ETHICS COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

Date: November 8, 2019[1]

To: Members of the Ethics Commission

From: Jeff Pierce, Director of Enforcement & Legal Affairs

Subject: **AGENDA ITEM 5: Show Cause Hearing *In the Matter of Ray Hartz v. President Norman Yee*, Sunshine Ordinance Task Force File No. 19042**

Summary This memorandum describes the process for the Commission's handling of a referral from the Sunshine Ordinance Task Force of an Order of Determination for enforcement under the Sunshine Ordinance.

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

Introduction

Administrative Code section 67.30(c) provides that the Sunshine Ordinance Task Force (the "Task Force") "shall make referrals to a municipal office with enforcement power under the Sunshine Ordinance, the California Public Records Act, or the Brown Act whenever it concludes that any person has violated any provisions" of those three laws. In a letter dated October 22, 2019, the Task Force referred File No. 19042 to the Ethics Commission for enforcement. According to its Order of Determination in that matter, the Task Force found that Norman Yee, President of the Board of Supervisors, violated Administrative Code sections 67.16 and 67.31 "by failing to place submitted 150-word summaries of Public Comment in the body of the Board's meeting minutes."

The Task Force's referral letter and its Order of Determination are attached. In its referral letter, the Task Force provided this link to the "Complete file of 19042" as a full record of its proceedings in this matter.

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[1] This item originally appeared on the agenda for the Commission's November 2019 meeting, at which time the Chair continued it at the request of one of the parties. With the exception that the agenda item number has been updated to reflect the January 2020 meeting agenda and for non-substantive formatting edits, this cover memorandum is identical to that prepared for the November 2019 meeting, and the parties' materials have not been altered in the interim.

Further Background

In Agenda Item 5 at its regular meeting in October 2017, the Commission held a Show Cause Hearing in the matter of *Ray Hartz v. Angela Calvillo, Clerk of the Board of Supervisors*, Sunshine Ordinance Task Force File No. 17048. There, the Task Force had referred to the Commission for enforcement an Order of Determination finding that Ms. Calvillo had violated 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.

For reference, Minutes from the Ethics Commission's October 2017 Meeting, which detail the prior Show Cause Hearing, are available here.

Procedure

Referrals and Calendaring

Ethics Commission Enforcement Regulations section 10(B) provides that the Task Force may refer a matter to the Ethics Commission for enforcement "if a City officer or employee fails to comply with an Order of Determination." Whenever the Commission receives such a referral it must schedule a Show Cause Hearing on the matter for public session at "the next regularly scheduled Commission meeting." Enf. Reg. § 10(B)(1)(iii)(b).

Burden of Proof and Standard of Review

At a Show Cause Hearing, the Respondent has the burden of proving that he or she did not violate the Sunshine Ordinance. Enf. Reg. § 10(B)(1)(i). In determining whether to enforce the Order of Determination, "where appropriate, the Commission will defer to the findings of fact set forth in the Sunshine Ordinance Task Force's Order of Determination." *Id.* § 10(B)(1)(ii). However, the Commission need not defer to the conclusions of law the Task Force reached in its Order; these the Commission reviews independently, or "*de novo*." *Id.*

Hearing Testimony and Evidence

Upon request, the Complainant and Respondent will be allowed up to ten minutes to present their argument to the Commission, and may reserve three of those ten minutes for rebuttal. Enf. Reg. § 10(B)(1)(iii). The parties may also call witnesses, who are permitted up to three minutes to speak. *Id.* The Task Force may send a representative to address the Commission as a non-party for up to five minutes. *Id*. § 10(B)(1)(iii)(a). The Commission may extend any speaker's testimony beyond the timeframes identified in the Regulations. *Id.* § 10(B)(1)(iii).

The parties may, but are not required, to submit written evidence and argument in support of their position. *Id.* § 10(B)(1)(iii)(b). Here, Clerk of the Board of Supervisors Angela Calvillo has submitted written evidence and argument, which is attached.

The Rules of Evidence do not apply during the Show Cause Hearing. *Id.* § 10(B)(1)(iii)(c). If any party presents evidence to the Ethics Commission during the Hearing that had not been presented to the Task Force during its prior proceedings, the Commission may remand the referral back to the Task Force for its further deliberation and review of the new evidence. *Id.* § 10(B)(1)(iii)(d).

Commission Deliberations and Findings

The Commission must deliberate in public. Public comment on the matter will be allowed at each hearing, in accordance with the Sunshine Ordinance and the Brown Act. The Commission's enforcement decision must be supported by findings of fact and conclusions of law and will be based on the entire record of the proceedings. Enf. Reg. § 10(B)(iv).

Remedies

If the Commission determines that the Respondent violated the Sunshine Ordinance, the Commission may impose any of the remedies set forth in San Francisco Charter section C3-699.13, except that the Commission may not impose financial penalties. Enf. Reg. § 10(B)(v).

Should the Commission determine that an elected official, department head, or other managerial City employee willfully failed to discharge any duties imposed by the Sunshine Ordinance, Brown Act, or California Public Records Act, then the Commission may find that he or she committed official misconduct. Enf. Reg. § 10(B)(1)(v)(a); *see also* Admin. Code § 67.34. If the City employee or official is identified in Section 15.105 of the Charter, then the Commission must refer its finding to the City official's appointing authority, as required by Section 15.105 of the San Francisco Charter. *Id.* § 10(B)(1)(v)(a).

Under Enforcement Regulation section 10(C), the Commission's resolution of this matter constitutes a final determination and will represent the end of the administrative process.

SUNSHINE ORDINANCE
TASK FORCE

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

FILED
2019 OCT 28 PM 1:16
SAN FRANCISCO
ETHICS COMMISSION
BY

October 22, 2019

San Francisco Ethics Commission
25 Van Ness Avenue, Ste. 220
San Francisco, CA 94102

RE: Referral of Sunshine Ordinance Complaint pursuant to Administrative Code (Sunshine Ordinance), to refer the matter to the Ethics Commission for compliance of the Sunshine Ordinance (File No. 19042; *Ray Hartz v. President Norman Yee*)

Dear Ethics Commission:

The Sunshine Ordinance Task Force (SOTF) of the City and County of San Francisco request your determination of whatever measures are deemed necessary to ensure compliance with the provisions of the Sunshine Ordinance of the City and County of San Francisco regarding the placement of 150-word statements in the body of Board of Supervisors meeting minutes.

On August 7, 2019, the SOTF found Norman Yee, President of the Board of Supervisors, violated Administrative Code (Sunshine Ordinance), Section 67.16 and 67.31, by failing to place submitted 150-word summaries of Public Comment in the body of the meeting minutes. This appears to be a long-standing issue and the SOTF has made similar findings in the past. Therefore, the SOTF would like to refer the matter to the Ethics Commission for enforcement.

This referral for enforcement to the Ethics Commission is made in compliance with Section 67.30(c) of the Administrative Code of the City/County of San Francisco.

Minutes and Audio files of the relevant SOTF hearings (listed below) are available at the following links:

https://sfgov.org/sunshine/sunshine-meeting-information

- June 25, 2019, Compliance and Amendments Committee
- August 7, 2019, SOTF

SUNSHINE ORDINANCE
TASK FORCE

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

We appreciate and await your report on whatever measures you deem necessary to ensure compliance with the provisions of the Sunshine Ordinance.

Sincerely,

Bruce Wolfe, Chair
Sunshine Ordinance Task Force

BW:cal
Enclosures:

Order of Determination (File No. 19042);
Complete file of 19042 is located at the link below
https://sfgov.org/sunshine/sites/default/files/sotf_080719_item3.pdf

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
TTD/TTY No. (415) 554-5227

ORDER OF DETERMINATION
September 20, 2019

DATE DECISION ISSUED
August 7, 2019

CASE TITLE – Ray Hartz v. President Norman Yee, Board of Supervisors.
(File No. 19042)

FACTS OF THE CASE

The following petition/complaint was filed with the Sunshine Ordinance Task Force (SOTF):

File No. 19042: Complaint filed by Ray Hartz against Norman Yee, President of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.16, by failing to place his 150-word summaries in the meeting minutes (Board of Supervisors April 30, 2019 meeting).

HEARING ON THE COMPLAINT

On June 25, 2019, the Complaint Committee acting in its capacity to hear petitions/complaints heard the matter.

Ray Hartz (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Hartz stated that the SOTF has ruled eleven times regarding the placement of submitted 150-word summaries for inclusion into meeting minutes of the Board of Supervisors. Mr. Hartz referenced a 2012 letter regarding the format of meeting minutes. Mr. Hartz stated that the Library Commission has put his 150-word summaries into their body of the minutes and has not compromised the integrity of his comments. Mr. Hartz stated that not including his summaries is prejudicial and compromises the reading of the comment.

The Respondent was not present for the hearing and provided notice that they would not appear.

Action: Moved by Member Cate, seconded by Chair Martin, to find that the SOTF has jurisdiction, to refer the matter to the SOTF and requested that the Respondent attend the SOTF hearing.

On August 7, 2019, 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 Committee to find a violation. Mr. Hartz spoke about past decisions made by the Ethics Commission regarding placement of his commentary in the Minutes. Mr. Hartz stated that that the placement of his 150-word summary in an addendum and not in the body of the minutes and the use of qualifying language prior to the 150-word statement is a violation of his first amendment rights and the Sunshine Ordinance. Mr. Hartz provide a summary of previous decisions and actions regarding this issue.

The Respondent was not present at the meeting but provided a written response to the complaint.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that Norman Yee, President of the Board of Supervisors (Respondent) violated Administrative Code (Sunshine Ordinance), Sections 67.16 and 67.31, by failing to place submitted 150-word summaries of Public Comment in the minutes.

DECISION AND ORDER OF DETERMINATIONS

Action: Moved by Member Cannata, seconded by Member Martin, to find that Norman Yee, President of the Board of Supervisors, violated Administrative Code Sections 67.16 and 67.31, by failing to place submitted 150-word summaries of Public Comment in the minutes and referred the matter to the Ethics Commission for enforcement.

The motion PASSED by the following vote:

Ayes: 9 - Cannata, Martin, Yankee, J. Wolf, Tesfai, LaHood, Cate, Hinze, B. Wolfe
Noes: 0 - None
Absent: 1 - Chopra
Excused: 1 - Hyland

Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Ray Hartz (Petitioner/Complainant)
Norman Yee, President of the Board of Supervisors (Respondent)
Angela Calvillo, Clerk of the Board of Supervisors
Wilson Ng, Office of the Clerk of the Board

BOARD of SUPERVISORS

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

November 7, 2019

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. 19042
Ray Hartz v. Supervisor Norman Yee, President of the Board of Supervisors

Dear Ethics Commission,

Our office has been informed that the Sunshine Ordinance Task Force (SOTF, Task Force) has referred the subject complaint (SOTF File No. 19042) to the Ethics Commission (Commission) for enforcement. Please note that the Department of the Board of Supervisors (Department, BOS) has addressed this matter with the complainant before the Task Force on multiple occasions, and believe the complaint is without merit. Background information is provided herein and attached for the Commission's reference.

As background, Mr. Hartz has a longstanding history of submitting duplicative complaints contesting the placement of 150-word statements in the addendum of the Board Minutes. In addition to SOTF File No. 19042, the past and current complaints that Mr. Hartz submitted to our department include, but are not limited to, SOTF File Nos. 12050, 13026, 13054, 13055, 13059, 16088, 16089, 17048, 19043, 19050, 19051, 19054, 19055, 19057 and 19059 which all pertain to the same subject matter. The SOTF has opted to agendize these duplicative complaints as separate items – rather than one – resulting in repeatedly scheduled hearings and deliberation with department staff, despite the department's numerous attempts to provide facts and seek resolution. To date, the department has expended more than a reasonable amount of resources to respond to the barrage of the same complaints by Mr. Hartz. The department wishes to consolidate all complaints received by Mr. Hartz pertaining to the placement of 150-statements to address together with the Commission for resolution.

The Task Force, under SOTF File No. 19042, alleges that Supervisor Norman Yee, President of the Board of Supervisors, is in violation of Administrative Code Sections 67.16, by failing to place Mr. Hartz' 150-word written summary of public comment, into the body of the minutes. Mr. Hartz claims that that the placement of his 150-word summary in an addendum rather than in the body of the minutes, and the use of qualifying language prior to the 150-word statement, is a violation of his first amendment rights and the Sunshine Ordinance.

First, it is the Clerk of the Board's chartered duty to have charge of the records of the Board and its committees in accordance with Charter Sec. 2.117, and record the minutes for each regular and special meeting in accordance with Administrative Code, Section 67.16. The chartered duty for Supervisor Norman Yee, as the President of the Board, is to preside at all meetings, appoint standing and special committees, assign legislation to committees, and have such other powers and duties as may be assigned by the Board of Supervisors (Charter Sec. 2.116). The complaint addressed to the President of the Board is without merit, as preparation of Board minutes is under the jurisdiction of the Clerk of the Board. Mr. Hartz separately submitted the same complaint under SOTF File No. 19043 against Angela Calvillo, Clerk

of the Board, who is the appropriate respondent to the nature of the complaint.

Second, 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 April 30, 2019 Board of Supervisors meeting – the subject of the complaint made by the complainant – which indicates the complainants name in the body (page 377) with reference to the appendix (page 390) 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 or impose additional requirements, and cannot add or imply the words 'in the body of the minutes'.

Third, 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." Ethics Motion No. 13-02-25-1 was passed during the February 25, 2013 meeting stating that the Commission found no violation of the Sunshine Ordinance. On June 24, 2013, the Ethics Commission again discussed the factual and legal issues of this matter, passed Ethics Motion 13-06-24-02 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 exists, and 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.

More recently, the Ethics Commission heard SOTF File No. 17048 (Ray Hartz v. Angela Calvillo, Clerk of the Board of Supervisors) on October 23, 2017, regarding placement of the 150-word statement, and unanimously passed Ethics Motion No. 171023-3, stating that the Clerk of the Board Angela Calvillo did not violate the Sunshine Ordinance and that Mr. Hartz' complaint is without merit.

Nevertheless, on subsequent complaints of the same nature continuously filed by Mr. Hartz against the department, the Task Force continues to direct that the department include the 150-word summary "in the body of the minutes." The Office of the City Attorney, the City's legal advisor, opines the following in

the City Attorney's Good Government Guide (2019),

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

In accordance with advice from the Office of the City Attorney, and decisions promulgated from the Ethics Commission, 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 the placement of 150-word summaries. The Task Force again found no violations and concluded the matter.

The ruling issued by the current Task Force regarding the 150-word summaries is inconsistent with the California Brown Act, San Francisco Administrative Code, Chapter 67 (Sunshine Ordinance), Ethics Commission, City Attorney's legal opinion, and the Task Force's own past determinations.

The department conforms to all said requirements, and has 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 complaints are, 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

- Past SOTF Complaint Nos. 12050, 13026, 13054, 13055, 13059, 16088, 16089, 17048
- Open SOTF Complaint Nos. 19042, 19043, 19050, 19051, 19054, 19055, 19057 and 19059
- Ethics Commission Minutes, citing Motion No. 13-02-25-1 in response to Ethics Complaint No. 03-120402 – February 25, 2013
- Ethics Commission Minutes, citing Motion No. 13-06-24-02 in response to Ethics Complaint No. 01-130307 – June 24, 2013
- Ethics Commission Minutes, citing Motion No. 171023-3 in response to SOTF File No. 17048 – October 23, 2017
- BOS response to SOTF, SOTF File Nos. 16088, 16089 – September 28, 2016
- BOS response to SOTF, SOTF File No. 13054, 13055, 13059 – November 4, 2013
- BOS response to Ethics Commission, SOTF File No. 17048 – October 11, 2017
- BOS Minutes – April 30, 2019
- SOTF Minutes, citing no violation in response to SOTF File Nos. 13054, 13055, 13058, 13059 – April 2, 2014

c: Sunshine Ordinance Task Force

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2012 OCT 23 PM 1:58

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 CLERK, 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 VARIOUS - SEE ATTACHED

Sunshine Ordinance Section SECTION 67.16 MINUTES
(If known, please cite specific provision(s) being violated)

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

SEE ATTACHED

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

(Optional)[1] Name RAY W HARTZ, JR Address 839 LEAVENWORTH ST #304 SAN FRANCISCO CA 94109

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

Date 10/23/12 Signature Ray W Hartz

I request confidentiality of my personal information. ☐ yes ☒ no

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

07/31/08

12050

Sunshine Ordinance Task Force

1 Dr. Carlton B. Goodlett Place

City Hall, Room 244

San Francisco CA 94102

Dear Task Force Members:

This Sunshine complaint is specifically filed against Angela Calvillo in her capacity as Clerk of the Board of Supervisors. It is for repeated and continued violation of Section 67.16 Minutes of the Sunshine Ordinance. The violations occurred on March 6, 2012; April 17, 2012; May 8, 2012; June 5, 2012; July 24, 2012. By the time of the hearing before the Task Force it will include September 4, 2012 and September 11, 2012.

Ms. Calvillo is a managerial employee under Section **67.33 DEPARTMENT HEAD DECLARATION**, and is required to take appropriate training under the ordinance and to submit declarations to the Ethics Commission. She is responsible not only for conforming to the law, but, also to ensure her subordinates do so.

Ms. Calvillo is a managerial employee under Section **67.34 WILLFUL FAILURE SHALL BE OFFICIAL MISCONDUCT**, and is subject to a charge for willful misconduct for her failures to comply with the ordinance and Orders of Determination issued by the Sunshine Ordinance Task Force in compliance with the law.

These violations were knowingly and willfully committed, as should be clear by the attached summaries and agendas. Each submission of a 150 word summary included citations of prior determinations of the Sunshine Ordinance Task Force regarding the inclusion of summaries "in the minutes." Also included is a memo from the Task Force dated May 18, 2012 entitled: **Placement of Public Comment Summaries in Minutes (Sunshine Ordinance Complaint No. 11071, Hartz v. City Attorney).**

OD #10054 (as revised) reads, in part:

> **DECISION AND ORDER OF DETERMINATION**
> 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.** (emphasis added) The Task Force also found Ms. Gomez in violation of Section 67.21(e) for not sending a person knowledgeable in this matter to the hearing. The agency shall make the necessary changes and appear before the Task Force on March 22, 2011.

OD #11054 reads, in part:

> **FINDINGS OF FACT AND CONCLUSIONS OF LAW**
> 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.
>
> **DECISION AND ORDER OF DETERMINATION**

The Task Force finds Luis Herrera of the Public Library in willful violation of Sunshine Ordinance Section 67.16 pursuant to Section 67.34 for willful failure to include the 150-word summary in the body of the minutes after a previous Order of Determination **specifically instructed the Library Commission to include such statements in the body of the minutes.**

So, while the Task Force has been consistent on this matter, the City Attorney, in fact, has not!

In his response to complaint #11071 the City Attorney states:

> *"Although the SOTF changed its position on whether a policy body may attach the 150 word summary as an addendum (to) its minutes rather than including the statement in the body of the minutes, the City Attorney Office has not changed its advice."*

The 2006-2007 GGG reads:

> *"Any person speaking during a public comment period may supply a brief written summary of their comments. This summary must be included in the minutes if it is limited to no more than 150 words. Admin Code 67.16"*

In the 2007-2008 GGG the following was added:

> *"Because the summary is not part of the official minutes adopted by the body, the summary may be included as an attachment to the minutes."*

So, between versions of the Good Government Guide, the City Attorney changed his advice to City departments, policy bodies, and employees. This change is totally inconsistent with the Task Force Findings above that:

> ***"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."***

And:

> ***"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."***

These two statements are in keeping not only with the Sunshine Ordinance, but, consistent with the wording and intent of the Brown Act. It is also consistent with the advice of the California Attorney General:

> ***"Public meetings of governmental bodies have been found to be limited public fora. As such, members of the public have broad constitutional rights to comment on any subject relating to the business of the governmental body. Any attempt to restrict the content of such speech must be narrowly tailored to effectuate a compelling state***

interest. Specifically, the courts found that policies that prohibited members of the public from criticizing school district employees were unconstitutional. (Leventhal v. Vista Unified School Dist. (1997) 973 F.Supp. 951; Baca v Moreno Valley Unified School Dist. (1996) 936 F.Supp. 719.) These decisions found that prohibiting critical comments was a form of viewpoint discrimination, and that such a prohibition promoted discussion artificially geared toward praising (and maintaining) the status quo, thereby foreclosing meaningful public dialog."

Placing the 150 word summaries supplied by a speaker "in the body of the minutes" places absolutely no burden on a policy body. It does allow a speaker to ensure that his or her political thoughts, expressed in their protected free speech, make their way into the official record of a public meeting. *At no time, has the City Attorney shown a "compelling state interest" in restricting that expression of free speech from the official record of a public meeting.* Without such a showing, policy bodies are given "carte blanche" to censor public comments. The comments are placed outside the minutes and substituting in their place is the censored version of those comments. The Sunshine Ordinance, in its clear wording, strengthens the free speech rights of the citizens of the City and County of San Francisco.

Sincerely,

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

SUNSHINE ORDINANCE
TASK FORCE

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San Francisco 94102-4689
Tel. No. (415) 554-7724
Fax No. 415) 554-7854
TDD/TTY No. (415) 554-5227

TO: All City Departments and Agencies

FROM: Sunshine Ordinance Task Force

DATE: May 18, 2012

RE: **Placement of Public Comment Summaries in Minutes (Sunshine Ordinance Complaint No. 11071, Hartz v. City Attorney)**

Please take notice that on December 14, 2011, the Sunshine Ordinance Task Force ("Task Force") approved releasing this statement to all City Departments and Agencies:

Sunshine Ordinance Section 67.16 provides 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."

The Task Force interprets this section to require these summaries be placed within the body of meeting minutes, not as attachments to the minutes.

The Task Force interprets the phrase "included in the minutes" by using the plain meaning of the words, and finds the summaries must be placed within the body of the minutes. The Task Force does not interpret the phrase "in the minutes" to be inclusive of the meaning "attached to the minutes," and finds no justification for authorizing an attachment where no reference to an attachment is made.

The Task Force disagrees with the Office of the City Attorney's interpretation of the requirements for inclusion of public comment summaries in meeting minutes. Failure to include the summaries within the body of meeting minutes may result in the Task Force finding a violation of the Sunshine Ordinance, not withstanding the City Attorney's advice to the contrary.

The Task Force finds that an addendum is an attachment to a document, not part of the main document itself , and, accordingly, an addendum is not "in the minutes" as required under the Ordinance. The Task Force finds that the Ordinance states in simple, plain language that the summary of 150 words or less must be "in the minutes" and that requirement is not satisfied by attaching the statement as an addendum at the end of the minutes.

These findings are based on the purpose of the Sunshine Ordinance to maximize public access to public information and public meetings and limit the ability for public officials to abridge critical speech, on evidence presented at multiple Task Force hearings, and on careful Task Force deliberations over the past year.

Thank you for your attention to this matter. Attached is a copy of the Task Force letter to the City Attorney regarding this issue. Please contact the Sunshine Ordinance Task Force Administrator at sotf@sfgov.org or (415) 554-7724 with any questions or concerns.

SUNSHINE ORDINANCE
TASK FORCE

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

ORDER OF DETERMINATION
February 14, 2012

DATE THE DECISION ISSUED
December 14, 2011

RAY HARTZ v CITY ATTORNEY DENNIS HERRERA (CASE NO. 11071)

FACTS OF THE CASE

Complainant Ray Hartz alleges that City Attorney Dennis Herrera violated Sections 67.15(d), 67.16, and 67.21(i) of the Sunshine Ordinance by acting as legal counsel for City Charter boards and commissions for the purpose of denying access to the public in regard to the placement of written summaries by members of the public in minutes of meetings of public bodies.

COMPLAINT FILED

On October 4, 2011, Mr. Hartz filed a complaint with the Sunshine Ordinance Task Force ("Task Force") against City Attorney Dennis Herrera alleging violations of Sunshine Ordinance Sections 67.15(d), 67.16, 67.21(i).

HEARING ON THE COMPLAINT

On December 14, 2011, Ray Hartz presented his complaint to the Task Force. Jack Song, Deputy Press Secretary to the City Attorney's Office, represented respondent Dennis Herrera.

Mr. Hartz told the Task Force that the Task Force has consistently found in *Ray Hartz v. Library Commission* (Case No. 10054) and *Ray Hartz v. Public Library* (Case No. 11054) that public comment summaries of 150 words or less submitted by members of the public pursuant to Sunshine Ordinance Section 67.16 must be placed within the body of the minutes and not as an addendum. The reason, he said, was to prevent abridging of public comment.

Mr. Hartz said the City Attorney's Office continues to advise City departments and boards that these summaries may be attached to the minutes, despite Task Force findings otherwise. He said the State Attorney General has found there must be a compelling state interest to abridge public comment, and the City Attorney has provided no evidence of a compelling interest to abridge public comment by attaching the summaries to the minutes, rather than including them within the body of the minutes.

The only reason for not placing the summaries within the body of the minutes is to stifle dissent, Mr. Hartz said. The City Attorney's Office, he said, has cited only the Good Government Guide in advising the summaries may be attached to the minutes. By appending his summaries, he said, the summaries are placed out of context and what appears in the minutes is a note taker's interpretation of his statements during public comment. He said it allows public input to be placed behind disclaimers.

Mr. Song told the Task Force in response to the complaint that Section 67.16 of the Sunshine Ordinance does not require the summaries be placed within the body of the minutes. He said the section is silent on where the summaries should be located in the minutes.

Mr. Song said the City Attorney's Office did not instruct the Library Commission to omit Mr. Hartz's 150-word summaries in the Sunshine complaints cited by Mr. Hartz. The advice given to all departments, he said, is that public comment summaries provided by speakers may be attached to the minutes and then cross-referenced in the body of the document. Individual boards and commissions can decide to place the summaries wherever they choose, he said.

The Board of Supervisors, Mr. Song said, should be made aware of this issue because Section 67.16 does not indicate where in the minutes the summaries must be placed.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Task Force acknowledges its interpretation of Section 67.16 with regard to placement of public comment summaries in minutes differs from the interpretation of the City Attorney's Office. The Task Force interprets the phrase "included in the minutes" in Section 67.16 by using the plain meaning of the words, and finds the summaries must be placed within the body of the minutes. The Task Force does not interpret the phrase "in the minutes" to include the meaning "attached to the minutes," and finds no justification for authorizing an attachment where no reference to an attachment is made.

Based in part on the purpose of the Sunshine Ordinance to maximize public access to public information and public meetings, the Task Force finds that the most reasonable interpretation of the plain language of Sunshine Ordinance Section 67.16 is that public comment summaries of 150 words or less submitted by members of the public shall be included within the body of the minutes, not as attachments.

The Task Force further finds that Sunshine Ordinance Section 67.21(i) requires the City Attorney's Office to act to protect the rights of the public to access public information and public meetings.

DECISION AND ORDER OF DETERMINATION

PART ONE

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.

Part One of this Order of Determination was adopted by the Sunshine Ordinance Task Force on December 14, 2011 by the following vote: (Costa/Washburn)
Ayes: Snyder, Cauthen, Manneh, Washburn, Costa, West, Johnson
Noes: Knee, Wolfe
Absent: Chan

PART TWO

The Task Force finds the City Attorney's Office in violation of Sunshine Ordinance Section 67.21(i) for continuing to advise clients that public comment summaries may be attached to minutes. That advice is inconsistent with the Sunshine Ordinance's requirement that the "City Attorney's Office shall act to protect and secure the rights of the people of San Francisco to be able to access public information and public meetings and shall not act as legal counsel for any city employee or any person having custody of any public record for purposes of denying access to the public."

The Task Force recommends the City Attorney's Office reconsider its interpretation of Section 67.16 to avoid confusion over placement of public comment summaries in the minutes and to comply with the requirement to maximize public access to public information and public meetings.

Part Two of this Order of Determination was adopted by the Sunshine Ordinance Task Force on December 14, 2011, by the following vote: (Costa/Washburn)
Ayes: Cauthen, Manneh, Washburn, Costa, Wolfe, West
Noes: Snyder, Knee, Johnson
Absent: Chan

Hope Johnson

Hope Johnson, Chair
Sunshine Ordinance Task Force

David Snyder, Esq., Member, Seat #1*
Sunshine Ordinance Task Force

cc: Ray Hartz, Complainant
Dennis Herrera, Respondent
Jack Song, Respondent
Jerry Threet, Deputy City Attorney

*Sunshine Ordinance Task Force Seat #1 is a voting seat held by an attorney specializing in sunshine law.

Tuesday, March 06, 2012

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."

And the Order of Determination in Case #11071, which stated:

"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:

"The Task Force finds the City Attorney's Office in violation of Sunshine Ordinance Section 67.21(i) for continuing to advise clients that public comment summaries may be attached to minutes. That advice is inconsistent with the Sunshine Ordinance's requirement that the "City Attorney's Office shall act to protect and secure the rights of the people of San Francisco to be able to access public information and public meetings and shall not act as legal counsel for any city employee or any person having custody of any public record for the purpose of denying access to the public."

I commented before this Board of Supervisors two weeks ago regarding the Park Merced "fiasco" and used the term "racist." I was NOT being bombastic or exaggerating for effect. If you look at the 8000 people of Park Merced whose lives are being demolished, along with their homes, it seems as if the effort was intended to impact every possible protected class, under State and Federal law, that could be listed. Women? Check! People of color? Check! Seniors? Check! The disabled? Check! Veterans? Check! And the list goes on... And when a few of those people dared to challenge this Board of Supervisors by taking them before the Sunshine Ordinance Task Force and won the cases, what did this Board choose to do? It chose to mount a stealth attack, in a truly cowardly fashion, on the Sunshine Ordinance itself! Again, not for effect, this was a truly cowardly act!

Addendum

The following information is provided by a speaker, 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 durlng Public Comment as follows: I commented before this Board of Supervisors two weeks ago regarding the Park Merced "fiasco" and used the term "racist." I was NOT being bombastic or exaggerating for effect. If you look at the 8000 people of Park Merced whose lives are being demolished, along with their homes, it seems as if the effort was intended to impact every possible protected class, under State and Federal law, that could be listed. Women? Check! People of color? Check! Seniors? Check! The disabled? Check! Veterans? Check! And the list goes on... And when a few of those people dared to challenge this Board of Supervisors by taking them before the Sunshine Ordinance Task Force and won the cases, what did this Board choose to do? It chose to mount a stealth attack, in a truly cowardly fashion, on the Sunshine Ordinance itself! Again, not for effect, this was a truly cowardly act!

Tuesday, April 17, 2012

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."

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And the Order of Determination in Case #11071, which stated:

"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:

"The Task Force finds the City Attorney's Office in violation of Sunshine Ordinance Section 67.21(i) for continuing to advise clients that public comment summaries may be attached to minutes. That advice is inconsistent with the Sunshine Ordinance's requirement that the "City Attorney's Office shall act to protect and secure the rights of the people of San Francisco to be able to access public information and public meetings and shall not act as legal counsel for any city employee or any person having custody of any public record for the purpose of denying access to the public."

Most people in San Francisco pay little or no attention to how the City operates. When the Ethics Commission heard the case of Jewelle Gomez, President of the Library Commission, these were the headlines: "Ethics panel reprimands lesbian library commissioner" (Bay Area Reporter); "S.F. mayor asked to remove Library Commission Head" (SFGate.com); "Ethics to Mayor: Pls Fire Library Prez Jewelle Gomez" (CityReport); and Ethics Commission Must Beg Mayor to Enforce Sunshine Ordinance" (SFWeekly). It's pretty clear where Mayor Ed Lee stands on enforcement issues: if it's a matter of a person under his direct control, let them stay; if it's a person lawfully elected by the citizens of San Francisco, out that person goes. The question now is how this Board of Supervisors chooses to handle this matter? Will it accept and enforce a politically motivated action, cynically placed by the Mayor before the Ethics Commission, should it recommend removal?

Addendum

The following information is provided by a speaker, 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 durlng Public Comment as follows: 'Most people in San Francisco pay little or no attention to how the City operates. When the Ethics Commission heard the case of Jewelle Gomez, President of the Library Commission, these were the headlines: "Ethics panel reprimands lesbian library commissioner" (Bay Area Reporter); "S.F. mayor asked to remove Library Commission Head" (SFGate.com); "Ethics to Mayor: Pls Fire Library Prez Jewelle Gomez" (CityReport); and Ethics Commission Must Beg Mayor to Enforce Sunshine Ordinance" (SFWeekly). It's pretty clear where Mayor Ed Lee stands on enforcement issues: if it's a matter of a person under his direct control, let them stay; if it's a person lawfully elected by the citizens of San Francisco, out that person goes. The question now is how this Board of Supervisors chooses to handle this matter? Will it accept and enforce a politically motivated action, cynically placed by the Mayor before the Ethics Commission, should it recommend removal?'

Thursday, May 08, 2012

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:

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I am looking forward to the May 17th, 2012 meeting of this Library Commission. In particular, the Bond Program Manager's Report, which has for a number of months provided figures showing the Friend's had provided $8.8 million of their $16 million pledge toward the Branch Library Improvement Program (BLIP). Based on an Immediate Disclosure Request from July, 2011, the Library has finally provided documentation for $3.67 million of that amount and just this week a statement from the Library's Chief Financial Officer (CFO), Maureen Singleton, that the Library has no supporting documents for the remaining amount of $5.17 million! The fact that this figure has been reported a number of times by the Bond Manager, Lena Chen, raises the question of how that large amount is being represented to the Library Commission and the Public as "expended/encumbered" when the Library has nothing to support those representations? It should be interesting!

Addendum

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Tuesday, June 05, 2012

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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"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:

"The Task Force finds the City Attorney's Office in violation of Sunshine Ordinance Section 67.21(i) for continuing to advise clients that public comment summaries may be attached to minutes. That advice is inconsistent with the Sunshine Ordinance's requirement that the "City Attorney's Office shall act to protect and secure the rights of the people of San Francisco to be able to access public information and public meetings and shall not act as legal counsel for any city employee or any person having custody of any public record for the purpose of denying access to the public."

I'm beginning to wonder: just how bright is this Board of Supervisors? That recent action regarding the SOTF is RETALIATION is evident in one, simple fact: <u>they're replacing every last member!</u> Group punishment is a good indication of REVENGE! The new members are compromised: if they decide against a citizen, is it because the citizen failed to make their case or, because the members know their fate if they find against the BOS? The BOS has compromised its own wins, as the question will arise: did they actually win, or, did they intimidate the jury? In fact, I'm certain the message has reached ALL boards and commissions: here's your fate should you decide a case against us! And, I have to wonder if the Ethics Commission case regarding Sheriff Mirakarimi is compromised? After all members of the Ethics Commission must now understand the repercussions of finding other than their told!

Addendum

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Angela Calvillo, Clerk of the Board

Monday, July 23, 2012

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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And:

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What the BOS members have received is an article from the Westside Observer by Patrick Monette-Shaw titled "Who Killed Sunshine." The primary "culprit" is shown, but, you all share in the disgrace! "Know Your Rights Under the Sunshine Ordinance" is printed on every agenda for City boards and commissions. One of those rights is to submit a 150-word summary which is supposed to be included "in the minutes." I have 4 Orders of Determination: #10054 (Library Commission), #11054 (City Librarian), #11088 (Ethics Commission), and #11071 (City Attorney), all saying the law means what it says. So, with all of these cases, with all of these referrals, with all of the time passed, what do I have? What all citizens of San Francisco have: a BOS which has shown absolutely no respect for the Constitution, particularly the First Amendment and the Fifth Amendment! Read your oath of office! Shame on you!

ADDENDUM

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Tuesday, September 04, 2012

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Even though they know and understand the law, both the letter and intent, this Board of Supervisors will ignore your rights to free speech, to petition for redress of grievance, and due process if it suits their purposes. An example is the Sunshine Ordinance. If you point out the law, they will ignore you. If you file a complaint, they will evade you. If you win your case, they will ignore that. If it's referred to the Ethics Commission, they will see it dismissed without hearing. If you win a case they really don't like, they will replace the SOTF members who took your side. If really upset, they will do what they need to do to shut down the process. This is not conjecture, is all a matter of public record. Bottom line: members of this BOS have no respect for the rule of law or your constitutional rights.

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Tuesday, September 11, 2012

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."*

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"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."

And the Order of Determination in Case #11071, which stated:

"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:

"The Task Force finds the City Attorney's Office in violation of Sunshine Ordinance Section 67.21(i) for continuing to advise clients that public comment summaries may be attached to minutes. That advice is inconsistent with the Sunshine Ordinance's requirement that the "City Attorney's Office shall act to protect and secure the rights of the people of San Francisco to be able to access public information and public meetings and shall not act as legal counsel for any city employee or any person having custody of any public record for the purpose of denying access to the public."

This is SOTF O.D. #11083 finding City Librarian, Luis Herrera in violation for withholding public records relating to the finances of the Friends of the San Francisco Public Library. This records request is now a year old, and Luis Herrera is still not releasing certain public records. I've been asked why he would do this and my answer is two-fold: first, the records show that neither the Library Commission or the City Librarian provide any oversight of the millions of dollars raised and expended each year by "The Friends," second, Luis Herrera receives approximately $3000 per month of "discretionary funds" from "The Friends." The reality is that this "public-private partnership" is <u>ONE HUNDRED PERCENT PRIVATE and ZERO PERCENT PUBLIC</u>. In fact, it has reached the point where this BOS can no longer just look the other way, as both the City Librarian and the Library Commission have done for years!

IMPERATIVE AGENDA

There were no items.

LEGISLATION INTRODUCED AT ROLL CALL

PROPOSED RESOLUTION

120897 [Settlement of Claim - Laurel Dawn Teixeira - $80,000]
Resolution approving the settlement of the unlitigated claim filed by Laurel Dawn Teixeira against the City and County of San Francisco for $80,000; claim was filed on November 7, 2011. (City Attorney)

08/27/12; RECEIVED FROM DEPARTMENT.

09/11/12; RECEIVED AND ASSIGNED to Rules Committee.

ADJOURNMENT

There being no further business, the Board adjourned at the hour of 4:52 p.m.

ADDENDUM

The following information is provided by a speaker, 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 to the following additional information during Public Comment as follows: This is SOTF O.D. #11083 finding City Librarian, Luis Herrera in violation for withholding public records relating to the finances of the Friends of the San Francisco Public Library. This records request is now a year old, and Luis Herrera is still not releasing certain public records. I've been asked why he would do this and my answer is two-fold: first, the records show that neither the Library Commission or the City Librarian provide any oversight of the millions of dollars raised and expended each year by "The Friends," second, Luis Herrera receives approximately $3000 per month of "discretionary funds" from "The Friends." The reality is that this "public-private partnership" is ONE HUNDRED PERCENT PRIVATE and ZERO PERCENT PUBLIC. In fact, it has reached the point where this BOS can no longer just look the other way, as both the City Librarian and the Library Commission have done for years!

SUNSHINE ORDINANCE TASK FORCE
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http://www.sfgov.org/sunshine

SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission CLERK OF THE BOARD OF SUPERVISORS

Name of individual contacted at Department or Commission ANGEL CALVILLO

☐ Alleged violation public records access
☒ Alleged violation of public meeting. Date of meeting MARCH 5, 12, 19, 2013

Sunshine Ordinance Section SEC 67.16 MINUTES & 67.15 PUBLIC TESTIMONY
(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.

MS CALVILLO, ACTING IN HER CAPACITY AS CLERK OF THE BOARD OF SUPERVISORS HAS CONSISTENTLY FAILED TO PRODUCE MINUTES WHICH CONFORM TO THE REQUIREMENTS OF 67.16 AND, IN DOING SO HAS CENSORED AND ABRIDGED PUBLIC COMMENT IN VIOLATION OF SECTION 67.15.

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

(Optional)[1]
Name RAY W. HARTZ, JR Address

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

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

Date MAY 1, 2013 Ray W Hartz
Signature

I request confidentiality of my personal information. ☐ yes ☒ no

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07/31/08

PUBLIC COMMENT

Abdallah Megahed; expressed various concerns.
Darian Smith; expressed concerns relating to standard of living for the blind community.
James Chaffee; expressed concerns relating to the SF Public Library.
Male Speaker; expressed various concerns relating to taxi services and mandates.
Peter Warfield; expressed concerns relating to the SF Public Library.
Cottie Hawkins; expressed concerns relating to gun violence.
Mark Rugger; expresed concerns relating to taxi services and mandates.
Male Speaker; expressed concerns relating to taxi services and mandates.
Mary Dwyer; expressed concerns relating to taxi services and mandates.
Gary Cornhole; expressed concerns relating to taxi services and mandates.
Joe Herisno; expressed concerns relating to taxi services and mandates.
John DiDonna; shared in poem certain concerns with the Board.
Walter Paulson; shared in song certain concerns with the Board.
Douglas Yep; expressed various concerns.
John Mburu Njoroge; expressed various religious concerns.
Otto Duffy; expressed concerns relating to land use matters.
Paulette Brown; expressed concerns relating to human services and solving child homicides and violence in the community.
Male Speaker; expressed various religious concerns.
Male Speaker; expressed various concerns.

FOR ADOPTION WITHOUT COMMITTEE REFERENCE

130174 [Approval of a 60 Day Extension for Planning Commission Review of Conversion, Demolition, Merger, and Conformity of Residential Uses (File No. 130041)]
Sponsor: Avalos

Resolution extending by 60 days the prescribed time within which the Planning Commission may render its decision on an Ordinance (File No. 130041) amending the Planning Code by repealing Sections 790.84, 790.86, 890.84, and 890.86 and amending Section 317 and various other sections to: 1) revise the criteria for the residential demolition, conversion and merger; 2) standardize definitions of residential demolition, conversion and merger across various use districts; 3) permit the enlargement or alteration of dwelling units which are nonconforming as to density in districts where dwelling units are principally permitted if there is no increase in nonconformity of height, bulk, or required rear yards or setbacks; 4) permit alterations to nonconforming uses or noncomplying structures to comply with disabled access requirements or to provide secure bicycle parking; 5) establish a strong presumption in favor of preserving dwelling units in enforcement of requirements for nonconforming uses, structures and lots; and 6) making environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

Resolution No. 067-13

ADOPTED

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

Abdalla Megahed; expressed various concerns.
James Chaffee; expressed concerns relating to the SF Public Library.
Carol Sanders; expressed concerns regarding the anti-Arab and anti-Muslim bus advertisements.
Rachel Roberts; expressed concerns regarding the anti-Arab and anti-Muslim bus advertisements.
Male Speaker; expressed various religious concerns.
Female Speaker; expressed concerns regarding the anti-Arab and anti-Muslim bus advertisements.
Male Speaker; expressed concerns regarding the anti-Arab and anti-Muslim bus advertisements.

FOR ADOPTION WITHOUT COMMITTEE REFERENCE

130236 [Honoring Leslie E. Wong]
Sponsor: Chiu
Resolution honoring San Francisco State University President Leslie E. Wong.

Resolution No. 078-13

ADOPTED

130237 [Urging the California State Legislature to Pass Assembly Bill 1199]
Sponsors: Mar; Campos
Resolution urging the California State Legislature to pass Assembly Bill 1199 to create a smoothing formula for enrollment-related funding losses for any community college that is under severe sanction from accreditation agencies and is also suffering an enrollment decline.

Resolution No. 079-13

ADOPTED

130238 [Arbor Week - March 7-14, 2013]
Sponsor: Wiener
Resolution celebrating the many benefits of the City's urban forest, declaring March 7, 2013, through March 14, 2013, as Arbor Week in the City and County of San Francisco.

Resolution No. 080-13

ADOPTED

The foregoing items were acted upon by the following vote:

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

PUBLIC COMMENT

James Chaffee; expressed concerns relating to the SF Public Library.
Bill Dillon; expressed concerns relating to public comment via phone.
Male Speaker; expressed various religious concerns.
Walter Paulson; shared in song certain concerns with the Board.
Male Speaker; expressed concerns relating to senior services.
Dr. Hunter Gaskie; expressed concerns relating to intimidation surrounding Planned Parenthood facilities.
Jane Kennedy; expressed concerns relating to underground utilities.
Josephine Coffey; expressed concerns relating to anti-Arab and anti-Muslim advertising on Muni.
Male Speaker; expressed concerns relating to garbage services.
Douglas Yep; expressed concerns relating to the Whistle Blower Program.
Valarie Swartz; expressed concerns relating to harassment and police reporting requirements.
Beverly Upton; expressed concerns relating to intimidation surrounding Planned Parenthood facilities.
Peter Warfield; expressed concerns relating to the SF Public Library.
Ace Washington; expressed concerns relating to housing.
Anne Surrot; expressed concerns relating to protection for women.
Female Speaker; expressed various concerns.
Cleft; expressed concerns relating to funding for public services.
Carl McBardo; expressed concerns relating to taxi medallions issuance and illegal operator.
Alisa Berha; expressed concerns relating to anti-Arab and anti-Muslim advertising on Muni.

FOR ADOPTION WITHOUT COMMITTEE REFERENCE

130258 [Approval of a 60 Day Extension for Planning Commission Review of Conversion of Student Housing Monitoring (File No. 120883)]
Sponsor: Kim
Resolution extending by 60 days the prescribed time within which the Planning Commission may render its decision on an Ordinance (File No. 120883) amending the Planning Code, by adding Section 102.36.1, to establish an annual monitoring requirement for Student Housing conversions; to require a posting to announce that the report is available for public review; and to provide an enforcement mechanism for failure to submit the annual report; adopting findings, including environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.

Resolution No. 089-13

ADOPTED

The foregoing items were acted upon by the following vote:

Ayes: 9 - Avalos, Breed, Campos, Chiu, Cohen, Kim, Mar, Tang, Wiener
Excused: 2 - Farrell, Yee

13054

SUNSHINE ORDINANCE TASK FORCE
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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 RWHARTZAR@SBCGLOBAL.NET

Date SEPTEMBER 4, 2013 Ray W Hartz
Signature

I request confidentiality of my personal information. ☐ yes ☒ no

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07/31/08

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:

"The Task Force finds the City Attorney's Office in violation of Sunshine Ordinance Section 67.21(i) for continuing to advise clients that public comment summaries may be attached to minutes. That advice is inconsistent with the Sunshine Ordinance's requirement that the "City Attorney's Office shall act to protect and secure the rights of the people of San Francisco to be able to access public information and public meetings and shall not act as legal counsel for any city employee or any person having custody of any public record for the purpose of denying access to the public."

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 hypocrytical!

13055

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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 Ray W Hartz Jr
Signature

I request confidentiality of my personal information. ☐ yes ☒ no

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07/31/08

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:

"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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And:

"The Task Force finds the City Attorney's Office in violation of Sunshine Ordinance Section 67.21(i) for continuing to advise clients that public comment summaries may be attached to minutes. That advice is inconsistent with the Sunshine Ordinance's requirement that the "City Attorney's Office shall act to protect and secure the rights of the people of San Francisco to be able to access public information and public meetings and shall not act as legal counsel for any city employee or any person having custody of any public record for the purpose of denying access to the public."

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," <u>you just look the other way</u>! 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, <u>you look the other way</u>! They have abused the public trust placed in them! When we point out the $181,000 of freebies given to the library staff, <u>for them to look the other way, you just look the other way</u>! Why don't you care about these abuses of the public trust?

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: 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 deadlines 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?

13059

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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: 6/25/2013

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.

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. Address: 839 Leavenworth St. #304, San Francisco, CA 94109-6131

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

Date: SEPTEMBER 4, 2013 Signature: Ray W Hartz

I request confidentiality of my personal information. ☐ yes ☒ no

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07/31/08

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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And:

"The Task Force finds the City Attorney's Office in violation of Sunshine Ordinance Section 67.21(i) for continuing to advise clients that public comment summaries may be attached to minutes. That advice is inconsistent with the Sunshine Ordinance's requirement that the "City Attorney's Office shall act to protect and secure the rights of the people of San Francisco to be able to access public information and public meetings and shall not act as legal counsel for any city employee or any person having custody of any public record for the purpose of denying access to the public."

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

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 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

Sunshine Ordinance Task Force
Complaint Summary

File No. 16088

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

Date filed with SOTF: 09/13/2016

Contacts information (Complainant information listed first):
rwhartzjr@comcast.net (Complainant)
Angela Calvillo, Wilson Ng (Respondent)

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).

Administrative Summary if applicable:

Mr. Hartz alleges thee is a violation of 67.16 as his 150 summary was placed into an addendum and not into the body of the September 6, 2016, Board of Supervisors' minutes.

Please see the attached documents regarding the previous findings of the Task Force and the Ethics Commission regarding the issue.

Complaint Attached.

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: SEPTEMBER 6, 2016

Sunshine Ordinance Section: SEC. 67.16. MINUTES
(If known, please cite specific provision(s) being violated)

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

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."

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: SEPT 13, 2016 Signature: Ray W Hartz

I request confidentiality of my personal information. ☐ yes ☒ no

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07/31/08

Tuesday, September 6 , 2016

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."

And the Order of Determination in Case #11071, which stated:

"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:

"The Task Force finds the City Attorney's Office in violation of Sunshine Ordinance Section 67.21(i) for continuing to advise clients that public comment summaries may be attached to minutes. That advice is inconsistent with the Sunshine Ordinance's requirement that the "City Attorney's Office shall act to protect and secure the rights of the people of San Francisco to be able to access public information and public meetings and shall not act as legal counsel for any city employee or any person having custody of any public record for the purpose of denying access to the public."

That section of the San Francisco Charter is an example of Frank Herbert's quote: "Politics is the art of appearing candid and completely open, while concealing as much as possible." It was reported in June that this question was asked by Supervisor Malia Cohen: "Certainly there's a way that you can request a calendar without being antagonistic, condescending, and overall an asshole? Wouldn't you agree?" I would like to take the opportunity to answer the question, sharing it with the members of this BOS: sometimes, when dealing with City representatives, and THEY are antagonistic, condescending, and overall...it is necessary to reply in kind! This list of 24 findings by the SOTF, including five against your own members, is clear indication that the public's right to access meetings, documents and records is shown to be completely hypocritical! Pres. Breed and Supervisors Farrell and Mar don't give a damn about your rights!

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 Public Comment as follows: That section of the San Francisco Charter is an example of Frank Herbert's quote: "Politics is the art of appearing candid and completely open, while concealing as much as possible." It was reported in June that this question was asked by Supervisor Malia Cohen: "Certainly there's a way that you can request a calendar without being antagonistic, condescending, and overall an asshole? Wouldn't you agree?" I would like to take the opportunity to answer the question, sharing it with the members of this BOS: sometimes, when dealing with City representatives, and THEY are antagonistic, condescending, and overall... it is ncessary to reply in kind! This list of 24 findings by the SOTF, including five against your own members, is clear indication that the public's right to access meetings, documents and records is shown to be completely hypocritical! Pres. Breed and Supervisors Farrell and Mar don't give a damn about your rights!

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

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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

[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.*

SUNSHINE ORDINANCE
TASK FORCE

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Tel. No. (415) 554-7724
Fax No. 415) 554-7854
TDD/TTY No. (415) 554-5227

TO: All City Departments and Agencies

FROM: Sunshine Ordinance Task Force

DATE: May 18, 2012

RE: **Placement of Public Comment Summaries in Minutes (Sunshine Ordinance Complaint No. 11071, Hartz v. City Attorney)**

Please take notice that on December 14, 2011, the Sunshine Ordinance Task Force ("Task Force") approved releasing this statement to all City Departments and Agencies:

Sunshine Ordinance Section 67.16 provides 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."

The Task Force interprets this section to require these summaries be placed within the body of meeting minutes, not as attachments to the minutes.

The Task Force interprets the phrase "included in the minutes" by using the plain meaning of the words, and finds the summaries must be placed within the body of the minutes. The Task Force does not interpret the phrase "in the minutes" to be inclusive of the meaning "attached to the minutes," and finds no justification for authorizing an attachment where no reference to an attachment is made.

The Task Force disagrees with the Office of the City Attorney's interpretation of the requirements for inclusion of public comment summaries in meeting minutes. Failure to include the summaries within the body of meeting minutes may result in the Task Force finding a violation of the Sunshine Ordinance, not withstanding the City Attorney's advice to the contrary.

The Task Force finds that an addendum is an attachment to a document, not part of the main document itself, and, accordingly, an addendum is not "in the minutes" as required under the Ordinance. The Task Force finds that the Ordinance states in simple, plain language that the summary of 150 words or less must be "in the minutes" and that requirement is not satisfied by attaching the statement as an addendum at the end of the minutes.

These findings are based on the purpose of the Sunshine Ordinance to maximize public access to public information and public meetings and limit the ability for public officials to abridge critical speech, on evidence presented at multiple Task Force hearings, and on careful Task Force deliberations over the past year.

Thank you for your attention to this matter. Attached is a copy of the Task Force letter to the City Attorney regarding this issue. Please contact the Sunshine Ordinance Task Force Administrator at sotf@sfgov.org or (415) 554-7724 with any questions or concerns.

Sunshine Ordinance Task Force
Complaint Summary

File No. 16089

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

Date filed with SOTF: 09/27/2016

Contacts information (Complainant information listed first):
rwhartzjr@comcast.net (Complainant)
Angela Calvillo, Wilson Ng (Respondent)

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).

Administrative Summary if applicable:

Mr. Hartz alleges thee is a violation of 67.16 as his 150 summary was placed into an addendum and not into the body of the September 20, 2016, Board of Supervisors' minutes.

Please see the attached documents regarding the previous findings of the Task Force and the Ethics Commission regarding the issue.

Complaint Attached.

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2016 SEP 27 PM 1:43
BY AK

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

SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission: 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: SEPT 20, 2016

Sunshine Ordinance Section: SEC. 67.16. MINUTES & 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 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."

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: [redacted] Signature: Ray W Hartz

I request confidentiality of my personal information. ☐ yes ☒ no

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07/31/08

Tuesday, September 20 , 2016

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"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:

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As an advocate for open government I have repeatedly questioned the concept of Community Benefit Districts. As an example, when the SFPL passed a resolution to join the Civic Center CBD, I questioned what actual benefit the library would receive after committing $250,000 to cover a 10 year period? Neither the SFPL nor the LC could respond with any specifics. After being a member for a number of years they are still unable to clearly state any benefit that the SFPL receives in return for this huge contribution of taxpayer funds. The Library Commissioners, when asked, sit in what I consider to be "dumb silence." In fact, when it comes to most questions raised by the public at their meetings, anyone who attends on a regular basis will understand they have little or no knowledge about many of the things placed before them for approval. They are just willfully blind!

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As it is my intention to attend weekly BOS meetings, when given the opportunity I will comment as I feel appropriate. Looking at the documents posted on the website associated with this agenda, I noticed that the planning department seem to have spent the weekend shoring up its case. A letter from the appellant's attorney states that the facts being presented to the BOS today are different from those approved by the Planning Commission. As several of the documents are listed as "post-packet material," this is true as a matter of fact! One thing I've noticed in many of these appeals, is the Planning Department tying itself into knots supporting developers and disregarding the desires of the neighborhood. Instead of being impartial, may have become active participants on behalf of the developer. I question both the propriety and legality of using City resources to side with one party over another!

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 Public Comment for File No. 160930, as follows: As an advocate for open government I have repeatedly questioned the concept of Community Benefit Districts. As an example, when the SFPL passed a resolution to join the Civic Center CBD, I questioned what actual benefit the library would receive after committing $250,000 to cover a 10 year period? Neither the SFPL nor the LC could respond with any specifics. After being a member for a number of years they are still unable to clearly state any benefit that the SFPL receives in return for this huge contribution of taxpayer funds. The Library Commissioners, when asked, sit in what I consider to be "dumb silence." In fact, when it comes to most questions raised by the public at their meetings, anyone who attends on a regular basis will understand they have little or no knowledge about many of the things placed before them for approval. They are just willfully blind!

Ray Hartz submitted the following additional information during Public Comment for File No. 160918, as follows: As it is my intention to attend weekly BOS meetings, when given the opportunity I will comment as I feel appropriate. Looking at the documents posted on the website associated with this agenda, I noticed that the planning department seem to have spent the weekend shoring up its case. A letter from the appellant's attorney states that the facts being presented to the BOS today are different from those approved by the Planning Commission. As several of the documents are listed as "post-packet material," this is true as a matter of fact! One things I've noticed in many of these appeals, is the Planning Department tying itself into knots supporting developers and disregarding the desires of the neighborhood. Instead of being impartial, they have become active participants on behalf of the developer. I question both the propriety and legality of using City resources to side with one party over another!

Ray Hartz submitted the following additional information during General Public Comment, as follows: Last week I spoke regarding what I consider a fraud being perpetrated on the City of San Francisco and its citizens. This body approved a lease which gave credit to FFOL for a gift of $720,000. In reality this gift was a much smaller $410,200. As a I mentioned then contributions from other donors totaling $309,800 was credited falsely to FFOL. If you take the actual contribution and divide by the approximate spending of FFOL of more than $6 million, the annual gift approved by this BOS is approximately 6.8% of what they're spending! If I is a citizen of San Francisco join as a basic member of FFOL, my $60 contribution will be distributed to the SFPL the amount of $4.08, while $55.92 will go on fundraising. Sue Blackman, LC Sec. recently stated publicly that neither the SFPL or the LC have any "fiduciary responsibility" as relates to FFOL!

Tuesday, September 20 , 2016

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TASK FORCE

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TO: All City Departments and Agencies

FROM: Sunshine Ordinance Task Force

DATE: May 18, 2012

RE: **Placement of Public Comment Summaries in Minutes (Sunshine Ordinance Complaint No. 11071, Hartz v. City Attorney)**

Please take notice that on December 14, 2011, the Sunshine Ordinance Task Force ("Task Force") approved releasing this statement to all City Departments and Agencies:

Sunshine Ordinance Section 67.16 provides 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."

The Task Force interprets this section to require these summaries be placed within the body of meeting minutes, not as attachments to the minutes.

The Task Force interprets the phrase "included in the minutes" by using the plain meaning of the words, and finds the summaries must be placed within the body of the minutes. The Task Force does not interpret the phrase "in the minutes" to be inclusive of the meaning "attached to the minutes," and finds no justification for authorizing an attachment where no reference to an attachment is made.

The Task Force disagrees with the Office of the City Attorney's interpretation of the requirements for inclusion of public comment summaries in meeting minutes. Failure to include the summaries within the body of meeting minutes may result in the Task Force finding a violation of the Sunshine Ordinance, not withstanding the City Attorney's advice to the contrary.

The Task Force finds that an addendum is an attachment to a document, not part of the main document itself , and, accordingly, an addendum is not "in the minutes" as required under the Ordinance. The Task Force finds that the Ordinance states in simple, plain language that the summary of 150 words or less must be "in the minutes" and that requirement is not satisfied by attaching the statement as an addendum at the end of the minutes.

These findings are based on the purpose of the Sunshine Ordinance to maximize public access to public information and public meetings and limit the ability for public officials to abridge critical speech, on evidence presented at multiple Task Force hearings, and on careful Task Force deliberations over the past year.

Thank you for your attention to this matter. Attached is a copy of the Task Force letter to the City Attorney regarding this issue. Please contact the Sunshine Ordinance Task Force Administrator at sotf@sfgov.org or (415) 554-7724 with any questions or concerns.

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

[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.*

SUNSHINE ORDINANCE
TASK FORCE

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

TO: All City Departments and Agencies

FROM: Sunshine Ordinance Task Force

DATE: May 18, 2012

RE: **Placement of Public Comment Summaries in Minutes (Sunshine Ordinance Complaint No. 11071, Hartz v. City Attorney)**

Please take notice that on December 14, 2011, the Sunshine Ordinance Task Force ("Task Force") approved releasing this statement to all City Departments and Agencies:

Sunshine Ordinance Section 67.16 provides 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."

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The Task Force interprets the phrase "included in the minutes" by using the plain meaning of the words, and finds the summaries must be placed within the body of the minutes. The Task Force does not interpret the phrase "in the minutes" to be inclusive of the meaning "attached to the minutes," and finds no justification for authorizing an attachment where no reference to an attachment is made.

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The Task Force finds that an addendum is an attachment to a document, not part of the main document itself , and, accordingly, an addendum is not "in the minutes" as required under the Ordinance. The Task Force finds that the Ordinance states in simple, plain language that the summary of 150 words or less must be "in the minutes" and that requirement is not satisfied by attaching the statement as an addendum at the end of the minutes.

These findings are based on the purpose of the Sunshine Ordinance to maximize public access to public information and public meetings and limit the ability for public officials to abridge critical speech, on evidence presented at multiple Task Force hearings, and on careful Task Force deliberations over the past year.

Thank you for your attention to this matter. Attached is a copy of the Task Force letter to the City Attorney regarding this issue. Please contact the Sunshine Ordinance Task Force Administrator at sotf@sfgov.org or (415) 554-7724 with any questions or concerns.

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

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 & WILLFU

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. Address: 839 Leavenworth St. #304, San Francisco, CA 94109-6131

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

Date MAY 15, 2017 Signature: Ray W Hartz

I request confidentiality of my personal information. ☐ yes ☒ no

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

07/31/08

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

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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?

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2019 MAY -7 PM 1:59
BY

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: NORMAN YEE, PRESIDENT

☐ Alleged violation public records access
☒ Alleged violation of public meeting. Date of meeting: APRIL 30, 2019.

Sunshine Ordinance Section: SEC. 67.16. MINUTES
(If known, please cite specific provision(s) being violated)

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

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

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@COMCAST.NET

Date: MAY 7, 2019

Ray W. Hartz Jr
Signature

I request confidentiality of my personal information. ☐ yes ☒ no

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07/31/08

ADJOURNMENT

There being no further business, the Board adjourned at the hour 4:31 p.m.

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: "KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE That admonition is printed on every copy of every agenda, for every meeting of this Board of Supervisors, which might only seem ironic, but is in fact, blatantly hypocritical! Thomas Aquinas teaches: "Willful ignorance of what one ought to know is a mortal sin." I've passed out to the members a listing of 3 dozen Orders of Determination finding violations by various Boards and Commissions, including this one. Also, the directions issued by the SOTF to all Boards and Commissions and a response to the City Attorney from the SOTF. I'd like you to note the eleven violations in red, particularly those regarding the Clerk of the Board, Angela Calvillo. Where the summary submitted today appears in your minutes will determine if a SOTF complaint is filed against your President, Norman Yee. By the way, remove the prejudicial introduction and use something fair!"

SUNSHINE ORDINANCE
TASK FORCE

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

TO: All City Departments and Agencies

FROM: Sunshine Ordinance Task Force

DATE: May 18, 2012

RE: **Placement of Public Comment Summaries in Minutes (Sunshine Ordinance Complaint No. 11071, Hartz v. City Attorney)**

Please take notice that on December 14, 2011, the Sunshine Ordinance Task Force ("Task Force") approved releasing this statement to all City Departments and Agencies:

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The Task Force interprets the phrase "included in the minutes" by using the plain meaning of the words, and finds the summaries must be placed within the body of the minutes. The Task Force does not interpret the phrase "in the minutes" to be inclusive of the meaning "attached to the minutes," and finds no justification for authorizing an attachment where no reference to an attachment is made.

The Task Force disagrees with the Office of the City Attorney's interpretation of the requirements for inclusion of public comment summaries in meeting minutes. Failure to include the summaries within the body of meeting minutes may result in the Task Force finding a violation of the Sunshine Ordinance, not withstanding the City Attorney's advice to the contrary.

The Task Force finds that an addendum is an attachment to a document, not part of the main document itself , and, accordingly, an addendum is not "in the minutes" as required under the Ordinance. The Task Force finds that the Ordinance states in simple, plain language that the summary of 150 words or less must be "in the minutes" and that requirement is not satisfied by attaching the statement as an addendum at the end of the minutes.

These findings are based on the purpose of the Sunshine Ordinance to maximize public access to public information and public meetings and limit the ability for public officials to abridge critical speech, on evidence presented at multiple Task Force hearings, and on careful Task Force deliberations over the past year.

Thank you for your attention to this matter. Attached is a copy of the Task Force letter to the City Attorney regarding this issue. Please contact the Sunshine Ordinance Task Force Administrator at sotf@sfgov.org or (415) 554-7724 with any questions or concerns.

SUNSHINE ORDINANCE
TASK FORCE

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

May 17, 2012

Dennis Herrera, San Francisco City Attorney
Office of the City Attorney
San Francisco City Hall
1 Dr. Carlton B. Goodlett Place, Room 234
San Francisco, CA 94102

Re: Public Comment Summaries in Minutes (Sunshine Ordinance Section 67.16) (Sunshine Ordinance Complaint No. 10054, Hartz v. Library Commission)

Dear Mr. Herrera,

Please be advised that the Sunshine Ordinance Task Force ("Task Force") disagrees with the Office of the City Attorney's interpretation of the requirements for inclusion of public comment summaries in meeting minutes pursuant to Sunshine Ordinance Section 67.16. The Task Force respectfully requests your office reconsider its position and advice on this matter.

Sunshine Ordinance Section 67.16 provides 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." The City Attorney Good Government Guide summarizes your office's position and advice on compliance with this provision:

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

After careful deliberations of this issue over the past year, the Task Force does not find justification in the Sunshine Ordinance for your conclusions that the summaries may be attached to the minutes rather than included in the minutes or that they are not part of the official minutes. Several sections of the Sunshine Ordinance demonstrate its intent to require the application of legal interpretations that result in greater public access to government (see, for example, Sections 67.5 and 67.36). Both of your conclusions do not follow this intent, and result in less open government.

Based on the purpose of the Sunshine Ordinance to maximize public access to public information and public meetings and on evidence presented at multiple Task Force hearings, the Task Force finds the interpretation most commonly understood by members of the public and those required to follow the Sunshine Ordinance, resulting in the least confusion and greater open government, is the plain language of the law. The Task Force interprets the phrase "included in the minutes" in Section 67.16 by using the plain meaning of the words, and finds the summaries must be placed within the body of the minutes. The Task Force does not interpret the phrase "in the minutes" to be inclusive of the meaning "attached to the minutes," and finds no justification for authorizing an attachment where no reference to an attachment is made.

The Task Force further finds that an addendum is an attachment to a document, not part of the main document itself , and, accordingly, an addendum is not "in the minutes" as required under the Ordinance. The Task Force finds that the Ordinance states in simple, plain language that the summary of 150 words or less must be "in the minutes" and that requirement is not satisfied by attaching the statement as an addendum at the end of the minutes.

Please take note that placing the public comment summaries in the body of the minutes prevents public officials from abridging unwanted or critical public comment, a requirement under Sunshine Ordinance 67.15(d). Members of the public have brought to the attention of the Task Force that some commissions place the summaries as attachments without directing readers to the item the summary has been submitted in reference to, nearly ensuring anyone reading the minutes will likely overlook public comment on an item or read only the summary of the comment as the commission prefers it to be interpreted (see, for example, Sunshine Complaint No. 11071).

The Task Force notes other commissions have placed a disclaimer on the attached summaries that the summaries are not subject to approval or verification of accuracy by the commission (see, for example, Sunshine Complaint No. 11088). This may be perceived as placing an unwarranted negative bias on the summaries, and is a further erosion of the public's rights guaranteed by the Sunshine Ordinance that is condoned by your interpretation of Section 67.16. In addition, these disclaimers may constitute a violation of the ordinance as Section 67.16 does require commissions to include an accurate summary of public comments in meeting minutes.

Based on the foregoing and the Task Force's extensive experience with Sunshine-related hearings, the Task Force requests your office reconsider its position, and coordinate with members of the public and the Task Force to ensure the greatest public access and participation in government.

Thank you for your attention to this matter. Please contact the Sunshine Ordinance Task Force Administrator at sotf@sfgov.org or (415) 554-7724 with any questions or concerns.

Hope Johnson

Hope Johnson, Chair
Sunshine Ordinance Task Force

cc: Ray Hartz, Complainant
Jewelle Gomez, President, Library Commission, Respondent
Sue Blackman, Secretary, Library Commission, Respondent
Luis Herrera, San Francisco City Librarian
Jerry Threet, Deputy City Attorney

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2019 MAY -7 PM 1:59
BY

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: APRIL 30, 2019

Sunshine Ordinance Section: 67.15(d) PUBLIC TESTIMONY
(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.

SEE ATTACHED 150 WORD SUMMARY AS SUBMITTED TO THE BOS AND THE REVISED VERSION AS PRINTED IN THE MINUTES. SPACING WAS CHANGED TO MAKE THE SUMMARY LESS DISTINCTIVE & LESS LIKELY TO BE NOTICED.

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: May 7, 2019

Signature

I request confidentiality of my personal information. ☐ yes ☒ no

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07/31/08

ADJOURNMENT

There being no further business, the Board adjourned at the hour 4:31 p.m.

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: "KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE That admonition is printed on every copy of every agenda, for every meeting of this Board of Supervisors, which might only seem ironic, but is in fact, blatantly hypocritical! Thomas Aquinas teaches: "Willful ignorance of what one ought to know is a mortal sin." I've passed out to the members a listing of 3 dozen Orders of Determination finding violations by various Boards and Commissions, including this one. Also, the directions issued by the SOTF to all Boards and Commissions and a response to the City Attorney from the SOTF. I'd like you to note the eleven violations in red, particularly those regarding the Clerk of the Board, Angela Calvillo. Where the summary submitted today appears in your minutes will determine if a SOTF complaint is filed against your President, Norman Yee. By the way, remove the prejudicial introduction and use something fair!"

Thursday, April 18, 2019

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

That admonition is printed on every copy of every agenda, for every meeting of this Board of Supervisors, which might only seem ironic, but is in fact, blatantly hypocritical!

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I'd like you to note the eleven violations in red, particularly those regarding the Clerk of the Board, Angela Calvillo.

Where the summary submitted today appears in your minutes will determine if a SOTF complaint is filed against your President, Norman Yee.

By the way, remove the prejudicial introduction and use something fair!

Sunshine Ordinance Task Force
Complaint Summary

File No. 19050

Ray Hartz v. Angela Calvillo, Clerk of the Board of Supervisors

Date filed with SOTF: 5/14/19

Contacts information (Complainant information listed first):
Ray Hartz (rwhartzjr@comcast.net) (Complainant)
Angela Calvillo (Angela.Calvillo@sfgov.org) Wilson Ng (Wilson.l.Ng@sfgov.org) (Respondent)

File No. 19050: Complaint filed by Ray Hartz against Angela Calvillo, Clerk of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.15(d), by failing to place his 150-word summaries as submitted to the Board of Supervisors "in the minutes."

Administrative Summary if applicable:

Complaint Attached.

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 SUPERVISOR

Name of individual contacted at Department or Commission: ANGELA CALVILLO

☐ Alleged violation public records access
☒ Alleged violation of public meeting. Date of meeting: MAY 7, 2019

Sunshine Ordinance Section: 67.15 (d) PUBLIC TESTIMONY
(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.

SEE ATTACHED 150 WORD SUMMARY AS SUBMITTED TO THE BOS AND THE REVISED VERSION AS PRINTED IN THE MINUTES. SPACING/FORMAT WAS CHANGED TO MAKE THE SUMMARY LESS DISTINCTIVE & LESS LIKELY TO BE NOTICED.

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@COMCAST.NET

Date: MAY 14, 2019 Signature: Ray W. Hartz

I request confidentiality of my personal information. ☐ yes ☒ no

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07/31/08

Tuesday, May 7, 2019

Ray Hartz, Director, San Francisco Open Government.

David Chiu, President, San Francisco Board of Supervisors, said:

"I don't think we will allow public comment for the next speaker."

SFGTV, I would like this to remain on the screen until I resume speaking.

Upton Sinclair said:

"It is difficult to get a man to understand something when his salary depends on his not understanding it."

The Civil Grand Jury, C&C of San Francisco 2010-2001 wrote:

"Because of the Ethics Commission's lack of enforcement, not city employee has been disciplined for failing to adhere to the Sunshine Ordinance. The Commission has allowed some city officials to ignore the rulings of the Sunshine Ordinance Task Force."

Next week we'll discuss the more than three dozen Orders of Determination I hold and what the point of going through that process was and continues to be.

190456 **[Grant Agreement Amendment - Retroactive - Wu Yee Children's Services - Early Care and Education Integrated Services - $42,036,965]**

Resolution retroactively approving the first amendment to the grant agreement between the City and County of San Francisco and Wu Yee Children's Services for the provision of Early Care and Education Integrated Services to support the City's implementation of the San Francisco Citywide Plan For Early Care and Education, to increase the amount by $9,918,234 for a total amount of $42,036,965 to commence May 1, 2019, for the total term of July 1, 2017, through June 30, 2020. (Human Services Agency)

04/29/19; RECEIVED FROM DEPARTMENT.

05/07/19; RECEIVED AND ASSIGNED to Budget and Finance Sub-Committee.

ADJOURNMENT

There being no further business, the Board adjourned at the hour 6:54 p.m.

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: "Ray Hartz, Director, San Francisco Open Government. David Chiu, President, San Francisco Board of Supervisors, said: 'I don't think we will allow public comment for the next speaker.' SFGTV, I would like this to remain on the screen until I resume speaking. Upton Sinclair said: 'It is difficult to get a man to understand something when his salary depends on his not understanding it.' The Civil Grand Jury, C&C of San Francisco 2010-2001 wrote: 'Because of the Ethics Commission's lack of enforcement, not city employee has been disciplined for failing to adhere to the Sunshine Ordinance. The Commission has allowed some officials to ignore the rulings of the Sunshine Ordinance Task Force.' Next week we'll discuss the more than three dozen Orders of Determination that I hold and what the point of going through that process was and continues to be."

Sunshine Ordinance Task Force
Complaint Summary

File No. 19051

Ray Hartz V. Norman Yee, President of the Board of Supervisors

Date filed with SOTF: 5/14/19

Contacts information (Complainant information listed first):
Ray Hartz (rwhartzjr@comcast.net) (Complainant)
Norman Yee (norman.yee@sfgov.org) (Respondent)

File No. 19051: Complaint filed by Ray Hartz against Norman Yee, President of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.16, by failing to place his 150-word summaries in the meeting minutes (Board of Supervisors May 7, 2019 meeting).

Administrative Summary if applicable:

Complaint Attached.

BOARD OF SUPERVISORS
SAN FRANCISCO

2019 MAY 14 PM 1:32

BY

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: NORMAN YEE, PRESIDENT

☐ Alleged violation public records access
☒ Alleged violation of public meeting. Date of meeting: MAY 7, 2019

Sunshine Ordinance Section: SEC 67.16 MINUTES
(If known, please cite specific provision(s) being violated)

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

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

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@COMCAST.NET

Date: MAY 14, 2019

Signature

I request confidentiality of my personal information. ☐ yes ☒ no

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07/31/08

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ADJOURNMENT

There being no further business, the Board adjourned at the hour 6:54 p.m.

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SUNSHINE ORDINANCE
TASK FORCE

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

TO: All City Departments and Agencies

FROM: Sunshine Ordinance Task Force

DATE: May 18, 2012

RE: **Placement of Public Comment Summaries in Minutes (Sunshine Ordinance Complaint No. 11071, Hartz v. City Attorney)**

Please take notice that on December 14, 2011, the Sunshine Ordinance Task Force ("Task Force") approved releasing this statement to all City Departments and Agencies:

Sunshine Ordinance Section 67.16 provides 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."

The Task Force interprets this section to require these summaries be placed within the body of meeting minutes, not as attachments to the minutes.

The Task Force interprets the phrase "included in the minutes" by using the plain meaning of the words, and finds the summaries must be placed within the body of the minutes. The Task Force does not interpret the phrase "in the minutes" to be inclusive of the meaning "attached to the minutes," and finds no justification for authorizing an attachment where no reference to an attachment is made.

The Task Force disagrees with the Office of the City Attorney's interpretation of the requirements for inclusion of public comment summaries in meeting minutes. Failure to include the summaries within the body of meeting minutes may result in the Task Force finding a violation of the Sunshine Ordinance, not withstanding the City Attorney's advice to the contrary.

The Task Force finds that an addendum is an attachment to a document, not part of the main document itself , and, accordingly, an addendum is not "in the minutes" as required under the Ordinance. The Task Force finds that the Ordinance states in simple, plain language that the summary of 150 words or less must be "in the minutes" and that requirement is not satisfied by attaching the statement as an addendum at the end of the minutes.

These findings are based on the purpose of the Sunshine Ordinance to maximize public access to public information and public meetings and limit the ability for public officials to abridge critical speech, on evidence presented at multiple Task Force hearings, and on careful Task Force deliberations over the past year.

Thank you for your attention to this matter. Attached is a copy of the Task Force letter to the City Attorney regarding this issue. Please contact the Sunshine Ordinance Task Force Administrator at sotf@sfgov.org or (415) 554-7724 with any questions or concerns.

SUNSHINE ORDINANCE
TASK FORCE

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

May 17, 2012

Dennis Herrera, San Francisco City Attorney
Office of the City Attorney
San Francisco City Hall
1 Dr. Carlton B. Goodlett Place, Room 234
San Francisco, CA 94102

Re: Public Comment Summaries in Minutes (Sunshine Ordinance Section 67.16)
(Sunshine Ordinance Complaint No. 10054, Hartz v. Library Commission)

Dear Mr. Herrera,

Please be advised that the Sunshine Ordinance Task Force ("Task Force") disagrees with the Office of the City Attorney's interpretation of the requirements for inclusion of public comment summaries in meeting minutes pursuant to Sunshine Ordinance Section 67.16. The Task Force respectfully requests your office reconsider its position and advice on this matter.

Sunshine Ordinance Section 67.16 provides 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." The City Attorney Good Government Guide summarizes your office's position and advice on compliance with this provision:

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

After careful deliberations of this issue over the past year, the Task Force does not find justification in the Sunshine Ordinance for your conclusions that the summaries may be attached to the minutes rather than included in the minutes or that they are not part of the official minutes. Several sections of the Sunshine Ordinance demonstrate its intent to require the application of legal interpretations that result in greater public access to government (see, for example, Sections 67.5 and 67.36). Both of your conclusions do not follow this intent, and result in less open government.

Based on the purpose of the Sunshine Ordinance to maximize public access to public information and public meetings and on evidence presented at multiple Task Force hearings, the Task Force finds the interpretation most commonly understood by members of the public and those required to follow the Sunshine Ordinance, resulting in the least confusion and greater open government, is the plain language of the law. The Task Force interprets the phrase "included in the minutes" in Section 67.16 by using the plain meaning of the words, and finds the summaries must be placed within the body of the minutes. The Task Force does not interpret the phrase "in the minutes" to be inclusive of the meaning "attached to the minutes," and finds no justification for authorizing an attachment where no reference to an attachment is made.

The Task Force further finds that an addendum is an attachment to a document, not part of the main document itself, and, accordingly, an addendum is not "in the minutes" as required under the Ordinance. The Task Force finds that the Ordinance states in simple, plain language that the summary of 150 words or less must be "in the minutes" and that requirement is not satisfied by attaching the statement as an addendum at the end of the minutes.

Please take note that placing the public comment summaries in the body of the minutes prevents public officials from abridging unwanted or critical public comment, a requirement under Sunshine Ordinance 67.15(d). Members of the public have brought to the attention of the Task Force that some commissions place the summaries as attachments without directing readers to the item the summary has been submitted in reference to, nearly ensuring anyone reading the minutes will likely overlook public comment on an item or read only the summary of the comment as the commission prefers it to be interpreted (see, for example, Sunshine Complaint No. 11071).

The Task Force notes other commissions have placed a disclaimer on the attached summaries that the summaries are not subject to approval or verification of accuracy by the commission (see, for example, Sunshine Complaint No. 11088). This may be perceived as placing an unwarranted negative bias on the summaries, and is a further erosion of the public's rights guaranteed by the Sunshine Ordinance that is condoned by your interpretation of Section 67.16. In addition, these disclaimers may constitute a violation of the ordinance as Section 67.16 does require commissions to include an accurate summary of public comments in meeting minutes.

Based on the foregoing and the Task Force's extensive experience with Sunshine-related hearings, the Task Force requests your office reconsider its position, and coordinate with members of the public and the Task Force to ensure the greatest public access and participation in government.

Thank you for your attention to this matter. Please contact the Sunshine Ordinance Task Force Administrator at sotf@sfgov.org or (415) 554-7724 with any questions or concerns.

Hope Johnson

Hope Johnson, Chair
Sunshine Ordinance Task Force

cc: Ray Hartz, Complainant
Jewelle Gomez, President, Library Commission, Respondent
Sue Blackman, Secretary, Library Commission, Respondent
Luis Herrera, San Francisco City Librarian
Jerry Threet, Deputy City Attorney

Sunshine Ordinance Task Force
Complaint Summary

File No. 19054

Ray Hartz v. Norman Yee, President of the Board of Supervisors

Date filed with SOTF: 5/21/19

Contacts information (Complainant information listed first):
Ray Hartz (rwhartzjr@comcast.net) (Complainant)
Norman Yee (norman.yee@sfgov.org) (Respondent)

File No. 19054: Complaint filed by Ray Hartz against Norman Yee, President of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.16, by failing to place his 150-word summaries in the meeting minutes (Board of Supervisors May 14, 2019 meeting).

Administrative Summary if applicable:

Complaint Attached.

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: NORMAN YEE, PRESIDENT

☐ Alleged violation public records access
☒ Alleged violation of public meeting. Date of meeting: MAY 14, 2019

Sunshine Ordinance Section: SEC 67.16 MINUTES
(If known, please cite specific provision(s) being violated)

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

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

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@COMCAST.NET

Date: MAY 21, 2019 Signature: Ray W. Hartz Jr.

I request confidentiality of my personal information. ☐ yes ☒ no

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07/31/08

ADDENDUM

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Ray Hartz submitted the following additional information during General Public Comment, as follows: "So what is with all these complaints before the Sunshine Ordinance Task Force? Almost all of them are related to a single group: The Friends of the San Francisco Public Library. This is a group of private individuals who raise money, supposedly to 'support the library.' What it really is: a SCAM and a FRAUD being perpetrated on the citizens of San Francisco. When the SFPL originally brought this 'scheme' to the BOS, former Supervisor Leland Yee refused to approve it because too little of the money actually went to the SFPL. The library went ahead and entered into this 'scheme,' regardless. Public records request show that the SFPL and the Library Commission have absolutely no idea how much this group raises and ignore the fact that out of $MILLIONS of dollars raised each year, 10% or less actually goes to benefit the SFPL. 'The Friends' operate a fraud!"

SUNSHINE ORDINANCE
TASK FORCE

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Fax No. 415) 554-7854
TDD/TTY No. (415) 554-5227

TO: All City Departments and Agencies

FROM: Sunshine Ordinance Task Force

DATE: May 18, 2012

RE: **Placement of Public Comment Summaries in Minutes (Sunshine Ordinance Complaint No. 11071, Hartz v. City Attorney)**

Please take notice that on December 14, 2011, the Sunshine Ordinance Task Force ("Task Force") approved releasing this statement to all City Departments and Agencies:

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The Task Force finds that an addendum is an attachment to a document, not part of the main document itself, and, accordingly, an addendum is not "in the minutes" as required under the Ordinance. The Task Force finds that the Ordinance states in simple, plain language that the summary of 150 words or less must be "in the minutes" and that requirement is not satisfied by attaching the statement as an addendum at the end of the minutes.

These findings are based on the purpose of the Sunshine Ordinance to maximize public access to public information and public meetings and limit the ability for public officials to abridge critical speech, on evidence presented at multiple Task Force hearings, and on careful Task Force deliberations over the past year.

Thank you for your attention to this matter. Attached is a copy of the Task Force letter to the City Attorney regarding this issue. Please contact the Sunshine Ordinance Task Force Administrator at sotf@sfgov.org or (415) 554-7724 with any questions or concerns.

SUNSHINE ORDINANCE
TASK FORCE

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May 17, 2012

Dennis Herrera, San Francisco City Attorney
Office of the City Attorney
San Francisco City Hall
1 Dr. Carlton B. Goodlett Place, Room 234
San Francisco, CA 94102

Re: Public Comment Summaries in Minutes (Sunshine Ordinance Section 67.16) (Sunshine Ordinance Complaint No. 10054, Hartz v. Library Commission)

Dear Mr. Herrera,

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Based on the purpose of the Sunshine Ordinance to maximize public access to public information and public meetings and on evidence presented at multiple Task Force hearings, the Task Force finds the interpretation most commonly understood by members of the public and those required to follow the Sunshine Ordinance, resulting in the least confusion and greater open government, is the plain language of the law. The Task Force interprets the phrase "included in the minutes" in Section 67.16 by using the plain meaning of the words, and finds the summaries must be placed within the body of the minutes. The Task Force does not interpret the phrase "in the minutes" to be inclusive of the meaning "attached to the minutes," and finds no justification for authorizing an attachment where no reference to an attachment is made.

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Hope Johnson

Hope Johnson, Chair
Sunshine Ordinance Task Force

cc: Ray Hartz, Complainant
Jewelle Gomez, President, Library Commission, Respondent
Sue Blackman, Secretary, Library Commission, Respondent
Luis Herrera, San Francisco City Librarian
Jerry Threet, Deputy City Attorney

Sunshine Ordinance Task Force
Complaint Summary

File No. 19055

Ray Hartz v. Angela Calvillo, Clerk of the Board of Supervisors

Date filed with SOTF: 5/21/19

Contacts information (Complainant information listed first):
Ray Hartz (rwhartzjr@comcast.net) (Complainant)
Angela Calvillo (Angela.Calvillo@sfgov.org) (Respondent)

File No. 19055: Complaint filed by Ray Hartz against Angela Calvillo, Clerk of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.16, by failing to place his 150-word summaries in the meeting minutes (Board of Supervisors May 14, 2019 meeting).

Administrative Summary if applicable:

Complaint Attached.

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 SUPERVISOR

Name of individual contacted at Department or Commission: ANGELA CALVILLO

☐ Alleged violation public records access
☒ Alleged violation of public meeting. Date of meeting: MAY 14, 2019

Sunshine Ordinance Section: 67.15 (d) PUBLIC TESTIMONY
(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.

SEE ATTACHED 150 WORD SUMMARY AS SUBMITTED TO THE BOS AND THE REVISED VERSION AS PRINTED IN THE MINUTES. SPACING/FORMAT WAS CHANGED TO MAKE THE SUMMARY LESS DISTINCTIVE & LESS LIKELY TO BE NOTICED.

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@COMCAST.NET

Date: MAY 21, 2019

Signature

I request confidentiality of my personal information. ☐ yes ☒ no

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07/31/08

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 what is with all these complaints before the Sunshine Ordinance Task Force? Almost all of them are related to a single group: The Friends of the San Francisco Public Library. This is a group of private individuals who raise money, supposedly to 'support the library.' What it really is: a SCAM and a FRAUD being perpetrated on the citizens of San Francisco. When the SFPL originally brought this 'scheme' to the BOS, former Supervisor Leland Yee refused to approve it because too little of the money actually went to the SFPL. The library went ahead and entered into this 'scheme,' regardless. Public records request show that the SFPL and the Library Commission have absolutely no idea how much this group raises and ignore the fact that out of $MILLIONS of dollars raised each year, 10% or less actually goes to benefit the SFPL. 'The Friends' operate a fraud!"

Tuesday, May 14, 2019

Ray Hartz, Director, San Francisco Open Government.

So what is with all these complaints before the Sunshine Ordinance Task Force?

Almost all of them are related to a single group: The Friends of the San Francisco Public Library. This is a group of private individuals who raise money, supposedly to "support the library." What is really is: a SCAM and a FRAUD being perpetrated on the citizens of San Francisco.

When the SFPL originally brought this "scheme" to the BOS, former Supervisor Leland Yee refused to approve it because too little of the money actually went to the SFPL. The library went ahead and entered into this "scheme," regardless.

Public records request show that the SFPL and the Library Commission have absolutely no idea how much this group raises each and ignore the fact that out of $MILLIONS of dollars raised each year, 10% or less actually goes to benefit the SFPL.

"The Friends" operate a fraud!

Sunshine Ordinance Task Force
Complaint Summary

File No. 19057

Ray Hartz v. Norman Yee, President of the Board of Supervisors

Date filed with SOTF: 5/29/19

Contacts information (Complainant information listed first):
Ray Hartz (rwhartzjr@comcast.net) (Complainant)
Norman Yee (norman.yee@sfgov.org) Wilson Ng (Wilson.l.Ng@sfgov.org); Ivy Lee (Ivy.Lee@sfgov.org); Jen Low (Jen.Low@sfgov.org); Erica Maybaum (Erica.Maybaum@sfgov.org) (Respondent)

File No. 19057: Complaint filed by Ray Hartz against Norman Yee, President of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.16, by failing to place his 150-word summaries in the meeting minutes (Board of Supervisors May 21, 2019 meeting).

Administrative Summary if applicable:

Complaint Attached.

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2019 MAY 29 PM 1:50
BY

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: NORMAN YEE, PRESIDENT

☐ Alleged violation public records access
☒ Alleged violation of public meeting. Date of meeting: MAY 21, 2019

Sunshine Ordinance Section: SEC 67.16 MINUTES
(If known, please cite specific provision(s) being violated)

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

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

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. Address: 839 Leavenworth St. #304, San Francisco, CA 94109-6131

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

Date: MAY 29, 2019 Signature: Ray W Hartz Jr

I request confidentiality of my personal information. ☐ yes ☒ no

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07/31/08

Complainant/Petitioners Documents Submission

SUNSHINE ORDINANCE
TASK FORCE

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

TO: All City Departments and Agencies

FROM: Sunshine Ordinance Task Force

DATE: May 18, 2012

RE: **Placement of Public Comment Summaries in Minutes (Sunshine Ordinance Complaint No. 11071, Hartz v. City Attorney)**

Please take notice that on December 14, 2011, the Sunshine Ordinance Task Force ("Task Force") approved releasing this statement to all City Departments and Agencies:

Sunshine Ordinance Section 67.16 provides 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."

The Task Force interprets this section to require these summaries be placed within the body of meeting minutes, not as attachments to the minutes.

The Task Force interprets the phrase "included in the minutes" by using the plain meaning of the words, and finds the summaries must be placed within the body of the minutes. The Task Force does not interpret the phrase "in the minutes" to be inclusive of the meaning "attached to the minutes," and finds no justification for authorizing an attachment where no reference to an attachment is made.

The Task Force disagrees with the Office of the City Attorney's interpretation of the requirements for inclusion of public comment summaries in meeting minutes. Failure to include the summaries within the body of meeting minutes may result in the Task Force finding a violation of the Sunshine Ordinance, not withstanding the City Attorney's advice to the contrary.

The Task Force finds that an addendum is an attachment to a document, not part of the main document itself, and, accordingly, an addendum is not "in the minutes" as required under the Ordinance. The Task Force finds that the Ordinance states in simple, plain language that the summary of 150 words or less must be "in the minutes" and that requirement is not satisfied by attaching the statement as an addendum at the end of the minutes.

These findings are based on the purpose of the Sunshine Ordinance to maximize public access to public information and public meetings and limit the ability for public officials to abridge critical speech, on evidence presented at multiple Task Force hearings, and on careful Task Force deliberations over the past year.

Thank you for your attention to this matter. Attached is a copy of the Task Force letter to the City Attorney regarding this issue. Please contact the Sunshine Ordinance Task Force Administrator at sotf@sfgov.org or (415) 554-7724 with any questions or concerns.

SUNSHINE ORDINANCE
TASK FORCE

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

May 17, 2012

Dennis Herrera, San Francisco City Attorney
Office of the City Attorney
San Francisco City Hall
1 Dr. Carlton B. Goodlett Place, Room 234
San Francisco, CA 94102

Re: Public Comment Summaries in Minutes (Sunshine Ordinance Section 67.16)
(Sunshine Ordinance Complaint No. 10054, Hartz v. Library Commission)

Dear Mr. Herrera,

Please be advised that the Sunshine Ordinance Task Force ("Task Force") disagrees with the Office of the City Attorney's interpretation of the requirements for inclusion of public comment summaries in meeting minutes pursuant to Sunshine Ordinance Section 67.16. The Task Force respectfully requests your office reconsider its position and advice on this matter.

Sunshine Ordinance Section 67.16 provides 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." The City Attorney Good Government Guide summarizes your office's position and advice on compliance with this provision:

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

After careful deliberations of this issue over the past year, the Task Force does not find justification in the Sunshine Ordinance for your conclusions that the summaries may be attached to the minutes rather than included in the minutes or that they are not part of the official minutes. Several sections of the Sunshine Ordinance demonstrate its intent to require the application of legal interpretations that result in greater public access to government (see, for example, Sections 67.5 and 67.36). Both of your conclusions do not follow this intent, and result in less open government.

Based on the purpose of the Sunshine Ordinance to maximize public access to public information and public meetings and on evidence presented at multiple Task Force hearings, the Task Force finds the interpretation most commonly understood by members of the public and those required to follow the Sunshine Ordinance, resulting in the least confusion and greater open government, is the plain language of the law. The Task Force interprets the phrase "included in the minutes" in Section 67.16 by using the plain meaning of the words, and finds the summaries must be placed within the body of the minutes. The Task Force does not interpret the phrase "in the minutes" to be inclusive of the meaning "attached to the minutes," and finds no justification for authorizing an attachment where no reference to an attachment is made.

The Task Force further finds that an addendum is an attachment to a document, not part of the main document itself, and, accordingly, an addendum is not "in the minutes" as required under the Ordinance. The Task Force finds that the Ordinance states in simple, plain language that the summary of 150 words or less must be "in the minutes" and that requirement is not satisfied by attaching the statement as an addendum at the end of the minutes.

Please take note that placing the public comment summaries in the body of the minutes prevents public officials from abridging unwanted or critical public comment, a requirement under Sunshine Ordinance 67.15(d). Members of the public have brought to the attention of the Task Force that some commissions place the summaries as attachments without directing readers to the item the summary has been submitted in reference to, nearly ensuring anyone reading the minutes will likely overlook public comment on an item or read only the summary of the comment as the commission prefers it to be interpreted (see, for example, Sunshine Complaint No. 11071).

The Task Force notes other commissions have placed a disclaimer on the attached summaries that the summaries are not subject to approval or verification of accuracy by the commission (see, for example, Sunshine Complaint No. 11088). This may be perceived as placing an unwarranted negative bias on the summaries, and is a further erosion of the public's rights guaranteed by the Sunshine Ordinance that is condoned by your interpretation of Section 67.16. In addition, these disclaimers may constitute a violation of the ordinance as Section 67.16 does require commissions to include an accurate summary of public comments in meeting minutes.

Based on the foregoing and the Task Force's extensive experience with Sunshine-related hearings, the Task Force requests your office reconsider its position, and coordinate with members of the public and the Task Force to ensure the greatest public access and participation in government.

Thank you for your attention to this matter. Please contact the Sunshine Ordinance Task Force Administrator at sotf@sfgov.org or (415) 554-7724 with any questions or concerns.

Hope Johnson

Hope Johnson, Chair
Sunshine Ordinance Task Force

cc: Ray Hartz, Complainant
Jewelle Gomez, President, Library Commission, Respondent
Sue Blackman, Secretary, Library Commission, Respondent
Luis Herrera, San Francisco City Librarian
Jerry Threet, Deputy City Attorney

Sunshine Ordinance Task Force
Complaint Summary

File No. 19059

Ray Hartz v. Angela Calvillo, Clerk of the Board of Supervisors

Date filed with SOTF: 5/29/19

Contacts information (Complainant information listed first):
Ray Hartz (rwhartzjr@comcast.net) (Complainant)
Angela Calvillo (Angela.Calvillo@sfgov.org) Wilson Ng (Wilson.l.Ng@sfgov.org) (Respondent)

File No. 19059: Complaint filed by Ray Hartz against Angela Calvillo, Clerk of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.15(d), by failing to place his 150-word summaries in the meeting minutes (Board of Supervisors May 21, 2019 meeting).

Administrative Summary if applicable:

Complaint Attached.

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2019 MAY 29 PM 1:50
BY

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 SUPERVISOR

Name of individual contacted at Department or Commission: ANGELA CALVILLO

☐ Alleged violation public records access
☒ Alleged violation of public meeting. Date of meeting: MAY 21, 2019

Sunshine Ordinance Section: 67.15 (d) PUBLIC TESTIMONY
(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.

SEE ATTACHED 150 WORD SUMMARY AS SUBMITTED TO THE BOS AND THE REVISED VERSION AS PRINTED IN THE MINUTES. SPACING/FORMAT WAS CHANGED TO MAKE THE SUMMARY LESS DISTINCTIVE & LESS LIKELY TO BE NOTICED.

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@COMCAST.NET

Date: MAY 29, 2019 Signature: Ray W Hartz Jr

I request confidentiality of my personal information. ☐ yes ☒ no

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07/31/08

Complainant/Petitioners Documents Submission

Tuesday, May 21, 2019

Ray Hartz, Director, San Francisco Open Government.

We have this group called The Friends of the San Francisco Public Library, hereinafter to be referred to as "The Friends."

You know to the SFPL website and at the bottom-center of the home page, you will find a link to this group. How many members of the public are deceived into contributing to this group, not realizing how little of the money actually goes to the library?

I've talked about the three dozen Orders of Determination I have, and about how most of those have to do with the SFPL, the Library Commission, and others, trying to keep this scam from being exposed!

This "crusade," began with the Library Commission making every attempt to interfere with my constitutionally protected political free speech at Library Commission meetings! It was extremely important to them to keep what I had to say out of the official record, the minutes of those meetings!

190516 **[Agreement Amendment - Regents of the University of California - Behavioral Health Services - Not to Exceed $49,275,951]**
Resolution approving the first amendment to the agreement between the Department of Public Health and the Regents of the University of California for behavioral health services for high-risk clients to increase the amount by $39,659,443 for a total amount not to exceed $49,275,951; and to extend the contract by three and one-half years, to commence July 1, 2019, for a total contract term of July 1, 2018, through December 31, 2022. (Public Health Department)

05/13/19; RECEIVED FROM DEPARTMENT.

05/21/19; RECEIVED AND ASSIGNED to Budget and Finance Sub-Committee.

ADJOURNMENT

There being no further business, the Board adjourned at the hour 5:09 p.m.

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: "We have this group called The Friends of the San Francisco Public Library, hereinafter to be referred to as "The Friends." You know to the SFPL website and at the bottom-center of the home page, you will find a link to this group. How many members of the public are deceived into contributing to this group, not realizing how little of the money actually goes to the library? I've talked about the three dozen Orders of Determination I have, and about how most of those have to do with the SFPL, the Library Commission, and others, trying to keep this scam from being exposed! This 'crusade,' began with the Library Commission making every attempt to interfere with my constitutionally protected political free speech at Library Commission meetings! It was extremely important to them to keep what I had to say out of the official record, the minutes of those meetings!"

Respondents Document Submission

Ethics Commission
City and County of San Francisco

Minutes – February 25, 2013

Minutes of the Regular Meeting of
The San Francisco Ethics Commission
February 25, 2013
Room 400, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

I. Call to order and roll call.

Chairperson Hur called the meeting to order at 5:31 PM. Chairperson Hur stated that Commissioner Hayon was excused due to illness. He also noted that since all five Commissioners were not present, Agenda Item V would be deferred to a future meeting.

COMMISSION MEMBERS PRESENT: Benedict Y. Hur, Chairperson; Jamienne Studley, Vice-Chairperson; Dorothy S. Liu, Commissioner; Paul A. Renne, Commissioner. Commissioner Hayon was excused.

STAFF PRESENT: John St. Croix, Executive Director; Mabel Ng, Deputy Executive Director; Catherine Argumedo, Investigator/Legal Analyst.

OFFICE OF THE CITY ATTORNEY: Josh White, Deputy City Attorney (DCA) (excused ~ 6:45 PM); Jon Givner, DCA (arrived ~ 6 PM).

OTHERS PRESENT: Peter Warfield; Ray Hartz; Luis Herrera, City Librarian, San Francisco Public Library; Sue Blackman, Library Commission Secretary; Patrick Monette-Shaw; Robbie Clark; Dr. Derek Kerr; Allen Grossman; Paula Datesh; George Wooding; Phil Ginsburg, General Manager of Recreation & Parks Department; Ray Bellar; Nancy Werfel; Suzanne Dumont; Jane Kwok; Eric S.; Catherine Howard; Judy Burkowitz; Bruce Wolfe; David Pilpel; Mark Buell, President of the Recreation & Park Commission; Sarah Ballard, Director of Policy and Public Affairs, Recreation & Parks Department; Greg Miller; Anne Clark; Caroline Celaya, San Francisco Municipal Transportation Agency; Kathy Fowlis, San Francisco Municipal Transportation Agency; Frank Lee, Executive Assistant to the Director of the Department of Public Works; Howard Lazar, Program Director of the Street Artists Program, Arts Commission; William Clark; Robert Clark; and other unidentified members of the public.

MATERIALS DISTRIBUTED:
– Regarding Agenda Item III(a): Ethics Complaint No. 03-120402 – notice letters from the Commission staff to Complainant and Respondent(s); staff report with recommendation and attachments, and any documents submitted to the Commission by Complainant and/or Respondent(s);
– Regarding Agenda Item III(b): Ethics Complaint No. 15-111205 – notice letters from the Commission staff to Complainant and Respondent(s); staff report with recommendation and attachments, and any

documents submitted to the Commission by Complainant and/or Respondent(s);
– Regarding Agenda Item IV(a): Ethics Complaint No. 15-111205 – copies of all documents received from the Sunshine Ordinance Task Force, notice letters from the Commission staff to the Respondent(s) and Complainant, and any documents submitted to the Commission by the Respondent(s) and/or Complainant;
– Regarding Agenda Item IV(b): Ethics Complaint No. 04-120507 – copies of all documents received from the Sunshine Ordinance Task Force, notice letters from the Commission staff to the Respondent(s) and Complainant, and any documents submitted to the Commission by the Respondent(s) and/or Complainant;
– Regarding Agenda Item IV(b): Ethics Complaint No. 07-120621 – copies of all documents received from the Sunshine Ordinance Task Force, notice letters from the Commission staff to the Respondent(s) and Complainant, and any documents submitted to the Commission by the Respondent(s) and/or Complainant;
– Regarding Agenda Item IV(b): Ethics Complaint No. 09-120703 – copies of all documents received from the Sunshine Ordinance Task Force, notice letters from the Commission staff to the Respondent(s) and Complainant, and any documents submitted to the Commission by the Respondent(s) and/or Complainant;
– Ethics Commission Regulations for Violations of the Sunshine Ordinance;
– Sunshine Ordinance, Chapter 67 of the San Francisco Administrative Code;
– Draft minutes of the Commission's regular meeting of January 28, 2013;
– Executive Director's Report.

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the ethics commission.

Peter Warfield asked the Commission to clarify the policy for public comment during agenda items III and IV. Chairperson Hur stated that public comment would occur during each sub-item.

III. Discussion and possible action on matters submitted under Chapter Three of the Ethics Commission Regulations for Violations of the Sunshine Ordinance.

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).

Complainant Ray Hartz stated that willful ignorance of what one ought to know is a mortal sin. He read a portion of section 67.16 of the Sunshine Ordinance. He stated that most people have agreed with his interpretation of section 67.16 – that the "brief written summary" provided by a speaker of his or her comments must be included in the body of the minutes. He stated that the Sunshine Ordinance Task Force ("Task Force") has determined multiple times that the summary should be included in the body of the minutes. He stated that the Library Commission and Mr. Herrera have repeatedly ignored the Task Force's Orders of Determinations on the matter. He also referenced a memorandum from the City Attorney and that office's *Good Government Guide ("Guide")*. He stated that the City Attorney stated that the summary may be attached as an addendum, but the Task Force is the body that is supposed to interpret the Sunshine Ordinance. He stated that Mr. Herrera would like to continue ignoring the Task Force's findings as he and the Library Commission do not like what has been said and would prefer to keep the comments out of the official record. He stated that he has been raising this issue regarding the minutes for almost two years. He asked the Commission to ask other questions, such as why the Library Commission has chosen to ignore the Task Force's findings. He stated that the City Attorney's advice is not accurate. He stated that Mr. Herrera chose to put his employees and others in a position where they had to ignore the recommendations of the Task Force. He stated that Mr. Herrera's willfulness was clear and that he has been acting in bad faith.

Respondent Luis Herrera, City Librarian, San Francisco Public Library, stated that a memorandum from Commission Secretary Sue Blackman was submitted earlier in the day. He stated that the Library Commission has followed section 67.16 of the Sunshine Ordinance. He stated that the Commission has followed advice from the City Attorney and what was provided in the *Guide*. He stated that the memorandum from the City Attorney that Mr. Hartz referenced earlier was provided to the Commission. He

stated that, following the lead of the Ethics Commission, the Library Commission has incorporated the summaries into the minutes and will follow the same modification. He asked that the Commission find no violation.

In his rebuttal, Mr. Hartz stated that Mr. Herrera has been presenting the same argument for the last three years. He stated that Mr. Herrera sent Ms. Blackman to Task Force meetings, as he did not have the integrity to explain to the Task Force why he did what he did. He stated that the Library Commission made a conscious decision to put the summaries somewhere else and the comments are taken out of context. He stated that his statements were also treated differently in the Library Commission meeting minutes than other speakers' summaries. He stated that there has been no discussion at the Library Commission regarding the example provided of the format of the minutes going forward. He stated that there is no evidence that the Library Commission will format its minutes this way or that it would not change the format again in the future.

Public Comment:
Patrick Monette-Shaw stated that the Ethics Commission is here to enforce provisions of the Sunshine Ordinance. He stated that the Ethics Commission is not here to allow Dennis Herrera's *Guide* to supersede or trump the Sunshine Ordinance. He stated that there are many things in the *Guide* that are not worthy of being used as toilet paper and gave page 89 of the *Guide* as an example. He also stated that backup tapes exist for daily use and are easily accessible when something is deleted. He stated that the *Guide* needs to be re-written.

Robbie Clark stated that he has attended Arts Commission meetings for 40 years. He disagreed with the practice of commissions using three minutes as a maximum for public comment, especially when there are not many members of the public present. He stated that the City Attorney was wrong. He supported a finding against Mr. Luis Herrera.

A member of the public stated that he submitted summaries to the Library Commission for many years and the summaries would not be included as required by the Sunshine Ordinance. He stated that the Library Commission only did things after being forced to do them. He stated that when rich people offer them money, they accept that money.

Dr. Derek Kerr stated that excluding public comment from the body of the minutes is an act of disrespect. He stated that it is a statement that the members of the public are inferior to the people on the boards or commissions and that it is a widespread problem. He stated that the Library should provide some commitment or promise regarding their proposed permanent policy change to the minutes.

Allen Grossman stated that inclusion of a speaker's summary in the body of the minutes is a plain reading of section 67.16. He stated that it is nonsensical to add in quasi-legal concepts. He stated that the Task Force's job is to determine these issues and its determinations are enforceable. He disagreed with the *Guide*. He read a definition of the word "in."

Paula Datesh endorsed Mr. Hartz's statements. She stated that it is important to include the summary in the body of the minutes.

Peter Warfield stated that the Library's abuse of the public has been a longstanding one. He stated that the Library Commission has had a history of attempting to exclude public comment. He asked the Commission to find in Mr. Hartz's favor.

Commissioner Liu asked Mr. Herrera whether the minutes provided (in the proposed format) had been adopted by the Library Commission. Mr. Herrera stated that the Commission has not yet adopted it and clarified that the format would apply to all summaries. Commissioner Renne asked Mr. Herrera why he was so resistant to putting the summary in the body of the minutes. Mr. Herrera stated that the Commission worked with the City Attorney's Office and followed the Guide and believed it was in compliance with the Ordinance by attaching the summaries. He stated that all commissions and boards appeared to be complying with section 67.16 in the same way. Chairperson Hur asked whether the summaries were part of the same document or a separate document from the minutes that are approved by the Library Commission. Sue Blackman, Library Commission Secretary, stated that everything was in one document.

Commissioner Renne asked Mr. Hartz whether the proposed format of the minutes, assuming they are adopted and implemented, would cure his concern. Mr. Hartz stated that it would not. He stated that there had been too many variations of minutes and that all speakers' comments were not recorded in a uniform fashion within the minutes of one meeting. He stated that the Library Commission has not established a clear policy of how it will handle its minutes.

Commissioner Studley stated that a violation of section 67.16, on the specific question of whether the summaries were included in the record of the meetings, was not included in the referral from the Task Force. She stated that the minutes provided were paginated as a single document, including the addendum. She stated that the Task Force cannot add or imply the words "in the body of the minutes" into the Sunshine Ordinance. She stated that there also was no mention in the Task Force referral that summaries from different speakers were being treated differently in the Library Commission's minutes. She stated that, as it was not part of the record, there was nothing the Ethics Commission could do about it during this meeting. She stated that the Ethics Commission changed its policy on minutes because it was responsive and that the public would find it as evidence of good faith, but not because the Ethics Commission was in violation of the law. She stated that she did not find such a violation. Commissioner Studley also noted that the summaries provided by members of the public are not validated by the Commission or Board. She stated that minutes are generated by the Secretary or Clerk of the body and approved as part of the business decisions of the body. She stated that the summaries are different from the minutes approved by the body. She also added that it was clear from the comments that there has been frustration with the Library Commission, but that the Ethics commission has to look at the complaint it has before it and decide on that matter. She stated that the complaint is about the placement of the summaries and not the 10-year frustration with the Library Commission.

Commissioner Renne agreed with Commissioner Studley's conclusion in that he did not find a willful violation. He stated that he agreed with Mr. Hartz about how a summary may be an inaccurate summary of the speaker's comment. He stated that if the Library were to retreat from its policy of including the speaker's written statement in the future, then the Library would be willfully violating the Sunshine Ordinance.

Commissioner Liu agreed with the conclusion. She stated that, as there was ambiguity between the advice of the City Attorney and the findings of the Task Force, there was no willful violation. Chairperson Hur agreed.

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).

Mr. Hartz asked the Chair to address the comments of the Commission.

Agenda Item III(b) – Ethics Complaint No. 15-111205 – regarding alleged willful violation of Sunshine Ordinance by department head (referred from the Sunshine Ordinance Task Force on December 5, 2011).

Complainant George Wooding stated that the hearing would have been unnecessary if Olive Gong had contacted the Department of Technology and looked for the department's archived records. He stated that Ms. Gong provided the e-mails 141 days after he made his request. He stated that the Task Force had asked Ms. Gong to contact DT and that she had not done so. He stated that the information provided on page 89 of the *Guide* likens DT files to something that would be found in a dumpster. He stated that Recreation and Parks Department (RPD) abused the First Amendment rights of private citizens and deliberately deleted documents. He stated that RPD changed the title, panelists, and content of a presentation at the Commonwealth Club. He stated that the program related to the commercialization of the public park, specifically mentioning installing artificial turf at the Beach Chalet. He stated that Sarah Ballard wrote a letter to someone at the Commonwealth Club and asked them to change the meeting. He read the e-mail from Ms. Ballard, dated April 20, 2011. He stated that Phil Ginsburg and Mark Buell also contacted the Commonwealth Club regarding the presentation and they stated that the panelists were "inadequate" and "biased." He stated that the Club "caved in" and then he received documents from the Commonwealth Club. He stated that he requested documents from RPD and was told that none exist, even though he was in possession of copies of them. He stated that RPD wanted to protect itself and did not want conflicting

viewpoints. He stated that the RPD is a public agency and it was going after private citizens. He stated there was a bigger issue than section 67.35.

Respondent Phil Ginsburg, General Manager of RPD, asked the Commission to adopt the findings of staff and dismiss the complaint. He stated that there has been no violation of the Sunshine Ordinance and the charges lack merit. He stated that the RPD has a tremendous amount of respect for the Sunshine Ordinance and that the department responded to 175 records requests in 2012. He stated that RPD devotes almost an entire full-time employee to requests. He stated that, in this case, there were no documents. He stated that the charges have been separated for the other named Respondents. He stated that the Club was having a public discussion about Golden Gate Park and the RPD asked for representation on the panel. He stated that he deleted the e-mail, where he was copied, as it was not an essential or legal record and did not require any departmental action. He stated that Mr. Gooding made his request on June 3 and Mr. Ginsburg responded on June 6.

In his rebuttal, Mr. Wooding asked the Commission to look at the bigger picture. He stated that one of the communications involved a lobbyist and that the matter involved saving a field. He stated that the department attempted to limit public discussion. He added that the previous Chair of the Task Force, Hope Johnson, stated that the documents should have been retained. He stated that public officials were signing e-mails with public titles and that Mr. Ginsburg was clearly complicit as he was getting e-mails from Mark Buell, the Commission President. He stated that Mr. Ginsburg helped plan it or helped orchestrate the effort and that Ms. Ballard acted at his request. He stated that these actions were a group effort.

Public Comment:
Patrick Monette-Shaw stated that Mr. Ginsburg is being disingenuous. He stated that Mr. Ginsburg told Ms. Gong that he did not have any e-mails, but he could have told her that he had already deleted responsive documents. He stated that, in that case, Ms. Gong could have immediately turned to DT backup tapes. He also stated that state law prohibits department heads from destroying a record less than two years old. He stated that the Ethics Commission needs to notify Dennis Herrera that he needs to rewrite the *Guide*. He disagreed with staff's recommendation that there is no requirement in the Sunshine Ordinance for departments to refer members of the public to private entities. He stated that Ms. Gong should have referred Mr. Wooding to DT.

Ray Bellar stated that Mr. Ginsburg and other City officials and employees went out of their way to use their official titles to influence the presentation at the Commonwealth Club. He stated that he was disturbed that Ms. Ballard stated that the scheduled panelists were unqualified and biased. He stated that this case deeply undermines the public's faith and desire to work with the government. He stated that the records should not have been deleted.

Dr. Derek Kerr stated that the e-mail Mr. Ginsburg deleted is not the kind of correspondence that one deletes because it is of no value as a record. He stated that one would delete the e-mail in order to conceal what it contains. He stated that this matter could be reduced to a technical, legal point that would make it easy to dismiss, but that this is an ethics commission. He stated the ethical dimension should be considered and not just loopholes.

Nancy Werfel stated that Mr. Ginsburg is guilty of a willful violation of the Sunshine Ordinance. She stated that Mr. Ginsburg is a former City Attorney and he objected to the panel at the Commonwealth Club. She stated that he did not want a discussion about a controversial decision to be discussed in a forum he could not control. She stated that Ms. Gong should have referred Mr. Wooding to DT. She asked the Commission to consider all of the relevant circumstances, including Mr. Ginsburg's motive. She stated that the Commission should find him in willful violation in order to assure public confidence in the body.

Peter Warfield stated that he supported Mr. Wooding's request and position. He referred to section 67.29-7 of the Sunshine Ordinance.

Suzanne Dumont stated that RPD is aware of the Task Force and RPD's obligations under the Sunshine Ordinance. She stated that it is most egregious that the public is paying people to deceive it. She stated that RPD is abusing the public trust.

Allen Grossman stated that this matter reminds him of the missing minutes from the Nixon tapes. He stated

that, when the request came into RPD, there was an obligation to look through everything. He referred to California Government Code section 6252. He stated that it was a violation that Olive Gong did not look at the backup tapes.

Jane Kwok stated that Mr. Wooding really loves San Francisco and devotes his time to the City. She said that he is held in high esteem.

Eric S. stated that Mr. Wooding told him that RPD is raising revenues at the expense of the public. He stated that the Task Force found a violation and he was unsure how their findings could be overturned. He stated that RPD should have kept these e-mails and that this case is similar to Watergate. He asked the Commission to come to the right conclusion.

Ray Hartz agreed with the comments of many other speakers. He stated that the department feels no responsibility to correct mistakes. He stated that RPD staff should not be allowed to unilaterally decide when to delete records. He stated that Ethics staff has a clear conflict of interest in this matter, as the Task Force found a similar violation against Executive Director St. Croix. He stated that the Commission cannot have someone giving it advice when he is unwilling to be honest that he may be affect by the Ethics Commission's decision. He stated that the City Attorney has no right to interpret the Sunshine Ordinance and that job lies with the Task Force.

Catherine Howard stated that the City planned to remove seven acres of living grass and add artificial turf and also have lighting on until 10 PM daily. She stated that RPD tried to stifle free speech and then denied that they tried to do it. She stated that the Commonwealth should have been permitted to hold its discussion.

Judy Burkowitz stated that the Respondents violated sections 67.21(c), 67.25, 67.26, and 67.27 of the Sunshine Ordinance. She asked the Commission to cite them accordingly. She stated that the event was a private one and it was organized at a private venue. She stated that it was irrelevant whether the Commission believes the documents were deleted.

Bruce Wolfe stated that RPD relied on its own records retention policy. He referred to San Francisco Administrative Code section 8.1. He stated there was no label of "essential" records, as Mr. Ginsburg mentioned. He stated that if the Ethics Commissioners have not read section 8.1 of the Administrative Code, then the Commission should continue this item.

David Pilpel stated that he agreed with most of Mr. Wolfe's comments. He stated that the e-mails in question were improperly deleted, as they were in relation to a continuing matter. He also referred to section 67.29-7 of the Sunshine Ordinance.

Commissioner Liu asked Mr. Ginsburg what the RPD's protocol is for looking for backup data when responding to Sunshine requests. She stated that the request was made just a few weeks after the events in question. Mr. Ginsburg stated that the department worked with the City Attorney, but that he is not sure whether looking at the backup tapes at DT is a routine practice. He stated that the department would do it when asked to do it. Mr. Ginsburg stated that he did not remember whether he told Ms. Gong that he had deleted any e-mails. He stated that there were no e-mails from the "sfgov" account from DT's search of the tapes. Mr. Ginsburg explained how he searched his records when the request came in from Mr. Wooding. He stated that he has about 50 file folders, but that he can perform a search through his entire account at one time. He stated that RPD's e-mail is kept on a centralized server.

Commissioner Renne asked whether there is a standard of time used to delete a document when Mr. Ginsburg decides it belongs in Category 4. Mr. Ginsburg stated that he would delete it the next time has a chance to manage his inbox.

Commissioner Studley asked whether there is a standard City-wide policy when handling Sunshine requests. She stated that it seems unreasonable for the public to know to ask for documents from backup tapes or from some other source. DCA Givner stated that he was not aware of a City-wide policy, but that departments search their own records. He stated that departments do not ask DT to look at backup tapes. He stated that DT's search is a time-consuming process, especially considering how many requests come into the City every day. Commissioner Studley noted that once documents are deleted, they are no longer

that agency's documents, but possibly DT records. She asked what the agency's responsibility is and the standard practice. DCA Givner stated that the City Attorney generally advises agencies that the Sunshine Ordinance does not require the City to look at backup tapes for documents that were deleted properly. Commissioner Studley stated that it is hard to know what responsibility each agency has when there are not common standards regarding both deletion of records and what records to search.

Chairperson Hur stated that the question before the Commission is whether Mr. Ginsburg committed a willful violation of the Sunshine Ordinance. He stated that the main question is whether Mr. Ginsburg conducted a search for the records. He stated that his reading of the retention policy is that the e-mail received would fall under Category 4. He stated that whether the category is acceptable under the Administrative Code is not one that can be adjudicated now. DCA Givner stated that the City Attorney works with departments on their own records retention policies. He stated that the City Attorney ensures that the policy complies with local and state laws.

Commissioner Renne asked Mr. Wooding whether he received the same documents from DT, after they performed the search. Mr. Wooding stated he received only 2 or 3 documents from DT. He stated that Ms. Gong did not know what was going on and that Mr. Buell, Mr. Ginsburg, and Ms. Ballard never spoke for themselves. He stated that RPD never treated this as a serious issue and that he did not believe Mr. Ginsburg.

Chairperson Hur referred to an e-mail, dated April 25, 2011, on page 235 of the December 2011 Task Force packet. He stated that the e-mail clearly expressed Mr. Buell's opinion about the panel, but it does not suggest some official action. He stated that this e-mail falls under Category 4. He stated that he understood Mr. Wooding's frustration, as the deletion could have been for the reasons he said. He stated that, however, it does not appear that retention was required.

Commissioner Renne stated that sections 67.26 and 67.27 of the Sunshine Ordinance were inapplicable and that he did not think section 67.21(c) of the Sunshine Ordinance required that RPD advise Mr. Wooding to go to the Commonwealth Club. He also stated that, with respect to section 67.25 of the Sunshine Ordinance, there was no doubt that the response the RPD gave was a correct response, as there were no responsive documents.

Commissioner Studley agreed that there is no requirement in section 67.21(c) for an agency to send the requestor to the Commonwealth Club. Commissioner Liu stated that the request came in only a few weeks after the e-mails and there may have been recollection at the time that he had deleted an e-mail. She stated that, as there is no City-wide policy regarding backup tapes in response to Sunshine requests, there cannot be a finding of a willful violation.

Motion 13-02-25-2 (Renne/Studley): Moved, seconded, and passed (4-0; Hayon excused) that the Commission find Mr. Ginsburg did not willfully violate sections 67.21(c), 67.25, 67.26, or 67.27 of the Sunshine Ordinance.

Commissioner Studley stated that it would be helpful to identify issues regarding the interpretation of rules or agency practice. She stated that the Commission could speak with the City Attorney regarding these issues and have future meeting discussions regarding possible law changes or guidance on how City agencies could be more consistent. The Chair agreed.

IV. Discussion and possible action on matters submitted under Chapter Two of the Ethics Commission's Regulations for Violations of the Sunshine Ordinance.

Agenda Item IV(a) – Ethics Complaint No. 15-111205 (referred from the Sunshine Ordinance Task Force on December 5, 2011).

[Respondent Olive Gong was not present.]

Respondent Mark Buell, President of the Recreation & Parks Commission, stated that he reviewed his e-mails and responded within 12 hours of receiving a request from Ms. Gong. He stated that he did not find

any e-mails. He stated that he heard about the panel and saw the title and felt that the panel was one-sided. He stated that he contacted the Commonwealth Club regarding representation from the RPD. He stated that there was no conspiracy with staff and that he reluctantly agreed to sit on the panel. He stated that he has changed his personal habit and now does not delete anything. He stated that these e-mails were communication with people he had communicated with in the past. He stated that it was not a Commission issue. He also stated that the e-mails accurately represent what he felt then and now.

Respondent Sarah Ballard, Director of Policy and Public Affairs, spoke on Ms. Gong's behalf. She stated that Ms. Gong's role in the department is to receive document requests and ask people whether there are any responsive documents. She stated that she had searched her records and stated that she keeps her e-mail similarly to how Mr. Ginsburg described his e-mail account. She stated that her inbox was her "to do" list and she keeps all others in file folders. She stated that she searched her records and did not have any responsive documents.

Complainant George Wooding expressed his disappointment in the way the Commission bifurcated the matter. He stated that Sunshine will suffer and the public will suffer if the public loses confidence in the government. He stated that Ethics now represents the City family more than the public and that he has little confidence of any fairness.

Commissioner Studley asked whether the documents he received were provided by RPD staff. Mr. Wooding declined to answer the question.

In his rebuttal, Mr. Buell stated that he searched all Commonwealth Club meetings for two years and could not find any title that had a similar degree of bias or where only one side of an issue was being considered.

In her rebuttal, Ms. Ballard stated that RPD's archived e-mails are now kept in the department. She stated the archived e-mails had previously been maintained by DT.

Public Comment:
Greg Miller stated that Ms. Ballard stated that the people involved with the panel would incite the community. He stated that Ms. Ballard had asked the Club to cancel the event. He stated there was clear evidence that members of RPD directly reporting to the Director tried to prevent the public from meeting and speaking. He stated that City officers and employees should not use their titles to try to prevent members of the public from meeting independently.

Bruce Wolfe stated that he was very concerned. He stated that DCA Givner was wrong and that documents are stored and the law states that retrieval must be had whether in storage or not. He stated that the only things that cannot be retrieved are those that can be destroyed. He stated that the City Attorney cannot represent any one individual, except for litigation. He urged the Commission to continue the item and read Administrative Code section 8.1.

Nancy Werfel stated that a response that says "we have no responsive documents to your request" means that "we never had any responsive records." She stated that if there is a record, the public needs to know that there is somewhere else to go, such as DT. She stated that Ms. Ballard accused the panel of being deeply biased and that Ms. Ballard has no interest of hearing or speaking of the facts. She stated that Ms. Ballard has been found guilty and that she is not being forthcoming with this body.

Anne Clark stated that these local and state laws exist because government activity must be transparent as possible. She stated that the government could be saying things about members of the public without their knowledge.

Judy Berkowitz stated that she has been in every Supervisor's office and met with every aide and the Mayor's aide. She stated that she does not know anyone who deletes e-mails. She stated that RPD appears to be the only department that does.

Catherine Howard stated that the Commonwealth Club often has issues that are one-sided. She stated that Ms. Ballard wrote an e-mail and used her title. She stated that, without being provided with copies of the e-mails, no one would have know they existed. She asked what would happen when a whistleblower is not there to provide the documents. She asked the Commission to help the public get accountability.

David Pilpel stated that he believed there is a violation, but not necessarily of the sections listed by the Task Force. He also stated that he was unsure whether the violation was willful. He agreed with Commissioner Studley's suggestion to catalog issues to discuss in the future.

Chair Hur asked Ms. Ballard why she did not retain her e-mail from April 20. Ms. Ballard stated that she does not retain sent e-mails, regardless of the importance of the e-mail. She stated that she had no sent file folder in her e-mail account.

Commissioner Studley asked Mr. Buell about his search for responsive documents. Mr. Buell stated that he looked under Dalton and Commonwealth Club, but that his e-mails seemed outside anything before the Commission and that he knew Mr. Dalton well so that was why he had e-mailed him. He also clarified that the City Attorney had not represented him in this matter. Mr. Buell stated that he had searched his Blackberry and thought he searched both sent and received e-mails.

Chairperson Hur asked Mr. Wolfe about the RPD's retention policy. Chairperson Hur stated that an employee who follows his or her own retention policy cannot be found in willful violation of the Sunshine Ordinance. Mr. Wolfe stated that the RPD's retention policy is not correct, but stated that the e-mails should have been retained under Category 2. Chairperson Hur stated that these specific violations alleged do not reach whether the document should or should not have been retained. He stated that Ms. Ballard may not have been following her record retention policy, if she does not save any e-mails she sends.

Commissioner Liu stated that her focus is on section 67.21(c), whether any of them should have informed Mr. Wooding that there were e-mails and they were deleted. She stated that the e-mails were not in their custody anymore.

Commissioner Studley stated that all three responded, but that Ms. Gong responded for the department and responded late. She stated that the Sunshine Ordinance is not about whether one remembers, it is about production of records. She stated that it would be excruciating to draw a line between something that was so voluminous or old or some other thing. She stated that Ms. Gong was going to be held at risk for failing to compel the rest of her colleagues to do something other than what was the department's records retention policy.

Chairperson Hur asked Ms. Ng to add the issue of searching backup files in response to Sunshine requests to the list of future discussion topics. He asked DCA Givner his view on the failure to retain a document that should have been retained. DCA Givner stated that the Ordinance requires department heads to retain records in a professional manner, which the City Attorney's Office has always interpreted as consistent with the department's records retention policy. He stated that section 67.29-7 (as interpreted by the City Attorney) does not require that a department head keep every one-line e-mail that crosses his or her desk. DCA Givner also briefly explained the "rule of reason." He stated that the department has to make reasonable efforts to find a document. He also stated, however, that it would be unreasonable for a department to find every e-mail from the last 20 years. He stated that the general rule may also apply to the backup tapes, as the search would entail a large amount of resources to be used for that request. He stated that the purpose of the Sunshine Ordinance was to deal with disclosure of documents that have been retained. He stated that a separate chapter of local law deals with records retention.

Chairperson Hur stated that there was a violation of section 67.25 by Ms. Gong with respect to failure to provide documents within the required time period. He stated that Mr. Buell, Ms. Ballard, Mr. Ginsburg, and others responded and Ms. Gong did not provide a response to Mr. Wooding in a timely fashion. He also recommended that Ms. Ballard maintain some documents that she sends, but found no violation of sections 67.26, 67.27, or 67.21(c). DCA Givner stated that, as the Commission was conducting a hearing under Chapter Two of the Regulations, there was no need to determine willfulness. Chairperson Hur asked why Ms. Ballard had been included in the referral from the Task Force under willful failure.

DCA Givner stated that, when the Task Force makes a referral under Chapter Two of the Regulations, the Respondent (a City official or employee) has the burden to show that the violation did not occur. Commissioner Renne agreed with DCA Givner and stated that the Commission could find there is evidence of a violation, but not a willful violation. He stated that it may be a violation, but not something that requires great admonition. He also stated that the department is required to check its files when requested. He stated that a department is not expected to respond and say "no, we do not have any documents and we

may have deleted it."

Motion 13-02-25-3 (Studley/Liu): Moved, seconded, and passed (4-0; Hayon excused) that the Ethics Commission find Ms. Gong violated section 67.25 for failure to respond in a timely fashion to an immediate disclosure request and that the Commission did not find a violation by the other Respondents as to the other three section codes referred by the Task Force (sections 67.21(c), 67.25, 67.26, or 67.27 of the Sunshine Ordinance).

Chairperson Hur then stated that the department was late in its response, but it was not particularly egregious. He suggested that staff write a letter to the department telling it to comply with section 67.25 in the future and that document requests need to be responded to in a timely manner. Commissioner Studley agreed. She suggested adding the topic for future discussion of how a City agency may respond to an Immediate Disclosure Request.

[Break from 9:18 PM to 9:31 PM.]

David Pilpel stated that he, as Chair of the Education and Outreach Committee of the Task Force, would be happy to work with staff regarding the items listed for future discussion.

Agenda Item IV(b) – Ethics Complaint No. 04-120507 (referred from the Sunshine Ordinance Task Force on April 30, 2012).

Respondent Caroline Celaya stated that she had submitted a response to the Commission last week. She stated that she and Kathy Fowlis, who responded to part of Ms. Carter's original request, were available to answer questions from the Commission. She acknowledged that the department was late in providing some of the documents, but stated that they had attempted to work with the Complainant. She stated that she was following a previous ruling by the Task Force, where a privacy waiver had been required to be signed prior to the release of documents. She stated that she was the point of contact for all document requests made to SF Municipal Transportation Agency (MTA). She stated that the complaint had stated that she had not received her personnel files, which is why Ms. Fowlis responded, as she is the custodian for MTA personnel files. She stated that the department disagrees with the Complainant's assertion that she did not receive her own personnel files.

[Complainant Cynthia Carter was not present.]

Public Comment:
David Pilpel stated that he did not necessarily agree with MTA's analysis that labor is required for certain records. He stated that MTA has a single point contact to coordinate responses to document requests. He stated that he was not sure if a violation of 67.21(c) occurred and that it is debatable whether a violation of section 67.21(e) occurred.

Commissioner Liu asked what documents the Complainant had yet to receive. Ms. Celaya stated that the Complainant had received her personnel file. She stated that the Complainant requested copies of certain documents and those copies were sent to the Complainant via certified mail. Ms. Celaya also stated that there were privacy concerns for other documents, such as medical files or workers compensation files. She stated that some redacting may need to occur, but that the Complainant must sign the waiver. Ms. Celaya also stated that the Complainant had signed the waiver, but added some language which made it illusory. She stated that after signing the waiver, the documents could be released to any member of the public who requests her records.

DCA Givner stated that the City could perhaps provide the documents under other laws, but not through a Sunshine request. Commissioner Studley asked whether the matter belonged in front of the Ethics Commission at all. DCA Givner stated it did not. Commissioner Studley then asked about other, non-personnel or medical records that the Complainant requested. Commissioner Renne asked what kind of information was contained in other files. Ms. Fowlis stated that the files would contain the Complainant's medical diagnosis, any treatment she received, any illnesses she may have had, and any requests for leave that she may have made. Commissioner Renne asked whether the Complainant could obtain these records outside of the Sunshine Ordinance. Ms. Fowlis stated that the Complainant could and is also able to review every document at her request. She also stated that, if it were not part of a Sunshine request, it would be

different. Ms. Fowlis stated that the Complainant came into the department to review her personnel files and was told of this in person. She stated that there is an alternative path for the Complainant to obtain those files, without signing a waiver. Chairperson Hur stated that it appeared to be a better alternative for the Complainant to get the documents without going through a Sunshine request. He did note that the response was not made in a timely manner, but did not find a violation of sections 67.21(c) or 67.21(e) of the Sunshine Ordinance.

Motion 13-02-25-4 (Renne/Liu): Moved, seconded, and passed (4-0; Hayon excused) that the Ethics Commission find Ms. Gong violated Sunshine Ordinance section 67.21(b) for failure to respond in a timely manner to a records request; the Commission also did not find violations of sections 67.21(c) or 67.21(e) of the Sunshine Ordinance.

The Commission directed the staff to issue a letter explaining that MTA should provide timely responses to document requests in the future.

David Pilpel noted that neither of the Complainant's original written requests referred to the Sunshine Ordinance.

Agenda Item IV(c) – Ethics Complaint No. 07-120621 (referred from the Sunshine Ordinance Task Force on June 20, 2012).

Respondent Frank Lee, Executive Assistant to the Director of the Department of Public Works (DPW), stated that his department responded fully to the Complainant's request. He stated that the Complainant received hundreds of documents and was also asked to meet with DPW staff if he had further questions. He stated that he had prepared CDs with responsive documents and provided them.

[Respondent Mohammed Nuru was not present.]

[Complainant Lars Nyman was not present.]

Public Comment:
David Pilpel stated that DPW has gone above and beyond with respect to this document request. He stated that, as Mohammed Nuru was listed as Respondent, this matter should have been bifurcated and Mr. Nuru should have been handled under Chapter Three of the Commission's Regulations. He suggested with handling the matter with respect to Mr. Lee only.

Deputy Executive Director Ng stated that Mr. Nuru was the acting department head at the time, but that this matter was not referred to the Ethics Commission as a willful violation and therefore is being handled under Chapter Two of the Regulations.

Chairperson Hur stated that it was shocking that there were no documents explaining the approval for a $100,000 project or that the project went over 130%. Mr. Lee stated that DPW was shocked as well. He stated that he had contacted the people in charge of the project, when seeking responsive documents.

Commissioner Liu stated that it appeared the department had conducted an exhaustive search of documents and it appeared that there were no other responsive documents. Chairperson Hur agreed.

Motion 13-02-25-5 (Liu/Renne): Moved, seconded, and passed (4-0; Hayon excused) that the Ethics Commission find that Respondents Lee and Nuru have met their burden and find no violation of sections 67.21(c) or 67.21(e) regarding this complaint.

Agenda Item IV(d) – Ethics Complaint No. 09-120703 (referred from the Sunshine Ordinance Task Force on July 3, 2012).

Respondent Howard Lazar, Program Director of the Street Artists Program at the Arts Commission, provided written statements to the Commission at the beginning of the meeting. Mr. Lazar stated that he acknowledged that he failed to respond in a timely manner during the Task Force hearing. He stated that a representative read a prepared statement from Mr. Lazar and provided the responses to the Complainant. He stated that he had drafted a reply, after receiving the request, but the reply failed to be sent. He stated that he had apologized. With respect to the alleged violation of section 67.21(e), he stated that the City

Attorney's Office had advised him that a representative may attend the Task Force meeting(s), as long as the person could accurately provide the Arts Commission's response. He stated that he had prepared the statement that his representative read and it was reviewed by DCA Adine Varah.

Complainant William Clark stated that he started the street artists licensing program forty years ago. He stated that Mr. Lazar and his representative left during the July Task Force hearing. He stated that he had been waiting for years for artist spaces in Hayes Valley. He stated that Mr. Lazar simply had to respond yes or no and he would not have filed a complaint. He stated that he simply wanted an answer.

In rebuttal, Mr. Lazar stated that the Task Force also charged that he had willfully violated the Sunshine Ordinance based on his "pattern of repeated violations." He stated that he had personally responded to over 100 requests during the last two years, spending approximately 227.5 hours. He stated that the Task Force Order is subjective and contrary to the advice of the Office of the City Attorney. He disagreed with the Task Force's finding that there is an "evident lack of intent to comply with the Sunshine Ordinance in the future."

Public Comment:
Robert Clark stated that he was present during the July Task Force meeting and that Mr. Lazar did not stay during the entire meeting. He stated that all of the other complaints that he and his brother have filed against Mr. Lazar have ended up with violations against Mr. Lazar and the Arts Commission. He stated that Mr. Lazar's representative had no knowledge on the issues involved with the complaint. He asked the Commission to listen to the Task Force meetings. He stated that Mr. Lazar always knew the response to the question asked and he willfully withheld the information.

Paula Datesh stated that she had made document requests to the Arts Commission and not received a response. She stated that she had been slandered and the Arts Commission staff does not respond to e-mails or phone calls. She endorsed the Clark brothers.

Chairperson Hur asked Mr. Clark whether his Task Force complaint accurately reflected his request made to Mr. Lazar in that it was "not a document request." He asked DCA Givner whether the public may request a written response to questions. DCA Givner stated that the Sunshine Ordinance does not require City departments to create a document in response to a request. He stated that departments, under section 67.22, must work with someone who is requesting oral information.

Commissioner Studley stated that she also had the same concern, as Mr. Clark stated that he was not requesting documents. DCA Givner stated that section 67.22 requires a department to provide public information in a timely way, but does not have to sit down and provide a lengthy discussion. He stated that the department is not required to spend more than 15 minutes for these types of requests. He reiterated that the Sunshine Ordinance does not require the City to create any records.

David Pilpel referred the Commission to section 67.20(b), which defines "public information." He stated that the department could have responded, even if Mr. Clark had not made a records request.

Paula Datesh stated that Mr. Lazar is trying to justify his actions. She stated that he has stated that money has been squandered on Sunshine complaints.

Mr. Clark stated that if an employee knows the answer or can get it within 15 minutes, then that employee is required to provide it. He stated that Mr. Lazar has known the answer for over a year and has deliberately refused to give them the information.

Chairperson Hur closed public comment.

Mr. Lazar stated that he attended the July Task Force meeting with a representative. He stated that he had an asthmatic attack and the letter he wrote to the Task Force about it is on file. He stated that he did not attend the next Task Force meeting as he did not trust his nerves and did not want to suffer another attack.

Commissioner Liu stated that there is an obligation for a request for public information. Chairperson Hur asked whether a phone call would be a sufficient response. DCA Givner stated that the person asked or someone else in the department could be available to answer the question. He also stated section 67.21(b) addresses situations where the custodian receives a request for a copy of a public record.

Chairperson Hur asked Mr. Lazar why there was no communication from the department. Mr. Lazar stated that he did not know why and that he was not going to deny it.

Commissioner Liu stated that she was troubled by the Task Force's finding that the willful finding was based on a pattern of practice as there is no evidence of it presented to the Commission. Chairperson Hur agreed. The Commissioners agreed that Mr. Lazar had overcome his burden regarding sections 67.21(b) and 67.21(e), but not section 67.22(b). Chairperson Hur stated that sections 67.21(b) and 67.21(e) were not applicable.

Motion 13-02-25-6 (Studley/Liu): Moved, seconded, and passed (4-0; Hayon excused) that the Ethics Commission found a violation of section 67.22(b) and that, under the Regulations, the Commission makes a finding of no violation with respect to sections 67.21(b), 67.21(e) and 67.34.

David Pilpel asked whether the Commission would issue an Order under Chapter Two, section II.E of the Regulations.

Motion 13-02-25-7 (Renne/Studley): Moved, seconded, and passed (4-0; Hayon excused) that the Commission directing staff to issue a letter to the Arts Commission to notify the agency of the violation and instruct the agency to cease and desist from such conduct in the future.

Public Comment:

David Pilpel suggested that the letter from staff be as specific as possible, as this process is new.

V. Discussion and possible action on election of Chair and Vice-Chair.

This agenda item was deferred to a future meeting.

VI. Discussion and possible action on the minutes of the Commission's regular meeting of January 28, 2013.

Public Comment:
David Pilpel suggested the following changes: DCA Josh White's presence during the January 2013 meeting should have been recorded; on pages 2 and 3, Commissioner Renne's vote should have been noted on the motion regarding his recusal; Commissioner Renne's vote should have been recorded as recused, not abstained for motions 3 and 4 during Agenda Item IV; and the names and titles of those present during closed session should have been noted in accordance with section 67.16 of the Sunshine Ordinance.

Motion 13-02-25-8 (Liu/Renne): Moved, seconded, and passed (4-0; Hayon excused) that the Commission approve the minutes from the Commission's regular meeting of January 28, 2013, as amended.

VII. Discussion of Executive Director's Report.

Public Comment:
David Pilpel asked whether there were any other pending Sunshine matters. Executive Director St. Croix stated that there are two more pending cases.

VIII. Items for future meetings.

Public Comment:
David Pilpel suggested a future discussion regarding how the Sunshine matters went tonight, including procedural matters. He also asked to know about any possible regulations regarding the new electronic filing requirements.

Commissioner Studley asked whether any of the Commissioners would be able to attend the Interested Persons' meeting scheduled for Wednesday, February 27, 2013. Commissioner Renne stated he would attend. Commissioner Studley also stated that she had spoken with someone who told her that it was her first time attending an Ethics Commission meeting. She stated that it would be nice if there are other

citizens to attend meetings and broaden the pool of interested persons who attend Commission meetings.

IX. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the ethics commission.

None.

X. Adjournment.

Public Comment:
None.

Motion 13-02-25-8 (Studley/Liu): Moved, seconded, and passed (4-0; Hayon excused) that the Commission adjourn.

Meeting adjourned at 11:04 PM.

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Ethics Commission
City and County of San Francisco

Minutes – June 24, 2013

Minutes of the Regular Meeting of
The San Francisco Ethics Commission
June 24, 2013
Room 400, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

I. Call to order and roll call.

Chairperson Hayon called the meeting to order at 5:30 PM.

COMMISSION MEMBERS PRESENT: Beverly Hayon, Chairperson; Paul A. Renne, Vice-Chairperson; Brett Andrews, Commissioner; Benedict Y. Hur, Commissioner; Jamienne S. Studley, Commissioner.

STAFF PRESENT: John St. Croix, Executive Director; Mabel Ng, Deputy Executive Director; Garrett Chatfield, Investigator/Legal Analyst.

OFFICE OF THE CITY ATTORNEY: Joshua White, Deputy City Attorney (DCA).

OTHERS PRESENT: Sue Blackman; Ray Hartz; Kate Patterson; Glenn Rogers; Peter Warfield; and other unidentified members of the public.

MATERIALS DISTRIBUTED:
– Staff Memorandum re: Hearing – Ethics Complaint 02-120402, dated June 17, 2013;
– Report and Recommendation Ethics Commission Complaint No. 02-120402 and supporting documents;
– Staff Memorandum re: Hearing – Ethics Compliant 01-130307, dated June 17, 2013;
– Report and Recommendation Ethics Commission Complaint No. 01-130307 and supporting documents;
– Staff Memorandum re: Show Cause Hearing – Ethics Complaint, dated June 17, 2013, and supporting documents;
– Ethics Commission Regulations for Violations of the Sunshine Ordinance;
– Sunshine Ordinance;
– Draft Contributor Guide;
– Draft minutes of the Commission's Special Meeting of May 20, 2013;
– Executive Director's Report.

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

Newly appointed Commissioner, Brett Andrews, introduced himself to his fellow Commissioners and to the

members of the public.

Ray Hartz stated that he would rather be at home reading a good book than at Commission meetings, but that it is important to exercise his rights. He stated that the Ethics Commission had recommended that Library Board President, Jewelle Gomez, be removed from her position, and Mayor Lee has not done anything about that recommendation. Mr. Hartz stated that Ms. Gomez threatened him and that the threats were recorded.

Peter Warfield stated that Sunshine Ordinance Task Force referrals to the Ethics Commission should be represented by the Task Force as the complainant. He stated that the Task Force is in the best position to explain the reasoning behind its findings. He stated that the Ethics Commission was called a "sleeping watchdog," but the Executive Director is not sleeping when he wants to protect the guilty. He stated that the Executive Director incorrectly defined the Task Force referral regarding the Arts Commission, as a case naming Mr. Warfield as the complainant. He stated he did not have a complaint against an Arts Commission staffer, but against the department, and the Department Head should be held responsible.

III. Discussion and possible action on matters submitted under Chapter Three of the Ethics Commission Regulations for Violations of the Sunshine Ordinance.

a) Ethics Complaint No. 02-120402 regarding alleged willful violation of Sunshine Ordinance by elected officials (referred from the Sunshine Ordinance Task Force on April 2, 2012)

Executive Director St. Croix introduced the item and informed the Commission that the complainant had requested a continuance. He stated that this was the complainant's third request for continuance. He also stated that none of the four respondents were in attendance.

Commissioners Hur and Studley suggested that the matter should be continued as none of the parties appeared.

Commissioner Renne stated that if another continuance is granted, it should be the last one granted for any party.

Executive Director St. Croix stated that if a continuance is granted, the Commission should state so on the record by motion.

After discussion amongst the Commission members, they agreed to grant a continuance.

Public Comment:
Ray Hartz stated that the complainant has been homeless and cannot receive health care so it is unreasonable for the Commission to request a doctor's note to grant a continuance. He stated that the Commission dragged its feet for a decade on Sunshine Ordinance matters and that it is now saying that it is terrible to delay the resolution of this matter. He stated that the Commission sided with the City 98 percent of the time regarding Sunshine Ordinance complaints.

Peter Warfield stated that the complainant in this matter is a serious person who has devoted herself to many important issues. He stated that he does not know the specifics regarding the request for a continuance, but that the Commission should ask her how she would like to proceed.

Glen Rogers stated that it will be difficult to contact the complainant by mail if she is homeless.

Motion 13-06-24-01 (Hur/Studley): Moved, seconded, and passed (5-0) that the Commission continue possible action on the matter to the Commission's September 23, 2013 meeting, with no further continuances granted on this matter absent a good cause showing by either side.

b) Ethics Complaint No. 01-130307 regarding alleged willful violation of Sunshine Ordinance by department head (referred from the Sunshine Ordinance Task Force on March 7, 2013)
Complainant: Ray Hartz
Respondent: Luis Herrera, City Librarian, San Francisco Public Library

Executive Director St. Croix introduced the item and reviewed the hearing procedure.

Ray Hartz presented his case. He stated that the Task Force has found that 150-word written summaries must be placed within the body of the minutes. He stated the Report and Recommendation is inaccurate by referencing that the Task Force has not issued a statement to City departments regarding its determination. He stated that reliance on the Good Government Guide is misplaced, because it is not the law. He stated that the Sunshine Ordinance is the law, and the Task Force has made its determination regarding where the written summaries should be placed in the minutes.

Sue Blackman, representing Luis Herrera, presented her case. She stated that the Commission already made a determination on a similar case regarding another set of minutes, and that it determined that placing the written summaries at the end of the minutes was acceptable and consistent with advice from the City Attorney. She stated that the Library Commission has followed the Ethics Commission's lead and started placing the summaries in the minutes at the place where the member of the public made public comment.

Mr. Hartz presented his rebuttal. He stated that it is not true the Library Commission adopted the new policy as to where the summaries will be placed. He stated that the policy could be changed arbitrarily.

The Commission discussed the factual and legal issues and asked both Mr. Hartz and Ms. Blackman several questions regarding the matter.

After discussion, Commissioner Studley stated that she 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.

Public Comment:
Peter Warfield stated that the Library Commission has a long history of omitting discussions in the minutes that occurred during a meeting, and have discussed changing the minutes format to "action minutes." He stated that the minutes often don't reflect what a speaker said, and sometimes reflects the opposite of what the speaker said.

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.

IV. Discussion and possible action on matters submitted under Chapter Two of the Ethics Commission's Regulations for Violations of the Sunshine Ordinance.

a) Ethics Complaint No. 02-130307 (referred from the Sunshine Ordinance Task Force on March 7, 2013)
Complainant: The Library Users Association
Respondent: San Francisco Arts Commission

Executive Director introduced the item and reviewed the hearing procedure.

Kate Patterson presented her case. She stated that she did fail to respond in time. She stated that personal addresses and phone numbers were redacted from speaker cards to protect the privacy of members of the public.

Peter Warfield presented his case. He stated that the hearing procedure for this matter is an outrage. He stated that it is being conducted as if he personally complained against Kate Patterson, which he did not. He stated that the Department Head should be held responsible, and that the matter should be re-heard.

Vice-Chairperson Renne stated that under this procedure, the Task Force findings are presumed correct, so there is no burden on Mr. Warfield to prove a violation.

Ms. Patterson, responding to Commissioner Hur, stated that she was not aware of the reason that the Arts Commission asked for an address on speaker cards, but that the address line no longer appears on the

cards. She also stated that she is not the custodian of all records in the department, but that she was responsible for this records request.

Mr. Warfield, responding to Commissioner Hur, stated this violation is part of multiple violations by the Arts Commission. He stated that the department did not provide a justification for each redaction, and it is incumbent on the public official to explain why information is being withheld. He stated that he does not believe personal addresses are private and subject to being withheld, and that neither the Public Records Act, nor Sunshine Ordinance allow for the redaction of personal addresses.

Commissioner Studley stated that she was concerned about whether Ms. Patterson was the right person to be named as the respondent. The Commission members discussed how staff identified who were the complainant and respondent.

Vice-Chairperson Renne stated that he is troubled that the Task Force appears to disregard advice by the City Attorney, and is not clear where the Task Force gets its authority to overrule advice by the City Attorney. Mr. Warfield responded that the Sunshine Ordinance provides that authority.

The Commission members discussed the legal and factual issues regarding the issue of responding in a timely manner.

Public Comment:
Ray Hartz stated that the Task Force is authorized to advise and provide information regarding compliance to the Sunshine Ordinance. He stated that the City Attorney must provide a legal justification for advice issued by that office. He stated that the Department Head is ultimately responsible to ensure that staffers comply with the Ordinance. He stated that it common for departments to send low-level employees to avoid culpability by the Department Head.

Motion 13-06-24-03 (Studley/Andrews): Moved, seconded, and passed (5-0) that Respondent Kate Patterson/San Francisco Arts Commission failed to respond in a timely manner to an immediate disclosure request from Complainant

Commissioner Renne questioned Ms. Patterson regarding the redactions. She responded stating that only personal addresses and email addresses were redacted. She stated that she consulted with the City Attorney's Office to determine what to redact.

Responding to Commissioner Andrews, Mr. Warfield stated that there was no justification provided regarding the reason for the redactions.

The Commission members discussed the legal and factual issues regarding the section 67.26 violation.

Public Comment:
Ray Hartz stated that redactions must be done based on a legal justification and that justification needs to be cited. He stated that the City Attorney provides this advice without writing anything down, and that these determinations by the City Attorney should be in legal memos.

Motion 13-06-24-04 (Hur/Studley): Moved, seconded, and passed (5-0) that Respondent Kate Patterson/San Francisco Arts Commission, by not providing appropriate notice and justification, failed to comply with Sunshine Ordinance section 67.26 in making their redactions on the speaker cards requested by Complainant.

The Commission members engaged in a discussion regarding what authority the Ethics Commission has to determine if the privacy interests were accurately determined by the Arts Commission.

DCA White stated that the Ethics Commission could make that determination.

Responding to Commissioner Andrews, Ms. Patterson stated that the City Attorney's Office provided the legal research cited in the Arts Commission's response to the allegations.

The Commission discussed the legal and factual issues regarding the redactions.

Public Comment:
Ray Hartz stated that if the Ethics Commission determines that addresses are private, then would a public

official who releases that information be liable of disclosing such addresses. He stated that this subjects his privacy interests to the whim of whoever received a records request.

Glenn Rogers stated that he does not believe personal addresses are private.

Commissioner Hur clarified that there is a difference between saying an address is inherently private and what is being determined on these facts. He stated that there is no broad determination being made on the privacy of addresses.

Motion 13-06-24-05 (Hur/Studley): Moved, seconded, and passed (5-0) that Respondent Kate Patterson/San Francisco Arts Commission met the burden of establishing that the redacted records need not be publicly disclosed in an unredacted fashion.

Motion 13-06-24-06 (Hur/Renne): Moved, seconded, and passed (5-0) that Respondent Kate Patterson/San Francisco Arts Commission met their burden of establishing that there was no willful failure to comply with the Sunshine Ordinance.

V. Discussion possible action on a draft "Contributor Guide," which provides information about local laws governing campaign contributions.

Executive Director St. Croix introduced the item.

Deputy Executive Director Ng made corrections to typographical errors.

Commissioner Andrews stated that the guide should identify that a corporation can be for-profit or a non-profit.

Commissioner Hur stated that legal citations should be included.

Public Comment:
None.

Motion 13-06-24-07 (Renne/ Hur): Moved, seconded, and passed (5-0) that the Ethics Commission approve the Contributor Guide to Local Laws Governing Campaign Contributions, as amended.

VI. Discussion and possible action on the minutes of the Commission's special meeting of May 30, 2013.

Deputy Executive Director Ng made corrections to typographical errors.

Public Comment:
None.

Motion 13-06-24-07 (Studley/ Hur): Moved, seconded, and passed (5-0) that the Ethics Commission approve minutes for the Special Meeting of May 30, 201, as amended.

VII. Discussion of the Executive Director's Report.

Executive Director St. Croix presented the monthly report.

Public Comment:
None.

VIII. Items for future meetings.

Chairperson Hayon stated that this meeting would be Commissioner Studley's last, and she thanked Commissioner Studley for her service and dedication to the Commission.

Commissioner Studley thanked her fellow Commissioners, both past and present, and staff. She stated that she was very happy to have served on the Commission.

Public Comment:
None.

IX. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

Public Comment:
None.

X. Adjournment.

Public Comment:
None.

The meeting adjourned at 9:35 PM.

Ethics Commission
City and County of San Francisco

Minutes – October 23, 2017

Minutes of the Regular Meeting of
The San Francisco Ethics Commission
October 23, 2017
Room 400 – City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Approved: November 27, 2017

1. Call to order and roll call.

Chair Keane called the meeting to order at 5:41PM.

COMMISSION MEMBERS PRESENT: Peter Keane, Chairperson; Daina Chiu, Vice-Chairperson; Paul Renne, Commissioner; Quentin L. Kopp, Commissioner; Yvonne Lee, Commissioner.

STAFF PRESENT: LeeAnn Pelham, Executive Director; Jessica Blome, Deputy Director; Kyle Kundert, Senior Policy Analyst; Pat Ford, Policy Analyst.

OFFICE OF THE CITY ATTORNEY: Andrew Shen, Deputy City Attorney (DCA).

OTHERS PRESENT: Unidentified members of the public.

MATERIALS DISTRIBUTED:

- September 25, 2017, draft minutes.
- *October 18, 2017, Staff report and attachments regarding proposed amendment to the Ethics Commission's by-laws to change the date and start time of the Commission's Regular Monthly meeting.*
- October 16, 2017, Staff report and SOTF Order of Determination discussion and possible action on Sunshine Ordinance Task Force Referral of File No. 17048, *Ray Hartz v. Angela Calvillo, Clerk of the Board of Supervisors.*
- October 19, 2017, Staff report and attachments regarding the 2017 San Francisco Anti-Corruption and Accountability Ordinance.
- October 19, 2017, Staff report and attachments regarding on proposed change to Ethics Commission Regulations 67.33-1 and 15.102-1 (Sunshine and Ethics Trainings).
- October 18, 2017, Staff report and attachments regarding Staff's Proposed Draft Enforcement Regulations with Staff Responses to Written Public Comment.
- October 18, 2017, Staff report and attachments regarding legislative items of interest to Commissioner Kopp.
- October 19, 2017, Staff report and attachments regarding Staff Policy Report and monthly update of the

Commission's Annual Policy Plan.

- October 18, 2017, Enforcement Report and attachments.
- October 19, 2017, Executive Director's Report and attachments.

2. Public comment on matters appearing or not appearing on the agenda.

Charlie Marsteller read a comment from Larry Bush. Phyllis Bowie, representing Midtown Park Apartments, spoke regarding issues with their lease and requested an investigation. Audrey Leong, an employee of the City and County of San Francisco, spoke regarding a harassment issue in the workplace. Ellen Lee Zhou, an employee of the City and County of San Francisco, speaking on behalf of Audrey Leong and others regarding corruption across City departments, asked the Ethics Commission to investigate. Debbi Lerman, the San Francisco Human Services Network, commented on the *San Francisco Chronicle* article regarding behested payments. Ray Hartz spoke regarding the lack of notification he received from the Ethics Commission for his agenda item; he also spoke about Colin Kaepernick. Trevor Martin, treasurer for the San Francisco Bernicrats and San Francisco for Democracy, spoke in favor of Prop J.

The following written summary was provided by the speaker, Ray Hartz Jr., the content of which is neither generated by, nor subject to approval or verification of accuracy by, the Ethics Commission:

Colin Kaepernick has earned and will one day be awarded the Presidential Medal of Freedom! Kneeling during the National Anthem is not disrespectful to the flag, the anthem, or the country. It is the exercise of a right enshrined in the First Amendment! It is signf respect for the Constitution which is the foundation upon which our country is built. Some of his loudest critics, who wish to infringe upon his right to free speech, should remember, that same short paragraph also protects their right to worship. Others should remember: the next short paragraph protects their right to bear arms. The final words of that anthem are: "the land of the free and the home of the brave." Colin Kaepernick is free to express his beliefs and brave in doing so! Think of what he has sacrificed and acknowledge his act as a sign of respect, belief, trust, and hope!

3. Discussion and possible action on draft minutes for the Commission's September 25, 2017, regular meeting.

Commissioner Kopp proposed a correction to the minutes.

Motion 171023-1 (Kopp/): Moved and passed unanimously (5-0) that the Commission approve the minutes as amended for the September 25, 2017 regular meeting.

Public Comment:

David Pilpel requested several edits to the minutes.

4. Discussion and possible action regarding proposed amendment to the Ethics Commission's by-laws to change the date and start time of the Commission's Regular Monthly meeting.

Executive Director Pelham spoke regarding this agenda item. Chair Keane and Commissioner Renne commented that they are in favor of changing the meeting date and time.

Motion 171023-2 (Kopp/Chiu): Moved, seconded and passed unanimously (5-0) that the Commission carry this motion on to the November Commission meeting.

Public Comment:

Ray Hartz from San Francisco Open Government, David Mihai from RepresentUs, and David Pilpel all spoke on this agenda item.

5.Discussion and possible action on Sunshine Ordinance Task Force Referral of File No. 17048, *Ray Hartz v. Angela Calvillo, Clerk of the Board of Supervisors.*

Mr. Hartz commented that five minutes is not enough time to present his case. Mr. Hartz proceeded to

present his case, and when he ran out of time, the Commission moved to allow Mr. Hartz as much reasonable time needed to present his case. Chair Keane asked if Staff had any communication with Ms. Calvillo. Deputy Director Bloome stated that due to the late courtesy notice Staff gave to Mr. Hartz and Ms. Calvillo, she was unable to attend. Commissioner Kopp, Commissioner Renne and Vice Chair Chiu spoke regarding this item. Chair Keane asked Mr. Hartz if he had a response to the Commissioners' discussion. Mr. Hartz spoke in response to the Commissioners discussion.

Public Comment:

Dr. Derek Kerr, Charlie Marsteller from Friends of Ethics, and David Pilpel spoke regarding this agenda item.

The following written summary was provided by the speaker, Dr. Derek Kerr, the content of which is neither generated by, nor subject to approval or verification of accuracy by, the Ethics Commission:

Ms. Calvillo buries written public comments as "addendums" to government meeting minutes. Her officious response to Ray Hartz's complaint devalues public engagement, marginalizing those who labor to share their views in writing. The message: we are unworthy. She worries about "researchers" who supposedly must "cull through various 150-word statement". First, 150-word comments are too rare to need culling. Secondly, she wrongly assumes researchers are disinterested in the public sentiments conveyed therein. She laments she cannot "vouch for the accuracy" of these comments. She doesn't have to. Everybody knows they're not official pronouncements. Though unofficial, they're officially considered core components of open meetings. She frets she cannot "attest to the accuracy and relevance" of said comments. More important, written comments typically challenge the accuracy and relevance of government actions. They belong within the agenda items they address – in the body of the minutes. Otherwise, it's subtle censorship – protest cleansing.

Motion 171023-3 (Kopp/Chiu): Moved, seconded and passed unanimously (5-0) that the Clerk of the Board Angela Calvillo did not violate the Sunshine Ordinance as alleged in Sunshine Ordinance Task Force Referral File No. 17048, Ray Hartz v. Angela Calvillo, Clerk of the Board of Supervisors.

Commissioner Renne noted there is merit to Mr. Hartz's argument. Commissioner Renne stated he thinks it would be good policy that the Ethics Commission recommend to the various governmental agencies that when a 150-word statement is provided, it is placed in the corresponding agenda item.

6.Continued discussion and possible action on revised proposed *2017 San Francisco Anti-Corruption and Accountability Ordinance* that builds on the initial Proposition J Revision proposal and amends City campaign and government conduct laws (SF Campaign and Governmental Conduct Code Articles I and III).

Policy Analyst Patrick Ford spoke regarding this agenda item. Chair Keane turned the item over to Vice Chair Chiu and Commissioner Lee. Discussion ensued among Commissioners, Staff, and DCA Shen. Vice-Chair Chiu proposed a motion to accept the ordinance as amended.

Motion 2071023-4 (Chiu/Renne): Moved, seconded and passed (4-1, Commissioners Keane, Chiu, Renne and Lee in favor, Commissioner Kopp opposed) that the *2017 San Francisco Anti-Corruption and Accountability Ordinance* **be passed as amended.**

Prior to the vote, Commissioner Kopp moved to make friendly amendments to Vice Chair Chiu's motion. Vice Chair Chiu declined Commissioner Kopp's amendments.

Public Comment:

Debbi Lerman from the San Francisco Human Services Network, David Mihai from RepresentUs, Peter Cohen from the Council of Community Housing Organizations, Morgan Aitken-Young from Represent Us San Francisco, Jan Masaoka from California Association of Nonprofits, David Pilpel, Anita Mayo from Pillsbury Winthrop Shaw Pittman, and Charlie Marsteller all spoke regarding this agenda item.

7.Discussion and possible action on proposed change to Ethics Commission Regulations 67.33-1 and 15.102-1 (Sunshine and Ethics Trainings).

Senior Policy Analyst Kyle Kundert spoke regarding this agenda item.

Motion 171023-5 (Renne/Kopp): Moved, seconded and passed unanimously (4-0, Commissioner Lee absent) that the proposed change to Ethics Commission Regulations 67.33-1 and 15.102-1 (Sunshine and Ethics Trainings) be adopted.

Public Comment:

David Pilpel spoke regarding this agenda item.

8.Continued discussion and possible action on Staff's Proposed Draft Enforcement Regulations with Staff Responses to Written Public Comment.

Deputy Director Blome spoke regarding this agenda item. Discussion ensued with Commissioner Renne, Vice Chair Chiu and Deputy Director Blome.

Public Comment:

David Pilpel spoke regarding this agenda item.

9.Discussion and possible action on legislative items of interest to Commissioner Kopp.

Follow up on items of interest Commissioner Kopp mentioned at the June Commission meeting. There were two Board of Supervisors' ordinances not adopted by the board. The first, from Supervisor Farrell, has ordinance language; Commissioner Kopp asked that it be on the calendar next month for action by the Commission. The second, from Supervisor Safai, is not in ordinance form; Commissioner Kopp requested Staff to put it in ordinance form. Commissioner Kopp requested this be on the calendar for the November meeting as well. DCA Shen asked for clarification as to what action Commissioner Kopp would like the Commission to take. Commissioner Kopp replied he wants the Commission to adopt and have both on the ballot for the June 2018 election. Chair Keane advised that at its December meeting the Commission will discuss the potential of these items appearing on the ballot for the June 2018 election.

Public Comment:

Peter Cohen from the Council of Community Housing Organizations spoke regarding this item.

10. Discussion of Staff Policy Report and monthly update of the Commission's Annual Policy Plan.

Senior Policy Analyst Kundert spoke regarding this item.

Public Comment:

David Pilpel spoke regarding this item.

11. Discussion of Enforcement Report. An update on various programmatic and operational highlights of the Enforcement Program's activities since the last monthly meeting.

Deputy Director Blome, in the interest of time, left this item open for questions. There were no questions from the Commissioners.

Public Comment:

None.

12. Discussion of Executive Director's Report. An update of various programmatic and operational highlights of Ethics Commission staff activities since the Commission's last monthly meeting. The written report, which is available at the Commission office and on its website, covers a range of topics such as the Commission's budget, outreach activities, campaign finance disclosure and public financing programs, audit program, lobbyist program, campaign consultant program, permit consultant program, major developer program, and future staff projects. Any of these subjects may potentially be part of the Director's presentation or discussed by the Commission.

Executive Director Pelham spoke regarding this agenda item. Commissioner Kopp asked for clarification on

a staff position.

Public Comment:

None.

13. Discussion and possible action regarding status of complaints received or initiated by the Ethics Commission. Possible Closed Session.

The Commission did not go into closed session.

Public Comment:

None.

14. Discussion and possible action on items for future meetings.

Vice Chair Chiu requested that, given the intervention of Russia in the 2016 election and the use of targeted advertisements to influence the outcome of the election, Staff prepare a white paper to present the issues and actions that the Commission might take as a Commission in San Francisco to prevent the hijacking of the electoral process. Commissioner Kopp requested that 1) a charter amendment be made to empower this Commission to have its own legal counsel independent of the City Attorney; 2) Staff procure preparation, or an ordinance, to abolish the Sunshine Ordinance Task Force; 3) Staff consider methods for keeping track of state legislation which affects the Commission's responsibilities. Discussion ensued with DCA Shen, Deputy Director Blome, Chair Keane, and Commissioner Kopp. Executive Director Pelham clarified that Staff has a legislative tracker on the website and will now be included in the Commissioners agenda packet going forward.

Public Comment:

David Pilpel spoke regarding Commissioner Kopp's items for future meetings.

15. Additional opportunity for public comment on matters appearing or not appearing on the agenda pursuant to Ethics Commission Bylaws Article VII Section 2.

Public Comment:

None.

16. Adjournment.

Motion 171023-6 (Kopp/Chiu): Moved, seconded, passed unanimously (4-0, Commissioner Lee absent) to adjourn.

Public Comment:

None.

The meeting was adjourned at 10:26PM.

https://sfethics.org/ethics/2017/11/draft-minutes-october-23-2017.html

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

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)

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[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
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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

[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.*

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

13054

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 RWHARTZAR@SBCGLOBAL.NET

Date SEPTEMBER 4, 2013 Ray W Hartz
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).

07/31/08

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."

And the Order of Determination in Case #11071, which stated:

"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:

"The Task Force finds the City Attorney's Office in violation of Sunshine Ordinance Section 67.21(i) for continuing to advise clients that public comment summaries may be attached to minutes. That advice is inconsistent with the Sunshine Ordinance's requirement that the "City Attorney's Office shall act to protect and secure the rights of the people of San Francisco to be able to access public information and public meetings and shall not act as legal counsel for any city employee or any person having custody of any public record for the purpose of denying access to the public."

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 hypocrytical!

13055

SUNSHINE ORDINANCE TASK FORCE
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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 Ray W Hartz Jr
Signature

I request confidentiality of my personal information. ☐ yes ☒ no

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07/31/08

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:

"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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And:

"The Task Force finds the City Attorney's Office in violation of Sunshine Ordinance Section 67.21(i) for continuing to advise clients that public comment summaries may be attached to minutes. That advice is inconsistent with the Sunshine Ordinance's requirement that the "City Attorney's Office shall act to protect and secure the rights of the people of San Francisco to be able to access public information and public meetings and shall not act as legal counsel for any city employee or any person having custody of any public record for the purpose of denying access to the public."

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," <u>you just look the other way</u>! 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, <u>you look the other way</u>! They have abused the public trust placed in them! When we point out the $181,000 of freebies given to the library staff, <u>for them to look the other way</u>, <u>you just look the other way</u>! Why don't you care about these abuses of the public trust?

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: 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 deadlines 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?

13059

SUNSHINE ORDINANCE TASK FORCE
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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: 6/25/2013

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.

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. Address: 839 Leavenworth St. #304, San Francisco, CA 94109-6131

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

Date: SEPTEMBER 4, 2013 Signature: Ray W Hartz

I request confidentiality of my personal information. ☐ yes ☒ no

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07/31/08

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:

"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:

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And:

"The Task Force finds the City Attorney's Office in violation of Sunshine Ordinance Section 67.21(i) for continuing to advise clients that public comment summaries may be attached to minutes. That advice is inconsistent with the Sunshine Ordinance's requirement that the "City Attorney's Office shall act to protect and secure the rights of the people of San Francisco to be able to access public information and public meetings and shall not act as legal counsel for any city employee or any person having custody of any public record for the purpose of denying access to the public."

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

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 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 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

[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 CA 94102-4689
Tel. No. (415) 554-7724
Fax No. (415) 554-7854
TDD/TTY No. (415) 554-5227

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

BOARD OF SUPERVISORS
CITY AND COUNTY OF SAN FRANCISCO

MEETING MINUTES

Tuesday, April 30, 2019 - 2:00 PM

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

Regular Meeting

NORMAN YEE, PRESIDENT
VALLIE BROWN, SANDRA LEE FEWER, MATT HANEY, RAFAEL MANDELMAN, GORDON MAR, AARON PESKIN, HILLARY RONEN, AHSHA SAFAI, CATHERINE STEFANI, SHAMANN WALTON
Angela Calvillo, Clerk of the Board

BOARD COMMITTEES

Committee Membership	Meeting Days
Budget and Finance Committee Supervisors Fewer, Stefani, Mandelman, Ronen, Yee	Wednesday 1:00 PM
Budget and Finance Sub-Committee Supervisors Fewer, Stefani, Mandelman	Wednesday 10:00 AM
Government Audit and Oversight Committee Supervisors Mar, Brown, Peskin	1st and 3rd Thursday 10:00 AM
Joint City, School District, and City College Select Committee Supervisors Haney, Walton, Mar (Alt), Commissioners Cook, Collins, Moliga (Alt), Trustees Randolph, Williams, Selby (Alt)	2nd Friday 10:00 AM
Land Use and Transportation Committee Supervisors Peskin, Safai, Haney	Monday 1:30 PM
Public Safety and Neighborhood Services Committee Supervisors Mandelman, Stefani, Walton	2nd and 4th Thursday 10:00 AM
Rules Committee Supervisors Ronen, Walton, Mar	Monday 10:00 AM

First-named Supervisor is Chair, Second-named Supervisor is Vice-Chair of the Committee.

Volume 114 Number 14

Members Present: Vallie Brown, Sandra Lee Fewer, Matt Haney, Rafael Mandelman, Gordon Mar, Aaron Peskin, Hillary Ronen, Ahsha Safai, Catherine Stefani, Shamann Walton, and Norman Yee

The Board of Supervisors of the City and County of San Francisco met in regular session on Tuesday, April 30, 2019, with President Norman Yee presiding.

President Yee called the meeting to order at 2:00 p.m.

ROLL CALL AND PLEDGE OF ALLEGIANCE

On the call of the roll, Supervisors Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Stefani, Walton, and Yee were noted present.

Supervisor Safai was noted not present.

A quorum was present.

COMMUNICATIONS

There were no communications.

Supervisor Safai was noted present at 2:02 p.m.

APPROVAL OF MEETING MINUTES

President Yee inquired whether any Board Member had any corrections to the March 19, 2019, Board Meeting Minutes. There were no corrections.

Supervisor Ronen, seconded by Supervisor Mandelman, moved to approve the March 19, 2019, Board Meeting Minutes. The motion carried by the following vote, following general public comment:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

AGENDA CHANGES

There were no agenda changes.

CONSENT AGENDA

Recommendations of the Government Audit and Oversight Committee

190238 **[Settlement of Lawsuit - Peter Dayton - $60,000]**
Ordinance authorizing settlement of the lawsuit filed by Peter Dayton against the City and County of San Francisco for $60,000; the lawsuit was filed on March 15, 2017, in San Francisco Superior Court, Case No. CGC 17-557549; entitled Peter Dayton v. City and County of San Francisco; the lawsuit involves an employment dispute. (City Attorney)

PASSED ON FIRST READING

190239 **[Partial Settlement of Lawsuit - Chris Tilton and Blane Bachelor - $301,000]**
Ordinance authorizing settlement of the lawsuit filed by Chris Tilton and Blane Bachelor against the City and County of San Francisco for $301,000; the lawsuit was filed on August 20, 2015, in San Francisco Superior Court, Case No. CGC-15-547492; entitled David Alfaro, et al. v. City and County of San Francisco; the lawsuit involves inverse condemnation arising out of flooding damage during major rainstorms; as it relates only to property loss of plaintiffs Chris Tilton and Blane Bachelor, by the payment of $301,000 and excluding the claim by these plaintiffs for diminution of value for plaintiffs' real property and the claim by plaintiffs for attorney's fees, costs and interest, which will be addressed in later proceedings. (City Attorney)

PASSED ON FIRST READING

190240 **[Settlement of Lawsuit - Hanover Insurance Company a/s/o YWX Holdings, Inc. - $62,500]**
Ordinance authorizing settlement of the lawsuit filed by Hanover Insurance Company a/s/o YWX Holdings, Inc. against the City and County of San Francisco for $62,500; the lawsuit was filed on April 30, 2018, in San Francisco Superior Court, Case No. CGC-18-566142; entitled Hanover Insurance Company a/s/o YWX Holdings, Inc. v. City and County of San Francisco, et al.; the lawsuit involves alleged property damage by sewer backup. (City Attorney)

PASSED ON FIRST READING

190281 **[Settlement of Lawsuit - Max Luster - $75,000]**
Ordinance authorizing settlement of the lawsuit filed by Max Luster against the City and County of San Francisco for $75,000; the lawsuit was filed on August 29, 2017, in San Francisco Superior Court, Case No. CGC-17-561008; entitled Max Luster v. City and County of San Francisco, et al.; the lawsuit involves alleged personal injury on a City street. (City Attorney)

PASSED ON FIRST READING

190342 **[Settlement of Lawsuit - Alyx Cronin - $67,000]**
Ordinance authorizing settlement of the lawsuit filed by Alyx Cronin against the City and County of San Francisco for $67,000; the lawsuit was filed on June 8, 2018, in San Francisco Superior Court, Case No. CGC-18-567064; entitled Alyx Cronin v. The City and County of San Francisco, et al.; the lawsuit involves alleged personal injury from a vehicle collision. (City Attorney)

PASSED ON FIRST READING

190343 **[Settlement of Lawsuit - Timothy Doyle - $75,000]**

Ordinance authorizing settlement of the lawsuit filed by Timothy Doyle against the City and County of San Francisco for $75,000; the lawsuit was filed on December 13, 2016, in San Francisco Superior Court, Case No. CGC-16-555897; entitled Timothy Doyle v. City and County of San Francisco, et al.; the lawsuit involves alleged personal injury from a vehicle collision. (City Attorney)

PASSED ON FIRST READING

190344 **[Settlement of Lawsuit - Tyler Francis O'Connor - $125,000]**

Ordinance authorizing settlement of the lawsuit filed by Tyler Francis O'Connor against the City and County of San Francisco for $125,000; the lawsuit was filed on May 17, 2017, in San Francisco Superior Court, Case No. CGC-17-558989; entitled Tyler Francis O'Connor v. City and County of San Francisco; the lawsuit involves alleged personal injury from vehicle collision. (City Attorney)

PASSED ON FIRST READING

190345 **[Settlement of Lawsuit - Fidelia del Carmen May Can, Rosana Guadalupe Gongora May, Luis Rodolfo Gongora May, and Angel de Jesus May - $140,000]**

Ordinance authorizing settlement of the lawsuit filed by Fidelia del Carmen May Can, Rosana Guadalupe Gongora May, Luis Rodolfo Gongora May, and Angel de Jesus May against the City and County of San Francisco for $140,000; the lawsuit was filed on October 11, 2016, in United States District Court, Case No. 16-cv-05771; entitled Fidelia del Carmen May Can, et al. v. City and County of San Francisco, et al.; the lawsuit involves alleged civil rights violation. (City Attorney)

PASSED ON FIRST READING

190241 **[Settlement of Unlitigated Claim - Kim Du Truong - $36,090]**

Resolution approving the settlement of the unlitigated claim filed by Kim Du Truong against the City and County of San Francisco for $36,090; the claim was filed on July 30, 2018; the claim involves alleged property damage arising from flooding. (City Attorney)

Resolution No. 214-19

ADOPTED

Recommendation of the Land Use and Transportation Committee

190141 **[Administrative Code - Programs for the Vehicular Homeless]**
Sponsors: Brown; Safai, Fewer, Stefani, Mandelman, Haney, Mar, Ronen, Walton and Yee
Ordinance amending the Administrative Code to require the Department of Homelessness and Supportive Housing ("HSH") to establish a Safe Overnight Parking Pilot Program to provide eligible vehicularly homeless persons a place to park and sleep in their vehicles overnight, case management, and other services; require HSH to collaborate with the Municipal Transportation Agency ("MTA") to develop an On-Street Parking Citation and Tow- and-Storage-Fee Abatement Program to provide eligible vehicularly homeless persons with waivers of parking fines and fees; and affirming the Planning Department's determination under the California Environmental Quality Act.

Ordinance No. 082-19

FINALLY PASSED

The foregoing items were acted upon by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

REGULAR AGENDA

UNFINISHED BUSINESS

Recommendation of the Budget and Finance Committee

190253 **[Ten-Year Capital Expenditure Plan - FYs 2020-2029]**
Sponsor: Mayor
Resolution adopting the City's ten-year capital expenditure plan for FYs 2020-2029, pursuant to Administrative Code, Section 3.20.

Supervisor Haney, seconded by Supervisor Brown, moved that this Resolution be AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE, on Page 3, Lines 2-9, by adding 'and WHEREAS, It is the intent of this Board to ask the Capital Planning Committee to add Affordable Housing as part of the City's capital planning process beginning in the next off-year Capital Plan update; and WHEREAS, It is the intent of this Board to ask the Capital Planning Committee to work with San Francisco's housing policy experts in the next off-year update to build a reliable set of funding sources for affordable housing, including but not limited to another Affordable Housing General Obligation Bond in the G.O. Bond Program;'. The motion carried by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

Resolution No. 215-19

ADOPTED AS AMENDED by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

Recommendation of the Government Audit and Oversight Committee

190323 **[Settlement of Lawsuit - Webcor Construction, L.P. and Keenan Hopkins Suder & Stowell Contractors, Inc. - $9,750,000]**

Ordinance authorizing settlement of the lawsuit filed by Webcor Construction, L.P. ("Webcor") against the City and County of San Francisco for $9,750,000; the action against the City and County of San Francisco was filed on August 15, 2017, in Superior Court of California, County of San Francisco, Case No. CGC-16-555423, entitled Keenan Hopkins Suder & Stowell Contractors, Inc. vs. Webcor Construction LP et al.; the lawsuit involves an alleged failure to provide complete and accurate designs under the terms of a construction contract related to the San Francisco General Hospital Rebuild Program; material terms of the settlement are that the City will pay Keenan Hopkins Suder & Stowell Contractors, Inc. ("Keenan") $9,750,000 and Webcor will pay Keenan $5,500,000. (City Attorney)

Ordinance No. 084-19

FINALLY PASSED by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

NEW BUSINESS

Recommendations of the Budget and Finance Sub-Committee

190280 **[Annual Fundraising Drive - 2019]**

Resolution designating those agencies qualified to participate in the 2019 Annual Joint Fundraising Drive for officers and employees of the City and County of San Francisco. (City Administrator)

Resolution No. 216-19

ADOPTED by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

190330 **[Lease Agreement - Brookstone SFO T-2, LLC - Terminal 2 Specialty Retail Concession Lease No. 1 - Lease No. 18-0071 - $325,000 Minimum Annual Guarantee]**

Resolution approving the Terminal 2 Specialty Retail Concession Lease No. 1 - Lease No. 18-0071, between Brookstone SFO T-2, LLC, and the City and County of San Francisco, acting by and through its Airport Commission, for a term of seven years, and a minimum annual guarantee of $325,000 for the first year of the Lease, to commence upon approval by the Board of Supervisors. (Airport Commission)

Resolution No. 217-19

ADOPTED by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

190333 **[Real Property Lease Extension Option - Choo Laguna, LLC - 258-A Laguna Honda Boulevard - $51,192 Annual Base Rent]**

Resolution authorizing the Director of Real Estate to exercise a Lease Extension Option for the real property located at, 258-A Laguna Honda Boulevard with Choo Laguna, LLC as landlord, for a five-year term to commence on July 1, 2019, through June 30, 2024, at the monthly base rent of $4,266 for a total annual base rent of $51,192. (Public Defender)

Resolution No. 218-19

ADOPTED by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

190347 **[Memorandum of Agreement - United States Department of the Interior, National Park Service - Management of Watersheds Supplying San Francisco Regional Water System - Not to Exceed $33,257,629]**

Resolution authorizing the General Manager of the San Francisco Public Utilities Commission to execute a Memorandum of Agreement with the United States Department of the Interior, National Park Service, Yosemite National Park, for comprehensive management of watersheds supplying the San Francisco Regional Water System for an amount not to exceed $33,257,629 and a total term of four years from July 1, 2020, through June 30, 2024, pursuant to Charter, Section 9.118. (Public Utilities Commission)
(Fiscal Impact)

Resolution No. 219-19

ADOPTED by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

Recommendation of the Government Audit and Oversight Committee

190214 **[Building Code - Fee Waiver for 100% Affordable Housing and Accessory Dwelling Units]**

Sponsors: Mayor; Brown and Mar

Ordinance amending the Building Code to waive specified fees for 100% affordable housing projects, as defined herein, and accessory dwelling unit projects for an approximately one-year pilot program; and affirming the Planning Department's determination under the California Environmental Quality Act.
(Fiscal Impact)

Supervisor Mar, seconded by Supervisor Brown, moved that this Ordinance be RE-REFERRED to the Government Audit and Oversight Committee. The motion carried by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

Recommendations of the Land Use and Transportation Committee

190112 **[Summary Street Vacation - Francisco Street in Connection with Francisco Park Improvements - Interdepartmental Property Transfer]**
Sponsor: Stefani
Ordinance ordering the summary street vacation of the 900 block of Francisco Street, generally bounded by Assessor's Parcel Block No. 0046 to the north, Assessor's Parcel Block No. 0047 to the south, Larkin Street to the west, and Hyde Street to the east, as part of the development of Francisco Park, subject to certain terms and conditions, and approving a conditional interdepartmental transfer of the vacation area from Public Works to the Recreation and Park Department; affirming the Planning Department's determination under the California Environmental Quality Act; adopting findings that the actions contemplated in this Ordinance are consistent with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and authorizing official acts in connection with this Ordinance, as defined herein.

PASSED ON FIRST READING by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

190237 **[Plumbing Code - Placement and Minimum Size of Building Traps]**
Sponsor: Peskin
Ordinance amending the Plumbing Code to add a requirement for the placement and minimum size of building traps; affirming the Planning Department's determination under the California Environmental Quality Act; and directing the Clerk of the Board of Supervisors to forward this Ordinance to the California Building Standards Commission upon final passage. (Building Inspection Commission)

PASSED ON FIRST READING by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

President Yee requested File Nos. 190249, 190250, and 190251 be called together.

190249 **[Development Agreement - SYTS Investments, LLC - 915 Cayuga Avenue]**
Sponsor: Safai
Ordinance approving a Development Agreement between the City and County of San Francisco and SYTS Investments, LLC, for the development project at 915 Cayuga Avenue, with various public benefits including significantly more below market rate units than otherwise required; making findings under the California Environmental Quality Act, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1(b); confirming compliance with or waiving certain provisions of Administrative Code, Chapters 14B and 56; and ratifying certain actions taken in connection therewith, as defined herein.

PASSED ON FIRST READING by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

190250 **[Planning Code, Zoning Map - Cayuga/Alemany Special Use District]**
Sponsor: Safai
Ordinance amending the Planning Code to establish the Cayuga/Alemany Special Use District (SUD) for the property located at 915 Cayuga Avenue (Assessor's Parcel Block No. 6954, Lot Nos. 039); amending the Zoning Map to add the Cayuga/Alemany SUD and to change the height limit on Assessor's Parcel Block No. 6954, Lot No. 039, to 65-X; affirming the Planning Department's California Environmental Quality Act findings; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101; and making findings of public convenience, necessity, and welfare under Planning Code, Section 302.

PASSED ON FIRST READING by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

190251 **[Planning Code, Zoning Map - 915 Cayuga Avenue]**
Sponsor: Safai
Ordinance amending the Zoning Map to change the zoning district on Assessor's Parcel Block No. 6954, Lot No. 039, from RH-1 (Residential, House District, One-Family) and Excelsior Outer Mission Street Neighborhood Commercial District to Excelsior Outer Mission Street Neighborhood Commercial District; affirming the Planning Department's California Environmental Quality Act findings; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101; and making findings of public convenience, necessity, and welfare under Planning Code, Section 302.

PASSED ON FIRST READING by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

Recommendations of the Rules Committee

190216 **[Administrative Code - Mayoral Question-and-Answer Session at the Board of Supervisors]**
Sponsor: Mar
Ordinance amending the Administrative Code to authorize the Clerk of the Board of Supervisors to modify deadlines for submission of question topics by Supervisors in advance of the Mayor's appearance at the Board of Supervisors for a question-and-answer session.

PASSED ON FIRST READING by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

190287 **[Campaign and Governmental Conduct Code - Public Campaign Financing]**
Sponsor: Mar
Ordinance amending the Campaign and Governmental Conduct Code to modify the deadline for participation in the City's public financing program and the operation of individual expenditure ceilings for participating candidates. (Ethics Commission)
(Pursuant to Campaign and Governmental Conduct Code, Section 3.204, this matter requires two-thirds vote of the full membership of the Board of Supervisors (8 votes) for passage.)

PASSED ON FIRST READING by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

190340 **[Mayoral Appointment, Planning Commission - Frank Fung]**

Motion approving the Mayoral nomination for the appointment of Frank Fung to the Planning Commission, term ending June 30, 2022. (Clerk of the Board)

(Charter, Section 4.105, provides that this nomination is subject to approval by the Board of Supervisors and shall be the subject of a public hearing and vote within 60 days from the date the nomination is transmitted to the Clerk of the Board. If the Board fails to act on the nomination within 60 days from the date the nomination is transmitted to the Clerk, then the nominee shall be deemed approved. Transmittal date: March 25, 2019.)

Motion No. M19-083

APPROVED by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

190415 **[Appointment, Sugary Drinks Distributor Tax Advisory Committee - Aaron Kunz]**

Motion appointing Aaron Kunz, term ending December 31, 2020, to the Sugary Drinks Distributor Tax Advisory Committee. (Rules Committee)

Motion No. M19-084

APPROVED by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

SPECIAL ORDER 2:30 P.M. - Recognition of Commendations

Supervisor Fewer, seconded by Supervisor Stefani, moved to suspend Rule 5.36 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 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

President Yee introduced, welcomed, and presented a Certificate of Honor to Chief Joanne Hayes-White (Fire Department) on the occasion of her retirement after 29 years of service to the City and County of San Francisco, and in recognition of her countless accomplishments as an inspirational leader to women, being the first female Fire Chief in San Francisco, the only female urban Fire Chief in the world, and the 2018 Career Fire Chief of the Year. Supervisors Ronen, Brown, Stefani, Fewer, Walton, Peskin, Mandelman, Haney, and Safai shared in this commendation.

SMALL BUSINESS WEEK
President Yee provided opening remarks on the Board's honoree program, and Stephen Adams, President (Small Business Commission), presented additional information and acknowledged the importance of small businesses in San Francisco. Supervisors then introduced, welcomed, and presented Certificates of Honor to individuals and businesses in recognition of Small Business Week and their accomplishments, as referenced below:

Supervisor Fewer recognized Alice (Sohyang) and Sean (Sangbaek) Kim (Joe's Ice Cream);
Supervisor Stefani recognized Sue Fisher King;
Supervisor Peskin recognized Shadi Zughayar (Coit Liquors);
Supervisor Mar recognized Erica Maver (Establish);
Supervisor Brown recognized Helen Hwang (Eddie's Café);
Supervisor Haney recognized Tess Diaz-Guzman (JT's Restaurant);
President Yee recognized Jeff and Sabine Taliaferro (Ocean Cyclery);
Supervisor Mandelman recognized Katey McKee (Glama-Rana! Salon);
Supervisor Ronen recognized Charlie Harb (Charlie's Café);
Supervisor Walton recognized Veronica Nye (Dogpatch Saloon); and
Supervisor Safai recognized Maria Paz Rodriguez (Pacita's Salvadorean Bakery).

COMMITTEE REPORTS

Recommendation of the Land Use and Transportation Committee

190419 **[Conditional Property Exchange Agreement - EQX JACKSON SQ HOLDCO LLC - Potential Exchange of 530 Sansome Street for a Portion of 425-439 Washington Street]**

Sponsors: Mayor; Peskin

Resolution approving a Conditional Property Exchange Agreement ("CPEA") with EQX JACKSON SQ HOLDCO LLC, a Delaware limited liability company, for a proposed future transfer of City real property at 530 Sansome Street (Assessor's Parcel Block No. 0206, Lot No. 017) under the jurisdiction of the Fire Department, in exchange for a portion of the real property at 425-439 Washington Street (Assessor's Parcel Block No. 0206, Lot Nos. 013 and 014), subject to several conditions, as defined herein; and finding that the CPEA is a conditional land acquisition agreement under California Environmental Quality Act Guidelines, Section 15004(b)(2)(A), and subject to City's discretionary approval after the completion of environmental review.

Resolution No. 220-19

ADOPTED by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

ROLL CALL FOR INTRODUCTIONS

See Legislation Introduced below.

PUBLIC COMMENT

Mr. Wright; shared concerns regarding the need for affordable housing and issues with navigation centers.
Speaker; shared concerns regarding anti-vaccination and other various religious matters.
Speaker; shared concerns regarding the plight of taxi medallion holders because of transportation network companies.
Speaker; shared concerns regarding the plight of taxi medallion holders because of transportation network companies.
Norma Garcia; expressed support of the Resolution regarding Senate Bill 686, California Promise Neighborhoods Act of 2019 (File No. 190448).
Frieda Edgette; shared information on the "Courage to Run" event on June 23, 2019, and invited the Board to attend.
Shaw San Liu; expressed support of immigrant workers reso.
Ray Hartz; expressed concerns regarding the Sunshine Ordinance Task Force and their orders of determination (see Addendum on page 390).
Tom Gilberty; shared concerns regarding navigation centers, homelessness, and pollution from commuting.
David Smith; shared concerns regarding the plight of taxi medallion holders because of transportation network companies.
Speaker; shared their various thoughts with the Board.

FOR ADOPTION WITHOUT COMMITTEE REFERENCE

190452 **[Urging Specific City-Wide Homelessness and Affordable Housing Priorities in the FYs 2019-2020 and 2020-2021 Budgets]**

Sponsors: Fewer; Mandelman and Stefani

Resolution urging the Mayor to prioritize increased funding for problem-solving and prevention of homelessness, exits from homelessness and the shelter system, targeted funding to house key vulnerable populations, and affordable housing preservation and production in all districts in San Francisco in the two-year budgets for FYs 2019-2020 and 2020-2021.

Resolution No. 224-19

ADOPTED

190435 **[Final Map 5558 - 220 Jackson Street and 601 Front Street]**

Motion approving Final Map 5558, a maximum of 50 units commercial condominium project, located at 220 Jackson Street and 601 Front Street, being a subdivision of Assessor's Parcel Block No. 0173, Lot No. 006; and adopting findings pursuant to the General Plan, and the eight priority policies of Planning Code, Section 101.1. (Public Works)

Motion No. M19-085

APPROVED

The foregoing items were acted upon by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

Severed from the For Adoption Without Committee Reference Agenda

Supervisor Fewer requested that File No. 190446 be severed so that it may be considered separately.

190446 **[Recognizing National Donate Life Month - April 2019]**

Sponsor: Fewer

Resolution recognizing April 2019 as National Donate Life Month in the City and County of San Francisco, and urging all San Franciscans to register as organ and tissue donors when applying for or renewing their driver's license.

Resolution No. 222-19

ADOPTED by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

Supervisor Walton requested that File Nos. 190448 and 190027 be severed so that they may be considered separately.

190448 **[Supporting California State Senate Bill No. 686 (Allen) - California Promise Neighborhoods Act of 2019]**

Sponsors: Ronen; Haney

Resolution supporting California State Senate Bill No. 686, authored by Senator Ben Allen, which would enact the California Promise Neighborhoods Act of 2019.

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

Supervisor Walton, seconded by Supervisor Ronen, moved that this Resolution be AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE, on Page 2, Lines 19-20, by adding 'include culturally appropriate agencies when expanding into'. The motion carried by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

Resolution No. 223-19

ADOPTED AS AMENDED by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

190027 **[Final Map 9530 - 595 Mariposa Street]**

Motion approving Final Map 9530, a 20 residential unit new condominium project, located at 595 Mariposa Street, being a subdivision of Assessor's Parcel Block No. 3995, Lot No. 022; and adopting findings pursuant to the General Plan, and the eight priority policies of Planning Code, Section 101.1. (Public Works)

Supervisor Walton, seconded by Supervisor Haney, moved that this Motion be CONTINUED to the Board of Supervisors meeting of May 7, 2019. The motion carried by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

Supervisor Peskin requested that File No. 190449 be severed so that it may be considered separately.

Supervisor Safai Excused from Voting

Supervisor Peskin, seconded by Supervisor Stefani, moved that Supervisor Safai be excused from voting on File No. 190449. The motion carried by the following vote:

Ayes: 10 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Stefani, Walton, Yee
Excused: 1 - Safai

190449 **[Adoption of Findings Related to Conditional Use Authorization - 1052-1060 Folsom Street and 190-194 Russ Street]**

Motion adopting findings in support of the Board of Supervisors' disapproval of the decision of the Planning Commission by its Motion No. 20361, regarding the Conditional Use Authorization identified as Planning Case No. 2016.004905CUA, for a proposed project at 1052-1060 Folsom Street and 190-194 Russ Street. (Clerk of the Board)

Supervisor Peskin, seconded by Supervisor Mar, moved that this Motion be AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE, on Page 2, Lines 9-12, by adding 'and WHEREAS, The Planning Commission did not have the benefit of a complete shadow study in the record before it at the time that it issued its findings in support of the Conditional Use Authorization, a fact confirmed by Planning Department staff at the Planning Commission hearing on December 20, 2018;'. The motion carried by the following vote:

Ayes: 10 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Stefani, Walton, Yee
Excused: 1 - Safai

Motion No. M19-086

APPROVED AS AMENDED by the following vote:

Ayes: 10 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Stefani, Walton, Yee
Excused: 1 - Safai

IMPERATIVE AGENDA

[Purely Commendatory Finding]
Motion that the Board find that the resolution(s) being considered at this time are purely commendatory.

Supervisor Peskin, seconded by Supervisor Walton, moved ADOPTION of the commendatory finding. The motion carried by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

[Brown Act Finding]
Motion that the Board find by roll call vote that, for the resolution(s) being considered at this time, there is a need to take immediate action. The need to take action came to the attention of the City and County of San Francisco after the agenda was posted.

Supervisor Peskin, seconded by Supervisor Walton, moved ADOPTION of the Brown Act finding. The motion carried by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

190457 **[Chief Joanne Hayes-White Day - May 5, 2019]**
Sponsor: Yee
Resolution commending and honoring Chief Joanne Hayes-White for her outstanding service as the San Francisco Fire Chief; and declaring May 5, 2019, as Chief Joanne Hayes-White Day in the City and County of San Francisco.

President Yee inquired as to whether any member of the public wished to address the Board relating to the Resolution commending and honoring Chief Joanne Hayes-White as referenced in File No. 190457. There were no speakers. The President declared public comment closed.

Privilege of the floor was granted unanimously to Jon Givner (Office of the City Attorney) who responded to questions raised throughout the discussion.

Resolution No. 198-19

ADOPTED by the following vote:

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton, Yee

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

190458 **[Planning, Administrative Codes - North of Market Affordable Housing Fees and Citywide Affordable Housing Fund]**
Sponsor: Mayor
Ordinance amending the Planning Code and the Administrative Code to abolish the North of Market Affordable Housing Fund and have certain fees collected in conjunction with North of Market affordable housing deposited in the Citywide Affordable Housing Fund; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public convenience, necessity, and welfare under Planning Code, Section 302.

04/30/19; ASSIGNED UNDER 30 DAY RULE to Land Use and Transportation Committee, expires on 5/30/2019.

190459 **[Planning Code - Temporary Uses: Intermittent Activities]**
Sponsor: Brown
Ordinance amending the Planning Code to allow operation of a farmers market on the Department of Motor Vehicles Field Office parking lot at 1377 Fell Street; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public necessity, convenience, and general welfare under Planning Code, Section 302.

04/30/19; ASSIGNED UNDER 30 DAY RULE to Land Use and Transportation Committee, expires on 5/30/2019.

190460 **[Waiver of Banner Fee - Retroactive - SOMA Pilipinas Filipino Cultural Heritage District]**
Sponsor: Haney
Ordinance retroactively waiving the banner fees under the Public Works Code for up to 300 banners placed on City-owned poles by SOMA Pilipinas, beginning September 24, 2018, to celebrate the culture and visibility of the Filipino Cultural Heritage District.

04/30/19; ASSIGNED UNDER 30 DAY RULE to Budget and Finance Sub-Committee, expires on 5/30/2019.

180939 **[Planning Code, Zoning Map - Oceanview Large Residence Special Use District]**
Sponsor: Safai
Ordinance amending the Planning Code and Zoning Map to create the Oceanview Large Residence Special Use District (the area within a perimeter established by Interstate 280, Orizaba Avenue, Brotherhood Way, Junipero Serra Boulevard, Holloway Avenue, Ashton Avenue, Ocean Avenue, Geneva Avenue, and Interstate 280), to promote and enhance neighborhood character and affordability by requiring Conditional Use authorization for large residential developments in the District; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.

09/25/18; ASSIGNED UNDER 30 DAY RULE to Land Use and Transportation Committee, expires on 10/25/2018.

10/03/18; REFERRED TO DEPARTMENT.

11/01/18; RESPONSE RECEIVED.

11/30/18; NOTICED.

01/02/19; REMAIN ACTIVE.

03/29/19; REMAIN ACTIVE.

04/30/19; SUBSTITUTED AND ASSIGNED to Land Use and Transportation Committee.

190463 **[Lease of City Property - South End Rowing Club - 500 Jefferson Street - Gross Receipts Rent]**
Sponsor: Stefani
Ordinance approving a Lease between the City and County of San Francisco and the South End Rowing Club, a California non-profit corporation, for City property at 500 Jefferson Street, with an annual rent of 10% of all gross receipts that are not derived from the Alcatraz Invitational and 4% of all gross receipts that are derived from the Alcatraz Invitational, for a term of 25 years to commence following Board approval, with an option to extend for 24 years, and general public access requirements; waiving the Administrative Code's market rent determination requirement that otherwise would apply to this Lease; and affirming the Planning Department's determination under the California Environmental Quality Act.

04/30/19; ASSIGNED UNDER 30 DAY RULE to Budget and Finance Sub-Committee, expires on 5/30/2019.

190464 **[Lease of City Property - Golden Gate Yacht Club - 1 Yacht Road - $85,000 Annual Minimum Rent Guarantee]**
Sponsor: Stefani
Ordinance approving a Lease between the City and County of San Francisco and the Golden Gate Yacht Club, a California non-profit corporation, for City property at 1 Yacht Road, with an initial annual rent at the greater of 10% gross receipts or $85,000 for a term of 18 years to commence following Board approval, and youth programming and general public access requirements; waiving the Administrative Code's market rent determination requirement that otherwise would apply to this Lease; and affirming the Planning Department's determination under the California Environmental Quality Act.

04/30/19; ASSIGNED UNDER 30 DAY RULE to Budget and Finance Sub-Committee, expires on 5/30/2019.

RESOLUTIONS

190465 **[Real Property Lease Extension Option - Pacific Bay Inn, Inc. - 520 Jones Street - $1,063,632 Annual Base Rent]**

Sponsors: Mayor; Haney

Resolution authorizing the Director of Property to exercise a Lease Extension Option for the real property located at 520 Jones Street, known as the Pacific Bay Inn, with Pacific Bay Inn, Inc., as landlord, and the City and County of San Francisco, as tenant, for use by the Department of Homelessness and Supportive Housing for a ten-year term commencing on June 1, 2019, through May 31, 2029, at the monthly base rent of $88,636 for a total annual base rent of $1,063,632. (Fiscal Impact)

04/30/19; RECEIVED AND ASSIGNED to Budget and Finance Sub-Committee.

190466 **[Multifamily Housing Revenue Notes - Abel Gonzales Apartments - Not to Exceed $20,000,000]**

Sponsors: Mayor; Ronen

Resolution authorizing the issuance and delivery of multifamily housing revenue notes in a maximum aggregate principal amount not to exceed $20,000,000 for the purpose of providing financing for the acquisition and rehabilitation of a 30-unit multifamily rental housing project located at 1045 Capp Street (also known as Abel Gonzales Apartments); approving the form of and authorizing the execution of a funding loan agreement providing the terms and conditions of the notes and authorizing the execution and delivery thereof; approving the form of and authorizing the execution of a regulatory agreement and declaration of restrictive covenants; approving the forms of and authorizing the execution of certain loan documents; authorizing the collection of certain fees; ratifying and approving any action heretofore taken in connection with the note and the project, as defined herein; granting general authority to City officials to take actions necessary to implement this Resolution, as defined herein; and related matters, as defined herein.

04/30/19; RECEIVED AND ASSIGNED to Budget and Finance Sub-Committee.

190467 **[Resolution of Intention - Renewal and Expansion - Civic Center Community Benefit District]**

Sponsors: Mayor; Haney and Brown

Resolution declaring the intention of the Board of Supervisors to renew and expand a property-based business improvement district known as the “Civic Center Community Benefit District” and levy a multi-year assessment on all parcels in the District; approving the management district plan, engineer’s report, and proposed boundaries map for the District; ordering and setting a time and place for a public hearing of the Board of Supervisors, sitting as a Committee of the Whole, on July 16, 2019, at 3:00 p.m.; approving the form of the Notice of Public Hearing and Assessment Ballot Proceeding, and Assessment Ballot; directing environmental findings; and directing the Clerk of the Board of Supervisors to give notice of the public hearing and balloting, as required by law.

04/30/19; RECEIVED AND ASSIGNED to Land Use and Transportation Committee.

190468 **[Assessment Ballots for City Parcels - North of Market/Tenderloin Community Benefit District]**
Sponsor: Haney
Resolution authorizing the Mayor or their designee(s) to cast an assessment ballot in the affirmative for the proposed renewal and expansion of a property and business improvement district to be named the North of Market/Tenderloin Community Benefit District, with respect to certain parcels of real property owned by the City that would be subject to assessment in said District.

04/30/19; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

190469 **[Resolution to Establish (Renew and Expand) - North of Market/Tenderloin Community Benefit District]**
Sponsor: Haney
Resolution to establish (renew and expand) the property-based business improvement district known as the "North of Market/Tenderloin Community Benefit District," ordering the levy and collection of assessments against property located in that District for 15 years commencing with FY2019-2020, subject to conditions as specified; and making environmental findings.

04/30/19; RECEIVED AND ASSIGNED to Board of Supervisors.

190470 **[Support for Kome Seafood Buffet Workers' Demands to Settle Wage Claims]**
Sponsors: Mar; Ronen, Peskin, Fewer and Haney
Resolution supporting Kome Seafood Buffet workers' demands to settle wage claims by paying workers the wages and penalties that are owed to them; supporting laid off workers' demands to have the Right of Refusal to be reemployed with the company; and urging the People of San Francisco to refrain from patronizing Kome Seafood Buffet or Teakee Café until the California Labor Commissioner's citation and case is resolved.

04/30/19; REFERRED FOR ADOPTION WITHOUT COMMITTEE REFERENCE AGENDA AT THE NEXT BOARD MEETING.

190471 **[Urging Naming the Central Subway's Chinatown Station the "Rose Pak Chinatown Station"]**
Sponsors: Peskin; Yee, Fewer, Walton, Safai, Mar, Mandelman and Haney
Resolution urging the San Francisco Municipal Transportation Agency to name the Central Subway's Chinatown Station the "Rose Pak Chinatown Station."

04/30/19; RECEIVED AND ASSIGNED to Land Use and Transportation Committee.

190461 **[Transcontinental Chinese Railroad Workers Day - May 10]**
Sponsors: Yee; Fewer, Mar, Walton, Safai, Peskin, Brown, Mandelman, Ronen, Haney and Stefani
Resolution commemorating the 150th Anniversary of the completion of the Transcontinental Railroad; honoring the contributions of Chinese railroad workers for their significant contributions; and declaring May 10, 2019, and every May 10 thereafter, as Transcontinental Railroad Workers Day in the City and County of San Francisco.

04/30/19; REFERRED FOR ADOPTION WITHOUT COMMITTEE REFERENCE AGENDA AT THE NEXT BOARD MEETING.

MOTIONS

190453 **[Mayoral Appointment, Municipal Transportation Agency Board of Directors - Steve Heminger]**

Motion approving/rejecting the Mayor's nomination for the appointment of Steve Heminger to the Municipal Transportation Agency Board of Directors, for a term ending March 1, 2023. (Clerk of the Board)

(Charter, Section 8A.102(a), provides that the Board of Supervisors shall confirm the Mayor's appointment by a majority (six votes) of the Board of Supervisors after a public hearing, with no timeframe to confirm specified. Transmittal Date: May 1, 2019.)

190476 **[Mayoral Appointment, Residential Rent Stabilization and Arbitration Board - Dave Wasserman]**

Sponsor: Ronen

Motion approving/rejecting the Mayor's appointment of Dave Wasserman to the Residential Rent Stabilization and Arbitration Board, for a term ending August 1, 2022. (Clerk of the Board)

(Charter, Section 3.100(18), provides that the Board of Supervisors has the authority to reject the appointment by two-thirds vote of the Board (eight votes) within 30 days following transmittal of the Mayor's Notice of Appointment, and that failure of the Board to reject the appointment within the 30-day period shall result in the appointee continuing to serve as appointed. Transmittal date: April 24, 2019.)

04/30/19; RECEIVED AND ASSIGNED to Rules Committee.

REQUESTS FOR HEARING

190472 **[Hearing - Budget Priorities - Clean Streets, Support for Non-Profits and Small Businesses]**

Sponsor: Fewer

Hearing on key strategies and programs in the City budget related to clean and green streets, increasing the Minimum Compensation Ordinance for non-profit organizations, and support for small businesses, including identifying funding levels, gaps, and opportunities for future spending; and requesting the Budget and Legislative Analyst, Public Works, Controller, and Office of Economic and Workforce Development to report.

04/30/19; RECEIVED AND ASSIGNED to Budget and Finance Committee.

190473 **[Hearing - Budget Impact of Overtime Spending]**

Sponsor: Fewer

Hearing on the FY2017-2018 Annual Overtime Report and the related structural budget impact for the five City departments with the highest overtime use; and requesting the Controller, Municipal Transportation Agency, Fire Department, Police Department, Department of Public Health, and Sheriff's Department to report.

04/30/19; RECEIVED AND ASSIGNED to Budget and Finance Committee.

190474 **[Hearing - Budget Impact of Vacant Positions and Salary Savings]**
Sponsor: Fewer
Hearing on the issue of vacant positions and related salary savings in the City budget; and requesting the Budget and Legislative Analyst, Controller, and Mayor's Budget Office to report.

04/30/19; RECEIVED AND ASSIGNED to Budget and Finance Committee.

190475 **[Hearing - City Spending Related to Incarceration]**
Sponsors: Fewer; Ronen
Hearing on spending related to incarceration in the City budget; and requesting the Sheriff's Department, Juvenile Probation Department, Adult Probation Department, and Mayor's Budget Office to report.

04/30/19; RECEIVED AND ASSIGNED to Budget and Finance Committee.

190477 **[Hearing - San Francisco Public Utilities Commission Preliminary Report - Safe, Reliable, Clean, Affordable Electric Service]**
Sponsors: Ronen; Peskin and Fewer
Hearing to receive a report from the San Francisco Public Utilities Commission on options for improving electric service through acquisition, construction, or completion of public utilities, pursuant to Resolution No. 174-19, adopted April 9, 2019, and in accordance with Charter, Section 16.101; and requesting the San Francisco Public Utilities Commission to report.

04/30/19; RECEIVED AND ASSIGNED to Land Use and Transportation Committee.

190478 **[Hearing - Committee of the Whole - Renewal and Expansion - North of Market/Tenderloin Community Benefit District - June 25, 2019]**
Hearing of the Board of Supervisors sitting as a Committee of the Whole on June 25, 2019, at 3:00 p.m., to consider the renewal and expansion of a property-based assessment district to be known as the North of Market/Tenderloin Community Benefit District, pursuant to the California Property and Business Improvement District Law of 1994 (Streets and Highways Code, Sections 36600 et seq.), and City and County of San Francisco Business and Tax Regulations Code, Article 15; scheduled pursuant to Resolution No. 195-19, adopted on April 23, 2019. (Clerk of the Board)

04/30/19; SCHEDULED FOR PUBLIC HEARING to Board of Supervisors.

Introduced 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 ORDINANCE

190436 **[Authorizing Agreement - Retroactive - California Independent System Operator - Reliability Coordinator Services - Not to Exceed $3,000,000]**

Ordinance retroactively approving an agreement between the San Francisco Public Utilities Commission and the California Independent System Operator for Reliability Coordinator services for an initial term of 18 months from January 7, 2019, through July 6, 2020, with an automatic renewal of the contract term in excess of ten years and a maximum cost not to exceed $3,000,000; and waiving Administrative Code, Section 21.9(b), regarding automatic renewal of contract term. (Public Utilities Commission)
(Fiscal Impact; No Budget and Legislative Analyst Report)

04/22/19; RECEIVED FROM DEPARTMENT.

04/30/19; ASSIGNED UNDER 30 DAY RULE to Budget and Finance Sub-Committee, expires on 5/30/2019.

PROPOSED RESOLUTIONS

190401 **[Report of Assessment Costs - Building Code Enforcement Violations]**

Resolution approving report of delinquent charges for assessment costs submitted by the Director of the Department of Building Inspection for delinquent charges for code enforcement violations and associated fees pursuant to Building Code, Sections 102A.3, 102A.4, 102A.6, 102A.12, 102A.16, 102A.17, 102A.18, 102A.19, 102A.20 et seq., 103A.3.3, 108A, and 110A - Tables 1A-K and 1A-G, and Administrative Code, Sections 41.10(f), 41.10(g), and 41.11(f), the costs thereof having accrued pursuant to code enforcement violations. (Building Inspection Department)

04/22/19; RECEIVED FROM DEPARTMENT.

04/30/19; RECEIVED AND ASSIGNED to Board of Supervisors.

190434 **[Settlement of Unlitigated Claim - Franciscan Towers Associates, L.P. - $25,619.59 Plus Interest]**

Resolution approving the settlement of the unlitigated claim filed by Franciscan Towers Associates, L.P. against the City and County of San Francisco for $25,619.59 plus statutory interest; the claim was filed on January 23, 2019; the claim involves an alleged overpayment of property taxes. (City Attorney)

04/22/19; RECEIVED FROM DEPARTMENT.

04/30/19; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

In Memoriam

Ernest "Chuck" Ayala - Supervisor Mandelman

ADJOURNMENT

There being no further business, the Board adjourned at the hour 4:31 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 June 11, 2019.

Angela Calvillo, Clerk of the Board

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: "KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE That admonition is printed on every copy of every agenda, for every meeting of this Board of Supervisors, which might only seem ironic, but is in fact, blatantly hypocritical! Thomas Aquinas teaches: 'Willful ignorance of what one ought to know is a mortal sin.' I've passed out to the members a listing of 3 dozen Orders of Determination finding violations by various Boards and Commissions, including this one. Also, the directions issued by the SOTF to all Boards and Commissions and a response to the City Attorney from the SOTF. I'd like you to note the eleven violations in red, particularly those regarding the Clerk of the Board, Angela Calvillo. Where the summary submitted today appears in your minutes will determine if a SOTF complaint is filed against your President, Norman Yee. By the way, remove the prejudicial introduction and use something fair!"

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