



May 4, 2020

VIA E-MAIL

The Honorable London Breed
Mayor of San Francisco
City Hall, Room 200
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

The Honorable San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

RE: Advocates' recommendations for government transparency and accountability amid COVID-19 in San Francisco

Dear Mayor Breed and Board of Supervisors:

Thank you Mayor Breed for taking swift actions in responding to the COVID-19 pandemic. The League of Women Voters of San Francisco and San Franciscans for Sunshine commend your efforts in these times of crisis.

As a result of the COVID-19 pandemic, California and San Francisco have rolled back provisions of state and local law that enable the public to exercise their right to know how the government is conducting work. Meetings of various policy bodies and passive meeting bodies (e.g., advisory committees) in San Francisco are

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League of Women Voters of San Francisco

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being held without the level of transparency that the Brown Act and the San Francisco Sunshine Ordinance require.¹

We all acknowledge this pandemic has stretched San Francisco government resources thin to an extent that requires different priority levels be set. However, we strongly believe that democracy and the public's right to know cannot be sacrificed in any government decisions made.

The public's right to know is a hallmark of a democratic government. The League of Women Voters of San Francisco and San Franciscans for Sunshine believe that democratic bodies must protect that right; California Government Code states that access to information is a "fundamental and necessary right of every person in the state"²; and the California Supreme Court has held that "openness in government is essential to the functioning of a democracy."³ Further, San Francisco's own Sunshine Ordinance, passed by the city's voters in November 1999, states in San Francisco Administrative Code, "government's duty is to serve the public, reaching its decisions in full view of the public."⁴

During times of crisis, it is more imperative than ever to protect this right and the policies that enable this right to be exercised. We have drafted a set of recommendations for ensuring that transparency and accountability are maintained during this crisis:

¹Mayoral Declarations impacting government transparency: Section 5 of the [Second Supplemental Declaration](#) from March 13, 2020 suspends "Immediate Disclosure Request" protocols (see page 6); Section 5 of the [Third Supplemental Declaration](#) from March 17, 2020 suspends public meetings (see page 4); Section 6 to 8 of the [Fifth Supplemental Declaration](#) from March 23, 2020 suspends provisions of the [Brown Act](#), the [California Public Records Act](#), and the [Sunshine Ordinance](#) (see pages 7 to 9); Section 1 of the [Eighth Supplemental Declaration](#) from April 1, 2020 extends Section 5 of the Third Supplemental Declaration to May 3, 2020 (see page 3); and Section 3 of the [Twelfth Supplemental Declaration](#) from April 30, 2020 extends Section 5 of the Third Supplemental Declaration to May 31, 2020 (see page 7).

² [CA Govt Code § 6250 \(2016\)](#).

³ *International Federation of Professional and Technical Engineers, Local 21, AFL-CIO v. Superior Court* (2007) 42 Cal.4th 319, 328.

⁴ [Provisions of the Sunshine Ordinance - Section 67.1\(a\)](#)

Recommendations

Access to public meetings, government offices, and policy decisions

Provide easy access from the sfgov.org homepage to the following:

1. A chronological listing of the current week's meetings at a minimum. A link to this information that can be accessed through a top banner notification on all sfgov.org webpages including all executive branch departments and enterprise agencies that have their own branded domain name URL, and will also be posted on the sfbos.org website. Please see sfbos.org as an example.
2. A list of all city policy and advisory bodies⁵ that have received permission from the Mayor or Board of Supervisors to meet.
3. A list of all offices completely closed to operations.
4. A list of all offices open and remotely working, including those making and implementing policy.
5. A list of all policy decisions related to the current crisis and shelter-in-place orders including adjustments to all government operations and public services.

Sunshine Ordinance Task Force must (virtually) resume meetings

The Mayor's Executive Orders directly impact the Sunshine Ordinance and, therefore, impedes the Sunshine Ordinance Task Force from meeting.

The Sunshine Ordinance establishes the public's right to know by holding the government accountable under San Francisco Administrative Code Section 67.1(f): "the people of San Francisco enact these amendments to assure that the people of the City remain in control of the government they have created" (see Attachment A), and Administrative Code Section 67.30(c): "The task force shall report to the Board of Supervisors at least once annually on any practical or policy problems encountered in the administration of this chapter." The Sunshine Ordinance Task

⁵ Defined in Section 5 of the [Third Supplemental Declaration](#). Section 5 is in effect through May 31, 2020 from Section 3 of the [Twelfth Supplemental Declaration](#).



Force should provide the continual monitoring of the administration of the Ordinance in this extraordinary time of crisis.

We urge the Mayor and the Board of Supervisors to authorize the Sunshine Ordinance Task Force to meet by teleconference to review, advise, and make recommendations on the sunshine-related ramifications of the Mayor's Executive Orders.

In summary

The League of Women Voters of San Francisco and San Franciscans for Sunshine believe in a democratic government that requires governmental bodies to protect the public's right to know by giving adequate notice of proposed actions, holding open meetings, and making public records accessible. We call on the Mayor and the Board of Supervisors to set protocols for our democracy to function as established. We want to be part of helping create long-term solutions for the government to remain effective in conducting the people's business in full public view, no matter the circumstances.

Thank you for your attention on this matter, hearing our urgent concerns, and the opportunity to provide recommendations to maintain the integrity of our democracy and ensure that San Franciscans are not left in the dark as a result of this current public health crisis.

We look forward to working with you and engaging in a discussion on our recommendations. Please contact Leah Edwards, President of the League of Women Voters of San Francisco, at l.edwards@lwvsf.org or 415-989-8683.

Sincerely,

Leah Edwards
President, League of Women Voters of San Francisco
l.edwards@lwvsf.org

Allyson Washburn
Chair of the Steering Committee, San Franciscans for Sunshine



Past President, League of Women Voters of San Francisco
amwashburn@comcast.net

Attachments: 1

CC: The Honorable Norman Yee, President, Board of Supervisors
The Honorable Sandra Lee Fewer, Supervisor, District 1
The Honorable Catherine Stefani, Supervisor, District 2
The Honorable Aaron Peskin, Supervisor, District 3
The Honorable Gordon Mar, Supervisor, District 4
The Honorable Dean Preston, Supervisor, District 5
The Honorable Matt Haney, Supervisor, District 6
The Honorable Rafael Mandelman, Supervisor, District 8
The Honorable Hillary Ronen, Supervisor, District 9
The Honorable Shamann Walton, Supervisor, District 10
The Honorable Ahsha Safai, Supervisor, District 11
Angela Calvillo, Clerk, Board of Supervisors

Attachment A

From [Provisions of the Sunshine Ordinance - Section 67](#).

Sec. 67.1 Findings and Purpose.

The Board of Supervisors and the People of the City and County of San Francisco find and declare:

(a) Government's duty is to serve the public, reaching its decisions in full view of the public.

(b) Elected officials, commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. The people do not cede to these entities the right to decide what the people should know about the operations of local government.

(c) Although California has a long tradition of laws designed to protect the public's access to the workings of government, every generation of governmental leaders includes officials who feel more comfortable conducting public business away from the scrutiny of those who elect and employ them. New approaches to government constantly offer public officials additional ways to hide the making of public policy from the public. As government evolves, so must the laws designed to ensure that the process remains visible.

(d) The right of the people to know what their government and those acting on behalf of their government are doing is fundamental to democracy, and with very few exceptions, that right supersedes any other policy interest government officials may use to prevent public access to information. Only in rare and unusual circumstances does the public benefit from allowing the business of government to be conducted in secret, and those circumstances should be carefully and narrowly defined to prevent public officials from abusing their authority.

(e) Public officials who attempt to conduct the public's business in secret should be held accountable for their actions. 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.

(f) The people of San Francisco enact these amendments to assure that the people of the City remain in control of the government they have created.

(g) Private entities and individuals and employees and officials of the City and County of San Francisco have rights to privacy that must be respected. However, when a person or entity is before a policy body or passive meeting body, that person, and the public, has the right to an open and public process.

Administrative Code Section 67.30(c), The task force shall propose to the Board of Supervisors amendments to this chapter. The task force shall report to the Board of Supervisors at least once annually on any practical or policy problems encountered in the administration of this chapter.”