

File No. 200272

Committee Item No. _____

Board Item No. 20

COMMITTEE/BOARD OF SUPERVISORS

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Board of Supervisors Meeting

Date: _____
Date: March 17, 2020

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Prepared by: Lisa Lew
Prepared by: _____

Date: March 13, 2020
Date: _____

1 [Supporting a “New Border Vision” To Expand Public Safety and Protect Human Rights at
2 U.S. Borders]

3 **Resolution supporting and calling for a “New Border Vision” that proposes changes to**
4 **existing United States border policies in order to expand public safety, protect human**
5 **rights, and welcome people with dignity at the borders.**

6
7 WHEREAS, The Board of Supervisors declared San Francisco a City and County of
8 Refuge in 1989, which it built upon and strengthened in 2009, 2013 and 2016, and has
9 passed numerous resolutions affirming respect for human rights and calling for responsible
10 and humane immigration and border policies; and

11 WHEREAS, The City is made up of a diverse population, and one-third of City
12 residents were born outside of the United States but now form part of the fabric of our

13 communities and contribute to the cultural, social, and economic vibrancy of the City; and

14 WHEREAS, San Francisco is a border city as it falls within 100 miles of a land or sea
15 border under 8 C.F.R. 287.1, and as such the residents of the City are subject to the
16 “warrantless powers” of Department of Homeland Security (DHS) employees who assert the
17 power under 8 U.S.C. 1357(a)(3) to interrogate our residents, set up checkpoints, and board
18 and search our cars, trains, buses, planes, boats, and other conveyances without needing a
19 warrant or the equivalent of probable cause as is normally required under the U.S.

20 Constitution’s Fourth Amendment and the California Constitution’s Article 1 Section 13; and

21 WHEREAS, The City also falls within 25 miles of an external boundary of the United
22 States and as such the residents of the City are subject to DHS employees entering onto their
23 private property, but not their dwelling, to patrol the border under 8 U.S.C. 1357(a)(3), which
24 also undermines the constitutional rights of City residents; and

1 WHEREAS, City residents are subject to profiling by DHS employees because the U.S.
2 Department of Justice's "Guidance for Federal Law Enforcement Agencies Regarding the Use
3 of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity"
4 prohibits profiling except in the vicinity of a border, which includes our San Francisco, and this
5 runs counter to California law under the Racial and Identity Profiling Act and Penal Code,
6 Section 13519.4; and

7 WHEREAS, The Department of Homeland Security announced on February 14, 2020,
8 that it plans to deploy the U.S. Border Patrol Tactical Unit (BORTAC) to Sanctuary Cities,
9 including San Francisco, to assist Immigration and Customs Enforcement with arrests in those
10 cities; a move which numerous civil liberties advocates and elected officials have denounced
11 as retaliatory and cruel; and

12 WHEREAS, The Department of Homeland Security is made up of multiple agencies
13 who enforce border security in various ways, at physical land borders, at sea and in the
14 interior of the country described as the expansive border region, which includes the City, and
15 agencies consist of U.S. Customs Border Protection (CBP) and its component agency, Border
16 Patrol, but also U.S. Immigration Customs Enforcement (ICE), Homeland Security
17 Investigations (HSI), the US Coast Guard and the Cybersecurity and Infrastructure Agency,
18 among others; and

19 WHEREAS, San Francisco depends on local, state, and federal laws to protect the
20 natural and cultural heritage of California and address climate change through laws that
21 protect our air quality, water quality, biological diversity, historical sites, sacred places, and
22 other valuable resources, and all of these laws can be waived in their entirety by DHS without
23 judicial review under Real ID Act, Section 102, for the purpose of building border barriers,
24 undermining our well-being and the principle of due process embedded in the US
25 Constitution's Fifth Amendment; and

1 WHEREAS, We are less safe, when DHS employees operate with absolute power, and
2 without transparency or accountability, asserting that they are not subject to our laws, which
3 leads to a culture of impunity and high rates of abuse and corruption that endanger the
4 country; and

5 WHEREAS, The impunity of DHS employees operating in the border region has led to
6 the assault of countless people and the killing of more than 102 people, including citizen and
7 non-citizen women, children, and men since 2010, of which 21 were killed in California and at
8 its borders, and no DHS employee has ever been held accountable; and

9 WHEREAS, Border deterrence tactics such as walls and other barriers intentionally
10 funnel people into dangerous and remote corridors that has led to the deaths of over 7,000
11 people since 1994, when Operation Gatekeeper began at the California border, with a current
12 death toll of an estimated 400 men, women, and children a year, which amounts to one
13 person dying every day for the last 25 years as a result of irresponsible policies that use risk
14 to life as a deterrence; and

15 WHEREAS, Border policies criminalize rather than manage migration, leading to the
16 inhumane treatment of families seeking life, liberty, and the pursuit of happiness and have led
17 to the mass incarceration of more than 50,000 migrants, which include 24,177 in California as
18 of 2017; and

19 WHEREAS, Nearly one million people arrive to the United States every day, around
20 196,000 people every day via California, and more than 99 percent of them come with prior
21 authorization as citizens, residents, and visa holders, but often face long waits at California's
22 border because of poor border management despite the government's allocation of over \$13
23 billion a year to U.S. Customs and Border Protection alone; and

24 WHEREAS, The United States loses billions of dollars and thousands of jobs every
25 year due to long wait times at our southern border that delay trade and travel, and the cost is

1 felt across every state, all of which are dependent on trade with Mexico as our largest trading
2 partner; and

3 WHEREAS, Over 160 countries took an unprecedented action in December 2018 by
4 signing a Global Compact on Migration that calls for the protection of human rights at borders,
5 setting new global standards and best practices for border governance as detailed in the
6 United Nations Office of the High Commissioner for Human Rights "Recommended Principles
7 and Guidelines on Human Rights at International Borders"; and

8 WHEREAS, Current U.S. border policies are out of sync with global best practices and
9 undermine our well-being, and we need our country to change its approach to the border and
10 become a model of good border governance to create humane and functional borders for the
11 21st century; and

12 WHEREAS, Border communities in conjunction with human rights experts have drafted
13 a "New Border Vision" that adopts global best practices and relates them to the U.S. borders
14 to expand public safety, protect human rights, and welcome people with dignity at our borders;
15 and

16 WHEREAS, The "New Border Vision" leads with our values beginning with the belief
17 that migrants are part of the human family and should be treated with dignity and respect; that
18 migration is the exercise of the inalienable right to life, liberty, and the pursuit of happiness
19 and as such, migrants should be humanized rather than criminalized; that we should treat all
20 people as we would want to be treated, and give everyone full and fair opportunity to be safe;
21 and

22 WHEREAS, Expanding public safety in the "New Border Vision" means protecting our
23 communities by ensuring that border agents treat border residents with dignity and respect
24 and are held accountable - the "New Border Vision" calls for the following: decriminalizing
25 migration and limiting border authorities to lawful and legitimate activities as defined by

1 international human rights standards, and utilizing detection technologies with privacy
2 protections in place of harmful and ineffective walls, because true public safety depends on
3 law enforcement respecting rights to equal protection and privacy for all, regardless of
4 immigration status and country of origin; ensuring that any interaction between local and
5 federal law enforcement strictly adheres to the standards set forth by local sanctuary policies
6 so that everyone, including border residents and migrants, feel safe and do not have reason
7 to fear mistreatment from local law enforcement; respecting human rights without creating
8 zones of exceptions or impunity, ending mass detention, and providing people who suffer
9 abuse by border authorities with meaningful access to justice to hold border authorities
10 accountable; and

11 WHEREAS, Protecting human rights in the "New Border Vision" means preserving the
12 dignity of life, rather than intentionally endangering it or treating it as an acceptable collateral
13 consequence of our policies - the "New Border Vision" calls for the following: prioritizing
14 human rights at the border and allowing people to seek protection or safe return with the
15 assistance of our government, rather than prosecution by the government; not turning
16 migrants seeking protection back into harm's way; providing immediate aid, rescue, and
17 recovery to people in distress at the border, and supporting rather than prosecuting
18 humanitarian aid workers who fill gaps left by the government to save lives; protecting children
19 by keeping families together, locating them in the community rather than in detention, and
20 giving child welfare specialists a primary role, not border law enforcement authorities; and

21 WHEREAS, Welcoming people with dignity in the "New Border Vision" means creating
22 an efficient, effective, and humane entry system to foster goodwill, but that is challenging at a
23 militarized border - the "New Border Vision" calls for the following: expanding the channels for
24 entry with adequate and accountable staff, more lanes at ports, more open hours, and more
25 opportunities to approach so no one is left waiting for unreasonable amounts of time; setting

1 the standard for border authorities to conduct welcoming, expeditious, non-threatening,
2 professional interviews to identify people entering and screening for people who may need
3 protection; directing border authorities to refer migrants seeking protection to other agencies
4 or community organizations that are not law enforcement and are better suited to provide
5 trauma, medical, psychological, legal, language and other assistance in whole-of-government
6 and whole-of-society approach to humanitarian response; and

7 WHEREAS, The "New Border Vision" is grounded in good governance principles that
8 call for evidence-based and data-driven decision-making, consideration of affected
9 communities including border residents, transparency and oversight, and full accountability
10 without exceptions, waivers, or zones of immunity; now, therefore, be it

11 RESOLVED, That the Board of Supervisors recognizes that San Francisco is a border
12 city, which falls into the zone of border enforcement, as defined in 8 C.F.R. 287.1, and as
13 such has a particular stake in the border policies that affect our residents as well as our
14 country; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors condemns the DHS
16 deployment of BORTAC agents to Sanctuary Cities, including San Francisco, as this attack on
17 our city is an affront to our values and vision of a society that is inclusive of all residents,
18 regardless of immigration status; and, be it

19 FURTHER RESOLVED, That the Board of Supervisors supports a "New Border Vision"
20 that expands public safety, protects human rights, and welcomes people with dignity at the
21 border since our government should lead with our values, address our needs and adhere to
22 good governance principles to create humane and well-functioning borders for the 21st
23 century; and, be it

24 FURTHER RESOLVED, That the Board of Supervisors calls on Congress to eliminate
25 "powers without warrant" in 8 U.S.C. 1357, which subjects City residents to potential

1 unreasonable searches by federal authorities, undermining constitutional protections that the
2 City is charged with protecting; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors calls on Congress to end the
4 border-region exception to the prohibitions on profiling, which subjects City residents to
5 potential profiling by federal authorities, undermining California's protection against profiling
6 which the City is charged with protecting; and, be it

7 FURTHER RESOLVED, That the Board of Supervisors calls on Congress to eliminate
8 the blanket waiver authority in Real ID Section 102, which gives federal authorities absolute
9 and unreviewable authority to waive all local, state, and federal laws to build border barriers,
10 undermining the well-being of City residents, the protection of their natural and cultural
11 heritage in California, and their due process rights; and, be it

12 FURTHER RESOLVED, That the Board of Supervisors calls on Congress to end the
13 criminalization of migrants for simply being migrants by eliminating 8 U.S.C. 1325, which
14 leads to the criminal prosecution and incarceration of people asking for help; instead we
15 should limit the adjudication of migrant cases to civil immigration proceedings to determine
16 what remedies they may be eligible for including asylum; and, be it

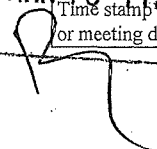
17 FURTHER RESOLVED, That the Clerk of the Board of Supervisors shall notify San
18 Francisco's Federal legislative representatives of the Board's position of support accordingly.

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2020 MAR 10 PM 2:13
Time stamp
for meeting date
BY: 

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor inquires"
- 5. City Attorney request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No.
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

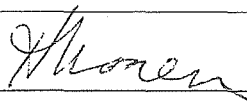
Ronen; Fewer, Preston, Mandelman, Mar *HANEY*

Subject:

Resolution Calling for A "New Border Vision" To Expand Public Safety and Protect Human Rights at U.S. Borders

The text is listed below or attached:

Please see attached resolution.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

