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This November, Californians will decide whether to strengthen the public's right of access to government meetings and records by voting on the California Sunshine Amendment. Placed on the ballot by a powerful coalition of First Amendment advocates, open government watchdogs, the League of Women Voters and the League of California Cities, the amendment would firmly establish a fundamental, Constitutionally guaranteed right for people to scrutinize what their government is doing and contribute their ideas to the policy-making process.

Oakland's Sunshine Ordinance and our Open Government Program are models in California of public access to local government. It has been my passion to expand these principles statewide. I'd like to share with you excerpts from a piece I wrote for other elected officials in 'Western City Magazine' that examines the principles of open government and its pivotal role in local democracy.

Why California Should be the True "Sunshine" State: The Importance of Open Government to Local Democracy

By John Russo

Public servants can be successful only if the people know what we do and actively participate with us in conducting their business. The public should be able to trust that we, as elected leaders, will act on behalf of the greater good, without arbitrary exercise of power or secrecy. To build this precious trust and stimulate public involvement in decision-making, we must perform our duties in the light of day, where the merits of our work and the effectiveness of our policies can be seen and judged. To make a real difference, we must be visible, because by being visible we become accountable and credible in the eyes of the public.

This is the essence of the Ralph M. Brown Act and the Public Records Act, California's progressive open government laws. As an elected city attorney and a former city councilmember, I know it can be tough to live up to high standards of open government. Yet I also believe that cities are really municipal corporations that belong to the "shareholders," the citizens who we are elected to serve. Those of us who work in city government, whether elected or appointed, are merely trustees. We work for the people.

Oakland's Sunshine Ordinance

In 1997, I worked closely with the League of Women Voters to write Oakland's own Sunshine Ordinance, which requires that the business of city government be conducted in the light of day. At the time, city officials and staff worried that the rules would be too onerous or the public too demanding. After seven years, compliance with the Sunshine Ordinance is part of our municipal culture, and public trust has improved. The public

now has access to all relevant decision-making information 11 days before the council votes. As a result, public questions are sharper, debate is more civil, and suspicion that city hall is “trying to put one over” is minimized.

A commitment to open government requires a shift in the way city officials view information. In Oakland, we have decided that if there is a question about whether a matter should be conducted in closed or open session, the burden of proof should fall upon those wishing to keep matters behind closed doors. Issues that are politically difficult, awkward, embarrassing or simply hard to talk about don't make the cut and should be conducted in public.

Being fair with the public about public records is another important part of keeping government open. Unless a document falls within the clear, legal exceptions to disclosure, a city should promptly produce the requested document for any citizen who asks, before the 10-day legal requirement if possible. These documents belong to the citizens, not to the city officials who produce them.

Open Government = Better Government

Governing in the open not only builds public confidence, it produces better policy and more sustainable results. The best ideas emerge through public discourse, especially when participants receive equal treatment. This does not mean that everyone's contribution can or should receive equal weight. On a highly complex issue, the testimony of a technical expert will likely carry more weight.

But sometimes we are surprised. Often when we create opportunities for citizens to speak, we learn something new or appreciate subtle distinctions more completely. Many of us have gone into public hearings leaning one way, yet are convinced by public speakers to reconsider our votes. We don't listen to the public just because the law says we have to. We listen because you never know when someone is going to say something that changes your mind.

This illustrates another important principle of open government: the value of public civility. Citizens who care enough to show up, who feel strongly enough to harness the courage it takes to speak in public, deserve to be listened to with respect. When we accord them that respect, everybody wins and local democracy is strengthened.

But do not confuse open government with direct democracy, where the people are polled to decide every outcome. It takes guts to stand up to the boos, hisses and verbal attacks when the audience wants one outcome, but you as a policy-maker have the perspective and understanding to know when the decision should go another way. Open government is about accountability, not personal popularity.

Perhaps the most important reason for preserving open government is that the truth is most likely to emerge when the facts and all points of view are exposed to the bright light of public scrutiny. When this happens, citizens feel invested in the decisions reached by their elected representatives because they know they played a role in the outcome.

The California Sunshine Amendment

Slated for the November 2004 ballot, the California Sunshine Amendment would enhance public policy at a statewide level. I recently had the honor of being named chairman of “Californians for Open Government,” the campaign committee working to pass the Sunshine Amendment. I invite you to join me in supporting the Sunshine Amendment this November and exporting Oakland’s progressive open government policies to a statewide level.

Specifically, the amendment would:

- Raise Californians’ rights to transparent local and state government to the status of fundamental constitutional entitlements such as those protecting speech, assembly, petition, worship and privacy.
- Require courts and public officials to interpret laws or previous court decisions broadly when they provide public access to government meetings and records, and narrowly when they provide exceptions to the access laws.
- In adopting any future limits on public access, require lawmakers to show what interest will be protected by the limitation and why the limitation is necessary.
- Leave intact the right to privacy stated in the Constitution, as well as the right to due process and equal protection of the law.

Thomas Paine wrote in 1776 about the value of democracy, saying, “The sun never shined on a cause of greater worth.” Nothing could be more important to local democracy than making California the true “sunshine” state.

For more information about Oakland’s Open Government Program, go to www.oaklandcityattorney.org or call Michelle Abney, our Open Government Coordinator, at (510) 238-2965.