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To: [Young, Victor \(BOS\)](#)
Subject: FW: Board of Supervisors Should Declare SOTF Appointment Recommendations From Rules Committee Null and Void Due to Potential Brown Act/McKee Act Violation
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For the file

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Subject: Board of Supervisors Should Declare SOTF Appointment Recommendations From Rules Committee Null and Void Due to Potential Brown Act/McKee Act Violation

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July 25, 2023

San Francisco Board of Supervisors

Dear President Aaron Peskin and Members of the San Francisco Board of Supervisors,

The recommendation from the Rules Committee being referred to the full Board of Supervisors should be declared null and void due to a potential violation of the Brown Act and McKee Act.

Members of the public weren't allowed an opportunity to comment during the Rules Committee meeting on July 24 on a "proposal" Rules Committee Chair Matt Dorsey pitched in consultation with a Deputy City Attorney (DCA) representing the Rules Committee today, *after* Dorsey closed public comment.

Dorsey heard from three SOTF applicants, then took public comment, and then held a sidebar discussion with the Deputy City Attorney before making a motion to adopt a Recommendation to forward to the full Board of Supervisors. Members of the public were not allowed to make public comment on the process and procedure Dorsey proposed during the meeting.

Dorsey proposed a change to how appointments to Sunshine Ordinance Task Force "Seat 11" reserved for people with physical disabilities are considered and the change in procedures. He wants to confirm some, but not all, of the applicants for SOTF appointments tomorrow, and then at some point return and have the Rules Committee revise the processes and potentially seek additional new

applications, without the need for potential changes to the City Charter. Dorsey essentially created a new policy out of thin air yesterday with a process that has never existed before.

As Rules Committee Chair, Dorsey may have violated the Brown Act and the McKee Act (California Government Code §54960) by proposing a revision to how appointments to Seat #11 reserved for applicants with a physical disability are appointed to the SOTF. The recommendation forwarded to the full Board of Supervisors recommends appointment of Saul Sugarman to Seat 3 and David Pilpel to Seat 9, but it was based on a premise that an existing, current member of the Task Force could be moved from Seat 10 to Seat 11 reserved for a member having a physical disability at the time of their appointment to the Task Force at some subsequent meeting of the Rules Committee.

The qualifications for appointment to the Sunshine Task Force are set in the City Charter, and cannot be changed unilaterally by the Rules Committee without an amendment to the Sunshine Ordinance that is embedded in the City Charter.

Dorsey's new procedures were not publicly noticed on yesterday's Rule Committee agenda, so the motion forwarding recommendations for appointment to the Task Force may have been made during an illegal meeting of the Rules Committee, as a misdemeanor violation of California Government Code §54959, since it would have involved depriving the public sufficient public notice of changing how appointments to the Sunshine Task Force are made.

After Dorsey presented his new process in coordination with the DCA present today, he didn't return to the Public and open the proposal up for public comment. He then introduced a motion to forward a "Committee Report" recommendation to the full Board tomorrow.

Here are some additional reasons why Dorsey's proposed "procedure" is deficient:

- Ignores that this new method "cheapens" the importance of being a person with a physical disability.
- People with a physical disability are a protected class of applicants.
- Seat #11 for a physically disabled applicant should be filled first, before applicants to any other Seats are filled.
- Applicants for the physically disabled seat must have a demonstrated desire to advocate on behalf of other people with disabilities, and should be prepared to strongly advocate for their rights and issues.
- "Prop G" which adopted the Sunshine Ordinance elevated the concept of "diversity" to include people with a physical disability. Dorsey's procedure diminishes that precedent immeasurably.
- Of the six SOTF Seats with specified eligibility requirements, Dorsey appears to only be diminishing the "physical disability" eligibility qualification.
- The requirement for having a physical disability should be made known publicly at the time of an applicant's initial application and appointment, not "shoehorned" onto an already-appointed SOTF member at some point far into their tenure.

The full Board of Supervisors should reject taking any action on the recommendation Dorsey forwarded for consideration and action by the full Board of Supervisors on July 25 because of the deficient meeting procedures held at the Rules Committee on July 24. This seems to potentially be a violation of the Brown Act via the "McKee Act." The Board should consider postponing any action

on the Recommendation from the Rules Committee, and return the Committee Report back to the Rules Committee without action.

Respectfully submitted,

Patrick Monette-Shaw

cc: Angela Calvillo, Clerk of the Board