

MEMORANDUM

TO: Public Works Commission

THROUGH: Bob Fuller, Commission Secretary

FROM: David Pilpel, Sunshine Ordinance Task Force Member

DATE: December 6, 2024

RE: Impact of the San Francisco Sunshine Ordinance on Public Works

Public Works Commission Chair Lauren Post requested a presentation or report some time ago on the Sunshine Ordinance's impact on Public Works. I write to offer my thoughts.

As background, California has long had both laws and traditions favoring open government and transparency, particularly as it relates to public meetings and public records. The Ralph M. Brown Act, passed in 1953 and amended many times since, sets certain requirements for the conduct of public meetings held by local agencies in California, including notices, agendas, and public comment. The California Public Records Act, passed in 1968 and recodified in 2021, has its own specific disclosure requirements for public records of California state and local agencies. Both Acts allow faster, greater, or more specific requirements if local agencies choose to do so. Proposition 59 (November 2004), passed by California voters, provides that requirements in state law should be read broadly to favor disclosure and narrowly as relates to non-disclosure. This is a very high level summary of some complicated law.

In San Francisco, the Board of Supervisors adopted the San Francisco Sunshine Ordinance in 1993 to specifically increase public meetings and public records requirements for San Francisco City agencies, boards, commissions, and departments. Concepts like passive meeting bodies, specific content requirements for minutes, Immediate Disclosure Requests, and an Index of Records, along with a Sunshine Ordinance Task Force to advise departments, hear complaints, and monitor compliance, were included. Several amendments were made between 1993 and 1999, when San Francisco voters passed Proposition G (November 1999), which amended and further strengthened the Sunshine Ordinance. Separate but related state and local laws govern record retention policies and schedules.

Public Works, as a relatively large City department, is affected by both the public meetings and public records provisions of the Sunshine Ordinance. Both the Public Works Commission and the Sanitation and Streets Commission are policy bodies, as defined, so notices, agendas, public comment, and minutes must comply with the ordinance. Some of these requirements are also set out in the bylaws of the two commissions. Also, requiring approvals by a Commission, rather than just the Director, was intended to provide more oversight over significant contract and policy issues. Public Works also provides administrative support to a few other policy bodies, as defined, with incidental or minimal cost.

Meanwhile, access to public records has arguably greater impact on Public Works. Requests are made and received daily for various records held by Public Works and its employees, each of which is addressed and responded to as completely and timely as possible. I am aware that some requests have included graffiti and tree inspection photos and reports, architecture and engineering documents (both recent and historic), street use permit records, and budget and finance reports. The department currently uses NextRequest, an online public records portal, to receive and respond to most public records requests. David Steinberg, the department's custodian of records, can address recent request volume and average processing time, the number of pending requests, and various challenges faced in these areas.

There have been a variety of concerns about the scope of public meetings and public records laws, both in California and San Francisco, over the years. Frankly, the relationship between City departments and the Sunshine Ordinance Task Force has not always been cooperative or productive. Some members of the public have used public meetings and public records laws to attack or harass policymakers or City staff over unrelated grievances or policy decisions that they disagree with. The relationship between City departments and the Task Force has improved in the last few years, and Public Works continues to engage productively with the Task Force on both complaints and policy matters.

There have been occasional, and recent, efforts to examine the Sunshine Ordinance and consider possible amendments that might strengthen and / or weaken it. Those conversations are ongoing, and there is no specific proposal at this time. Public Works staff monitors the Sunshine Ordinance Task Force and its legislative activities, and can update the Commission in the future.

This brief overview is my response to Chair Post's initial request. I plan to attend the Commission's December 9, 2024 meeting, either in person, by phone, or on Webex; I can answer any questions you may have or follow-up as requested. Thank you for your time and attention.

Disclaimer: Please note that any opinions I share on this topic are my own and are not intended to reflect the views of other Task Force members or the Task Force as a whole, past or present, nor should they indicate any preference in addressing pending or future complaints, petitions, or policy matters at the Task Force, which I consider on a case-by-case basis.