

REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 09/01/2009

SUBMITTED TO: HB Charter Review Commission

SUBMITTED BY: Mark D. Bixby, Charter Review Commissioner *MDB*

SUBJECT: Amend charter section 303 (Meetings and Locations) or add new section to address closed sessions.

Statement of Issue: Improve accountability and transparency by requiring all closed session actions to occur by roll call votes to be publicly disclosed when the matter is finalized. Also requires electronic recordings of the closed session to be kept for a period of at least two years.

Recommended Action: Motion to:

Amend Huntington Beach charter section 303 (Meetings and Locations) or add new section as follows:

The City Council and other city public boards and commissions may meet in legally authorized closed sessions as permitted by the Ralph M. Brown Act. All actions taken in closed session shall be by roll call vote, and each individual vote shall be made public at the meeting at which it is taken or at the next public meeting, except as set forth following:

Votes taken at such sessions pertaining to non-personnel matters are exempted from disclosure if such disclosure will, in the opinion of the City Attorney, jeopardize the City's position; however, individual votes shall be made public after determination, on advice of the City Attorney, that such matters have been finalized. In that event, disclosure of votes shall be made public at the meeting during which the matter becomes final, or the next public meeting.

An electronic recording shall be taken at all closed sessions. The recording shall be retained for a period of at least two years. Such recordings are not public records and shall be kept confidential. The recordings shall be made available to qualified members of the legislative body involved or a court of competent jurisdiction if a violation of the Brown Act is alleged to have occurred.

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Analysis:

City officials should be held accountable by residents for their actions during closed sessions. This amendment requires that action votes be publicly disclosed once the matter becomes final and such disclosure will no longer jeopardize the city's position.

This amendment also requires that electronic recordings be made and retained for a period of at least two years. These recordings are not public records and may only be made available to qualified officials in order to assess whether or not a Brown Act violation has occurred.

From time to time, closed session Brown Act violation allegations surface in other California cities, and such disputes tend to be prolonged and bitter due to the absence of evidence. The electronic recordings required by this amendment will be able to quickly confirm or deny such allegations.

Note that this amendment applies to any body (not just the city council) that holds closed sessions subject to the Brown Act.

Most of the amendment is copied as-is from Monterey charter section 4.25 with the addition of the two-year retention period copied from Riverside charter section 408.

References:

- Monterey charter - <http://www.codepublishing.com/ca/monterey/>
- Riverside charter - <http://www.riversideca.gov/municode/city-charter.asp>