgement of the submission and Section 67.16 for attaching the statement as an addendum and not placing it within the body of the minutes."

And the Order of Determination in Case #11054, which stated:

"After duly considering the testimony and other evidence presented, along with its prior rulings on the issue, the Task Force found that an addendum is an attachment to a document, not part of the document, and, accordingly, an addendum is not "in the minutes" as required under the ordinance. The Task Force found that the Ordinance states in simple, plain language that the 150-word statement must be "in the minutes" and that requirement is not satisfied by attaching the statement as an addendum at the end of the minutes. The Task Force further noted that the statements should be within the body of the minutes to prevent public officials from unlawfully abridging unwanted or critical public comment."

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"The Task Force shall notify all City departments and agencies that including public comment summaries as attachments to meeting minutes, instead of including such comments in the body of the minutes violates Sunshine Ordinance Section 67.16 , notwithstanding the City Attorney's advice to the contrary."

And:

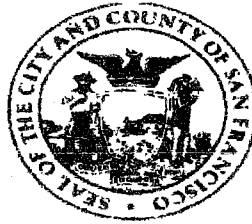
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What has it been? A month, two at most, since members of this BOS raised a hue and cry about DA Gascon accepting \$26,000 of office furniture. All sorts of issues, in an hour-long discussion, especially about accepting the gift retroactively! Then last week, you approved RETROACTIVELY \$750,000 from The Friends of the SFPL! That's more than 28 times the amount accepted by the DA, and it was done with not one word of discussion. What choice did you have? Money's been spent, gifts have been given, trips have been taken, influence has been purchased, a fait accompli! At least DA Gascon reported "the gifts!" Herrera, the Library Commission, and employees of The Library have reported NONE of the gifts they accepted and you retroactively approved this wholesale purchase of influence! Members of the LC lied to the public about these gifts, and you cover their tracks. How hypocritical!

ADDENDUM

The following information are provided by speaker(s), pursuant to Administrative Code, Section 67.16. The content is neither generated by, nor subject to approval or verification of accuracy by, the Clerk of the Board or the Board of Supervisors.

Ray Hartz submitted the following additional information during Public Comment as follows: What has it been? A month, two at most, since members of this BOS raised a hue and cry about DA Gascon accepting \$26,000 of office furniture. All sorts of issues, in an hour-long discussion, especially about accepting the gift retroactively! Then last week, you approved RETROACTIVELY \$750,000 from The Friends of the SFPL! That's more than 28 times the amount accepted by the DA, and it was done with not one word of discussion. What choice did you have? Money's been spent, gifts have been given, trips have been taken, influence has been purchased, a fait accompli! At least DA Gascon reported "the gifts!" Herrera, the Library Commission, and employees of The Library have reported NONE of the gifts they accepted and you retractively approved this wholesale purchase of influence! Members of the LC lied to the public about these gifts, and you cover their tracks. How hypocritical!



SUNSHINE ORDINANCE TASK FORCE
1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102
Tel. (415) 554-7724; Fax (415) 554-7854
http://www.sfgov.org/sunshine

SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission BOARD OF SUPERVISORS

Name of individual contacted at Department or Commission ANGELA CALVILLO, CLERK

Alleged violation public records access
 Alleged violation of public meeting. Date of meeting 6/11/2013

Sunshine Ordinance Section 67.15(d) PUBLIC TESTIMONY & 67.34 WILLFUL FAILURE
(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.

Despite six rulings regarding placement of 150-word summaries, including # 12050 Ray Hartz v Clerk of the Board, Angela Calvillo continues to abridge public criticism in violation of the Sunshine Ordinance. The continued and repeated actions of the Clerk of the Board constitute a "willful failure" and should be considered "official misconduct" under the Ordinance.

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  **Mr. Ray W. Hartz Jr.**
839 Leavenworth St. #304
San Francisco, CA 94109-6131 Address _____

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

Date SEPTEMBER 4, 2013 
Signature

I request confidentiality of my personal information. yes no

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Tuesday, June 11, 2013

In accordance with the San Francisco Sunshine Ordinance of 1999, section 67.16 MINUTES, I ask the following statement be entered in the minutes of this meeting. From the above listed section: *"Any person speaking during the 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."*

Further, I request this 150 word summary be included in the body of the minutes in accordance with Sunshine Ordinance Task Force Order of Determination in Case #10054, which stated:

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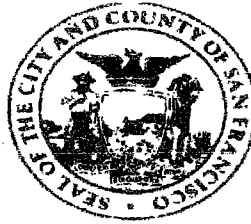
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Whenever I see another story about the misuse of taxpayer funds it makes my blood boil, especially when I think about the fact that we never hear any resolution of these abuses. The Friends of the San Francisco Library raise millions of dollars each year in the name of the citizens of San Francisco. When we come here and point out the problems in this public/private "partnership," you just look the other way! When we point out that the City Librarian and Library Commission have been LYING, yes LYING, to the public about the financial dealings of The Friends, you look the other way! They have abused the public trust placed in them! When we point out the \$181,000 of freebies given to the library staff, for them to look the other way, you just look the other way! Why don't you care about these abuses of the public trust?

ADDENDUM

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Complaint against which Department or Commission BOARD OF SUPERVISORS

Name of individual contacted at Department or Commission ANGELA CALVILLO, CLERK

Alleged violation public records access
 Alleged violation of public meeting. Date of meeting 6/25/2013

Sunshine Ordinance Section 67.15(d) PUBLIC TESTIMONY & 67.34 WILLFUL FAILURE
(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.

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(Optional)¹ Name  **Mr. Ray W. Hartz Jr.** Address _____
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Tuesday, June 25, 2013

In accordance with the San Francisco Sunshine Ordinance of 1999, section 67.16 MINUTES, I ask the following statement be entered in the minutes of this meeting. From the above listed section: *"Any person speaking during the 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."*

Further, I request this 150 word summary be included in the body of the minutes in accordance with Sunshine Ordinance Task Force Order of Determination in Case #10054, which stated:

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City Librarian Luis Herrera and the Library Commission, led by Jewelle Gomez, have been negligent in their oversight of The Friends of the San Francisco Public Library. An examination of documents provided at Library Commission meetings shows that they have simply allowed "The Friends" to "self-report" regarding more than \$60 million raised and expended in the name of the citizens of San Francisco. It is my belief that this "private public partnership" will be reviewed by the Civil Grand Jury, and eventually by a Civil Jury of 12 San Franciscans. In a typical year "The Friends" raises approximately 4 to 4.5 million dollars, spends another 2 to \$2.5 million from reserves, and the citizens of this City benefit to the tune of less than \$400,000! I will admit these are rough estimates, given that Luis Herrera has unlawfully withheld public records disclosable under the Sunshine Ordinance and the CPRA.

ADDENDUM

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Ray Hartz submitted the following additional information during Public Comment as follows: City Librarian Luis Herrera and the Library Commission, led by Jewelle Gomez, have been negligent in their oversight of The Friends of the San Francisco Public Library. An examination of documents provided at Library Commission meetings shows that they have simply allowed "The Friends" to "self-report" regarding more than \$60 million raised and expended in the name of the citizens of San Francisco. It is my belief that this "private public partnership" will be reviewed by the Civil Grant Jury, and eventually by a Civil Jury of 123 San Franciscans. In a typical year "The Friends" raises approximately 4 to 4.5 million dollars, spends another 2 to \$2.5 million from reserves, and the citizens of this City benefit to the tune of less than \$400,000! I will admit these are rough estimates, given that Luis Herrera has unlawfully withheld public records disclosable under the Sunshine Ordinance and the CPRA.

Angela Calvillo, Clerk of the Board

BOARD OF SUPERVISORS CITY AND COUNTY OF SAN FRANCISCO

MEETING MINUTES

Tuesday, June 18, 2013 - 2:00 PM

**Legislative Chamber, Room 250
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689**

Regular Meeting

DAVID CHIU, PRESIDENT

JOHN AVALOS, LONDON BREED, DAVID CAMPOS, MALIA COHEN,
MARK FARRELL, JANE KIM, ERIC MAR, KATY TANG, SCOTT WIENER, NORMAN YEE

Angela Calvillo, Clerk of the Board

BOARD COMMITTEES

Budget and Finance Committee Supervisors Farrell, Mar, Avalos, Breed, Wiener	Wednesday 1:00 PM
Budget and Finance Sub-Committee Supervisors Farrell, Mar, Avalos	Wednesday 10:00 AM
City and School District Select Committee Supervisors Kim, Avalos, Farrell, Commissioners Mendoza, Norton, Wynns	4th Thursday 3:30 PM
Government Audit and Oversight Committee Supervisors Cohen, Tang, Campos	2nd and 4th Thursday 10:00 AM
Land Use and Economic Development Committee Supervisors Wiener, Kim, Chiu	Monday 1:30 PM
Neighborhood Services and Safety Committee Supervisors Campos, Mar, Yee	1st and 3rd Thursday 10:00 AM
Rules Committee Supervisors Yee, Breed, Cohen	1st and 3rd Thursday 1:30 PM

Volume 108 Number 20

Members Present: John Avalos, London Breed, David Campos, David Chiu, Malia Cohen, Mark Farrell, Jane Kim, Eric Mar, Katy Tang, Scott Wiener, and Norman Yee

ROLL CALL AND PLEDGE OF ALLEGIANCE

The meeting was called to order at 2:09 p.m. On the call of the roll, all Supervisors were noted present.

AGENDA CHANGES

There were none.

APPROVAL OF MEETING MINUTES

Supervisor Mar, seconded by Supervisor Campos, moved to approve the Special Board Meeting Minutes of March 27, 2013, April 24, 2013, and May 8, 2013, and the Board Meeting Minutes of May 14, 2013. The motion carried by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

COMMUNICATIONS

There were none.

CONSENT AGENDA

Recommendation of the Budget and Finance Committee

130483 [Appropriation - Water Revenue Bonds for the Public Utilities Commission Calaveras Dam Project - \$55,064,799; and Re-Appropriation - Water System Improvement Projects - \$77,271,24 - FY2012-2013]

Sponsor: Mayor

Ordinance appropriating \$55,064,799 of proceeds from San Francisco Public Utilities Commission (SFPUC) Water Revenue Bonds to fund the Water System Improvement Program (WSIP) Calaveras Dam Project and re-appropriating \$77,271,241 of WSIP Project appropriations to various WSIP Projects consistent with the revised April 2013 WSIP Program Budget adopted by the SFPUC.

(Fiscal Impact)

Ordinance No. 113-13

FINALLY PASSED

Recommendations of the Land Use and Economic Development Committee**130251 [Public Works Code - Public Improvements as Gifts]****Sponsors: Wiener; Yee**

Ordinance amending the Public Works Code, by adding Section 791, to allow the Director of the Department of Public Works, subject to specified requirements, to accept certain public improvements as public gifts and dedicate such improvements to public use; and making environmental findings.

Ordinance No. 114-13**FINALLY PASSED****130252 [Administrative Code - Street Design Review Committee]****Sponsors: Wiener; Yee**

Ordinance amending the Administrative Code to establish a Street Design Review Committee.

Ordinance No. 115-13**FINALLY PASSED****130253 [Fire Code - Fire Apparatus Access Roads]****Sponsors: Wiener; Yee**

Ordinance amending the Fire Code, Chapter 5, Section 503.4, to clarify what does not constitute an obstruction of a Fire Apparatus Access Road.

Ordinance No. 116-13**FINALLY PASSED****Recommendations of the Rules Committee****130360 [Settlement of Claim - Bank of San Francisco - \$32,246]**

Resolution approving the proposed settlement of claim filed by Bank of San Francisco against the City and County of San Francisco for \$32,246; claim was filed on July 17, 2012, bearing claim number 13-00117. (City Attorney's Office)

Resolution No. 207-13**ADOPTED****130361 [Settlement of Claim - Stanford Group Company - \$63,292.52]**

Resolution approving the proposed settlement of claim filed by Stanford Group Company against the City and County of San Francisco for \$63,292.52; claim was filed on July 25, 2012, bearing claim number 13-00190. (City Attorney's Office)

Resolution No. 208-13**ADOPTED**

130451 [Settlement of Claim - Magdaleno Rios - \$50,000]

Resolution approving the settlement of the unlitigated claim filed by Magdaleno Rios against the City and County of San Francisco for \$50,000; claim was filed on February 8, 2013. (City Attorney's Office)

Resolution No. 209-13

ADOPTED

130452 [Settlement of Claim - Sharon Prieto - \$40,000]

Resolution approving the proposed settlement of claim by Sharon Prieto against the City and County of San Francisco for \$40,000; claim was filed on June 11, 2012, bearing Claim No. 12-02916. (City Attorney's Office)

Resolution No. 210-13

ADOPTED

The foregoing items were acted upon by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

REGULAR AGENDA

UNFINISHED BUSINESS

Recommendation of the Budget and Finance Committee

130365 [De-Appropriation and Re-Appropriation - Operating Budget Amendment of \$5,096,000 and Capital Improvement Projects of \$42,178,878 for Public Utilities Commission - FY2013-2014]

Sponsor: Mayor

Ordinance amending the adopted FY2013-2014 Appropriation Ordinance and other adopted biennial capital appropriation ordinances for the Public Utilities Commission, including \$3,100,000 in de-appropriation and re-appropriation for the Hetch Hetchy Enterprise operating budget; de-appropriating \$16,414,070 and re-appropriating \$7,513,665 in capital projects in the Hetch Hetchy Capital Improvement Program projects; de-appropriating and re-appropriating \$1,996,000 in the Water Enterprise operating budget; de-appropriating \$70,955,900 and re-appropriating \$55,169,000 in the in the Water Enterprise Capital Improvement Program projects; and de-appropriating \$56,370,059 and re-appropriating \$38,878,486 in the Wastewater Enterprise Capital Improvement Program.

(Fiscal Impact)

PASSED, ON FIRST READING by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

Recommendation of the Land Use and Economic Development Committee

120669 [Subdivision Code - Condominium Conversion Fee]

Sponsors: Chiu; Kim, Yee and Campos

Ordinance amending the Subdivision Code, by adding Section 1396.4, to adopt a condominium conversion fee applicable to certain buildings that would be permitted to convert during a seven year period, and subject to specified requirements, including lifetime leases for non-purchasing tenants; adding Section 1396.5, to suspend the annual condominium conversion lottery until 2024 and resume said lottery under specified circumstances tied to permanently affordable rental housing production; amending Section 1396, to restrict future condominium lotteries to buildings of no more than four units with a specified number of owner occupied units for three years prior to the lottery and provide an exception for certain five- and six-unit buildings to participate in the lottery; and adopting environmental findings.

(Economic Impact)

Supervisor Campos requested to be added as a co-sponsor.

Ordinance No. 117-13

FINALLY PASSED by the following vote:

Ayes: 8 - Avalos, Breed, Campos, Chiu, Cohen, Kim, Mar, Yee

Noes: 3 - Farrell, Tang, Wiener

NEW BUSINESS

Recommendations of the Budget and Finance Committee

130533 [Interim Proposed Budget and Interim Annual Appropriation Ordinance - FYs 2013-2014 and 2014-2015]

Sponsor: Mayor

Interim Proposed Budget and Annual Appropriation Ordinance appropriating all estimated receipts and all estimated expenditures for Departments of the City and County of San Francisco as of May 31, 2013, for the FYs ending June 30, 2014, and June 30, 2015.

(Fiscal Impact)

PASSED ON FIRST READING by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

130534 [Interim Annual Salary Ordinance - FYs 2013-2014 and 2014-2015]

Sponsor: Mayor

Interim Annual Salary Ordinance enumerating positions in the Annual Budget and Appropriation Ordinance for the FYs ending June 30, 2014, and June 30, 2015, continuing, creating, or establishing these positions; enumerating and including therein all positions created by Charter or State law for which compensations are paid from City and County funds and appropriated in the Annual Appropriation Ordinance; authorizing appointments or continuation of appointments thereto; specifying and fixing the compensations and work schedules thereof; and authorizing appointments to temporary positions and fixing compensations therefore.

PASSED ON FIRST READING by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

130554 [Interim Treasure Island Development Authority Budget - FYs 2013-2014 and 2014-2015]**Sponsor: Mayor**

Resolution approving the Interim Budget of the Treasure Island Development Authority for FYs 2013-2014 and 2014-2015.

Resolution No. 211-13

ADOPTED by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

130564 [Interim Office of Community Investment and Infrastructure Budget - FY2013-2014]**Sponsor: Mayor**

Resolution approving an Interim Budget of the Office of Community Investment and Infrastructure, operating as the Successor Agency to the San Francisco Redevelopment Agency, for FY2013-2014.

Resolution No. 212-13

ADOPTED by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

130414 [Appropriation - \$1,267,985 for the San Francisco Airport Commission - FY2013-2014]**Sponsor: Mayor**

Ordinance appropriating amended estimated receipts and amended estimated expenditures of \$1,267,985 for the San Francisco Airport Commission for the fiscal year ending June 30, 2014.

PASSED, ON FIRST READING by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

130417 [Public Employment - Amendment to the Annual Salary Ordinance, FYs 2012-2013 and 2013-2014 - San Francisco Airport Commission]**Sponsor: Mayor**

Ordinance amending Ordinance No. 165-12 (Annual Salary Ordinance FYs 2012-2013 and 2013-2014) to reflect the addition of 32 positions (27.17 FTEs) in various job classes and delete 11 positions (11 FTEs) in various job classes for FY2013-2014 in the San Francisco Airport Commission.

PASSED, ON FIRST READING by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

130416 [Appropriation - \$3,857,224 for the Port of San Francisco - FY2013-2014]**Sponsor: Mayor**

Ordinance appropriating amended estimated receipts and amended estimated expenditures of \$3,857,224 for the Port of San Francisco for the fiscal year ending June 30, 2014.

PASSED, ON FIRST READING by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

130415 [Public Employment - Amendment to the Annual Salary Ordinance, FYs 2012-2013 and 2013-2014 - Port of San Francisco]**Sponsor: Mayor**

Ordinance amending Ordinance No. 165-12 (Annual Salary Ordinance FYs 2012-2013 and 2013-2014) to reflect the addition of 7.0 positions (5.39 FTEs) in Class 9330 (3.85 FTEs, Pile Worker), 9331 (0.77 FTEs, Piledriver Engine Operator), and 9332 (.77 FTEs, Piledriver Supervisor I) in the Port of San Francisco in FY2013-2014.

PASSED, ON FIRST READING by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

130423 [Accept and Expend Grant - 2011 Port Security Grant Program Funds for Portwide CCTV and Pier 80 Security Improvements - \$1,322,753]**Sponsors: Mayor; Cohen**

Resolution authorizing the Port to accept and expend \$1,322,753 in 2011 Port Security Grant Program funds from the U.S. Department of Homeland Security's Infrastructure Protection Program, including \$919,243 for Portwide CCTV and \$403,510 for Pier 80 security improvements, for the period of June 1, 2013, through June 30, 2013.

Resolution No. 213-13**ADOPTED by the following vote:**

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

130494 [Agreements - Amending State Contract Funds - Alcohol and Drug Programs - \$69,008,529]**Sponsor: Mayor**

Resolution retroactively authorizing the San Francisco Department of Public Health, Community Behavioral Services, to enter into an amended Combined Net Negotiated Amount and Drug Medi-Cal Agreement with the State of California Department of Alcohol and Drug Programs (DADP) for the term of July 1, 2010, through June 30, 2014, in the amount of \$69,008,529; implementing a Contingency Assignment of Agreement from DADP to the Department of Health Care Services (DHCS) if the FY2013-2014 Budget Act is enacted to eliminate DADP and transfer the "Non Drug Medi-Cal" Program to DHCS; holding DADP harmless from any and all claims resulting from the agreement; authorizing and designating the DPH County Alcohol and Drug Administrator to sign said Agreement and to approve amendments for less than 10% of the contracted amount.
(Fiscal Impact)

Resolution No. 214-13**ADOPTED by the following vote:**

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

Recommendations of the Land Use and Economic Development Committee**120125 [Planning Code - Mobile Food Facilities at Certain Institutions in Specified Districts]****Sponsor: Wiener**

Ordinance amending the Planning Code, Section 205.4, to allow mobile food facilities at certain types of institutions in RH (Residential House), RM (Residential Mixed), RED (Residential Enclave), and RTO (Residential Transit Oriented) Districts, subject to specified conditions; and making findings, including environmental findings and findings of consistency with the General Plan and priority policies of Planning Code, Section 101.1.

PASSED, ON FIRST READING by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

120193 [Public Works Code - Mobile Food Truck Facilities Locational Requirements]**Sponsor: Wiener**

Ordinance amending the Public Works Code, Article 5.8, to address various locational and noticing requirements concerning mobile food facilities; and making environmental findings.

PASSED, ON FIRST READING by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

121108 [Transportation Code - Selling or Distributing from a Vehicle Restrictions]**Sponsor: Wiener**

Ordinance amending the Transportation Code, Division I, Article 7 (Violations), Section 7.2.82, to prohibit any person to park a mobile food facility vehicle in either a business district or a residential area and, from that vehicle, offer food or beverages for sale unless displaying a valid permit issued by the Department of Public Works, in a format and manner approved by the Municipal Transportation Agency.

PASSED, ON FIRST READING by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

130296 [Improvements - Mission Bay South Park P10]

Ordinance dedicating City property, within portions of State Trust Parcel 2, known as Mission Bay Park P10, lying along Mission Bay Circle and Mission Bay Drive as open public right-of-way and naming the new park Mission Bay Park P10; accepting the irrevocable offer for the acquisition facilities; designating said facilities for open space and park purposes; accepting the Park for maintenance and liability purposes, subject to specified limitations; adopting environmental findings and findings that such actions are consistent with the General Plan, priority policy findings of Planning Code, Section 101.1, and the Mission Bay South Redevelopment Plan; accepting a Department of Public Works Order; and authorizing official acts in connection with this Ordinance. (Public Works Department)

PASSED, ON FIRST READING by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

130297 [Improvements - Mission Bay Drive Extension Public Infrastructure]

Ordinance accepting the irrevocable offer of public infrastructure improvements associated with the Mission Bay Drive Extension, including acquisition facilities on Mission Bay Drive, Mission Bay Circle, and a portion of Owens Street; accepting additional property on a portion of Owens Street; declaring City property and additional property as shown on official Department of Public Works maps as open public right-of-way; dedicating such improvements for public use and designating such areas and improvements for street and roadway purposes; establishing street grades and sidewalk widths; accepting said facilities for City maintenance and liability purposes, subject to specified limitations; adopting environmental findings and findings that such actions are consistent with the General Plan, eight priority policy findings of Planning Code, Section 101.1, and the Mission Bay South Redevelopment Plan; accepting a Department of Public Works Order; and authorizing official acts in connection with this Ordinance. (Public Works Department)

PASSED, ON FIRST READING by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

Recommendations of the Neighborhood Services and Safety Committee**130247 [Liquor License - 2342 Market Street]**

Resolution considering that the issuance of a Type 48 on-sale general public premises license to Art Rodriguez and Associates for Deviate SF, Inc., dba Beaux, located at 2342-2348 Market Street (District 8), will serve the public convenience or necessity of the City and County of San Francisco, in accordance with California Business and Professions Code, Section 23958.4, and recommending that the California Department of Alcoholic Beverage Control impose conditions on the issuance of the license. (Neighborhood Services and Safety Committee)

Resolution No. 215-13

ADOPTED by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

130307 [Liquor License Transfer - 1552 Polk Street]

Resolution considering that the transfer of a Type 20 off-sale beer and wine license from 5621 Geary Boulevard to 1552 Polk Street (District 3), to Frank Slacik for Blue Fog Markets, LLC, dba the Blue Fog Market, will serve the public convenience or necessity of the City and County of San Francisco, in accordance with California Business and Professions Code, Section 23958.4, and recommending that the California Department of Alcoholic Beverage Control impose conditions on the issuance of the license. (Neighborhood Services and Safety Committee)

Resolution No. 216-13

ADOPTED by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

Recommendations of the Rules Committee**130503 [Approving Appointment, Entertainment Commission - Barbara Seymour Campagnoli]**

Motion approving the Mayor's nomination for appointment of Barbara Seymour Campagnoli to the Entertainment Commission, for a term ending July 1, 2014. (Clerk of the Board)

Motion No. M13-076

APPROVED by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

130504 [Confirming Reappointment, Port Commission - Kimberly Brandon]
Sponsor: Mayor

Motion confirming the Mayor's reappointment of Kimberly Brandon to the Port Commission, for a term ending May 1, 2017.

Motion No. M13-077

APPROVED by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

130505 [Confirming Reappointment, Treasure Island Development Authority Board of Directors - Larry Del Carlo]

Sponsor: Mayor

Motion confirming the Mayor's reappointment of Larry Del Carlo to the Treasure Island Development Authority Board of Directors, for a term ending February 26, 2017.

Motion No. M13-078

APPROVED by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

130501 [Administrative Code - Assessment Appeals Boards - Modify Board No. 3 Membership and Function; Procedural Revisions]

Ordinance amending the Administrative Code, regarding Assessment Appeals Boards, to modify the structure of Assessment Appeals Board No. 3 to provide that the members of Board No. 3 are different than the members of Board No. 1; that the function of Board No. 3 is the same as Board No. 2; provide for staggered terms of initial Board No. 3 members; remove provisions regarding Board Members not meeting current State requirements; add a public comment timing option; and making nonsubstantive clarifying revisions. (Clerk of the Board)

PASSED, ON FIRST READING by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

Supervisor Cohen Excused from Voting

Supervisor Mar, seconded by Supervisor Campos, moved that Supervisor Cohen be excused from voting on File No. 130519. The motion carried by the following vote:

Ayes: 10 - Avalos, Breed, Campos, Chiu, Farrell, Kim, Mar, Tang, Wiener, Yee
Excused: 1 - Cohen

130519 [Appointment, Children and Families First Commission - Supervisor Malia Cohen]

Motion appointing Supervisor Malia Cohen to the Children and Families First Commission, for an indefinite term. (Clerk of the Board)

Motion No. M13-079

APPROVED by the following vote:

Ayes: 10 - Avalos, Breed, Campos, Chiu, Farrell, Kim, Mar, Tang, Wiener, Yee
Excused: 1 - Cohen

SPECIAL ORDER 2:30 P.M. - Recognition of Commendations**Privilege of the Floor**

Supervisor Chiu, seconded by Supervisor Kim, moved to suspend Rule 4.37 of the Rules of Order of the Board of Supervisors to grant privilege of the floor to the following guests. The motion carried by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

Supervisor Chiu introduced, welcomed, and presented a Certificate of Honor to the Asian Women's Shelter in recognition of their accomplishments and continued community support on their 25th Anniversary. Supervisors Kim and Avalos shared in this commendation.

SPECIAL ORDER 3:00 P.M.

Board of Supervisors Sitting as a Committee of the Whole

130572 [Hearing - Report of Assessment Costs - Sidewalk and Curb Repairs]

Hearing to approve the report of costs submitted by the Director of Public Works for sidewalk and curb repairs ordered to be performed by said Director pursuant to Public Works Code, Sections 707 and 707.1, the costs thereof having been paid for out of a revolving fund. (Clerk of the Board)

The President inquired as to whether any member of the public wished to address the Board relating to assessments as referenced in File No. 130515. Robert Quan (Department of Public Works) provided an overview of the assessments. Tanya Clemans (1567-42nd Avenue); Sensena (1001 Lincoln Way); Nicki Griner (167 Roosevelt Way); Eugene Chan (2050 Van Ness Avenue); Male Speaker (3814 Ulloa Street); Ben Hall (1120 Diamond Street); James Holtz (736 Kansas Street); Anna Anaya (1441 Plymouth Avenue); Andy Gregory (2344-15th Street); Dan Tam (337-339 Mississippi Street); Female Speaker; spoke objecting to the proposed assessments. There were no other speakers. The President declared public comment closed, adjourned as the Committee of the Whole, and reconvened as the Board of Supervisors.

HEARD AND FILED

Committee of the Whole Adjourn and Report

130515 [Report of Assessment Costs - Sidewalk and Curb Repairs]

Resolution approving report of assessment costs submitted by the Director of Public Works for sidewalk and curb repairs ordered to be performed by said Director pursuant to Public Works Code, Sections 707 and 707.1, the costs thereof having been paid for out of a revolving fund. (Public Works Department)

Robert Quan (Department of Public Works) indicated that the following addresses be removed from the accompanying report due to recent receipt of payment: 1141 Plymouth Avenue; 2050 Van Ness Avenue; 1001-1005 Lincoln Way; 3814 Ulloa Street; 1932-1934 Jefferson; 1120 Diamond Street; 1567-42nd Avenue; 736 Kansas Street; 165-167 Roosevelt Way; 337-339 Mississippi Street; 2344-15th Street. The amendments to the accompanying report, as provided by the Department of Public Works, included in File No. 110216, were received without objection.

Resolution No. 217-13

ADOPTED, after accepting the amendments to the accompanying report, by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

SPECIAL ORDER 3:00 P.M.

Board of Supervisors Sitting as a Committee of the Whole

130580 [Hearing - Elimination and/or Reduction of Medical Services - FYs 2013-2014 and 2014-2015]

Hearing to consider the budget eliminating and/or reducing medical services provided by the Department of Public Health in the City and County of San Francisco for FYs 2013-2014 and 2014-2015, pursuant to the Beilenson Act, Health and Safety Code, Section 1442.5(a). (Clerk of the Board)

The President inquired as to whether any member of the public wished to address the Committee of the Whole relating to elimination and/or reduction of medical services as referenced in File No. 130580. Barbara Garcia, Director, Department of Public Health, provided an overview of the proposed elimination and/or reduction of medical services and responded to questions raised throughout the discussion. Patrick Monette-Shaw; Vivian Imperiale; Michael Smithwick (Maitri); Nicki Harris; Barbara Eglian; Sorrita Wilson; Seth Lawrence; Male Speaker; Keith Burner; Stu Smith; Emil Lawrence; Dr. Eduardo Morales (Aguilas); Eugene Gordon, Jr.; Melinda Pierson; Rachel Howard (The Women's Place); Jasmine Young; Antoinette Lattimore; Karen Malanamagon; Greg Lawler; Erick Arquello (Aguilas); Andres Contreras; Lina Sheth (API Wellness Center); Jason Davi; Nathan Manuson (API Wellness Center); Stephanie Goss; David Stupletine; Ron Hernandez; Andre Robertson (API Wellness Center); Male Speaker; Juan Davina; Hermon Vetiti; Antonio Aguilar-Karayianni; Douglas Yepp; Ebony Jones; Arcelia Gomez; Anthony Castro; Brett Jameson; Reynaldo Valdez; Kaushik Roy (Shanti); Darjeh Lomeli; Peter Masiak; Gus Feldman; Lacey Johnson; Joshua Rosen (Aguilas); Aja Monet; Beth Shreley; Courtney Mulhern-Pearson; Michael Siever; William Woods; Mike Discepola; Channing Wayne; Lala Tannenbaum; Lori Thoemmes; Benjamin Menstroso; Eric; Rebecca E. White; Monroe Rochin; Stokes (Shanti); Dena Long; Jason Davi; Vincent Gallagher; Dennis Mill; Franklin Lopez (Aguilas); Dolores Garcia (Familia La Raza); Juan Rivera; Brian DeLonge; Norma Souza; Michael Lion; Mapu Treasure; Perry Lange; Ray Hartz; Tim Byrd; Debbie Lerman; Judy Freemock; Edmund Larry; Colleen Hogue; David Elliott-Lewis; Simon Hernandez; expressed concerns relating to the proposed elimination and/or reduction of medical services referenced in the Department of Public Health FYs 2013/2014 and 2014/2015 Budget. Barbara Garcia, Director, Department of Public Health, responded to questions raised throughout the discussion and further discussed the proposed eliminations and/or reductions. There were no other speakers. The President declared the public hearing closed, adjourned as the Committee of the Whole, and reconvened as the Board of Supervisors. No further action was taken.

HEARD AND FILED

Committee of the Whole Adjourn and Report

ROLL CALL FOR INTRODUCTIONS

Legislation Introduced will appear on the Final Minutes for this meeting. Once the Legislation Introduced is approved, it will be available on http://www.sfbos.org/legislation_introduced.

PUBLIC COMMENT

James Chaffee; expressed concerns relating to the SF Public Library.

Ray Hartz; expressed concerns relating to open government and retroactivity of gift acceptance.

(See additional information submitted on Page 408.)

Male Speaker; expressed various concerns.

Peter Warfield; expressed concerns relating to the SF Public Library.

Edmond Larry; shared in poem certain concerns with the Board.

Douglas Yepp; expressed various concerns relating to child pornography.

FOR ADOPTION WITHOUT COMMITTEE REFERENCE

130633 [Suspending Board Rule 3.26.1 and Amending Board Rule 3.31 Extending the Joint City and School District Committee Through March 1, 2014, and Setting Monthly Meetings]

Sponsor: Kim

Motion suspending the Board of Supervisors' Rules of Order 3.26.1 to consider, without reference, an amendment to Board Rule 3.31 to extend the term of the Joint City and School District Select Committee through March 1, 2014; ordering the City and School District Select Committee meetings of the Board of Supervisors be held on the third Thursdays of each month at 3:30 p.m. in the Board of Supervisors' Chamber; and directing the Clerk of the Board to prepare the proper notices and postings.

Motion No. M13-080

APPROVED

130574 [Committee of the Whole - Report of Assessment Costs for Inspection and/or Repairs of Blighted Properties - Accelerated Sidewalk Abatement Program Blight Abatement Fund]

Motion scheduling the Board of Supervisors to sit as a Committee of the Whole on June 25, 2013, at 3:00 p.m., to hold a public hearing on a Resolution approving a report of assessment costs submitted by the Director of Public Works for inspection and/or repairs of blighted properties ordered to be performed by said Director pursuant to Administrative Code, Section 80, the costs thereof having been paid for out of the Accelerated Sidewalk Abatement Program Blight Abatement Fund. (Clerk of the Board)

Motion No. M13-081

APPROVED

130630 [Committee of the Whole - Redevelopment Plan Amendment - Mission Bay South]**Sponsor: Kim**

Motion scheduling the Board to sit as a Committee of the Whole on June 25, 2013, at 3:00 p.m., to hold a public hearing of persons interested in or objecting to the Ordinance (File No. 130458) approving an amendment to the Mission Bay South Redevelopment Plan, which modifies the land use designation for certain property to add residential as a permitted use and to increase the permitted residential density in the Plan Area, but does not increase the allocation of tax increment under a pre-existing enforceable obligation; making environmental findings under the California Environmental Quality Act; and making findings pursuant to the General Plan and Planning Code, Section 101.1(b).

Motion No. M13-082

APPROVED

The foregoing items were acted upon by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

Severed from the For Adoption Without Committee Reference Agenda

Supervisor Kim requested that File No. 130632 be severed so that it may be considered separately.

130632 [Condemnation of the System of Sexual Enslavement During World War II]**Sponsors: Kim; Cohen, Chiu, Mar, Yee, Avalos and Campos**

Resolution condemning recent statements by Osaka Mayor Toru Hashimoto claiming that the system of sex slavery utilized by Japan in occupied Asian countries from the 1930s through World War II was a military necessity and that there is no proof that the sexual servitude was involuntary and coerced by Japanese authorities.

Supervisor Kim, seconded by Supervisor Mar, moved that this Resolution be AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE. The motion carried by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

Resolution No. 218-13

ADOPTED AS AMENDED by the following vote:

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee

IMPERATIVE AGENDA

There were no items.

LEGISLATION INTRODUCED AT ROLL CALL

Introduced by a Supervisor or the Mayor

Pursuant to Charter, Section 2.105, an Ordinance or Resolution may be introduced before the Board of Supervisors by a Member of the Board, a Committee of the Board, or the Mayor and shall be referred to and reported upon by an appropriate Committee of the Board.

Ordinances

120966 [Administrative Code - Healthy Food Retailer Incentives Program]

Sponsors: Mar; Kim, Cohen and Chiu

Ordinance amending the Administrative Code, by adding Chapter 59, Sections 59.1-59.9, to establish a Healthy Food Retailer Incentives Program to oversee and coordinate the City's incentive and assistance programs for Healthy Food Retailers.

09/25/12; ASSIGNED UNDER 30 DAY RULE to Land Use and Economic Development Committee, expires on 10/25/2012.

10/10/12; REFERRED TO DEPARTMENT.

05/13/13; REMAIN ACTIVE.

06/18/13; SUBSTITUTED AND ASSIGNED to Land Use and Economic Development Committee.

130586 [Administrative Code - Film Rebate Program]

Sponsors: Farrell; Campos

Ordinance amending the Administrative Code to allow the Director of Property of the Department of Real Estate, in consultation with the Executive Director of the Film Commission, to lease property and sublease such property to film companies for film-related activities; to expand the production costs eligible for the Film Rebate Program to include rent payments for such property; and making environmental findings.

06/04/13; ASSIGNED to Budget and Finance Committee.

06/18/13; TRANSFERRED to Government Audit and Oversight Committee.

06/18/13; SUBSTITUTED AND ASSIGNED to Government Audit and Oversight Committee.

130653 [Administrative Code - Health Service System Plans and Contribution Rates - Calendar Year 2014]

Sponsor: Farrell

Ordinance amending the Administrative Code, Chapter 16, Article XV, of Part 1, Section 16.703, regarding Board approval of health service system plans and contribution rates for calendar year 2014.

(Fiscal Impact)

06/18/13; ASSIGNED to Budget and Finance Committee.

Resolutions**130629 [Supporting the Health Service System to Establish Full Quality and Cost Transparency in the Public Interest]****Sponsors: Farrell; Chiu and Campos**

Resolution supporting the Health Service System for participating in the establishment of multi-payer databases that can be used to evaluate and improve the quality and cost of care and resolving to pass legislation to establish full quality and cost transparency in the public interest.

06/18/13; REFERRED FOR ADOPTION WITHOUT COMMITTEE REFERENCE AGENDA AT THE NEXT BOARD MEETING.

130654 [Establishing Monthly Contribution Amount - Health Service Trust Fund]**Sponsor: Farrell**

Resolution establishing monthly contribution amount to the Health Service Trust Fund. (Fiscal Impact)

06/18/13; RECEIVED AND ASSIGNED to Budget and Finance Committee.

130655 [Historic Street Signs in the Excelsior District]**Sponsor: Avalos**

Resolution adding the original street names of "China," "Japan," and "India" to current street signs "Excelsior," "Avalon," and "Peru," respectively, setting guidelines for the format of these signs, and making this addition permanent in the Excelsior District.

06/18/13; RECEIVED AND ASSIGNED to Land Use and Economic Development Committee.

130656 [Supporting the Establishment of an Urban Agriculture Program]**Sponsor: Chiu**

Resolution acknowledging receipt of the Office of the City Administrator's recommendations regarding the establishment of an Urban Agriculture Program; supporting the Recreation and Park Department as the location for the new Urban Agriculture Program to coordinate the City's urban agriculture activities; and setting reporting goals related to Urban Agriculture.

06/18/13; RECEIVED AND ASSIGNED to Land Use and Economic Development Committee.

130657 [Accept Gifts - EcoCenter - 1455 Market Street - \$114,600]**Sponsor: Mayor**

Resolution authorizing the Department of the Environment to retroactively accept gifts with a total value of \$114,600 to build out the Department of the Environment's EcoCenter at 1455 Market Street.

06/18/13; RECEIVED AND ASSIGNED to Budget and Finance Committee.

130658 [Restated Option Agreement - Sale of Surplus Real Property in Mountain View to MV Urban Village Homes, LLC - \$8,100,000]**Sponsor: Mayor**

Resolution approving a Restated Option Agreement for the sale of surplus lands under the jurisdiction of the San Francisco Public Utilities Commission (SFPUC) located in Mountain View, Santa Clara County, California near the intersection of Whisman and Tyrella Avenues, to MV Urban Village Homes, LLC, a California limited liability company (Optionee), a joint venture between KMJ Urban Communities, LLC (KMJ), and SummerHill Homes, LLC (SummerHill) in the amount of \$8,100,000, and reserving an easement to the SFPUC; authorizing the Director of Property or the SFPUC's General Manager to execute documents, make modifications, and take actions in furtherance of this Resolution; and adopting findings that the transactions contemplated by the Restated Option Agreement are consistent with the City's General Plan and with the Eight Priority Policies of City Planning Code, Section 101.1.

06/18/13; RECEIVED AND ASSIGNED to Land Use and Economic Development Committee.

Motion**130659 [Setting the 2013 Budget and Legislative Analyst Services Audit Plan]****Sponsor: Cohen**

Motion directing the Budget and Legislative Analyst to conduct three performance audits in 2013 and setting the priority as follows: 1) the San Francisco Fire Department's recruitment, retention, and overtime staffing; 2) the Department of Children, Youth and Their Families implementation of the Children's Fund including an evaluation of the role of the Children's Fund Citizens' Advisory Committee; and 3) the Department of Public Health's compliance with privacy and security regulations as defined by the Health Information Technology for Economic and Clinical Health (HITECH) and Health Insurance Portability and Accountability Act (HIPAA) acts; and removing from the Budget and Legislative Analyst's audit plan the management and oversight of the former San Francisco Redevelopment Agency's assets and functions, previously approved by the Board of Supervisors.

06/18/13; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

Requests for Hearing**130526 [Hearing - Redevelopment Plan Amendment - Mission Bay South]**

Hearing of persons interested in or objecting to the Ordinance approving an amendment to the Mission Bay South Redevelopment Plan, which modifies the land use designation for certain property to add residential as a permitted use and to increase the permitted residential density in the Plan Area, but does not increase the allocation of tax increment under a pre-existing enforceable obligation; making environmental findings under the California Environmental Quality Act; and making findings pursuant to the General Plan and Planning Code, Section 101.1(b). (Clerk of the Board)

05/31/13; RECEIVED AND ASSIGNED to Board of Supervisors.

130575 [Hearing - Report of Assessment Costs for Inspection and/or Repairs of Blighted Properties - Accelerated Sidewalk Abatement Program Blight Abatement Fund]

Hearing to consider objections to a report of assessment costs submitted by the Director of Public Works for inspection and/or repairs of blighted properties ordered to be performed by said Director pursuant to Administrative Code, Section 80, the costs thereof having been paid for out of the Accelerated Sidewalk Abatement Program Blight Abatement Fund. (Public Works Department)

06/11/13; RECEIVED AND ASSIGNED to Board of Supervisors.

Introduced by the President at the Request of a Department

Pursuant to Rules of Order of the Board of Supervisors, Section 2.7.1, Department Heads may submit proposed legislation to the Clerk of the Board, in which case titles of the legislation will be printed at the rear of the next available agenda of the Board.

PROPOSED ORDINANCES**130643 [Settlement of Lawsuit - Maria D'Agostino - \$135,000]**

Ordinance authorizing settlement of the lawsuit filed by Maria D'Agostino against the City and County of San Francisco for \$135,000; the lawsuit was filed on June 15, 2012, in San Francisco Superior Court, Case No. CGC-12-521615; entitled Maria D'Agostino, et al., v. City and County of San Francisco, et al. (City Attorney's Office)

06/10/13; RECEIVED FROM DEPARTMENT.

06/18/13; RECEIVED AND ASSIGNED to Rules Committee.

130644 [Settlement of Lawsuit - Wei Vivian Cui - \$30,000]

Ordinance authorizing settlement of the lawsuit filed by Wei Vivian Cui against the City and County of San Francisco for \$30,000; the lawsuit was filed on November 3, 2011, in San Francisco County Superior Court, Case No. CGC-11-515654; entitled Wei Vivian Cui v. City and County of San Francisco, et al. (City Attorney's Office)

06/10/13; RECEIVED FROM DEPARTMENT.

06/18/13; RECEIVED AND ASSIGNED to Rules Committee.

PROPOSED RESOLUTION

130645 [Lease Amendment - Real Property at 720 Sacramento Street - Ridgeway Apartments, Inc. - \$26,980 Monthly]

Resolution authorizing the second lease amendment for approximately 9,250 square feet of space at 720 Sacramento Street, San Francisco, with Ridgeway Apartments, Inc., as Landlord, for use by the Department of Public Health at the monthly cost of \$26,980 for the period of July 1, 2013, through June 30, 2018. (Real Estate Department)
(Fiscal Impact)

06/10/13; RECEIVED FROM DEPARTMENT.

06/18/13; RECEIVED AND ASSIGNED to Budget and Finance Sub-Committee.

In Memoriams

*Eric Arons - Supervisor David Chiu
James E. Cunningham - Supervisor Scott Wiener
Julian Rodriguez - Supervisor Scott Wiener*

ADJOURNMENT

There being no further business, the Board adjourned at the hour of 6:20 p.m.

N.B. The Minutes of this meeting set forth all actions taken by the Board of Supervisors on the matters stated, but not necessarily the chronological sequence in which the matters were taken up.

Approved by the Board of Supervisors on July 23, 2013.

ADDENDUM

The following information are provided by speaker(s), pursuant to Administrative Code, Section 67.16. The content is neither generated by, nor subject to approval or verification of accuracy by, the Clerk of the Board or the Board of Supervisors.

Ray Hartz submitted the following additional information during Public Comment as follows: What has it been? A month, two at most, since members of this BOS raised a hue and cry about DA Gascon accepting \$26,000 of office furniture. All sorts of issues, in an hour-long discussion, especially about accepting the gift retroactively! Then last week, you approved RETROACTIVELY \$750,000 from The Friends of the SFPL! That's more than 28 times the amount accepted by the DA, and it was done with not one word of discussion. What choice did you have? Money's been spent, gifts have been given, trips have been taken, influence has been purchased, a fait accompli! At least DA Gascon reported "the gifts!" Herrera, the Library Commission, and employees of The Library have reported NONE of the gifts they accepted and you retractively approved this wholesale purchase of influence! Members of the LC lied to the public about these gifts, and you cover their tracks. How hypocritical!

BOARD of SUPERVISORS



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October 11, 2017

San Francisco Ethics Commission
Attn: LeeAnn Pelham, Executive Director
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102

Re: Referral to the Ethics Commission: Sunshine Ordinance Task Force File No. 17048
Ray Hartz v. Angela Calvillo, Clerk of the Board of Supervisors

Dear Ethics Commission,

Our office has been informed that the Sunshine Ordinance Task Force (SOTF, Task Force) referred the subject complaint (SOTF File No. 17048) to the Ethics Commission (Commission) for enforcement. Please note that our office had exhaustively addressed this matter with the complainant and Task Force on numerous occasions, and we believe the complaint is without merit. Background information is provided herein and attached for the Commission's reference.

The Task Force alleges that we are in violation of Administrative Code Sections 67.16 and 67.34, by willfully failing to place a written summary of public comment, if no more than 150 words, into the body of the minutes.

First, the Brown Act imposes no requirements on policy bodies regarding what is recorded within the meeting minutes. The Charter of the City and County of San Francisco requires that a record be kept of the proceeding, specifically indicating how each member voted on each question, and shall be made available to the public, but does not otherwise require any other information be kept.

Adopted by the voters in 1999, Administrative Code, Section 67.16, states the clerk or secretary shall record the minutes for each regular and special meeting, specifically the time the meeting began and ended; names and titles if applicable of attendees; the roll call vote on each matter considered, and finally a list of the members of the public who spoke on each matter if the speakers identified themselves and if in support or opposition on a matter, to be listed under the public comment section. Additionally, if the public speaker submits a 150-word summary of their public comment, it is noted as such next to their name and the reader is referred to an appendix, with a page number, where the comment is captured as part of the same document. Provided attached is an example of the minutes from the June 18, 2013 Board of Supervisors meeting – the subject of one of the complaints made by the complainant – which indicates the complainants name in the body (page 401) with reference to the appendix (page 408) of the Board's official minutes.

Administrative Code Section 67.16 in part states that, "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." However, the Task Force loosely interprets the spirit of the Administrative Code 67.16 to mean in the body of the minutes. The Task Force does not have authority to amend the Administrative Code and impose additional requirements, and cannot add or imply the words 'in the body of the minutes'.


Secondly, the Task Force has previously referred similar alleged violations of Section 67.16 for administrative remedy to the Commission. See *Ray Hartz vs. San Francisco Public Library City Librarian, Luis Herrera*, Ethics Complaint Nos. 03-120402 & 01-130307. Mr. Hartz' complaint stated that the Task Force had found that the 150-word written summaries of Public Comments must be placed within the body of the minutes. On both complaints, the Ethics Commissioners found for the City Librarian stating that, "the minutes provided were paginated as a single document, including the addendum and the Task Force cannot add or imply the words 'in the body of the minutes' into the Sunshine Ordinance." A motion was passed during the February 25, 2013 meeting that the Commission found no violation of the Sunshine Ordinance. 1 On June 24, 2013, the Ethics Commission again discussed the factual and legal issues of this matter and concluded that there was no violation of Sunshine Ordinance, section 67.16, because the written summaries appeared in the minutes, and that placing the summaries in an addendum that is part of the same document satisfies the requirements of Section 67.16.2 In each case, the Commission has been consistent and supportive that no violation existed, that the 150-word summary is not a part of the body's official minutes, nor does the body need to vouch for its accuracy; and the minutes may expressly so state.

Nevertheless, on similar complaints filed by Mr. Ray Hartz against the Clerk of the Board (SOTF File Nos. 12050, 13054, 13055, 13059, 16088, 16089), the Task Force directed that we include 150-word summary "in the body of the minutes." The Office of the City Attorney, the City's legal advisor, has opined that "...the 150-word summary is not a part of the body's official minutes, nor does the body vouch for its accuracy; and the minutes may expressly so state" in the City Attorney's Good Government Guide for 2010-11, Chapter IV, Section G.2.b. In accordance with advice from the Office of the City Attorney, and decisions promulgated from the Ethics Commission, we believe the Office of the Clerk of the Board fully complies with the policies and procedures adopted by the City's voters in 1999. The complaints are without merit as the 150-word summary is placed in the addendum as articulated by the Commission. The header and the footer of the Addendum references the Board of Supervisors, meeting minutes, date, and page number as ruled appropriate by the Ethics Commission. The addendum is part of the official Minutes which are maintained in the Office of the Clerk of the Board and on the website of the Board of Supervisors. Consistent with and supportive of the determinations made by the Commission, the Clerk of the Board acted in full compliance with the Sunshine Ordinance and has neither shown nor intended any willful violation.

Lastly, the Task Force has previously provided contradictory opinions and rulings. On April 2, 2014, the Task Force held a hearing on SOTF File Nos. 13058, 13061, *Ray Hartz vs. Office of the City Attorney, Dennis Herrera*, regarding placement of 150-word summaries. The Task Force found no violations and concluded the matter. The Task Force also heard SOTF File Nos. 13054, 13055, 13059, *Ray Hartz vs. Office of the Clerk of the Board*, regarding placement of 150-word summaries. The Task Force again found no violations and concluded the matter. Task Force members at the time were: Grant (Chair), Fischer (Vice-Chair), Knee, Washburn, Pilpel, Sims, David, Hyland, and Oka. A copy of the April 2, 2014, meeting minutes is attached for your reference. However, when the same complaint from the same complainant was made again before the current Task Force members: Wolfe (Chair), Hyland (Vice-Chair), Baranetsky (Vacated), Eldon, Wolf, Chopra, Tesfai, Maass, Cannata, Fischer, and Hinze, the Task Force ruled inconsistently – actively seeking out and motioning a violation against the Department.

The Office of the Clerk of the Board conforms to all said requirements, and have allocated a significant amount of resources to address this matter in good faith with the Task Force and complainant. Our office conforms to all said requirements, and the complaint is, respectfully, without merit. As it is our hope to seek administrative remedy from the Commission, we stand ready and willing to address any questions that you may have.

Sincerely,



Angela Calvillo
Clerk of the Board of Supervisors

Attachments

c: Sunshine Ordinance Task Force