



Legislation Details (With Board Report)

File #: 15-0739 **Name:** Sunshine Provisions
Type: General Agenda Item **Status:** Passed
File created: 6/26/2015 **In control:** Board of Supervisors
On agenda: 7/7/2015 **Final action:** 7/7/2015

Title: a. Review proposal on Open Government and, if desired, select a format for implementation from the options of a policy, resolution, ordinance, or combination thereof; and
b. Direct, if desired, the Information Technology Department, County Administration and County Counsel to return to the Board with the selected method of implementation, a schedule for full implementation, cost estimate, and funding sources.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Exhibit A — Draft Open Government proposal 070715, 3. Exhibit B — Referral from Supervisor Parker re sunshine ordinance - Copy, 4. Completed Board Order

Date	Ver.	Action By	Action	Result
7/7/2015	1	Board of Supervisors	approved	Pass

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b. Direct, if desired, the Information Technology Department, County Administrative Office and County Counsel to return to the Board with the selected method of implementation, a schedule for full implementation, cost estimate, and funding sources.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Review proposal on Open Government and, if desired, select a format for implementation from the options of a policy, resolution, ordinance, or combination thereof; and
- b. Direct, if desired, the Information Technology Department, County Administration and County Counsel to return to the Board with the selected method of implementation, a schedule for full implementation, cost estimate, and funding sources.

SUMMARY/DISCUSSION:

In response to a Board referral, County Counsel and the Information Technology Department, reviewed a variety of approaches to enhancing public access including study of the sunshine ordinances and “open data” efforts of other jurisdictions, soliciting information from County Departments on the practicalities of implementing referral provisions, and meeting with Supervisor Parker and her staff regarding preliminary findings. Attached is a concept administrative policy, resolution, or ordinance for the Board’s consideration.

I

The Proposed “Sunshine” Administrative Policy, Resolution or Ordinance

Should the Board decide to act, we suggest adoption of administrative policy due to the need for flexibility in this dynamic area-on-line access to government data-as policy can be more readily adapted to keep pace with

technological and legal changes. The proposal begins by establishing context for the ensuing provisions, i.e., it states that county government is subject to existing public access statutes. To remain consistent with State laws, the proposal states that it does *not* create new county liability. The proposal includes a “grace period” for compliance. Because it creates novel responsibilities, adequate time is required for implementation.

A. Website access: public records, FAQs, and a search engine

The proposal would create a dedicated “public access” page on the county website, as contemplated by the referral. It provides for on-line posting of the California Public Records Act, the Ralph M. Brown Act, and the policy, resolution or ordinance. With the recent launch of the County’s new public website, links to these statutes have already been provided to the public. Under the proposal, the “public access” page would contain links to documents and data sets currently posted on individual Department websites, thereby providing a centralized, convenient location for access to Monterey County government information.

The proposal would require ordinances and resolutions formally adopted by the Board to be posted on the public access page, as well as early posting of Board of Supervisors’ regular public meeting agendas and materials. While the Board’s agendas and formal actions are already accessible on-line, a centralized website location would make it easier to locate them.

The proposal would require posting “FAQs”-frequent inquiries and responses-about County services. Assembling the FAQs would require initial and ongoing investment of County resources to make this a meaningful public asset. Hypothetical questions and appropriate responses would have to be identified, drafted, and continuously updated to remain useful, possibly drawing resources from other county priorities.

The proposal specifies that the county website is to include a “search engine,” enabling the public to conveniently retrieve public documents across County departments. A search engine of this nature is prominently displayed on the home page of the County’s new public website.

As there may be technological, security, and legal barriers to searching (1) County Department websites hosted by independent, third-party vendors and (2) posted links to third-party websites, the proposal limits the reach of the search engine to County-hosted websites.

B. Meetings access

The proposal specifies additional requirements for public access to Board of Supervisors meetings, omitting by its terms closed sessions-where public access is limited by law-and special, continued, and emergency meetings -where enhanced public access is impractical. It specifies that both Board meeting agendas and materials are to be posted 96-hours in advance on the public access page of the county website. Since the Board regularly meets on Tuesdays at 9:00 a.m., meeting agendas and materials will ordinarily be posted the preceding Friday at 9:00 a.m. This is in contrast to, and adds to, Brown Act requirements.

In recognition of the practical reality that last minute changes are sometimes necessary and unavoidable, the proposal provides that posted meeting agendas and materials are advisory in nature and are subject to change as otherwise permitted by law. To avoid complaints, it specifies that formal meeting agendas and materials may vary from those posted on-line for public convenience.

The proposal provides that the Board’s regular public meeting agendas will incorporate statements of public access, including citations to public access laws, and will provide contact information for the public access assistant described below.

C. Public access assistant

The proposal designates a member of the County workforce to serve as public access assistant, charged with answering questions from the public about the California Public Records Act, the Ralph M. Brown Act, and the proposal. The intent of this provision is to facilitate public access by providing for informal assistance. It is not intended to establish a formal internal grievance process or to invest the public access assistant with decision-making authority. Because County Departments will be regularly consulted by the public access assistant, this provision will entail ongoing, likely significant investment of County resources.

If desired, the Board can implement designation of a public access assistant by directing the County Administrative Officer to create this position or assignment.

II

Open Data Portals and Pending Legislation

A. Open Data Portals

The referral proposes that “the County shall create a database system which allows a user to search all County documents, . . .” Some California jurisdictions have created such data bases, enabling the public to access on-line government data, e.g., San Francisco, Los Angeles County and Sacramento County. An important technical aspect of these portals is that government data is made available in “machine-readable” format, so it can be aggregated, sorted, and re-combined to meet specific user needs.

Monterey County recently implemented on-line access to machine-readable data, limited to budget and financial data only, using OpenGov.com. To implement a County-wide open data portal, significant investment is required. Notably, San Francisco, Los Angeles, and Sacramento counties took between 18 months to two years to bring their open data portals to fruition. Monterey County faces particular challenges: the majority of county data is not maintained in the “machine-readable” formats required and would have to be converted. Because some County Departments independently host their websites, data in the possession of third-party vendors would need to be extracted and converted

Our research indicates the following steps are generally required to implement an open data portal: (1) hiring a Chief Data Officer or other designated staff to oversee and implement the project; (2) conducting an initial County-wide inventory to identify the types of county data maintained and which data sets to make available; (3) developing technical guidelines for publishing data sets, likely with the assistance of outside vendors; (4) procuring a data portal provider, likely through the formal RFP process; (5) publishing initial, high value data sets, usually within a year thereafter. After this initial effort, ongoing investment would be needed to keep on-line data sets current.

Technically, implementation of an open data portal would require significant website development labor, purchase and implementation of web tools, writing systems interfaces, and reviewing existing software contracts to determine the legality of extracting data and writing interfaces to third-party applications. Hiring staff dedicated to the project, whether denominated a Chief Data Officer or not, would be necessary. The County would have to purchase additional servers, new software, and significant amounts of storage to create a unified data warehouse.

As a non-budgeted expense, the Information Technology Department does not have the existing funds or staff to implement an open data portal. Thus, to make a County open data portal a reality, additional funds and long range planning are necessary.

The Information Technology Department is in the process of surveying County Departments to determine the types of county data sets that already exist. Links to these data sets and to documents already posted on individual department websites may, with Board direction, be included on the public access page provided for by the proposal. This would not constitute a bona fide open data portal, as described above, but arguably would facilitate public access to Monterey County data.

B. Pending state legislation

Pending state legislation, if enacted, would require California counties to take steps towards implementing open data portals; neither would provide for state reimbursement of associated costs. They are summarized as follows:

■ AB 169. As originally introduced, this bill would have required any local agency that voluntarily posts a document described as “open” on its website to make such documents available, without charge, in format that is “retrievable, downloadable, . . . platform independent and machine-readable.” After a June 16, 2015 hearing before the Senate Committee on the Judiciary, the bill was amended to apply only to local agencies that already operate open data portals. Counties like Monterey, which have not implemented open data portals, would not be required to post documents in machine-readable format under the current version of AB 169. It is scheduled for hearing on June 30, 2015 before the Assembly Committee on the Judiciary.

■ SB 272. As originally introduced, this bill would require Counties to create and post on their websites a catalog of their “enterprise systems,” i.e., systems that collect information about the public and serve as an original source of agency data. SB 272 was amended on June 25, 2015 to delete school districts from its requirements and to require local agencies to catalog their “information technology systems” rather than “enterprise systems.” “Information technology systems” are defined as “hardware and software that collect, store, exchange, and analyze information that the agency uses.” Catalogs would include identification of the system vendor, the systems’ product and purpose, description of categories or types of data; identification of the departmental data custodian; and information about how frequently data is collected and updated. Local agencies would have until July 1, 2016 to make these catalogs available to the public or post them on their internet websites. SB 272 is scheduled for hearing on June 30, 2015 before the Senate Committee on the Judiciary.

■ SB 573 would create the state position of Chief Data Officer and would implement a state open data portal by June 1, 2017. In the bill’s present form, counties may-but would not be required to-utilize the state open data portal to publish their own local government data. SB 573 is scheduled for hearing on July 1, 2015 before the Assembly Accountability and Administrative Review Committee.

The Information Technology Department will track proposed bills addressing open data, will advise regarding their status at the Board’s hearing on July 7, 2015, and will return to Board of Supervisors if any of them become law.

OTHER AGENCY INVOLVEMENT:

All County Departments were consulted and offered the opportunity to provide input regarding the proposal.

FINANCING:

The costs of implementation are not included in the FY 14-15 adopted budget or in FY 15-16 proposed budget. Costs of implementation would likely have an effect on the General Fund as investment of the staff time and

other resources required would have to be absorbed from existing funds.

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Attachments:

Exhibit A - Draft Open Government proposal

Exhibit B - Referral from Supervisor Parker re: sunshine ordinance