

File No. N/A

SOTF Item No. 3
CAC Item No. _____

SUNSHINE ORDINANCE TASK FORCE
AGENDA PACKET CONTENTS LIST

Sunshine Ordinance Task Force

Date: July 11, 2012

Compliance and Amendments Committee

Date: _____

CAC/SOTF

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OTHER

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| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Jerry Threet, DCA, Majority Voting Requirement Advice</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Jan. 25, 2011 - Task Force Packet (Tom Owen, DCA, letter)</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Apr. 26, 2011 - Task Force Packet</u> |
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Completed by: Andrea Ausberry Date July 3, 2012
Completed by: _____ Date _____

*An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document is in the file.



Additional Advice re Majority Voting Requirement
Jerry Threat to: SOTF

06/28/2012 03:51 PM

Ms. Ausberry -

Please include this email in the packet for the agenda item regarding a change in the majority voting requirement for substantive issues.

Members -

Included in your agenda packet is a memoranda from Tom Owen of our office to the Sunshine Task Force from 2007, addressing the issue of whether the Task Force was subject to the requirements of Charter Section 4.104(b) regarding the majority voting requirement for taking substantive action. DCA Owens concluded, after thorough analysis, that the Task Force was subject to the requirements of that charter section. That section states that "the affirmative vote of a *majority of the members shall be required* for approval of any matter, and the body shall act by a majority . . . of all its *authorized members*." This has been the consistent advice of our office to the Task Force, including the advice I provided when the Task Force amended its bylaws last April, 2011 to allow it to take substantive action on a vote of the majority of members present.

During debate over this issue, some members of the Task Force and members of the public have suggested that, even if the Task Force is subject to the requirements of Section 4.104(b), those requirements may be met by a vote of a majority of the members present at a meeting, rather than a majority of the members authorized. This is inconsistent with the plain language of the charter section in question, as well as court precedent interpreting similar provisions. Therefore, Section 4.104(b) requires that any substantive action be approved by the vote of at least 6 members of the Task Force, a majority of the eleven voting seats authorized.

Charter Section 4.104(b) states, in relevant portion:

The presence of a majority of the members of an appointive board, commission or other unit of government shall constitute a quorum for the transaction of business by such body. [. . .] Unless otherwise required by this Charter, the affirmative vote of a majority of the members shall be required for the approval of any matter, except that the rules and regulations of the body may provide that, with respect to matters of procedure the body may act by the affirmative vote of a majority of the members present, so long as the members present constitute a quorum. All appointive boards, commissions or other units of government shall act by a majority, two-thirds, three-fourths or other vote of all members. Each member present at a regular or special meeting shall vote "yes" or "no" when a question is put, unless excused from voting by a motion adopted by a majority of the members present.

Section 4.104(b) requires that any substantive action be taken by "the affirmative vote of a *majority of the members shall be required* for approval of any matter, and the body shall act by a majority . . . of all its *authorized members*." Where this section intends that a majority of members *present* is sufficient, as with the number of members required to constitute a quorum or to take action on procedural matters, it clearly states this. This stands in contrast to the requirement that the affirmative vote of a majority of authorized members is required to take substantive action. Thus, the language of this section clearly requires an affirmative vote of 6 members of the Task Force to take substantive action.

The City Attorney's Office provided similar advice in Opinion 78-91, where it advised that a majority vote of 6 of the 11 members of the Board of Supervisors was necessary to fill a vacancy in the office of mayor caused by the assassination of Mayor Moscone, even though the number of Supervisors had been reduced by two, due to the assassination of Supervisor Milk and the resignation of Supervisor White. That opinion quoted 43 American Law Reports 2d 703 for the legal proposition that "the total original membership of the council has been held in numerous cases to be the base on which a determination

must be made as to whether a vote constitutes a majority. [. . .] The fact that some members [. . .] are absent at the time of the vote has been held not enough to vary the requirement that the necessary majority is that the full membership of the body."

Likewise, Opinion 78-91 cites *City of San Francisco v. Hazen* (1855) 5 Cal. 169, where the Court struck down ordinances passed by the Board of Supervisors that authorized the sale of certain real property owned by the City. The Court in that case stated that "[i]n construing statutes, force and effect should be given to every part of them. Thus, where a law is capable of two constructions, that one must be adopted which will preserve the sense, as well as the several parts, as of the whole Act." Employing this rule, the Court interpreted the charter in place at that time, which required that "no ordinance . . . shall be passed except by a majority of all the members elected." The Court decided that the word "elected" in that charter section must be given meaning to require a majority of all members, otherwise "the Board may be reduced to one member and he would be as competent to act as a full Board. Similarly, the term "authorized" in current charter Section 4.104(b) must be given meaning, lest it be considered redundant.

Thus, it is clear that, under section 4.104(b), any substantive action by the Task Force must be taken by the affirmative vote of 6 members.

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Date: Jan. 25, 2011

Item No. 1

File No. _____

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Presentation by Allen Grossman
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Completed by: Chris Rustom

Date: Jan. 21, 2011

***This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

** The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.

INTRODUCTION: SOTF MEETING QUORUM AND VOTING RULES

The public's rights of access to this City's public records and meetings were enhanced significantly with the its voters' adoption of the its Sunshine Ordinance over 10 years ago.

The single most important part of that law was the establishment of a unique body, the SOTF, as the quasi-judicial forum to resolve disputes between the public and the City officials, departments and agencies regarding open government matters, particularly access to public records. The SOTF affords the public a level playing field with expedited relief when these disputes arise; no need to file and pursue a lawsuit, necessary under state law without the SOTF.

Over the past few years the SOTF's ability to remedy violations and maintain that "level playing field" has been seriously compromised as a result of the City Attorney's advice regarding both minimum quorum and voting requirements.

When only six SOTF members attend a meeting - which has happened recently - the complainant will be denied access to records or the proper conduct of a meeting even if a five-member majority - 83% - vote "yes"; whereas, the respondent City department, official or agency will absolved by a single "yes" vote - 16.67%. Now, with only nine seats filled, the complainant will need no less a two-thirds majority.

Such a voting "rule" is manifestly unfair, untenable and cannot be justified under any appropriate standard. It is certainly contrary to the purposes of the constitutional and state law protections afforded the public for gaining access to public meetings and records.

The following Memorandum addresses in detail the three legal issues on which the City Attorney's advice was given and why, in my opinion, that advice, in each instance, was improper. In addition, it will show that, if the SOTF chooses to reject that advice on any of the three issues, the SOTF can adopt its own quorum and voting rules. This would put the complainant and the respondent on an equal footing on all disputes heard by the SOTF.

However, even if the City Attorney's advice on all three is correct, there is a partial but important solution involving disputes over disclosure of public records, which constitute most of the disputes heard by the SOTF. The proposal I made last month and repeat here effectively eliminates the egregious consequences of the existing voting procedure with respect to public records requests.

In short, the current SOTF voting procedure whether a requested record is disclosable should be reversed because under California law all public records are *presumptively* disclosable and the City's departments, officials and policy bodies have *the burden of establishing that a specific exemption from disclosure applies*. For that reason, a motion should not be for a determination of a "violation." Rather, the motion put to the vote should be for a determination that the specific exemption relied on by the respondent applies; and the burden of proving that exemption should rest on the respondent, not on the complainant to establish that it does not apply. Thus, in the case of the five to one vote that the complainant would now lose, the respondent would lose and be required to disclose the requested record, which is as it should be.

Respectfully Submitted,

Allen Grossman

MEMORANDUM

TO: SOTF MEMBERS
RE: SOTF MEETING QUORUM AND VOTING RULES
DATE: JANUARY 25, 2011

While the public statewide has constitutionally protected and state law rights to open government – access to public records and open meetings of state and local bodies - San Franciscans have expanded rights and protections from the San Francisco Sunshine Ordinance, a voter initiated and voted adopted law.

Probably the single most important one was the establishment of a unique body, the SOTF, as the quasi-judicial forum to resolve disputes between the public and the City officials, departments and agencies regarding open government matters.

The SOTF is designed to afford members of the public a level playing field with expedited relief when these disputes arise; no need to hire an attorney, file a lawsuit, take on the full might of the 200 lawyer city attorney's office or wait for the case to progress to a decision, all of which would be needed under the state laws without the SOTF.

That design is implemented in a number of ways:

- First, the SOTF is required to inform the petitioner of its determination whether the requested public record, is disclosable no more than 45 days from the time the petition is filed.
- Next, if the record is found disclosable, the SOTF must immediately order compliance; if the respondent fails to comply within five days the SOTF must to notify the district attorney or the attorney general to insure compliance.
- Lastly, throughout and prior to this entire procedure, The San Francisco City Attorney's office ...[can] 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.”

Thus, it is critical that the SOTF not be hamstrung by imposed rules or procedures that prevent it from expeditiously carrying out its mandated responsibility to serve as the public's "court".

Nonetheless, that is exactly what has happened over the past few years as the SOTF's ability to remedy these violations and its ability to maintain that "level playing field" has been seriously compromised as result of the City Attorney's advice. That advice on several issues raised both the minimum quorum requirement and the voting threshold the public must reach to prevail. This advice has been given, notwithstanding the City Attorney's obligation under Sunshine Ordinance

that the "his office "act to protect and secure the rights of the people of San Francisco to access public information and public meetings..."

When only six SOTF members attend a meeting - which has happened recently - the complainant will be denied access to records or the proper conduct of a meeting even if a five-member majority - 83% - vote "yes"; whereas, the respondent City department, official or agency will absolved by a single "yes" vote - 16.67%. Now, with only nine seats filled, the complainant will need no less a two-thirds majority.

That voting "rule" is manifestly unfair, untenable and cannot be justified under any appropriate standard. It is certainly contrary to the purposes of the constitutional and state law protections afforded the public for gaining access to public meetings and records.

What follows is my presentation of the contested legal issues and some suggested solutions. I will try to minimize the legal content of the explanations, although these issues are 100% legal in nature.

Three Basic Questions to be Answered.

Three questions need answers before a definitive conclusion can be reached on the quorum and voting rules to which the SOTF is subject or, alternatively, which it may adopt for itself. They are:

First, is the San Francisco Sunshine Ordinance a wholly independent stand-alone law not subject to the San Francisco City Charter?

If the answer is "No", then the SOTF can adopt its own quorum and voting rules without regard any provisions in the City Charter.

Second, if the answer is "yes", are there any specific provisions in the City Charter that govern the SOTF quorum and voting procedures?

If the answer is "no", then the SOTF can adopt its own quorum and voting rules without regard any provisions in the City Charter

Third, if the answer is "yes", which ones are they and how should those rules be followed by the SOTF in its quorum and voting procedures?

The first question: Is the San Francisco Sunshine Ordinance a wholly independent stand-alone law not subject to the San Francisco City Charter?

Under the Brown Act:

A **meeting** is "... any congregation of a **majority of the members of a legislative body** at the same time and location, including teleconference location, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body. [§54952.2(a)] and

Action taken at a meeting is"... a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or **an actual vote by a majority**

of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance. [§54952.6]

The common rule is that a majority of the members of the body physically present constitute a quorum and the decision of a majority of those present constitutes action taken. There is nothing in the Brown Act that specifically negates that this rule when determining what constitutes a meeting and what constitutes action taken.

The Oakland Ethics Commission so states that in its digest of its own Sunshine Ordinance in the following quotation from its website:

“The Brown Act and Sunshine Ordinance do not expressly state how a public meeting must be conducted. There are issues that may arise at a public meeting however, that may affect whether the meeting complies with open meeting laws after the meeting begins.

“The following is a brief summary of those issues:

“Presence of a Quorum. □Unless otherwise provided in the city ordinance or resolution creating the local body, a majority of the members typically constitutes the quorum. A quorum is necessary before the local body can take any formal action; **a majority of a quorum is required to take action on behalf of the local body.** (Emphasis added.)

If that is the case under State law, the City Charter provision relied in by the City Attorney requiring a super majority is inapplicable under the Brown Act’s quorum and voting rules when fewer than all 11 members attend a SOTF meeting or when SOTF seats are vacant; thus, the SOTF meetings can be conducted by quorum and voting rules that it adopts consistent with its purposes and by Robert’s Rules of Order [SOTF By-Laws §5(a)].

However, the City Attorney is on record that the City Charter always “trumps” the San Francisco Sunshine Ordinance. For example:

- In a 2008 Memorandum, Paula Jesson, the Deputy City Attorney, acting in the capacity of the Supervisor of Records under Section 67.21(d) of the Sunshine Ordinance, wrote:

“In your email, you cite Section 67.36 of the Sunshine Ordinance, which states that the Ordinance “supersedes other local laws,” and you note that the Charter is local law too. **However, an ordinance cannot trump the Charter, which is the supreme local law...**”[Citations and quotations from cited cases omitted.)

- In his January 4, 2011 Memorandum to the SOTF regarding case # 10057, DCA Threet stated:

“Put simply, ... **Where an ordinance and the Charter are in conflict, the Charter must prevail.** (citation omitted) The Controller therefore cannot be prohibited by the Sunshine Ordinance from asserting this exemption.”

The full supremacy provision is clear and to the point: "The provisions of this Sunshine Ordinance supersede other local laws. Whenever a conflict in local law is identified, the requirement which would result in greater or more expedited public access to public information shall apply."

As some members know, my answer to the first question is "yes" because (1) the "supremacy" provision is effective and the Sunshine Ordinance is the operative law when there is a conflict with the City Charter and (2) in any case, the two State laws, the Brown Act and the CPRA, coupled with the authority that each law gives local agencies to expand public meeting and records access preempts those fields from any restrictive regulation by the local agency; the so-called "preemption" doctrine.

To my knowledge the City Attorney has never undertaken an honest in-depth analysis of these two issues: (a) whether the City Charter is, in fact, the "trumping" law, given that the San Francisco Sunshine Ordinance was a voter initiated and adopted law containing a supremacy provision superseding the City Charter when a conflict exists or (b) even if the SOTF is subject to the City Charter, whether the preemption doctrine prevents the Charter from imposing any restrictions on the SOTF, its expanded access to public meetings and records, its functions or its procedures.

The SOTF, as a body, can either accept the City Attorney's legal advice - by how many votes? - and not pursue the trumping issue any further; or it can reject the City Attorney's legal advice and adopt a set of rules that conform to the norm; i.e., a majority of filled seats constitute a quorum for a meeting and the vote of majority of that quorum constitutes action taken.

The second question: If the answer is "yes" - the Charter does "trump" the San Francisco Sunshine Ordinance - the only relevant section of the City Charter that could govern the SOTF quorum and voting procedures is Section 4.104(b), which provides, in part:

"The presence of a majority of the members of an appointive board, commission or other unit of government shall constitute a quorum for the transaction of business by such body. ... Unless otherwise required by this Charter, the affirmative vote of a majority of the members shall be required for the approval of any matter. All appointive boards, commissions or other units of government shall act by a majority, two-thirds, three-fourths or other vote of all members. ..."

The City Attorney's advice is found in DCA Thomas J. Owen's May 21, 2007 Memorandum:

"Since the Sunshine Ordinance Task Force is an "appointive board, commission or other unit of government" within the meaning of Charter Section 4.104(b), it is subject to the requirements that:

"(1) A quorum shall consist of the presence of a majority of the members of an appointive board, commission or other unit of government;

"(2) Unless the Charter requires otherwise, the affirmative vote of a majority of the members shall be required for the approval of any matter, and the body shall act by a majority, two-thirds, three-fourths or other vote of all of its **authorized** members; ...

“Therefore, the Task Force may not amend its by-laws to allow a majority of members present at a meeting - rather than a majority of the full-authorized membership of the Task Force-to make substantive decisions.” (Emphasis added.)

Whether or not §4.14(b) applies to the SOTF, the word “authorized” in Mr. Owen’s conclusion (2) is not found in §4.104(b) – a significant addition when there are vacant seats, as there have been on the SOTF for some months.

On the broader question, my answer is “no.” My opinion is that even if the City Charter “trumps” the Sunshine Ordinance Task Force, §4.104(b) does not apply to the SOTF. To be subject to §4.104(b) requirement, the SOTF must first be governed by Section 4.100 of Article IV:

“In addition to the office of the Mayor, the executive branch of the City and County shall be composed of departments, appointive boards, commissions and other units of government. To the extent law permits, each appointive board, commission, or other unit of government of the City and County established by state or federal law shall be subject to the provisions of this Article and this Charter.”

The SOTF is not part of the “executive branch,” the head of which is the Mayor. It is a *unique* autonomous body created by the voter-initiated and adopted Sunshine Ordinance, and its powers, functions and operations are governed solely by that ordinance. For that reason, many provisions of Article IV do not and could not apply to the SOTF, particularly those in Section 4.102, which imposes certain duties on each “appointive board, commissions other unit of government.” Some of those duties are directly contrary to provisions in the Sunshine Ordinance pertaining to the SOTF, its relationship to the Mayor and its specific functions.

For example, under §4.102, the SOTF would be required to: (1) formulate and approve plans and programs and set policies consistent with the overall City and County objectives, **as established by the Mayor**, (2) develop an Annual Statement of Purpose outlining its areas of jurisdiction and goals, **subject to review and approval by the Mayor**, (3) approve applicable departmental budgets, (4) **submit to the Mayor** at least three qualified applicants, ... for the position of department head, (5) **failure to act on the Mayor's recommendation for removal of a department head... and constitutes official misconduct**, (6) **exercise such other ...duties** as shall be prescribed by the **Board of Supervisors** and (7) deal with administrative matters solely through the department head **and any interference herein prohibited on the part of any member shall constitute official misconduct.** (Emphasis added.)

The SOTF, as a body, can either accept the City Attorney’s legal advice - by how many votes? - and not pursue the six-vote minimum requirement any further or it can reject the City Attorney’s legal advice and adopt a set of rules that conform to the norm; i.e., a majority of filled seats constitute a quorum for a meeting and the vote of majority of that quorum constitutes action taken.

The Third Question: If the answer is “yes” - that the SOTF quorum and voting procedures are governed by Charter §4.104(b) - how should those rules be followed by the SOTF in its quorum and voting procedures? In deciding that question, one must also take into account, DCA Threet’s advice that in determining the number of SOTF members for purposes of §4.104(b), vacant seats are counted.

As noted above, the combination of requiring at least six votes in favor of a complainant's claim of a violation, plus the fact that there is an automatic "no" for each absent member and, currently, two more "nos" because two seats are vacant is simply not acceptable.

In my recent Memorandum to the SOTF members, my conclusions were that the requirements that a motion to find a "violation" and the complainant prove a "violation" when the dispute is whether a public record is exempt from disclosure were unnecessary. Rather, the motion should be for a "determination" whether the specific exemption relied on by the respondent applies; and the burden of carrying that burden forward should rest on the respondent, rather than requiring the complainant to establish the negative, that the claimed exemption does not apply.

In its simplest terms, the complainant would assert that the respondent has refused to provide the requested public records. The respondent would then cite the particular exemption that it claims applies to those records. At the hearing, the respondent would speak to the exemption issue first and the complainant would rebut the respondent's argument. The motion to be voted on would be "Does the claimed exemption apply to the requested records." To prevail the respondent would need at least six "yes" votes. Once this procedure was adopted, the playing field would be leveled and there would be no need to dispute the advice from the City Attorney's office on the voting issue.

However, there remain the other instances when the Sunshine Ordinance provisions are inconsistent or incompatible with those in the Charter, such the six-vote minimum, and those too will have to be addressed. For that reason, I have this final suggestion:

The SOTF should seek out an independent national law firm (with an office in San Francisco) to review the basic questions on a *pro bono* basis and give its opinion either way.

CITY AND COUNTY OF SAN FRANCISCO



DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

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Deputy City Attorney

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MEMORANDUM

TO: Honorable Members
Sunshine Ordinance Task Force

FROM: Thomas J. Owen
Deputy City Attorney

DATE: May 21, 2007

RE: Application of Charter Section 4.104 to the Sunshine Ordinance Task Force

QUESTION PRESENTED

Is the Sunshine Ordinance Task Force ("Task Force") subject to the requirements of Charter Section 4.104 that:

- (1) A quorum shall consist of the presence of a majority of the members of an appointive board, commission or other unit of government;
- (2) The affirmative vote of a majority of the members shall be required for the approval of any matter, and the body shall act by a majority, two-thirds, three-fourths or other vote of all of its authorized members; and
- (3) Each member present at a regular or special meeting shall vote "yes" or "no" when a question is put, unless excused from voting by a motion adopted by a majority of the members present?

SHORT ANSWER

Yes, the Task Force is an "appointive board, commission or other unit of government" subject to the provisions of Charter Section 4.104.

TO: Honorable Members
Sunshine Ordinance Task Force
DATE: May 21, 2007
PAGE: 2
RE: Application of Charter Section 4.104 to the Sunshine Ordinance Task Force

BACKGROUND

The Sunshine Ordinance Task Force is considering an amendment to its by-laws that would allow a majority of members present at a meeting to make substantive decisions on behalf of the Task Force, so long as a quorum of the Task Force was present. The Task Force is considering this amendment as an alternative to the current rule requiring a majority vote of the full authorized membership of the Task Force in order to adopt a substantive proposal, as provided in Charter Section 4.104(b). The Task Force has asked for advice on whether it is subject to the requirements of Section 4.104(b).

The Sunshine Ordinance Task Force. Section 67.30 of the San Francisco Administrative Code creates a Sunshine Ordinance Task Force. The Task Force consists of eleven voting members appointed by the Board of Supervisors. The Mayor or his or her designee, and the Clerk of the Board of Supervisors or his or her designee, serve as non-voting members of the task force.

The Task Force is more than an advisory body to the Board of Supervisors. As the Sunshine Ordinance itself states, "Only a strong Open Government and Sunshine Ordinance, **enforced by a strong Sunshine Ordinance Task Force**, can protect the public's interest in open government." (SF Admin. Code § 67.1(e.)¹)

The Task Force is responsible for advising the Board of Supervisors, but it is also charged with providing information to other City departments on appropriate ways in which to implement Chapter 67 of the Administrative Code, the Sunshine Ordinance ("Ordinance"). (§ 67.30(c).) The Task Force is charged with developing appropriate goals to ensure practical and timely implementation of the Sunshine Ordinance, and with proposing appropriate amendments to the Board of Supervisors. (*Id.*) The Task Force shall, from time to time as it sees fit, issue public reports evaluating compliance with the Ordinance and related California laws by the City or any department, office, or official thereof; it must report to the Board of Supervisors at least once annually on any practical or policy problems encountered in the administration of the Ordinance. (*Id.*)

The Task Force must hear and decide appeals from persons who claim that they have been wrongfully denied access to public records. (§ 67.21(e).)

¹ All subsequent citations shall be to the San Francisco Administrative Code, unless otherwise indicated.

TO: Honorable Members
Sunshine Ordinance Task Force
DATE: May 21, 2007
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RE: Application of Charter Section 4.104 to the Sunshine Ordinance Task Force

In addition to the power specified above, the Task Force possesses such powers as the Board of Supervisors may confer upon it by ordinance or as the People of San Francisco shall confer upon it by initiative. (*Id.*) Administrative Code Chapter 12L authorizes the Task Force to issue advisory opinions regarding compliance with the Chapter to persons seeking access to financial information from non-profit organizations doing business with the City. (§ 12L.5(b).)

The Administrative Code specifically identifies members of the Task Force as "officers of the City and County." (§ 1.50.) Members are eligible to participate in the City's Health Service System under Administrative Code Section 16.700(c)(37).

Charter Section 4.104. Charter Section 4.104 includes three subsections. Subsection (a) addresses some of the powers and duties of "executive branch" boards and commissions:

Unless otherwise provided in this Charter, ***each appointive board, commission or other unit of government of the executive branch*** of the City and County shall:

1. Adopt rules and regulations consistent with this Charter and ordinances of the City and County. No rule or regulation shall be adopted, amended or repealed, without a public hearing. At least ten days' public notice shall be given for such public hearing. All such rules and regulations shall be filed with the Clerk of the Board of Supervisors.
2. Hold meetings open to the public and encourage the participation of interested persons. Except for the actions taken at closed sessions, any action taken at other than a public meeting shall be void. Closed sessions may be held in accordance with applicable state statutes and ordinances of the Board of Supervisors.
3. Keep a record of the proceedings of each regular or special meeting. Such record shall indicate how each member voted on each question. These records, except as may be limited by state law or ordinance, shall be available for public inspection. [Emphasis added.]

Subsection (b) of Section 4.104 addresses quorum and voting requirements for multi-member bodies "or other unit[s] of [City] government":

TO: Honorable Members
Sunshine Ordinance Task Force
DATE: May 21, 2007
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RE: Application of Charter Section 4.104 to the Sunshine Ordinance Task Force

The presence of a majority of the members of ***an appointive board, commission or other unit of government*** shall constitute a quorum for the transaction of business by such body. Unless otherwise required by this Charter, the **affirmative vote of a majority of the members** shall be required for the approval of any matter, except that the rules and regulations of the body may provide that, with respect to matters of procedure the body may act by the affirmative vote of a majority of the members present, so long as the members present constitute a quorum. All appointive boards, commissions or other units of government shall act by a majority, two-thirds, three-fourths or other vote of all members. Each member present at a regular or special meeting shall vote "yes" or "no" when a question is put, unless excused from voting by a motion adopted by a majority of the members present. [Emphasis added.]

(Subsection (c) of Section 4.104, not as issue in this analysis, requires the Board of Supervisors to provide by ordinance for parental leave policies for members of "appointive boards, commissions or other units of government, . . .")

This memorandum addresses the question whether Section 4.104(b) applies to the Sunshine Ordinance Task Force.

ANALYSIS

Section 4.104(a) applies to "each appointive board, commission or other unit of government of the executive branch." But Section 4.104(b) is not specifically limited to the "executive branch." It addresses any "appointive board, commission or other unit of government." (See also SF Charter § 4.102 [also addressed to the executive branch]; cf. SF Charter § 4.101 [addressing "each appointive board, commission or advisory body of any kind established by this Charter or legislative act of the United States of America, the State of California or the Board of Supervisors"].) It is a well-recognized principle of statutory construction that when the legislature (or here, the electorate) has carefully employed a term in one place and has excluded it in another, that term should not be implied where it was excluded. (*Brown v. Kelly Broadcasting Co.* (1989) 48 Cal.3d 711, 725.) While the Task Force is not specifically named a "board" or "commission", it clearly falls within the same class of entities—it is a formally-established, multi-member body existing as part of City government to conduct City business or otherwise exercise part of the City's sovereign power.

TO: Honorable Members
Sunshine Ordinance Task Force

DATE: May 21, 2007

PAGE: 5

RE: Application of Charter Section 4.104 to the Sunshine Ordinance Task Force

As described above, the Task Force does not simply advise the Board of Supervisors. The Task Force has a larger role in helping enforce the Sunshine Ordinance. (§ 67.1(e).) It hears and decides appeals filed by citizens who feel that a City officer or department has unlawfully refused to produce a particular document or documents. (§ 67.21(e).) It provides information to all other City departments on appropriate ways to implement the Sunshine Ordinance. (§ 67.30(c).) It develops goals to ensure practical and timely implementation of the Sunshine Ordinance, and may propose appropriate amendments to the Ordinance to the Board of Supervisors. (*Id.*) It monitors and reports on City compliance with the Ordinance and related California laws. (*Id.*) In addition, the Task Force is authorized to issue advisory opinions regarding compliance with Administrative Code Chapter 12L. (§ 12L.5(b).)

In carrying out these duties, the Task Force conducts City business and exercises part of the City's sovereign powers. It plays an active role in the ongoing implementation and enforcement of a City ordinance, both as to application of the existing law to particular facts and circumstances and as to the development and broader interpretation of the law. The Task Force accepts and hears complaints from the citizenry at large, addressing the conduct of any City department insofar as compliance with the Sunshine Ordinance is concerned. It is not subject to the direct oversight of any other City officer or agency.

It is noteworthy in this context that members of the Task Force are specifically identified as "officers of the City and County" in Administrative Code Section 1.50. A public office is ordinarily and generally defined to be the right, authority, and duty, created and conferred by law, the tenure of which is not transient, occasional, or incidental, by which for a given period an individual is invested with power to perform a public function for the benefit of the public. (*Dibb v. County of San Diego* (1994) 8 Cal.4th 1200, 1212.) The most general characteristic of a public officer, which distinguishes him from a mere employee, is that a public duty is delegated and entrusted to the officer, as agent, the performance of which is an exercise of a part of the governmental functions of the particular political unit for which the officer, as agent, is acting. (*Id.*) Two elements are almost universally regarded as essential to a determination of whether one is a 'public officer: First, a tenure of office that is not transient, occasional or incidental, but is of such a nature that the office itself is an entity in which incumbents succeed one another, and, second, the delegation to the officer of some portion of the sovereign functions of government, either legislative, executive, or judicial. (*Id.*; internal quotations and citations omitted.)

TO: Honorable Members
Sunshine Ordinance Task Force
DATE: May 21, 2007
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RE: Application of Charter Section 4.104 to the Sunshine Ordinance Task Force

In *Dibb*, the court concluded that members of a county's "civilian law enforcement review board" were public or county officers because they were delegated the duty to hold hearings, administer oaths and issue subpoenas, all in order to investigate, on behalf of the board of supervisors, complaints about the official conduct of employees of the county sheriff's and probation departments. (*Id.*) This authorization of investigative power satisfied the requirement that the members exercise "some portion of the sovereign functions of government" or "part of the governmental functions" of the county in order to qualify as public officers. (*Id.*) "Accordingly, we conclude that members of the CLERB possess the essential attributes of county officers: They are appointed under the law for a fixed term of office and are delegated a public duty to investigate specified citizen complaints against county sheriff and probation department employees, and to make recommendations to the board of supervisors." (*Id.*)

The Sunshine Ordinance Task Force is created in writing and by law as a permanent, on-going body. (§ 67.30(a).) Members are appointed to fixed terms and incumbents succeed one another. (§ 67.30(b).) As part of their duties, they investigate and consider, on behalf of the City, citizen complaints against City departments in general regarding compliance with the Sunshine Ordinance and may make recommendations to other City officials regarding further enforcement. (§ 67.30(c).) Under the analysis in *Dibb*, members of the Task Force are public officers and exercise "some portion of the sovereign functions of government" or "part of the governmental functions" of the City.

Given the responsibilities of the Sunshine Ordinance Task Force and the status of its members as City officers, we conclude that the Task Force is an "appointive board, commission or other unit of government " within the meaning of subsection (b) of Charter Section 4.104.

CONCLUSION

Since the Sunshine Ordinance Task Force is an "appointive board, commission or other unit of government " within the meaning of Charter Section 4.104(b), it is subject to the requirements that:

- (1) A quorum shall consist of the presence of a majority of the members of an appointive board, commission or other unit of government;

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- (2) Unless the Charter requires otherwise, the affirmative vote of a majority of the members shall be required for the approval of any matter, and the body shall act by a majority, two-thirds, three-fourths or other vote of all of its authorized members; and
- (3) Each member present at a regular or special meeting shall vote "yes" or "no" when a question is put, unless excused from voting by a motion adopted by a majority of the members present.

Therefore, the Task Force may not amend its by-laws to allow a majority of members present at a meeting—rather than a majority of the full-authorized membership of the Task Force—to make substantive decisions.

cc: Ernie Llorente

Date: April 26, 2011

Item No. 1

File No. _____

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Rules Committee recommendation**
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

Completed by: Chris Rustom

Date: April 22, 2011

***This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

** The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.



"David Snyder"
<DSnyder@sheppardmullin.com>

04/19/2011 11:11 AM

To <sotf@sfgov.org>

cc

bcc

Subject FW: 'Majority vote' definition

Chris,

Could you please include this email in the packet for the April 26 regular meeting? Thank you.

In response to Rick's request of March 23 (see email below), I have put together some thoughts about the Rules Committee's proposal to change the Sunshine Ordinance Task Force bylines to redefine "majority vote."

I have reviewed the May 21, 2007 memorandum by Deputy City Attorney Thomas J. Owen; the December 7, 2010 and January 21, 2011 memoranda by Allen Grossman, and the February 14, 2011 report by Bruce Wolfe, all regarding the "majority vote" rule(s) of San Francisco City Charter Section 4.104.

I have not conducted any independent legal research, other than reviewing the pertinent Sunshine Ordinance and City Charter provisions. What follows is therefore an opinion based solely on my reading of the analyses noted above. I believe that to fully investigate this issue would take a considerable amount of time.

As a policy matter and a personal preference, I dislike the "majority vote" rule in the San Francisco City Charter as it has been applied by the Sunshine Ordinance Task Force. I think it can and has lead to nonsensical results. However, I have seen nothing in the analyses I have read to suggest that DCA Owen's analysis is incorrect as a matter of law. As much as I would personally like the rule to be different, I do not see a principled or credible way to avoid it. It is my view -- again, based solely on my reading of the above-noted analyses -- that a) the SOTF is subject as a general matter to the provisions of the City Charter; b) the SOTF is subject to Charter Section 4.104, and c) the interpretation of 4.104 which the City Attorney has espoused is legally correct.

Based on these three conclusions, I must come -- to my personal regret -- to the conclusion that DCA Owen's legal conclusions are sound, and that the rule as it has been interpreted is correct under the City Charter.

Sincerely,

David

David Snyder
Four Embarcadero Center
17th Floor
San Francisco, CA 94111

DSnyder@sheppardmullin.com
Direct: 415.774.3117
Fax: 415.403.6240

Circular 230 Notice: In accordance with Treasury Regulations we notify you that any tax advice given herein (or in any attachments) is not intended or written to be used, and cannot be used by any taxpayer, for the purpose of (i) avoiding tax penalties or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein (or in any attachments).

Attention: This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

From: Richard Knee [mailto:rak0408@earthlink.net]
Sent: Wednesday, March 23, 2011 1:27 PM
To: David Snyder
Cc: SOTF@SFGov.org; SFCityAtty_Threet Jerry
Subject: 'Majority vote' definition

David,

The SOTF Rules Committee is recommending a bylaws change to redefine "majority vote" on substantive matters as 50%+1 of the members present at a meeting.

Since you are our voting-member attorney, your input on this will be extremely important. Accordingly, I strongly encourage you to submit your thoughts on the matter to Chris Rustom by Tuesday, April 19, for inclusion in the information packet for the April 26 regular meeting.

Please do NOT communicate your thoughts on the matter directly to me or any other SOTF member, in order to avoid seriatim violation.

Thanks,
Rick

C: Chris Rustom, Jerry Threet



Richard Knee
<rak0408@earthlink.net>
04/17/2011 12:41 PM

To SOTF@SFGov.org
cc
bcc
Subject Fwd: Re: 'Majority' vote (one more time) – CORRECTION

Chris,

If there is still time to include the e-mail chain below in the information packet for the April 26 (not April 21) meeting, please do so. Otherwise, please print it out and distribute to SOTF members and public attendees at the meeting.

Thanks,
Rick

----- Original Message -----

Subject: Re: 'Majority' vote (one more time)
Date: Fri, 15 Apr 2011 16:39:13 -0700
From: Terry <terry@calaware.org>
To: Peter Scheer <pscheer@earthlink.net>
CC: Richard A. Knee <rak0408@earthlink.net>

No, I agree there's no legal bar to a procedural standard adopted to govern the decisional process of an essentially advisory body in municipal government. It forecloses no one's rights and, if proven unworkable or fraught with unforeseen problems, can always be tuned back to another rule.

On Apr 15, 2011, at 4:27 PM, Peter Scheer wrote:

> Rick,
>
> I don't see why not. It's a policy choice. Your current policy assures a near-consensus for all substantive actions. The new policy allows action to be taken by a minority of all members, but also makes it harder for a dissenting minority to block action (simply by not attending, like the Democrats in the Wisconsin legislature).
>
> These governance choices are not addressed by the Brown Act. I'm not aware of other laws that might impose quorum/majority requirements.
>
> Let's run this by Terry and see if he knows of anything that could restrict your choices.--Peter

>
>
>

-
> Peter Scheer, Executive Director
> FIRST AMENDMENT COALITION
> 534 4th St., Suite B
> San Rafael, CA 94901
> 415.460.5060 / 415.886.7081 (direct)
> pscheer@firstamendmentcoalition.org
> <http://www.firstamendmentcoalition.org>
>

-
> Defending freedom of speech and the public's right
> to know. Please support our work: <http://bit.ly/dy0dEI>
>

-

>
> On Apr 15, 2011, at 3:06 PM, Richard Knee wrote:
>
> SF Sunshine Ordinance Task Force will soon weigh a proposed
bylaw that would establish a "majority" vote on substantive
matters as 50%+1 of those attending a meeting, as long as a
quorum is present.
>
> The Task Force has 11 seats, meaning a quorum is 6 or more, and
the rule we've always followed is that 6 or more votes are
required to approve a motion on a substantive matter --
regardless of whether any seats are vacant and whether 9 or fewer
members are at a meeting.
>
> Under the proposed bylaw, the number of votes required for
approval would be 4 if only 6 or 7 members were present, and 5 if
8 or 9 members were present.
>
> Would that pass legal muster?
>
> Thanks,
> Rick
>

SAN FRANCISCO SUNSHINE ORDINANCE TASK FORCE

BY-LAWS

Article I – Name and Purpose

Section 1. Name

The name of this Task Force shall be the Sunshine Ordinance Task Force.

Section 2. Purpose

The Sunshine Ordinance Task Force is established by Chapter 67 of the San Francisco Administrative Code. The Task Force shall protect the public's interest in open government and shall carry out the duties enumerated in Chapter 67 of the San Francisco Administrative Code.

ARTICLE II – OFFICERS

Section 1. Officers

The Officers of this Task Force shall be a Chair and a Vice Chair.

Section 2. Terms of Office

The Officers shall hold offices for one year and until their successors are elected.

Section 3. Election of Officers

The Officers shall be elected at the first regular meeting of the Task Force held on or before July 1 of each year, or at a subsequent meeting, the date of which shall be fixed by the Task Force at the first regular meeting on or after July 1 of each year. If any Task Force office becomes vacant, that office shall be filled at the first meeting after the vacancy occurs.

ARTICLE III – DUTIES OF OFFICERS

Section 1. Duties of the Chair

The Chair shall preside at all meetings of the Task Force. The Chair, working with members of the Task Force and the staff, shall oversee the preparation and distribution of the agenda for the Task Force meetings. The Chair shall appoint all Committees and their chairs and shall perform all other duties as prescribed by the Task Force or by the By-Laws which are necessary or incident to the office. The Chair of the Task Force shall encourage Task Force members to participate on committees and shall ensure broad and diverse representation of Task Force members on all committees.

Section 2. Duties of the Vice Chair

In the event of the absence, or inability of the Chair to act, the Vice Chair shall preside at the meetings and perform the duties of the Chair. In the event of the absence of the Chair and the Vice Chair, the remaining Task Force members shall appoint one of the members to act temporarily as Chair.

ARTICLE IV – MEETINGS

Section 1. Regular Meetings

Regular meetings of the Task Force shall be held on the fourth Tuesday of the month at 4:00 p.m. at City Hall, 1 Dr. Carlton B. Goodlett Place, Room 408, San Francisco, California.

Section 2. Special Meetings

The Chair or a majority of the members of the Task Force may call special meetings.

Section 3. Notice of Meetings

The agendas of all regular meetings and notices and agendas of all special meetings shall be posted on the Task Force web site, at the meeting site, the San Francisco Main Library, Government Information Center and the office of the Task Force. Agendas and notices shall be mailed to each Task Force member and any person who files a written request for such notice with the Task Force.

Section 4. Cancellation of Meetings

The Chair may cancel a meeting if she or he is informed by the Task Force Administrator that a quorum of the body will not be present or if the meeting date conflicts with a holiday or other responsibilities of the Task Force members. Notices of cancellation shall be posted on the Task Force web site, at the meeting site, the San Francisco Main Library, Government Information Center, and the office of the Task Force. If time permits, notices of meeting cancellations shall be mailed to all members of the public who have requested, in writing, to receive notices and agendas of Task Force meetings.

Section 5. Conduct of Meetings

(a) All Task Force meetings shall be conducted in compliance with all applicable laws, including but not limited to the Ralph M. Brown Act (Government Code Section 54950 et. seq.), the San Francisco Sunshine Ordinance (San Francisco Administrative Code, Chapter 67) and the Task Force's By-Laws. Except where state or local laws or other rules provide to the contrary, meetings shall be governed by Robert's Rules of Order.

(b) Subject to the availability of funds, the Task Force shall comply with the provisions of the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) that apply to Charter boards and commissions.

(c) When a member of the Task Force desires to address the Task Force, she or he shall seek recognition by addressing the Chair, and when recognized, shall proceed to speak. The member shall confine her or his comments or remarks to the question before the Task Force.

(d) Cell phones and pagers shall be turned off during meetings of the Task Force. The Chair may issue a warning to any member of the public whose pager or cell phone disrupts the Task Force meeting. In the event of repeated disruptions caused by pagers and cell phones, the Chair shall direct the offending member of the public to leave the meeting.

Section 6. Setting Agendas

The Task Force Administrator, at the direction of the Chair, shall prepare the agenda for meetings. The agenda for all regular meetings shall contain an item during which Task Force members may request items for the Task Force to consider at future meetings.

Section 7. Action at a Meeting; Quorum and Required Vote

The presence of a majority of the members (six members) of the Task Force shall constitute a quorum for all purposes. The affirmative vote of a majority of the members of the Task Force present (~~six votes~~) shall be required for the approval of all substantive matters. Procedural motions require an affirmative vote of a majority of the members present. If a quorum is not present, no official action may be taken, except roll call and adjournment.

Section 8. Voting and Abstention

Task Force members must be present to vote and participate. Teleconference participation is permitted as provided by Section 4.104 of the Charter. Each member present at a Task Force meeting shall vote "Yes" or "No" when a question is put, unless the member is excused from voting on a matter by a motion adopted by a majority of the members present or the member has a conflict of interest that legally precludes participation in the discussion and vote. The Task Force shall take action on items on the agenda by roll call, voice vote or by show of hands. The minutes shall reflect how each Task Force member voted on each item.

Section 9. Order of Business

The order of business at Task Force meetings may be:

- Call to Order
- Roll Call
- Approval of Meeting Minutes
- Hearings on the Jurisdiction and Hearing on the merits of Complaints
- Committee Reports
- Other Policy Matters
- Administrator's Report
- Future Agenda Items

The order of items on the agenda may be changed by action of the Task Force at any meeting. Public comment shall be specially set as the first new item considered after 5:00 p.m.

Section 10. Hearing Procedures for Complaints

The Complaint Committee and the full Task Force hearing complaints shall follow the following procedures.

1. Complainant presents his/her facts and evidence. (5 minutes)

- Other parties of Complainant present facts and evidence. (Up to 3 minutes each)
- 2. City responds. (5 minutes)
Other parties of City respond. (Up to 3 minutes each)
(The above total speaking times for Complainant and City to be the same.)
- 3. Matter is with the Task Force for discussion and questions to parties.
- 4. Respondent and Complainant present clarification/rebuttal based on Task Force discussions. (3 minutes)
- 5. Matter is with the Task Force for motion and deliberation.
- 6. Public Comment (Excluding Complainant and City response and witnesses.)
- 7. Vote by the Task Force (Public comment at the discretion of the Chair on each motion and/or new motion if vote fails.)

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

Section 11. Public Comment

Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. 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. [§67.16]

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. [§67.7-1 (c)]

The Task Force and all committees of the Task Force shall hold meetings open to the public in full compliance with state and local laws. The Task Force encourages the participation of all interested persons. Members of the public may address the Task Force on any matter within the subject matter jurisdiction of the Task Force for up to three minutes during public comment. The Chair may limit the time permitted for public comment consistent with state and local laws.

Section 12. Public Testimony

The Task Force and all committees of the Task Force shall hold meetings open to the public in full compliance with state and local laws. The Task Force encourages the participation of all interested persons. Members of the public may comment on every item on the Task Force agenda. Each person wishing to speak on an item before the Task Force shall be permitted to be heard once for up to three minutes.

ARTICLE V -- TASK FORCE RECORDS

Section 1. Minutes

Minutes shall be taken at every regular and special Task Force meeting and shall comply with the provisions of the San Francisco Sunshine Ordinance, including the provisions that apply to Charter boards and commissions. (See San Francisco Administrative Code, Chapter 67.16) Minutes shall be approved by the majority vote of the Task Force. In the event a committee does not meet for a period of six months after

its last meeting the minutes of that meeting shall be agendized at the full Task Force for review and approval.

Section 2. Public Review File

The Task Force shall maintain a public review file in compliance with the San Francisco Sunshine Ordinance. [See San Francisco Administrative Code, Section 67.23.]

Section 3. Records Retention Policy

The Task Force shall prepare, maintain and adopt a records retention and destruction policy as provided in Section 8.3 of the San Francisco Administrative Code.

Section 4. Tape Recordings

The Task Force shall audio record all regular and special meetings of the Task Force. The audio recordings shall be maintained in accordance with the San Francisco Sunshine Ordinance. [See San Francisco Administrative Code, Section 67.14(b)]

ARTICLE VI -- COMMITTEES

Section 1. Standing Committees

Upon approval by a majority of the members of the Task Force, the Task Force may form standing committees to advise the Task Force on its on-going functions. The standing committees shall be composed of members of the Task Force. Unless specified otherwise by the Task Force, the Chair of the Task Force shall appoint or remove the Chair and members of the Standing Committees~~name the Chair of the Standing Committees and its members~~. The Chair of the Task Force shall encourage Task Force members to participate on committees and shall ensure broad and diverse representation of Task Force members on all committees.

The Task Force shall establish the following Standing Committees: Rules Committee, Education, Outreach and Training Committee, Complaints Committee and Compliance and Amendments Committee.

(a) Rules Committee

The Rules Committee shall review matters related to amendments to the Task Force by-laws and procedures for Task Force meetings and shall assist the Chair of the Task Force to ensure that all annual objectives enumerated in the Sunshine Ordinance are met by the Task Force.

(b) Education, Outreach and Training Committee

The Education, Outreach and Training Committee may monitor compliance with the Orders of Determination adopted by the Task Force; shall make recommendations to the Task Force regarding outreach and publicity to the media and to the general public about the Sunshine Ordinance and the Task Force.

(c) Complaint Committee

The Complaint Committee shall monitor the complaint process and make recommendations to the Task Force regarding how the complaints should be handled.

(d) Compliance & Amendments Committee

The Compliance and Amendments Committee shall ~~shall~~ may monitor compliance with the Orders of Determination adopted by the Task Force; shall recommend to the Task Force amendments to the Sunshine Ordinance regarding enforcement of the Orders of Determination; and shall consider and recommend any other additions, amendments, and changes to the Sunshine Ordinance as provided by members of the Task Force and from the general public. (Added 8/27/02)

Section 2. Special or Ad Hoc Committees

Upon approval by a majority of the members of the Task Force, the Task Force may form special or ad hoc committees. Special committees shall be formed for a specific purpose and cease to exist after completion of a designated task. Special committees may be composed of members of the Task Force and may include members of the public, city officials or city employees as well.

ARTICLE VII – ATTENDANCE

Members of the Task Force shall notify the Task Force Administrator if she or he is unable to attend a regular or special meeting of the Task Force. The Administrator of the Sunshine Ordinance Task Force shall notify any member who misses two meetings in any twelve month period of time that if the third absence occurs, the Task Force shall may notify the Board of Supervisors of the member's lack of attendance. If a member of the Task Force misses more than three regular meetings in any twelve-month period of time, the Task Force ~~shall may~~ notify the Board of Supervisors and request that action be taken to remove the member from the Task Force. ~~The Administrator of the Sunshine Ordinance Task Force shall notify any member who misses two meetings in any twelve month period of time that if the third absence occurs, the Task Force may notify the Board of Supervisors of the member's lack of attendance.~~

ARTICLE VIII - AMENDMENT OF BY-LAWS

The By-Laws of the Task Force may be amended by a vote of a majority of the members of the Task Force after presentation of the proposed amendments as an agenda item at a meeting of the Task Force. The Task Force shall give ten days notice prior to final action by posting on the Sunshine Ordinance Task Force website and by sending a copy to the Public Library Government Information Center before considering any amendments to its by-laws.

Adopted 8/22/2000
Amended 8/27/2002
Amended 3/25/2008
Amended 4/28/2009

