



San Francisco Public Library

SAN FRANCISCO PUBLIC LIBRARY COMMISSION

Minutes of the Regular Meeting of March 15, 2012

(As approved at the regularly scheduled meeting of April 19, 2012)

The San Francisco Public Library Commission held a regular meeting on Thursday, March 15, 2012 in the Koret Auditorium Main Library.

The meeting was called to order at 4:31 pm.

Commissioners present: Breyer, Gomez, Munson and Ono

Commissioner excused: Nguyen.

Commissioner Kane arrived at 4:39 pm.

Commissioner unexcused: Randlett

AGENDA ITEM NO. 1 PUBLIC COMMENT

An anonymous citizen said we will get back to assassination metaphors soon enough. He said the Friends of the Library are obligated to give a report to the California Attorney General. He said the Friends claim that they receive no support from the Library and receive no services or facilities of any value without charge in a five-year period. He said the Library provides the Friends with space for book sales, space to collect books, space for naming opportunities, and the rent at the bookstore is only \$1. He said the disclosure is so that anyone can compare what the library gives to the Friends with what the Library received. He said responding to Commissioner Kane, the City Librarian said the Friends had reached 85 -90% of their commitment to the BLIP. He said updated figures show that that is closer to 32.3%. He said the City Librarian should be fired for misleading you. He said when Commissioner Kane asked for information on operations and expenses he said he didn't expect an answer until next year. (See Addendum for a summary of this comment submitted by the speaker.)

Ray Hartz, Director San Francisco Open Government, said in accepting the March 1, 2012 report by the Friends of the Library, the Commission

has once again shown that they are doing nothing to oversee the Friends finances. He said he has tried to look into them but has been consistently blocked by the City Librarian. He read from Sunshine Ordinance Task Force Order of Determination No. 11083 "The Task Force finds City Librarian, Luis Herrera in violation of Sunshine Ordinance Sections 67.21(c) for failure to direct Mr. Hartz to the proper office or staff person to respond to his request to identify documents related to Library expenditures of Friends' funds and 67.26 for failure to keep withholding to a minimum by not including documents related to Library expenditures of Friends' funds in the documents identified." He said this Library has failed to carry out its fiduciary responsibility in relation to the Friends and the City Librarian has blocked others to do so. He asked what is there to hide. He said there is a little over \$3 Million unaccountable in their report. He said they also drew down their reserves by \$2.22 million dollars. That means the report they gave to you had no explanation on what they did with \$5.22 Million.

Peter Warfield, Library Users Association, said on January 19, 2012 the budget report showed actual expenditures for furniture and equipment at \$1,143,547. He said one month later the figure is \$8,800,872 a difference of more than \$7.5 Million. He said the only information provided was a footnote #6 which simply said there had been added \$5.2 Million from the Friends, \$2.5 Million from the Library and \$1.1 Million from the Department of Public Works. He asked where the Commission has been that it didn't notice such a large amount that hadn't been previously reported. He said you should be asking a lot of questions. He said he is not staying for the full meeting, the Society for Professional Journalist is having its annual awards evening and he will be attending that and on this side of the podium you have had some excellent and awarded members of the public that he will explain to you further at another time.

AGENDA ITEM NO. 2. POSSIBLE CLOSED SESSION REGARDING NORTH BEACH BRANCH LIBRARY LITIGATION

President Gomez said they will now take public comment on all matters pertaining to this agenda item and then the Commission will vote on whether to hold closed session pursuant to California Government Code Section 54956.9(a) and San Francisco Administrative Code Section 67.10(d) (a) conference with legal counsel on existing litigation: Friends of Appleton Wolfard Libraries et al. v. City and County of San Francisco, San Francisco Superior Court Case No. 11-511469.

Public Comment

An anonymous citizen said nothing has been more problematic for this Library Commission than its conduct in closed sessions. He said it is strange that you have three chances to vote on this agenda item but the public only has one opportunity to comment. He said during a previous lawsuit, the court agreed to listen to the tape and of course to protect yourselves you had to claim the tape was lost. That court ordered you to tape record your closed sessions and if that tape recording is lost again

that will seem all the more suspicious to the court. He said this does not show that you are the sole defendant or the defendant with decision making power. He said more important for the purposes of the closed session is that if you take action, that it is not discretionary for you to disclose that. He said the criterion for you to disclose your discussion involves weighing whether the disclosure or concealment is a greater benefit to the public. He said he questions whether this is something you need a closed session for anyway. (See Addendum for a summary of this comment submitted by the speaker.)

Ray Hartz, Director San Francisco Open Government, said his objection to this item is the placement on the agenda as the second item on the agenda. He said a couple of years ago he went to a Police Commission meeting where they stopped in the middle of an item and went into closed session for over 4 hours and by the time they came back the 20 members of the public who were forced to leave the chamber were no longer there and denied the opportunity to speak on the item that was interrupted. He said you could have done items 3 and 4 first and then gone into closed session and given the public the opportunity to speak without waiting for an undisclosed time that the Commission is in closed session.

Peter Warfield, Library Users Association, said there were excellent comments from the people who preceded him. He said it has often been the practice to put these closed session items last on the agenda. He said in the past the Library went into a closed session and when the court wanted to review the tape, it was lost. He said given the bad reputation and bad record on Sunshine issues of the Library, he hopes that you will record and not lose the tape and follow the requirements of the law in strictly adhering to the item at hand. He said you have three substantive items that you are not taking public comment on.

Commission Discussion

Commissioner Kane said he does not disagree with the public that these items should be agendized last on the agenda. He asked how long he thought the closed session would last.

Luis Herrera said it should be a reasonable amount of time something around an hour.

Commissioner Kane asked the Deputy City Attorney if this was agendized properly.

Alicia Cabrera, Deputy City Attorney, said this was agendized properly and that you only need one public comment time for this item.

Motion: By Commissioner Kane, seconded by Commissioner Munson, that, based on advice of counsel, to move to closed session pursuant to California Government Code Section 54956.9(a) and San Francisco Administrative Code Section 67.10(d)(1).

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

The Commission went into closed session at 4:52 pm.

The Commission was called back into open session at 6:05 pm.

Commissioners Present: Breyer, Gomez, Kane, Munson and Ono.

Commissioner Excused: Nguyen.

Commissioner Unexcused: Randlett.

Public Comment

An anonymous citizen said it was not announced that there would be public comment after the closed session. He said you announced that there would be only one public comment. He said he is grateful for the opportunity to remind you that I hope you will announce that there was no action, or there was in fact an action. He said he also hopes that you will mention that you properly weighed the disclosure or lack of disclosure by the benefit to the public. He said thank you for the opportunity to comment.

Motion: By Commissioner Kane, seconded by Commissioner Munson, that there was no action taken in the closed session and that the Commission not disclose any or all discussions held in closed session pursuant to San Francisco Administrative Code Section 67.12(a)).

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

AGENDA ITEM NO. 4 BOND PROGRAM MANAGER'S REPORT

Lena Chen, Bond Program Manager, said the approved budget is \$196,259,350 as of February 16, 2012. She said the North Beach branch design is 100% complete and the Bayview Branch is in construction. She showed photographs of the Bayview Branch construction. She showed design and site plans for the completed design for the North Beach branch.

Explanatory document: [Bond Programs Manager's Report](#); Current [Budget Report](#).

Public Comment

An anonymous citizen said the projects before you are substantially increased in scope and expense. He said he is grateful that the administration has brought to your attention the fact that there was a request before the Capital Planning Committee regarding a proposal to be approved by the Board of Supervisors. He said he was at that meeting and told the committee that there were a number of things being presented to them that had not been presented to the Library

Commission. He said he could make the same presentation to you, but there is no real contention that you would care. He said that proposal is going to the Board of Supervisors so it should be of crucial concern to you. (See Addendum for a summary of this comment submitted by the speaker.)

Joan Wood, North Beach resident said on March 12 notices were posted along the sidewalks of 701 Lombard Street, which is where the new library is hoped to be built on. She said the notices say there has been structural damage to the ficus trees and they will be removed and a small tree on the other side of Mason Street is growing wrong so it has to be removed as well. She said it seems very suspicious to those who are cynical of the workings of the City that this would come up at this time. She said in order to jam this huge library on the site of 701 Lombard Street you would need to remove those trees and she said, of course we are going to appeal to the Department of Urban Forestry.

Ray Hartz, Executive Director, San Francisco Open Government, said he is continually amazed that given some of the Commission's experience in finance that you can look at this and that it doesn't raise questions in your mind about what is going on. He said a few months ago the donations from the Friends showed \$1.4 Million and now we are up to whatever figure is being put out here. He said he can match up the contributions to the Department of Public Works, he said he cannot do that with the money that the Friends have given to the Library. He said in 2008-2009 the Friends gave the City Librarian \$35,000 for his discretionary fund. He said in 2009-2010 he was given \$36,000. He said there are no documents to show how that money was transferred to Mr. Herrera. He said there was another \$30,000 for public relations for each year. He said he has only been given what the Friends say they have given but there is nothing in the Library's records that shows what has been received.

Commission Discussion

Commissioner Ono asked about the issue relating to copper at the building site at Bayview.

Lena Chen, Bond Program Manager, said there is security at the site provided by the contractor.

Commissioner Breyer asked if the Bayview Branch is on budget.

Lena Chen, Bond Program Manager, said the Bayview Branch is on budget.

AGENDA ITEM NO. 4 APPROVAL OF THE MINUTES OF FEBRUARY 2, 2012

Public Comment

An anonymous citizen said some of his comments on the beginning of page 1 are correct regarding the private nature of the Friends and that you are among the victims, but it is not understandable without the context of the barriers to the Commission. He said on page 2, he expected Ray Hartz' comments to be distorted to make it look like he said something inappropriate and threatening. He said the minutes correctly reflect that Mr. Hartz was well within his First Amendment rights and that Jewelle Gomez had skewed the meaning. He said on the top of page 13 it should read "means" and not "mean." He said the comment is only comprehensible on the paper version, because on the internet version it is in the middle of page 13. He said at the end of the report are references to explanatory documents which are not available in the paper version and references are out of synch. (See Addendum for a summary of this comment submitted by the speaker.)

Ray Hartz, Director San Francisco Open Government, said a police report was filed based on his comments under agenda item number 2. He said he was visited at his home by inspectors from the Police Department. He said he is very interested in finding out who filed the report and what he was accused of, because he thinks they wasted the City's money over a constitutionally protected statement. He said he wrote a letter stating that it was nothing more than a cheap attempt at intimidation. He said he may choose to look at it as slander or libel because to accuse someone of a crime is a personal assault and filing a false police report. He said if citizens have to worry about what they say at a meeting and worry that the police might show up at the door, he would be a little worried but the Commission does not seem to be concerned.

Motion: By Commissioner Kane, seconded by Commissioner Munson, to approve the [Minutes of February 2, 2012](#).

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

AGENDA ITEM NO. 5. ADJOURNMENT

Public Comment

There was no public comment on this item.

Motion: By Commissioner Kane, seconded by Commissioner Munson to adjourn the regular meeting of March 15, 2012.

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

The meeting adjourned at 6:29 pm.

Sue Blackman
Commission Secretary

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

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

ADDENDUM

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

Item 1: General Public Comment

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

We will get back to assassination metaphors soon enough.

On the obligatory reporting to the California Attorney General, the Friends claim that they receive no support from the Library and receive no services or facilities of any value without charge in a five-year period.

The Friends collect books, conduct book sales, collect money, sell naming opportunities in branches and the bookstore rent is one dollar.

This disclosure is so anyone (like the Emperor-Has-No-Clothes) can compare what the library gives to the Friends with what the Library receives.

Responding to Commissioner Kane, your City Librarian said the Friends had reached 85-90% of their commitment to the BLIP. Updated figures show 32.3%. The City Librarian should be fired for this misrepresentation.

When Commissioner Kane asked for information on operations and expenses he expected an answer one year from now.

Item 2.a: Possible Closed Session Regarding North Beach Branch Library Litigation

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

Nothing has been more problematic for this Library Commission than closed sessions.

It is strange that you have three chances to vote, but the public only has one opportunity to comment.

During a previous lawsuit, the court agreed to in-camera review, and to protected yourselves, you claimed the tape was lost. That court ordered you to tape record your closed sessions, and presumably, losing the tape again will be regarded as suspicious.

This item does not show you as the sole party or with decision-making power.

It is not discretionary whether to disclosed action taken. The criterion for disclosure of your discussion is involves weighing the benefit to the public, not your benefit.

I question whether this is suitable for closed session anyway, since your strategy should be the subject of public discussion.

Item 2.d: Possible Closed Session Regarding North Beach Branch Library Litigation (Re Vote Whether to Disclose)

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

That is not what you announced. You announced that there would be only one public comment.

I am grateful for this opportunity to remind you that I hope you will announce that there was no action, or there was in fact an action. I also hope that you will mention that you properly weighed the disclosure or lack of disclosure by the benefit to the public.

Thank you for this opportunity to comment.

Item 3: Bond Program Manager's Report

Anonymous Citizen: Stop the Hate, Stop the Ignorance – Don't give or accept money from the Friends of the Library

Since the report was brief, I can be relatively brief as well.

You will see that the projects before you are substantially increased in scope and expense.

I am grateful that the administration has brought to your attention the fact that there was a request before the Capital Planning Committee regarding a proposal to be approved by the Board of Supervisors.

I was at that meeting and told the committee that there were a number of things presented to the committee that had not been presented to the Library Commission. I could make the same presentation to you, but there is no contention that you would care. Since it is going to the Supervisors it should be of crucial concern to you.

Item 4: Approval of the Minutes (February 2, 2012)

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

On page 1, some of it is correct regarding the private nature of the Friends and you being among the victim, but it is not understandable without the context of the barriers to the Commission.

On page 2, I expected Ray Hartz' comments to be distorted to make him inappropriate and threatening. The minutes correctly reflect that he was well within his First Amendment rights and Jewelle Gomez had skewed the meaning.

On top of page 13, should be "means" not "mean." That comment is only comprehensible on the paper version, because on the Internet version it is in the middle of page 13. The Internet version has links to explanatory documents that alter the pagination. This disenfranchises public that follows this on paper because there is no mention of the omissions and the references are out of synch.