File No. 180517

Committee Item No. <u>4</u> Board Item No. <u>1</u>

## **COMMITTEE/BOARD OF SUPERVISORS**

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date July 9, 2018

**Board of Supervisors Meeting** 

Date (ULY 31 2018

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**BOARD of SUPERVISORS** 



City Hall Dr. Carlton B. Goodlett Place, Room 244 San Francisco 94102-4689 Tel. No. 554-5184 Fax No. 554-5163 TDD/TTY No. 554-5227

# MEMORANDUM

LAND USE AND TRANSPORTATION COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Katy Tang, Chair Land Use and Transportation Committee

FROM: Erica Major, Assistant Clerk

DATE: July 10, 2018

SUBJECT: **COMMITTEE REPORT, BOARD MEETING** Tuesday, July 10, 2018

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting, Tuesday, July 10, 2018. This item was acted upon at the Committee Meeting on Monday, July 9, 2018, at 1:30 p.m., by the votes indicated.

Item No. 20 File No. 180517

Ordinance ordering the summary street vacation of a portion of Burnett Avenue North, generally bounded by Assessor's Parcel Block No. 2719C, Assessor's Parcel Block No. 2745, and Burnett Avenue, subject to specified conditions; affirming the Planning Department's determination under the California Environmental Quality Act; adopting findings of consistency with the General Plan, and eight priority policies of Planning Code, Section 101.1; and authorizing official acts taken in connection with this Ordinance, as defined herein.

## **RECOMMENDED AS A COMMITTEE REPORT**

Vote: Supervisor Katy Tang - Aye Supervisor Jane Kim - Aye Supervisor Ahsha Safaí - Aye

c: Board of Supervisors Angela Calvillo, Clerk of the Board Jon Givner, Deputy City Attorney FILE NO. 180517

## ORDINANCE NO.

[Summary Street Vacation - Portion of Burnett Avenue North]

Ordinance ordering the summary street vacation of a portion of Burnett Avenue North, generally bounded by Assessor's Parcel Block No. 2719C, Assessor's Parcel Block No. 2745, and Burnett Avenue, subject to specified conditions; affirming the Planning Department's determination under the California Environmental Quality Act; adopting findings of consistency with the General Plan, and eight priority policies of Planning Code, Section 101.1; and authorizing official acts taken in connection with this Ordinance, as defined herein.

NOTE: Unchanged Code text and uncodified text are in plain Arial font. Additions to Codes are in <u>single-underline italics Times New Roman font</u>. Deletions to Codes are in <u>strikethrough italics Times New Roman font</u>. Board amendment additions are in <u>double-underlined Arial font</u>. Board amendment deletions are in <u>strikethrough Arial font</u>. Asterisks (\* \* \* \*) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings.

(a) California Streets and Highways Code Sections 8300 et seq. and Public Works Code Section 787(a) set forth the procedures that the City and County of San Francisco follows to vacate public streets and public service easements. California Streets and Highways Code Sections 8330 et seq. permits the summary vacation of a public street or public service easement if certain conditions are satisfied.

(b) The Board of Supervisors finds it appropriate to pursue a street vacation of a portion of Burnett Avenue North generally bounded by Assessor's Block No. 2719C, Assessor's Block No. 2745, and Burnett Avenue.

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(c) The location and extent of the area to be vacated (the "Vacation Area") is more particularly shown on Public Works' ("PW") SUR Map No. 2018-001, dated May 9, 2018. A copy of this map is on file with the Clerk of the Board of Supervisors in File No. 180517 and is incorporated herein by reference.

(d) The vacation of the Vacation Area is in connection with the settlement of litigation between the City and the owner of Assessor's Block No. 2745, Lot 036. Legislation approving the Settlement Agreement is on file with the Clerk of the Board of Supervisors in File No. 171004 and is incorporated herein by reference.

(e) The Vacation Area shall be developed and serve as a method of ingress and egress from Assessor's Block No. 2745, Lot 036, to the Burnett Avenue public right-of-way, the open and relocated street that replaced Burnett Avenue North.

(f) Section 8334(a) of the California Streets and Highways Code provides that the legislative body of a local agency may summarily vacate an excess right-of-way of a street, highway, or public easement under certain circumstances as long as there are no in-place functioning utilities.

(g) In PW Order No. 187699, dated May 15, 2018, the Public Works Director (the "PW Director") determined: (1) the Vacation Area is excess right-of-way that can be summarily vacated under California Streets and Highways Code Section 8334(a); (2) the Vacation Area is unnecessary for the City's present or prospective public street, sidewalk, and service easement purposes; (3) there are no functioning in-place public or private utility facilities that would be affected by the vacation of the Vacation Area, which allows the City to proceed with a summary street vacation under Streets and Highways Code Section 8334.5; (4) pursuant to Streets and Highways Code Section 892, the Vacation Area is adjacent to an existing open public street that is an alternate non-motorized transportation facility, and therefore, it has no use for a non-motorized transportation facility; (5) the public interest, convenience, and

Supervisor Mandelman BOARD OF SUPERVISORS

necessity do not require any other easements or other rights be reserved for any public or private utility facilities that are in place in the Vacation Area and that any rights based upon any such public or private utility facilities shall be extinguished automatically upon the effectiveness of the vacation; and (6) disposition of the Vacation Area is addressed in the legislation approving the settlement agreement. A copy of the PW Order is on file with the Clerk of the Board of Supervisors in File No. 180517.

(h) The PW Director also recommends that the effectiveness of the street vacation be conditioned on (1) prior recordation of a driveway easement as described in the Agreement for Sale of Real Estate (the "Purchase Agreement," attached as Exhibit C to the Settlement Agreement and Mutual Releases and Exhibits ("Settlement Agreement")) contained in Board of Supervisors File No. 171004; (2) companion legislation approving the Settlement Agreement, and (3) companion legislation rezoning the Vacation Area on file with the Clerk of the Board of Supervisors in File No. 171004, becoming effective; and (3) companion legislation rezoning the Vacation Area on file with the Clerk of the Board of Supervisors in File No. 171013, becoming effective. The Board of Supervisors adopts as its own the recommendations of the PW Director as set forth in PW Order No. 187699 concerning the vacation of the Vacation Area and other actions in furtherance thereof and the Board hereby incorporates such recommendations and findings by reference as though fully set forth herein.

(i) Companion legislation approving the Settlement Agreement, on file with the Clerk of the Board of Supervisors in File No. 171004, addresses approval of the conveyance of the Vacation Area.

(j) The Director of Planning, by letter dated January 10, 2018, found that the vacation of the Vacation Area and other actions contemplated in this ordinance are consistent with the General Plan and with the eight priority policies of Planning Code Section 101.1. This letter is on file with the Clerk of the Board of Supervisors under File No. 171013. The Board of

Supervisor Mandelman BOARD OF SUPERVISORS Supervisors adopts as its own, the recommendations of the Director of Planning as set forth in the abovementioned letter concerning and the Board hereby incorporates such recommendations and findings by reference as though fully set forth herein.

(k) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). The Board of Supervisors hereby affirms this determination as its own. A copy of said determination is on file with the Clerk of the Board of Supervisors in File No. 171013 and incorporated herein by reference.

Section 2. Summary Vacation and Conditions.

(a) The Board of Supervisors hereby summarily vacates the Vacation Area, as shown on SUR Map No. 2018-001, upon satisfaction of the conditions described in this ordinance and pursuant to California Streets and Highways Code Section 8300 et seq. and Public Works Code Section 787(a).

(b) The Board of Supervisors finds that the Vacation Area is unnecessary for present or prospective public street, sidewalk, and service easement purposes, subject to the conditions described in this ordinance.

(c) The public interest and convenience require that the vacation be done as declared in this ordinance.

(d) The Street Vacation shall be effective automatically and without the requirement for further action whatsoever, as to all of the Vacation Area, upon satisfaction of the following:

(1) Recordation of a driveway easement for the benefit of Parcel Nos.2718/011-016;

(2) Effectiveness of the companion legislation approving the Settlement Agreement on file with the Clerk of the Board of Supervisors in File No. 171004; and

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(3) Effectiveness of companion legislation rezoning the Vacation Area on file with the Clerk of the Board of Supervisors in File No. <u>171013</u>.

Section 3. Official Acts Taken in Connection with the Ordinance.

(a) The Mayor, Clerk of the Board of Supervisors, Director of the Division of Real Estate, County Surveyor, and PW Director are hereby authorized and directed to take any and all actions which they or the City Attorney may deem necessary or advisable in order to effectuate the purpose and intent of this ordinance (including, without limitation, the filing of this ordinance in the Official Records of the City and County of San Francisco; confirmation of satisfaction of the conditions to the effectiveness of the vacation of the Vacation Area hereunder; and execution and delivery of any evidence of the same, which shall be conclusive as to the satisfaction of the conditions upon signature by any such City official or his or her designee).

(b) Immediately upon the effective date of this vacation, this ordinance shall be recorded.

Section 4. Effective and Operative Dates. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance. This ordinance shall become operative upon satisfaction of the conditions in Section 2.

APPROVED AS TO FORM: DENNIS J. HERRERA, City Attorney

By:

ROBB W. KAPLA Deputy City Attorney n:\land\as2018\1800001\01274194.doc

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FILE NO. 180517

#### LEGISLATIVE DIGEST

#### [Summary Street Vacation - Portion of Burnett Avenue North]

Ordinance ordering the summary street vacation of a portion of Burnett Avenue North, generally bounded by Assessor's Parcel Block No. 2719C, Assessor's Parcel Block No. 2745, and Burnett Avenue, subject to specified conditions; affirming the Planning Department's determination under the California Environmental Quality Act; adopting findings of consistency with the General Plan, and eight priority policies of Planning Code, Section 101.1; and authorizing official acts taken in connection with this Ordinance, as defined herein.

## Existing Law

The Vacation Area is a portion of Burnett Avenue North, bounded by Assessor's Block 2719C, Assessor's Block No. 2745, and Burnett Avenue. Currently, the Vacation Area is the last remnant of the undeveloped "paper" street Burnett Avenue North.

#### Amendments to Current Law

The legislation would vacate the Vacation Area so that it would no longer be a public street.

#### **Background Information**

The legislation is part of a settlement agreement. The Vacation Area and a neighboring parcel owned by the Public Utilities Commission will be rezoned and sold pursuant to a settlement agreement. The ordinance approving the settlement agreement is located in Board File No.171004.

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#### City and County of San Francisco

#### San Francisco Public Works

Office of the City and County Surveyor 1155 Market Street, 3rd Floor San Francisco, Ca 94103 (415) 554-5827 www.SFPublicWorks.org



PUBLIC WORKS

Mark Farrell, Mayor Mohammed Nuru, Director

Bruce R. Storrs, City and County Surveyor

### Public Works Order No: 187699

Determination to recommend vacating a portion of Burnett Avenue North, generally bounded by Assessor's Block 2719C, Assessor's Block 2745 and Burnett Avenue, pursuant to California Streets and Highways Code Sections 8300 *et seq.* and Section 787 of the San Francisco Public Works Code.

WHEREAS, Most public streets and sidewalks are owned by the City and County of San Francisco as a public right-of-way; and

WHEREAS, Burnett Avenue North, generally bounded by Assessor's Block 2719C, Assessor's Block 2745 and Burnett Avenue, the area to be vacated ("the Vacation Area"), is specifically shown on SUR Map 2018-001, dated May 9, 2018; and

WHEREAS, On January 10, 2018, the Department of City Planning (Case No. 2017-009541GPR) found that the proposed vacation is on balance in conformity with the General Plan and Planning Code Section 101.1, In that same letter, the Planning Department also issued a determination the under the California Environmental Quality Act.

WHEREAS, Pursuant to the California Streets and Highway Code, Public Works, Bureau of Street Use and Mapping (the "Department") has initiated the process to vacate the Vacation Area; and

WHEREAS, The Department sent notice of the proposed street vacation, draft SUR drawing, a copy of the petition letter, and a PW referral letter to the Department of Technology, San Francisco Municipal Transportation Agency, AT&T, Sprint, San Francisco Fire Department, San Francisco Water Department, Pacific Gas and Electric ("PG&E"), Bureau of Light, Heat and Power, Bureau of Engineering, Department of Parking and Traffic, Utility Engineering Bureau, and the Public Utility Commission ("PUC"). No utility company or agency objected to the proposed vacation, and the Vacation Area is unnecessary for the City's present or prospective public street purposes; and

WHEREAS, The applicant attempted to obtain the consent of all property owners adjacent to the Vacation Area; and

WHEREAS, The public interest, convenience, and necessity require that, except as specifically provided herein, no other easements or other rights should be reserved by City for any public or private utilities or facilities that may be in place in the Vacation Area and that any rights based



San Francisco Public Works Making San Francisco a beautiful, livable, vibrant, and sustainable city. upon any such public or private utilities or facilities are unnecessary and should be extinguished; and

WHEREAS, Pursuant to the Streets and Highways Code Section 892, the Department determines that the Vacation Area is unnecessary for non-motorized transportation as there are multiple streets surrounding that Vacation Area that remain available for such transportation and those members of the public availing themselves of non-motorized transportation will not be inconvenienced by the proposed street vacation; and

WHEREAS, The vacation is being carried out pursuant to the California Streets and Highways Code sections 8300 et seq.

WHEREAS, The vacation is being carried out pursuant to section 787 of the San Francisco Public Works Code.

WHEREAS, The vacation of the Vacation Area is in connection with the settlement of litigation between the City and the owner of Assessor's Block No. 2745, Lot 036. Legislation approving the Settlement Agreement is on file with the Clerk of the Board of Supervisors in File No. 171004.

WHEREAS, The Vacation Area shall be developed and serve as a method of ingress and egress from Assessor's Block No. 2745, Lot 036, to the Burnett Avenue public right-of-way, the open and relocated street that replaced Burnett Avenue North.

WHEREAS, The Vacation Area is excess right-of-way, has not been used for more than 5 years, and there are no in-place functioning utilities.

WHEREAS, The public interest, convenience and necessity require that, except as provided in this Order, no other easements or other rights be reserved for any public or private utilities or facilities that are in place in such vacation area and that any rights based upon any such public or private utilities or facilities may be extinguished.

WHEREAS, the effectiveness of the street vacation shall be conditioned prior recordation of a driveway easement as described in the Agreement for Sale of Real Estate (the "Purchase Agreement," attached as Exhibit C to the Settlement Agreement and Mutual Releases and Exhibits ("Settlement Agreement")) contained in Board of Supervisors File No. 171004

WHEREAS, The Director of the Real Estate Division has negotiated a purchase and sale agreement and a quitclaim for the Vacation Area. Approval of the real estate transaction is a policy matter for the Board of Supervisors

#### NOW THEREFORE BE IT ORDERED THAT,

The Director approves all of the following documents either attached hereto or referenced herein:

- 1. Ordinance to vacate the Vacation Area;
- 2. Vacation Area SUR Map No. 2018-001

The Director recommends that the Board of Supervisors move forward with the legislation to vacate said Vacation Area.



San Francisco Public Works Making San Francisco a beautiful, livable, vibrant, and sustainable city. The Director further recommends the Board of Supervisors authorize the Mayor, Clerk of the Board, Director of Property, County Surveyor, and Director of Public Works to take any and all actions which they or the City Attorney may deem necessary or advisable in order to effectuate the purpose and intent of this Ordinance.

Attachments:

1. SUR Map NO. 2018-001, dated May 9, 2018.

2. Planning Department letter, dated November 26, 2014.

5/15/2018

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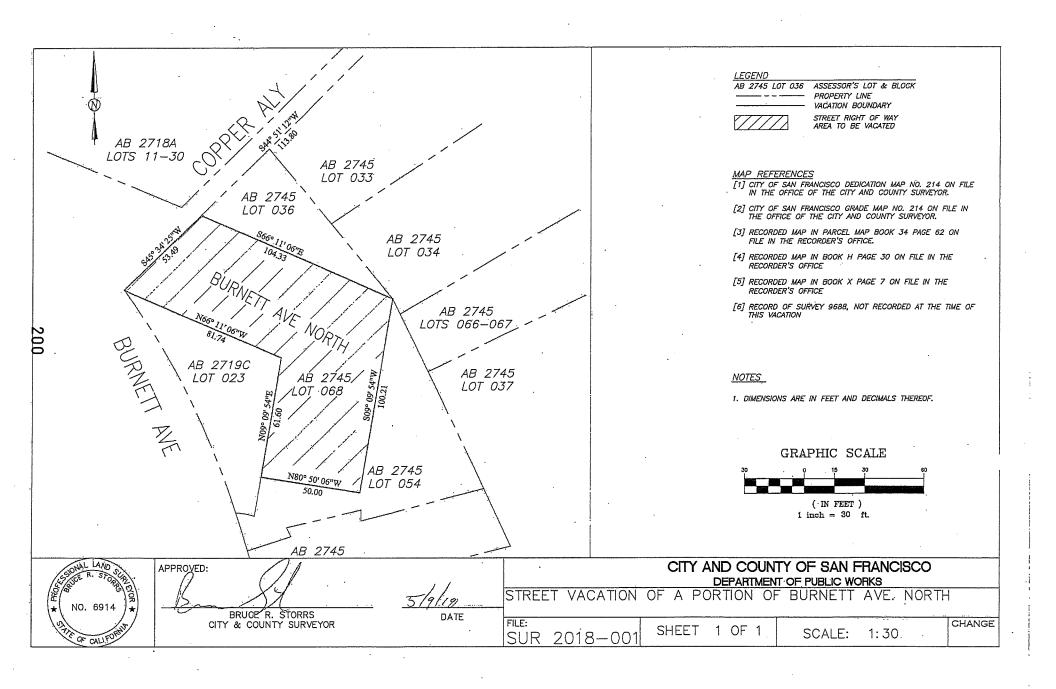
X Bruce R. Storrs

X Edgar Lopez

Storrs, Bruce City and County Surveyor Signed by: Storrs, Bruce Nuru, Mohammed Director Signed by: Lopez, Edgar



San Francisco Public Works Making San Francisco a beautiful, livable, vibrant, and sustainable city.





City Hall 1 Dr. Carlton B. Goodlett Place, Room 244 San Francisco 94102-4689 Tel. No. 554-5184 Fax No. 554-5163 TDD/TTY No. 554-5227

NOTICE OF PUBLIC HEARING

## BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

LAND USE AND TRANSPORTATION COMMITTEE

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: Monday, July 9, 2018

Time: 1:30 p.m.

BOARD of SUPERVISORS

Location: Legislative Chamber, Room 250, located at City Hall 1 Dr. Carlton B. Goodlett Place, San Francisco, CA

Subject: File No. 180517. Ordinance ordering the summary street vacation of a portion of Burnett Avenue North, generally bounded by Assessor's Parcel Block No. 2719C, Assessor's Parcel Block No. 2745, and Burnett Avenue, subject to specified conditions; affirming the Planning Department's determination under the California Environmental Quality Act; adopting findings of consistency with the General Plan, and eight priority policies of Planning Code, Section 101.1; and authorizing official acts taken in connection with this Ordinance, as defined herein.

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, July 6, 2018.

Angela Calvillo, Clerk of the Board

DATED/PUBLISHED/POSTED: June 24 and July 1, 2018

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**ERICA MAJOR** 

CCSF BD OF SUPERVISORS (OFFICIAL NOTICES) 1 DR CARLTON B GOODLETT PL #244 SAN FRANCISCO, CA 94102

EXM# 3146299

## COPY OF NOTICE

Notice Type: GPN GOVT PUBLIC NOTICE

Ad Description

EDM File No. 180517 - Summary Street Vacation -Burnett Ave

To the right is a copy of the notice you sent to us for publication in the SAN FRANCISCO EXAMINER. Thank you for using our newspaper. Please read this notice carefully and call us with ny corrections. The Proof of Publication will be filed with the County Clerk, if required, and mailed to you after the last date below. Publication date(s) for this notice is (are):

06/24/2018,07/01/2018

The charge(s) for this order is as follows. An invoice will be sent after the last date of publication. If you prepaid this order in full, you will not receive an invoice.

EXM# 3146299 NOTICE OF PUBLIC HEARING BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO LAND USE AND TRANSPORTA-TION COMMITTEE MONDAY, JULY 9 - 1:30 PM CITY HALL, LEGISLA-TIVE CHAMBER, ROOM 250 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend nearing will be held as follows, at which time all interested parlies may attend and be heard: File No. 180517. Ordinance ordering the summary street vacation of a portion of Burnett Avenue North, generally bounded by Assessor's Parcel Block No. 2719C, Assessor's Parcel Block No. 2745, and Burnett Avenue, subject to specified condi-tions; affirming the Planning Department's determination under the California Environmental Quality Act adopting findings of consistency with the General Plan, and eight priority policies of Planning Code, Section 101.1; and authoriz-ing official acts taken in connection with this Ordinance, as defined herein, In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit be made part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carton B. Goodett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Diffice of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, July 6, 2018. Angela



**BOARD of SUPERVISORS** 



City Hall 1 Dr. Carlton B. Goodlett Place, Room 244 San Francisco 94102-4689 Tel. No. 554-5184 Fax No. 554-5163 TDD/TTY No. 544-5227

## **PROOF OF POSTING**

Legislative File No.

(180517) Summary Street Vacation - Portion of Burnett Avenue North

Description of Items:

Ordinance ordering the summary street vacation of a portion of Burnett Avenue North, generally bounded by Assessor's Parcel Block No. 2719C, Assessor's Parcel Block No. 2745, and Burnett Avenue, subject to specified conditions; affirming the Planning Department's determination under the California Environmental Quality Act; adopting findings of consistency with the General Plan, and eight priority policies of Planning Code, Section 101.1; and authorizing official acts taken in connection with this Ordinance, as defined herein.

I, <u>Dragomir Rajic</u>, an employee of the City and County of San Francisco, posted the above described document(s) in at least three (3) public places along the street(s) to be affected at least ten (10) days in advance of the hearing (pursuant to CA Streets and Highways Code, Section 970.5):

Date:	06/25/2018
Time:	9:30 – 11:30
Location:	Burnett Avenue North

Inogen's Lapic Signature:

Instructions: Upon completion, original must be filed in the above referenced file.

Print Form		
Introduction Form	RECELY	ED
By a Member of the Board of Supervisors or Mayor	RECELV BOARD OF SUP SAN FRAM	CISCO
I hereby submit the following item for introduction (select only one):	ZUISTIALIUS	prinie:stamp or meeting date
$\boxed{7}$ 1. For reference to Committee. (An Ordinance, Resolution, Motion or C	HY	
		it).
<ul> <li>2. Request for next printed agenda Without Reference to Committee.</li> <li>2. Request for boaring on a subject matter at Committee.</li> </ul>		
<ul> <li>3. Request for hearing on a subject matter at Committee.</li> </ul>		
4. Request for letter beginning :"Supervisor		inquiries"
5. City Attorney Request.		
6. Call File No. from Committee.		
7. Budget Analyst request (attached written motion).	•	
8. Substitute Legislation File No.		
9. Reactivate File No.		
10. Question(s) submitted for Mayoral Appearance before the BOS on	* 	
Please check the appropriate boxes. The proposed legislation should be for         Small Business Commission         Planning Commission         Building Inst		ommission
	-	
Note: For the Imperative Agenda (a resolution not on the printed agenda	a), use the imper	auve Form.
Sponsor(s):		
Sheehy		. <u>.</u>
Subject: Ordinance ordering the summary street vacation of a portion of Burnett Ave Assesor's Block No. 2719C, Assessor's Block No. 2745, and Burnett Avenue affirming the Planning department's determination under the California Envir of consistency with the General Plan and eight priority policies of Planning official acts taken in connection with this ordinance.	e, subject to speci ironmental Qualit	fied conditions; y Act; adopting findings
The text is listed:	•	
Signature of Sponsoring Supervisor:	Af An	Les .
For Clerk's Use Only	10	
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