

File No. 1160381

Committee Item No. 13

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date June 8, 2016

Board of Supervisors Meeting

Date _____

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Completed by: Linda Wong Date June 3, 2016
Completed by: Linda Wong Date _____

1 [Charter Amendment and Business and Tax Regulations Code - City Responsibility and Parcel
2 Tax for Street Trees]

3 **Describing and setting forth a proposal to the voters at an election to be held on**
4 **November 8, 2016, to amend the Charter of the City and County of San Francisco to**
5 **transfer responsibility for the maintenance of street trees to the City and establish a special**
6 **fund primarily to pay for such maintenance and the maintenance of trees on San Francisco**
7 **Unified School District property; to amend the Business and Tax Regulations Code to add**
8 **a special parcel tax primarily to fund the City’s maintenance of street trees and the**
9 **maintenance of trees on San Francisco Unified School District property; to increase the**
10 **City’s appropriations limit by the amount of the parcel tax for four years from November**
11 **8, 2016; and to affirm the Planning Department’s determination under the California**
12 **Environmental Quality Act.**

13
14 NOTE: **Unchanged Charter and Code text and uncodified text** are in plain
15 font.
16 **Additions** are *single-underline italics Times New Roman font*.
17 **Deletions** are *strike-through italics Times New Roman font*.
18 **Asterisks (* * * *)** indicate the omission of unchanged Charter or
19 Code subsections.

20 Section 1. The Planning Department has determined that the actions contemplated in this
21 proposed Charter Amendment and initiative ordinance comply with the California
22 Environmental Quality Act (California Public Resources Code Sections 21000 *et seq.*). Said
23 determination is on file with the Clerk of the Board of Supervisors in File No. ___ and is
24 incorporated herein by reference. The Board affirms this determination.
25

1 Section 2. The Board of Supervisors hereby submits to the qualified voters of the City
2 and County, at an election to be held on November 8, 2016, a proposal to amend the Charter of
3 the City and County by adding Section 16.129, to read as follows:

4 **SEC. 16.129. STREET TREE MAINTENANCE.**

5 *(a) Definitions. For purposes of this Section 16.129:*

6 *“City” shall mean the City and County of San Francisco.*

7 *“Maintenance” (and its root “Maintain”) shall mean those actions necessary to promote*
8 *the life, growth, health, or beauty of a Tree. Maintenance includes both routine maintenance*
9 *and major maintenance. Routine maintenance includes adequate watering to ensure the Tree’s*
10 *growth and sustainability; weed control; removal of Tree-well trash; staking; fertilizing; routine*
11 *adjustment and timely removal of stakes, ties, Tree guards, and Tree grates; bracing; and*
12 *Sidewalk repairs related to the Tree’s growth or root system. Major maintenance includes*
13 *structural pruning as necessary to maintain public safety and to sustain the health, safety, and*
14 *natural growth habit of the Tree; pest and disease-management procedures as needed and in a*
15 *manner consistent with public health and ecological diversity; and replacement of dead or*
16 *damaged Trees. Pruning practices shall be in compliance with International Society of*
17 *Arboriculture Best Management Practices and ANSI Pruning Standards, whichever is more*
18 *protective of Tree preservation, or any equivalent standard or standards selected by the Director*
19 *of the Department of Public Works.*

20 *“Planting” shall mean putting or setting into the ground or into a container to grow, and*
21 *irrigating until self-sufficient.*

22 *“Removal” shall mean any intentional or negligent moving, carrying away, elimination,*
23 *or taking away of part or all of a Tree.*

1 "Sidewalk" shall mean the area between the curbing and the abutting private property
2 lot line, whether paved or unpaved, as legislated by the Board of Supervisors and as reflected in
3 the official maps of the Department of Public Works.

4 "Street Tree" shall mean any Tree growing within the public right-of-way, including
5 unimproved public streets and Sidewalks, and any Tree growing on land under the jurisdiction of
6 the Department of Public Works. "Street Tree" does not include any other forms of
7 landscaping.

8 "Tree" shall mean any perennial, woody or fibrous plant species or cultivar, which
9 reaches a height exceeding 10 feet at maturity, and which supports a branched or un-branched
10 leaf canopy.

11 (b) City Responsibility to Maintain Street Trees. Beginning on July 1, 2017, and except
12 as otherwise required by supervening law, the City shall be responsible for Maintaining Street
13 Trees, including Street Trees planted both before and after July 1, 2017. The City may not adopt
14 any ordinance making it the duty of owners of lots or portions of lots immediately abutting on,
15 fronting on, or adjacent to any Street Tree to Maintain such Street Tree on or after July 1, 2017.
16 Any such ordinance in existence on July 1, 2017, shall, to the extent it conflicts with this Section
17 16.129, be void.

18 (c) Limitations of Transfer of Responsibility. Nothing in this Section 16.129 shall:
19 (1) affect the rights or responsibilities of the City or property owners with respect to the
20 Removal, establishment, or relocation of a Street Tree; (2) prevent the City from entering into or
21 continuing to abide by prior voluntary agreements with third parties for them to assume
22 responsibility for Street Tree Maintenance; (3) prevent the City from imposing any legally
23 permitted penalties or fees on persons who injure, damage, or destroy Trees; or (4) relieve
24 abutting property owners from their responsibility for the care and Maintenance of the Sidewalk
25

1 and Sidewalk areas adjacent to any Street Tree, other than the responsibility for Sidewalk
2 repairs related to the Tree's growth or root system, which shall be the responsibility of the City.

3 (d) Limitation of Liability. Beginning on July 1, 2017, any local law imposing liability
4 on property owners that do not Maintain Street Trees for injury or property damage shall not
5 apply to the extent that the injury or property damage occurred on or after July 1, 2017, and was
6 proximately caused by the City's failure to Maintain a Street Tree under this Section 16.129, but
7 shall otherwise remain applicable. Nothing in this Section 16.129 shall be construed to impose
8 liability on the City for injury or property damage that occurred as a result of the property
9 owner's responsibility to Maintain a Street Tree prior to July 1, 2017. To the extent that the
10 Maintenance of a Street Tree requires that the City access private property, the City shall
11 attempt in good faith to obtain permission from the owner of the private property. If the owner
12 refuses to grant the City permission to access the private property for the purpose of
13 Maintaining the Street Tree, the City shall have no liability for any damages related to the
14 Maintenance of that Street Tree, and the property owner shall be subject to liability for such
15 damages.

16 (e) Creating the Street Tree Maintenance Fund; Annual City Contributions. There shall
17 be a Street Tree Maintenance Fund (the "Fund"). Each fiscal year, beginning in fiscal
18 year 2017-2018, the City shall contribute \$8 million to the Fund. The Fund shall also include
19 any other monies appropriated or allocated to the Fund, including, but not limited to, the
20 proceeds of any parcel tax required to be deposited into the Fund, and any penalties, interest,
21 and fees associated with the imposition of such a parcel tax. Beginning in fiscal year 2018-2019,
22 the Controller shall adjust the amount of the City's annual \$8 million contribution to the Fund
23 under this subsection (e) by the percentage increase or decrease in aggregate City discretionary
24 revenues, as determined by the Controller, based on calculations consistent from year to year.
25 In determining aggregate City discretionary revenues, the Controller shall only include revenues

1 received by the City which are unrestricted and may be used at the option of the Mayor and the
2 Board of Supervisors for any lawful City purpose. The method used by the Controller to
3 determine discretionary revenues shall be the same as the method used by the Controller to
4 determine the Library and Children's Fund Baseline calculations, as provided in Charter
5 Section 16.108(h). The change in aggregate discretionary revenues will be adjusted following
6 the end of the fiscal year when final revenues are known. The Controller is authorized to
7 increase or reduce budgetary appropriations as required under this subsection (e) to reflect
8 changes in aggregate discretionary revenues following the end of the fiscal year when final
9 revenues are known. The Controller shall set aside and maintain the above amounts, together
10 with any interest earned thereon, in the Fund, which shall be subject to appropriation. Any
11 amount unspent or uncommitted at the end of the fiscal year shall be deemed to have been
12 devoted exclusively to a specified purpose within the meaning of Charter Section 9.113(a), shall
13 be carried forward to the next fiscal year, and, subject to the budgetary and fiscal limitations of
14 this Charter, shall be appropriated then or thereafter for the purposes set forth in this Section
15 16.129.

16 (f) Beginning in fiscal year 2018-2019, the City may suspend growth in the City's \$8
17 million contribution to the Fund under subsection (e) of this Section 16.129 if the City's
18 projected budget deficit for the upcoming fiscal year at the time of the Joint Report or Update to
19 the five-year financial plan as prepared jointly by the Controller, the Mayor's Budget Director,
20 and the Board of Supervisors' Budget Analyst exceeds \$200 million adjusted annually by
21 changes in aggregate discretionary revenues as defined in subsection (e) of this Section 16.129.

22 (g) Administration and Use of the Fund. The Department of Public Works shall
23 administer the Fund. Monies in the Fund shall only be used for the following purposes:

24 (1) Maintenance and Removal of Street Trees.
25

1 (2) Necessary costs of administering the Fund, including costs associated with
2 the administration of any parcel tax required to be deposited into the Fund.

3 (3) Refunds of any overpayments of any parcel tax required to be deposited into
4 the Fund, and any penalties, interest, and fees associated with such overpayments.

5 (4) Making grants totaling up to \$500,000 annually to the San Francisco Unified
6 School District exclusively to fund Maintenance and Removal of Trees on School District
7 property.

8 Monies in the Fund shall not be used for Planting new Street Trees, or for grants to the
9 San Francisco Unified School District for the Planting of new Trees on School District property,
10 but may be used to pay the costs of Maintaining and Removing Street Trees that were planted
11 before or after July 1, 2017, and to make grants to the School District to Maintain and Remove
12 Trees that were planted before or after July 1, 2017.

13 (h) Annual Reports. Commencing with a report filed no later than January 1, 2019,
14 covering the fiscal year ending June 30, 2018, the Department of Public Works shall file
15 annually with the Board of Supervisors, by January 1 of each year, a report containing the
16 amount of monies collected in and expended from the Fund during the prior fiscal year, and such
17 other information as the Director of the Department of Public Works, in the Director's sole
18 discretion, shall deem relevant to the operation of this Section 16.129.

19
20 Section 3. The Board of Supervisors hereby submits to the qualified voters of the City
21 and County, at an election to be held on November 8, 2016, a proposal to amend the Business
22 and Tax Regulations Code of the City and County by adding Article 26, Sections 2601 through
23 2612, to read as follows:
24
25

1 **ARTICLE 26: TREE MAINTENANCE PARCEL TAX ORDINANCE**

2
3 **SEC. 2601. SHORT TITLE.**

4 This Article 26 shall be known as the "Tree Maintenance Parcel Tax Ordinance."

5
6 **SEC. 2602. DEFINITIONS.**

7 For purposes of this Article 26, the following definitions apply:

8 "Assessor" means the Assessor-Recorder of the City and County of San Francisco, or his
9 or her designee.

10 "City" means the City and County of San Francisco.

11 "Controller" means the Controller of the City and County of San Francisco, or his or her
12 designee.

13 "Fiscal Year" means the period starting July 1 and ending on the following June 30.

14 "Frontage" means the number of linear feet of a Parcel that is adjacent or tangent to a
15 Public Right of Way, as shown on the maps maintained by the Department of Public Works. The
16 Director of the Department of Public Works shall provide the Frontage of each Parcel subject to
17 the Tax to the Tax Collector.

18 "Fund" means the Street Tree Maintenance Fund described in Charter Section 16.129.

19 "Maintenance" (and its root "Maintain") shall mean those actions necessary to promote
20 the life, growth, health, or beauty of a Tree. Maintenance includes both routine maintenance
21 and major maintenance. Routine maintenance includes adequate watering to ensure the Tree's
22 growth and sustainability; weed control; removal of Tree-well trash; staking; fertilizing; routine
23 adjustment and timely removal of stakes, ties, Tree guards, and Tree grates; bracing; and
24 Sidewalk repairs related to the Tree's growth or root system. Major maintenance includes
25 structural pruning as necessary to maintain public safety and to sustain the health, safety, and

1 natural growth habit of the Tree; pest and disease-management procedures as needed and in a
2 manner consistent with public health and ecological diversity; and replacement of dead or
3 damaged Trees. Pruning practices shall be in compliance with International Society of
4 Arboriculture Best Management Practices and ANSI Pruning Standards, whichever is more
5 protective of Tree preservation, or any equivalent standard or standards selected by the Director
6 of the Department of Public Works.

7 "Parcel" has the meaning set forth in Section 2603.

8 "Person" means any individual, firm, company, partnership, limited liability partnership,
9 joint venture, association, proprietorship, social club, fraternal organization, joint stock
10 company, domestic or foreign corporation, limited liability company, estate, trust, business trust,
11 receiver, trustee, trustee in bankruptcy, administrator, executor, assignee, syndicate, or other
12 group or combination acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or
13 otherwise.

14 "Planting" means putting or setting into the ground or into a container to grow and
15 irrigating until self-sufficient.

16 "Public Right of Way" means the dedicated public alleys, boulevards, courts, lanes,
17 roads, sidewalks, spaces, streets, and ways within the City, which are under the permitting
18 jurisdiction of the Department of Public Works.

19 "Removal" means any intentional or negligent moving, carrying away, elimination, or
20 taking away of part or all of a Tree.

21 "Sidewalk" means the area between the curbing and the abutting private property lot
22 line, whether paved or unpaved, as legislated by the Board of Supervisors and as reflected in the
23 official maps of the Department of Public Works.

24 "Street Tree" means any Tree growing within the Public Right of Way, including
25 unimproved public streets and Sidewalks, and any Tree growing on land under the jurisdiction of

1 the Department of Public Works. "Street Tree" does not include any other forms of
2 landscaping.

3 "Tax" means the Tree Maintenance Parcel Tax imposed by this Article 26.

4 "Tax Collector" means the Tax Collector of the City and County of San Francisco, or his
5 or her designee.

6 "Tree" means any perennial, woody or fibrous plant species or cultivar, which reaches a
7 height exceeding 10 feet at maturity, and which supports a branched or un-branched leaf
8 canopy.

9
10 **SEC. 2603. PARCEL.**

11 (a) "Parcel" means a unit of real estate in the City with an Assessor's parcel number as
12 shown on the most current official assessment roll of the Assessor on July 1 of the Fiscal Year
13 for which the Tax is imposed. However, both of the following conditions shall apply:

14 (1) A Parcel created by a subdivision map approved in accordance with the
15 Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the California
16 Government Code) shall be deemed to be a single assessment unit and shall not be deemed, on
17 the basis of multiple Assessor's parcel numbers assigned by the Assessor, to constitute multiple
18 assessment units.

19 (2) A Parcel that has not been subdivided in accordance with the Subdivision
20 Map Act (Division 2 (commencing with Section 66410) of Title 7 of the California Government
21 Code) may be deemed to constitute a separate assessment unit only to the extent that the Parcel
22 has been previously described and conveyed in one or more deeds separating it from all
23 adjoining property.

24 (b) If the Parcel identified pursuant to subsection (a)(1) or (a)(2) is not consistent with
25 the property's identification by Assessor's parcel number, it shall be the responsibility of the

1 Parcel owner to provide the Tax Collector with written notice of the correct Assessor's parcel
2 number of taxable Parcels pursuant to this Section 2603 90 days after the date of the initial tax
3 bill containing the Tax.

4
5 **SEC. 2604. IMPOSITION; DEPOSIT OF PROCEEDS.**

6 (a) Unless otherwise provided in this Article 26, on July 1 of each Fiscal Year there is
7 hereby imposed an annual special Tax on each Parcel in the City for the purposes described in
8 Section 2611.

9 (b) The Tax shall be imposed at the following rates:

10 (1) Parcels with less than 25 feet of Frontage, including Parcels with no
11 Frontage, and all condominiums, shall be subject to an annual Tax of \$29.50 per Parcel.

12 (2) Parcels with Frontage of 25 feet or more but less than 150 feet shall be
13 subject to an annual Tax of \$1.42 per linear foot of Frontage.

14 (3) Parcels with Frontage of 150 feet or more shall be subject to an annual Tax
15 of \$2 per linear foot of Frontage.

16 (c) Commencing with Fiscal Year 2018-2019, the dollar amounts described in
17 subsection (b) of this Section 2604 shall be adjusted annually in accordance with the increase in
18 the appropriate consumer price index, to be determined by the Controller, as of the prior
19 December 31, and such increase shall take effect when: (1) notice of the increase is given by the
20 Controller to the Board of Supervisors in the manner generally used by the Controller for
21 notification of fee or tax changes; and (2) such increase is approved by the Mayor and Board of
22 Supervisors by resolution.

23 (d) All monies collected pursuant to the Tax shall be deposited to the credit of the Fund.
24 The Fund shall be maintained separate and apart from all other City funds and shall be subject
25 to appropriation.

1 **SEC. 2605. EXEMPTIONS.**

2 (a) The following Parcels shall be exempt from the Tax:

3 (1) All Parcels on which no ad valorem property tax is levied for the Fiscal Year;

4 and

5 (2) All Parcels in which an individual who is 65 years of age or older as of July 1
6 of the Fiscal Year owns a beneficial interest, where such beneficial owner occupies the Parcel as
7 his or her principal residence.

8 (b) To claim an exemption from the Tax under subsection (a)(2) of this Section 2605, the
9 owner must submit an application to the Tax Collector. The application shall be accompanied
10 by such evidence as the Tax Collector deems necessary to determine eligibility for the exemption.
11 The Tax Collector shall prepare forms for this purpose. Exemptions granted under subsection
12 (a)(2) shall be automatically renewed in subsequent Fiscal Years absent a change in relevant
13 facts. Homeowners receiving an exemption under subsection (a)(2) must notify the Tax
14 Collector if they no longer qualify for the exemption.

15
16 **SEC. 2606. TERM.**

17 The Tax shall take effect on July 1, 2017 for Fiscal Year 2017-2018, and shall continue in
18 effect for each Fiscal Year thereafter until June 30, 2037, after which date it shall expire by
19 operation of law. Notwithstanding the preceding sentence, this Tax shall expire and have no
20 force or effect in the event that, and as of the date that, Charter Section 16.129 is repealed or is
21 amended to transfer the Maintenance of Street Trees to property owners.

22
23 **SEC. 2607. COLLECTION.**

24 (a) The Tax shall be collected by the City in two approximately equal installments in the
25 same manner and on the same dates as established by law for the collection of ad valorem

1 property taxes. The collection of the Tax shall be subject to the regulations and procedures
2 governing the collection of ad valorem property taxes by the City, including, without limitation,
3 the imposition of penalties, fees, and interest on the failure to remit or the delinquent remittance
4 of the Tax.

5 (b) The Tax Collector is charged with the responsibility of overseeing the collection and
6 receipt of the proceeds of the Tax.

7
8 **SEC. 2608. TAX DEEMED DEBT TO CITY.**

9 (a) The amount of any Tax, interest, or penalties imposed under this Article 26 shall be
10 deemed a debt to the City. Any Person who fails to timely pay the Tax shall be liable to an
11 action brought in the name of the City in any court of competent jurisdiction for the amount of
12 the Tax, interest, and penalties owed.

13 (b) In any such action to recover the delinquent payment of the Tax, interest, and
14 penalties, the City shall also be entitled to recover its administrative costs and attorneys' fees.

15 (c) The provisions of this Section 2608 shall not be deemed a limitation upon the right of
16 the City to bring any other action or take any other measures, whether criminal, legal, or
17 equitable, based upon the failure to pay the Tax, penalty, and interest imposed by this Article 26
18 or the failure to comply with any of the provisions of this Article.

19
20 **SEC. 2609. REGULATIONS.**

21 The Tax Collector is authorized to promulgate rules and regulations to implement this
22 Article 26.

1 **SEC. 2610. REFUNDS.**

2 (a) Claims for Refund; Limitations. Except as otherwise provided in subsections (e), (f),
3 and (g) of this Section 2610, the Controller shall refund or cause to be refunded the amount of
4 any Tax, interest, or penalty imposed with respect to the Tax that has been overpaid or paid
5 more than once, or has been erroneously or illegally collected or received by the City, provided
6 the Person that paid such amount files a claim in writing with the Controller within the later of
7 one year of: (1) payment of such amount; (2) the date the Tax was due; or (3) the date on which
8 such amount requested on a request for refund timely filed under subsection (f) of this Section
9 2610 was denied under that subsection (f).

10 (b) Claims for Refund; Contents. Any claim filed under subsections (a)-(e) of this
11 Section 2610 must state: (1) the specific amount claimed to have been overpaid or paid more
12 than once, or erroneously or illegally collected or received by the City; (2) the Fiscal Year of the
13 Tax at issue; (3) the date the Tax was paid; (4) the grounds upon which the claim is founded,
14 with specificity sufficient to enable the responsible City officials to understand and evaluate the
15 claim; and (5) the date on which the amount requested on a request for refund timely filed under
16 subsection (f) of this Section 2610 was denied under that subsection (f), if the Person filing the
17 claim filed such a request for refund.

18 (c) Claims for Refund; Applicable Law. Claims for refund shall be made according to
19 California Government Code, Title 1, Division 3.6, Part 3. For purposes of subsections (a)-(e)
20 of this Section 2610, a claim shall be deemed to accrue on the later of: (1) the date the Tax was
21 due; (2) the date the Tax was paid; or (3) the date the refund requested on a request for refund
22 timely filed pursuant to subsection (f) of this Section 2610 was denied under that subsection (f).
23 The Controller shall furnish a form to be used for claims.

24 (d) Claims for Refund; Actions by the City. The Controller shall enter the claim in the
25 register, and shall forthwith forward the claim to the City Attorney. The City Attorney is

1 designated to take such actions on claims as authorized by California Government Code, Title 1,
2 Division 3.6, Part 3, Chapter 2, except that the City Attorney's authority with regard to rejecting
3 or allowing claims shall be as provided in this Section 2610. The City Attorney may reject the
4 claim, and shall notify the claimant of such rejection. Allowance or compromise and settlement
5 of claims under this Section 2610 in excess of \$25,000 shall require the written approval of the
6 City Attorney and approval of the Board of Supervisors by resolution. The City Attorney may
7 allow or compromise and settle such claims if the amount is \$25,000 or less. No claim may be
8 paid until the Controller certifies that monies are available from the proper funds or
9 appropriations to pay the claim as allowed or as compromised and settled. If the City approves
10 the claim, the City may refund the excess amount collected or paid, or may credit such amount
11 toward any amount due and payable to the City from the Person from whom it was collected or
12 by whom it was paid, and the balance may be refunded to such Person, or the Person's
13 administrator or executor.

14 (e) Claims for Refund; Waiver of Written Filing Requirement. The City Attorney, in his
15 or her discretion and upon good cause shown, prior to the expiration of the one-year limitations
16 period, may waive the requirement set forth in subsection (a) of this Section 2610 that a Person
17 file a written claim for refund in any case in which the Tax Collector and City Attorney
18 determine on the basis of the evidence that:

19 (1) an amount of Tax, interest, or penalty has been overpaid or paid more than
20 once, or has been erroneously or illegally collected or received by the City; and

21 (2) all other conditions precedent to the payment of a refund to the Person have
22 been satisfied.

23 (f) Requests for Refund; Refunds Permissible Without a Claim. The Tax Collector may
24 authorize the Controller to refund Tax, interest, or penalty payments, without a refund claim
25 having been filed and without review by the City Attorney, if the Tax Collector determines that

1 the amount paid exceeds the Tax, penalties, and interest due. The Person that made the
2 overpayment may request such a refund from the Tax Collector on a request for refund form that
3 is issued by the Tax Collector and that is filed with the Tax Collector within the later of one year
4 of the payment of such amount or the date the Tax was due. A refund requested on a request for
5 refund form under this subsection (f) shall automatically be deemed denied for purposes of
6 subsections (a), (b), and (c) of this Section 2610 if the Tax Collector does not grant or deny the
7 refund request within one year of the date it was filed. Any action by the Tax Collector after a
8 refund request under this subsection (f) has been deemed denied shall not constitute a denial and
9 shall have no effect on the statute of limitations for filing a claim for refund under subsections
10 (a)-(e) of this Section 2610.

11 (g) Refunds On Parcels Not Subject to Ad Valorem Property Taxes. To the extent that,
12 for a given Fiscal Year, ad valorem property taxes are refunded to a taxpayer as a result of a
13 final determination that a Parcel is exempt from ad valorem property taxes for that Fiscal Year,
14 any Taxes paid for that Fiscal Year shall also be refunded to the taxpayer without the need for a
15 refund claim or refund request form having been filed and without review by the City Attorney.

16
17 **SEC. 2611. EXPENDITURE OF PROCEEDS.**

18 (a) Subject to the budgetary and fiscal provisions of the City Charter, monies in the
19 Fund shall be appropriated to be used exclusively for the following purposes:

20 (1) Maintenance and Removal of Street Trees.

21 (2) Necessary costs of administering the Fund, including costs associated with
22 the administration of the Tax.

23 (3) Refunds of any overpayments of the Tax, and any penalties, interest, and fees
24 associated with such overpayments.

1 (4) Making grants totaling up to \$500,000 annually to the San Francisco Unified
2 School District exclusively to fund Maintenance and Removal of Trees on School District
3 property.

4 (b) Monies in the Fund shall not be used for Planting new Street Trees or for grants to
5 the San Francisco Unified School District for the Planting of new Trees on School District
6 property, but may be used to pay the costs of Maintaining and Removing Street Trees that were
7 planted before or after July 1, 2017, and to make grants to the School District to Maintain and
8 Remove Trees that were planted before or after July 1, 2017.

9
10 **SEC. 2612. AMENDMENT OF ARTICLE.**

11 The Board of Supervisors may amend or repeal this Article 26 without a vote of the
12 People of the City and County of San Francisco except as limited by Article XIII C of the
13 California Constitution. Notwithstanding the preceding sentence, the Board of Supervisors may
14 not amend or repeal, without a vote of the People, the provision in Section 2606 causing the Tax
15 to expire and have no force or effect in the event that, and as of the date that, Charter Section
16 16.129 is repealed or amended to transfer the Maintenance of Street Trees to property owners.

17
18 Section 4. Appropriations Limit Increase. Pursuant to California Constitution Article
19 XIII B and applicable laws, for four years from November 8, 2016, the appropriations limit for
20 the City shall be increased by the aggregate sum collected by the levy of the parcel tax imposed
21 by the Tree Maintenance Parcel Tax Ordinance, contained in Section 3 of this measure.

22
23 Section 5. The Tree Maintenance Parcel Tax Ordinance, contained in Section 3 of this
24 measure, is submitted to the qualified electors of the City pursuant to Article XIII A, Section 4 of
25 the California Constitution, and must pass by a two-thirds vote of the qualified electors in the

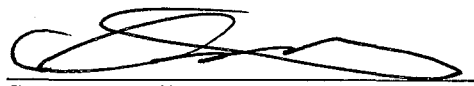
1 City. If this measure, including both the proposed Charter amendment in Section 2 and the
2 initiative ordinance in Section 3, does not pass by a two-thirds vote of the qualified electors of
3 the City, the entire measure shall be void and shall have no effect.

4
5 Section 6. Severability. Unless specifically noted otherwise, if any section, subsection,
6 sentence, clause, phrase, or word of this measure, or any application thereof to any person or
7 circumstance, is held to be invalid or unconstitutional by a decision of a court of competent
8 jurisdiction, such decision shall not affect the validity of the remaining portions or applications
9 of the measure. The People of the City and County of San Francisco hereby declare that they
10 would have passed this measure and each and every section, subsection, sentence, clause, phrase,
11 and word not declared invalid or unconstitutional without regard to whether any other portion of
12 this measure or application thereof would be subsequently declared invalid or unconstitutional.

13
14 Section 7. No Conflict with Federal or State Law. Nothing in this measure shall be
15 interpreted or applied so as to create any requirement, power, or duty in conflict with any federal
16 or state law.

17
18 APPROVED AS TO FORM:
19 DENNIS J. HERRERA, City Attorney

20
21 By:



22 Scott M. Reiber
23 Deputy City Attorney

24 n:\legana\as2016\1600190\01098927.docx

LEGISLATIVE DIGEST

[Charter Amendment and Business and Tax Regulations Code - City Responsibility and Parcel Tax for Street Trees]

Describing and setting forth a proposal to the voters at an election to be held on November 8, 2016, to amend the Charter of the City and County of San Francisco to transfer responsibility for the maintenance of street trees to the City and establish a special fund primarily to pay for such maintenance and the maintenance of trees on San Francisco Unified School District property; to amend the Business and Tax Regulations Code to add a special parcel tax primarily to fund the City's maintenance of street trees and the maintenance of trees on San Francisco Unified School District property; to increase the City's appropriations limit by the amount of the parcel tax for four years from November 8, 2016; and to affirm the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Section 805 of Article 16 of the Public Works Code currently makes it the duty of certain property owners whose properties abut on, front on, or are adjacent to a street tree to maintain that tree. These abutting property owners are also responsible for the care and maintenance of the sidewalk and sidewalk areas adjacent to the street trees.

Section 805 further provides that if a person suffers an injury or property damage as a result of the abutting property owner's failure to maintain a street tree or sidewalk as required, the injured person has a cause of action against the abutting property owner, and the abutting property owner must indemnify the City for any damages the City is required to pay as a result of any claim that results from an injury to a person or property as a result of the failure of the abutting property owner to maintain a street tree or sidewalk.

Amendments to Current Law

Effective July 1, 2017, this ordinance would add a provision to the City's charter to transfer to the City the responsibility for the maintenance of street trees, including any sidewalk damage caused by the tree's growth or root system. The charter provision would not: (1) affect the rights or responsibilities of the City or property owners with respect to the removal, establishment, or relocation of street trees; (2) prevent the City from entering into or continuing to abide by prior voluntary agreements with third parties for them to assume responsibility for street tree maintenance; (3) prevent the City from imposing penalties or fees on persons who injure, damage, or destroy trees; or (4) relieve abutting property owners of their responsibility for the care and maintenance of the sidewalk areas adjacent to any street tree, other than the transfer to the City of the responsibility for sidewalk repairs related to the tree's growth or root system.

Under the proposed charter provision, abutting property owners would no longer be liable for injury or property damage to the extent that the injury or property damage was caused by the City's failure to maintain a street tree under the new law. However, the City would not be responsible for any injury or damages related to the maintenance of a street tree if the injury or damages occurred as a result of the abutting property owner's responsibility to maintain the street tree prior to July 1, 2017, or if the maintenance of such tree required that the City access private property, and the private property owner refused to grant access to the tree after the City's good faith effort to obtain permission to access the tree.

To fund the City's maintenance of the street trees and the removal of any street trees, this ordinance would add a provision to the City's charter to create a general fund set-aside of \$8 million per year, adjusted annually by the percentage increase or decrease in the City's discretionary revenues.

Also to fund the City's maintenance of the street trees and the removal of any street trees, this ordinance would impose a parcel tax on each parcel in the City based on the number of linear feet of the parcel that is adjacent or tangent to a public right-of-way ("frontage"). The parcel tax would take effect on July 1, 2017, and would continue in effect through June 30, 2037, unless the charter provision transferring responsibility for the maintenance of street trees is repealed or is amended to transfer the maintenance of street trees to property owners, in which case the parcel tax would automatically expire. The parcel tax would be imposed at the following rates, adjusted annually in accordance with the consumer price index:

Frontage	Rate
Parcels with Less Than 25 Feet of Frontage, Including Parcels With No Frontage, and All Condominiums	\$29.50 per Parcel
Parcels with Frontage of 25 Feet or More But Less Than 150 Feet	\$1.42 per Linear Foot
Parcels with Frontage of 150 Feet or More	\$2 per Linear Foot

Parcels on which no ad valorem property tax is levied for the fiscal year would be exempt from the tax. Additionally, parcels in which an individual who is 65 years of age or older owns a beneficial interest and occupies the parcel as her or her principal residence would be exempt from the tax, as long as the property owner timely files the appropriate exemption application and documentation with the Tax Collector. The parcel tax would be collected by the Tax Collector on the City's property tax bills.

In addition to funding the City's maintenance of street trees and removal of any street trees, the \$8 million general fund set-aside and parcel tax could also be used to make grants totaling up to \$500,000 annually to the San Francisco Unified School District exclusively to fund the

FILE NO. 160381

maintenance and removal of trees on School District property. Neither the \$8 million general fund set-aside nor the parcel tax could be used to plant new trees.

Finally, this ordinance would increase the City's annual appropriations limit under Article XIII B of the California Constitution by the aggregate sum collected by the levy of the parcel tax.

n:\leganas2016\1600190\01098932.docx

Date / Time: 2016-04-20 10:26:37.95

Service Request Number:
5781631

Request for City Services

CUSTOMER CONTACT INFORMATION:

Name: **Alice Tom**
Phone: **415-665-16565**
Address: **548 CASTENADA SF**
Email: **alicejtom@hotmail.com**

DEPARTMENTS:

Department: * **Board of Supervisors (BOS)**
Sub-Division: * **Clerk of the Board**

Department Service Levels: **The City's goal is to respond to these types of requests within 7-21 calendar days. 21 days for request for service. 7 days for all other categories.**

PROPERTY ADDRESS:

Point of Interest:	
Street Number:	
Street Name:	
Street Name 2:	
City:	
ZIP Code:	
X coordinate:	
Y coordinate:	
Latitude:	
Longitude:	
CNN:	
Unverified Address:	<input type="checkbox"/>

ADDITIONAL LOCATION INFORMATION:

Location Description:

(e.g. 600-block of Market St. or in front of Main Library entrance)

REQUEST DETAILS:

Nature of Request:* **Complaint**

ADDITIONAL REQUEST DETAILS:

Additional Request
Details: *

The resident states: I would like to have my opposition to to the proposed tree parcel tax that has been put forward by Supervisor Wiener on record. There are many area in the City that already have professional tree trimmers come out as part of out Homeowners Associations. Also, many people do not have street trees. This seems to peanalize people that have to support the few that abuse the maintenance of their own trees. I want to maintain my own tree. I am concerned because this is my property tree and I would like to ensure that the tree is maintained correctly and to my speficiations. For expample, St. Francis Wood and Forrest Hill have Valley Crest maintain the trees and they do a really good job. We are happy to pay already and they do a good job.

BACK

OFFICE USE *****

Source

Agency Request

Number:

Responsible

Agency Request

Number:

Service

Request Work

Status:

Work Status

Updated:

Media URL:

Submit Cancel

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

April 22, 2016

File No. 160381

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On April 19, 2016, Supervisor Wiener introduced the following proposed Charter Amendment for the November 8, 2016, Election:

File No. 160381 Charter Amendment and Business and Tax Regulations Code - City Responsibility and Parcel Tax for Street Trees

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to transfer responsibility for the maintenance of street trees to the City and establish a special fund primarily to pay for such maintenance and the maintenance of trees on San Francisco Unified School District property; to amend the Business and Tax Regulations Code to add a special parcel tax primarily to fund the City's maintenance of street trees and the maintenance of trees on San Francisco Unified School District property; to increase the City's appropriations limit by the amount of the parcel tax for four years from November 8, 2016; and to affirm the Planning Department's determination under the California Environmental Quality Act.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Derek Evans, Assistant Clerk
Rules Committee

Attachment

Statutorily Exempt under CEQA Guidelines Section 15273 - Rates, Tolls, Fares, and Charges.

c: Joy Navarrete, Environmental Planner
Jeanie Poling, Environmental Planner

Joy
Navarrete

Digitally signed by Joy Navarrete
DN: cn=Joy Navarrete, o=Planning,
ou=Environmental Planning,
email=joy.navarrete@sfgov.org, c=US
Date: 2016.05.06 12:06:41 -07'00'

1 [Charter Amendment and Business and Tax Regulations Code - City Responsibility and Parcel
2 Tax for Street Trees]

3 **Describing and setting forth a proposal to the voters at an election to be held on**
4 **November 8, 2016, to amend the Charter of the City and County of San Francisco to**
5 **transfer responsibility for the maintenance of street trees to the City and establish a special**
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7 **Unified School District property; to amend the Business and Tax Regulations Code to add**
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10 **City's appropriations limit by the amount of the parcel tax for four years from November**
11 **8, 2016; and to affirm the Planning Department's determination under the California**
12 **Environmental Quality Act.**

13
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15 font.
16 **Additions** are *single-underline italics Times New Roman font*.
17 **Deletions** are *strike-through italics Times New Roman font*.
18 **Asterisks (* * * *)** indicate the omission of unchanged Charter or
19 Code subsections.

20 Section 1. The Planning Department has determined that the actions contemplated in this
21 proposed Charter Amendment and initiative ordinance comply with the California
22 Environmental Quality Act (California Public Resources Code Sections 21000 *et seq.*). Said
23 determination is on file with the Clerk of the Board of Supervisors in File No. ___ and is
24 incorporated herein by reference. The Board affirms this determination.
25

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

April 22, 2016

File No. 160381

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

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This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Derek Evans, Assistant Clerk
Rules Committee

Attachment

c: Joy Navarrete, Environmental Planner
Jeanie Poling, Environmental Planner

1 [Charter Amendment and Business and Tax Regulations Code - City Responsibility and Parcel
2 Tax for Street Trees]

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BOARD of SUPERVISORS



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San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Ben Rosenfield, City Controller

FROM: Derek Evans, Clerk, Rules Committee
Board of Supervisors

DATE: April 22, 2016

SUBJECT: CHARTER AMENDMENT INTRODUCED
November 8, 2016 Election

The Board of Supervisors' Rules Committee has received the following Charter Amendment for the November 8, 2016, Election, introduced by Supervisor Wiener on April 19, 2016. This matter is being referred to you in accordance with Rules of Order 2.22.4.

File No. 160381 Charter Amendment and Business and Tax Regulations Code - City Responsibility and Parcel Tax for Street Trees

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to transfer responsibility for the maintenance of street trees to the City and establish a special fund primarily to pay for such maintenance and the maintenance of trees on San Francisco Unified School District property; to amend the Business and Tax Regulations Code to add a special parcel tax primarily to fund the City's maintenance of street trees and the maintenance of trees on San Francisco Unified School District property; to increase the City's appropriations limit by the amount of the parcel tax for four years from November 8, 2016; and to affirm the Planning Department's determination under the California Environmental Quality Act.

Please review and prepare a financial analysis of the proposed measure prior to the first Rules Committee hearing.

If you have any questions or concerns, please call me at (415) 554-7702 or email: derek.evans@sfbgov.org. To submit documentation, please forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Todd Rydstrom, Deputy City Controller
Peg Stevenson, City Performance Director

1 [Charter Amendment and Business and Tax Regulations Code - City Responsibility and Parcel
2 Tax for Street Trees]

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24 incorporated herein by reference. The Board affirms this determination.
25

Evans, Derek

From: Evans, Derek
Sent: Friday, April 22, 2016 5:31 PM
To: Jones, Sarah (CPC)
Cc: Navarrete, Joy (CPC); Poling, Jeanie (CPC); Rahaim, John (CPC); Rodgers, AnMarie (CPC); Somera, Alisa (BOS)
Subject: BOS Referral: File No. 160381 - Charter Amendment and Business and Tax Regulations Code - City Responsibility and Parcel Tax for Street Trees
Attachments: 160381 Referral - CEQA.pdf

Hello,

The following legislation is being transmitted to you for environmental review:

File No. 160381 Charter Amendment and Business and Tax Regulations Code - City Responsibility and Parcel Tax for Street Trees

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to transfer responsibility for the maintenance of street trees to the City and establish a special fund primarily to pay for such maintenance and the maintenance of trees on San Francisco Unified School District property; to amend the Business and Tax Regulations Code to add a special parcel tax primarily to fund the City's maintenance of street trees and the maintenance of trees on San Francisco Unified School District property; to increase the City's appropriations limit by the amount of the parcel tax for four years from November 8, 2016; and to affirm the Planning Department's determination under the California Environmental Quality Act.

Regards,

Derek K. Evans

Assistant Clerk, Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244
San Francisco, CA 94102
Phone: (415) 554-7702 | Fax: (415) 554-5163
Derek.Evans@sfgov.org | www.sfbos.org

 Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

Evans, Derek

From: Evans, Derek
Sent: Friday, April 22, 2016 5:35 PM
To: Arntz, John (REG); Givner, Jon (CAT); Elliott, Nicole (MYR); Carranza, Richard (MYR); Nuru, Mohammed (DPW)
Cc: Somera, Alisa (BOS); Rodgers, AnMarie (CPC); Starr, Aaron (CPC); 'Armentrout, Chris'; 'Brooks, Jamila'; 'Casco, Esther'; Lee, Frank (DPW); Sweiss, Fuad (DPW)
Subject: BOS Referral: File No. 160381 - Charter Amendment and Business and Tax Regulations Code - City Responsibility and Parcel Tax for Street Trees
Attachments: 160381 Referral - Mandated.pdf

Hello,

The Board of Supervisors' Rules Committee has received the following Charter Amendment for the November 8, 2016, Election, introduced by Supervisor Wiener on April 19, 2016. This matter is being referred to you in accordance with Rules of Order 2.22.4.

File No. 160381 Charter Amendment and Business and Tax Regulations Code - City Responsibility and Parcel Tax for Street Trees

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to transfer responsibility for the maintenance of street trees to the City and establish a special fund primarily to pay for such maintenance and the maintenance of trees on San Francisco Unified School District property; to amend the Business and Tax Regulations Code to add a special parcel tax primarily to fund the City's maintenance of street trees and the maintenance of trees on San Francisco Unified School District property; to increase the City's appropriations limit by the amount of the parcel tax for four years from November 8, 2016; and to affirm the Planning Department's determination under the California Environmental Quality Act.

Please review and submit any reports or comments you wish to be included with the legislative file.

If you have any questions or concerns please call me at (415) 554-7702 or email derek.evans@sfgov.org. To submit documentation, please forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Regards,

Derek K. Evans

Assistant Clerk, Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244
San Francisco, CA 94102
Phone: (415) 554-7702 | Fax: (415) 554-5163
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Evans, Derek

From: Evans, Derek
Sent: Friday, April 22, 2016 5:36 PM
To: Rosenfield, Ben (CON)
Cc: Rydstrom, Todd (CON); Lane, Maura (CON); Somera, Alisa (BOS); Stevenson, Peg (CON)
Subject: BOS Referral: File No. 160381 - Charter Amendment and Business and Tax Regulations Code - City Responsibility and Parcel Tax for Street Trees
Attachments: 160381 Referral - Controller.pdf

Hello,

The Board of Supervisors' Rules Committee has received the following Charter Amendment for the November 8, 2016, Election, introduced by Supervisor Wiener on April 19, 2016. This matter is being referred to you in accordance with Rules of Order 2.22.4.

File No. 160381 Charter Amendment and Business and Tax Regulations Code - City Responsibility and Parcel Tax for Street Trees

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Please review and prepare a financial analysis of the proposed measure prior to the first Rules Committee hearing.

If you have any questions or concerns please call me at (415) 554-7702 or email derek.evans@sfgov.org. To submit documentation, please forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Regards,

Derek K. Evans

Assistant Clerk, Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244
San Francisco, CA 94102
Phone: (415) 554-7702 | Fax: (415) 554-5163
Derek.Evans@sfgov.org | www.sfbos.org

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Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

RECEIVED W
BOARD
1-19-16

Time stamp
or meeting date

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):

Supervisor Wiener

Subject:

Charter Amendment and Business and Tax Regulations Code - City Responsibility and Parcel Tax for Street Trees

The text is listed below or attached:

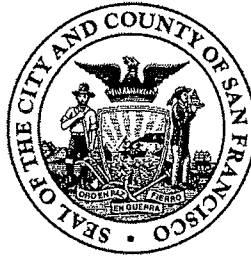
Describing and setting forth a proposal to the voters at an election to be held on November 8, 2016, to amend the Charter of the City and County of San Francisco to transfer responsibility for the maintenance of street trees to the City and establish a special fund primarily to pay for such maintenance and the maintenance of trees on San Francisco Unified School District property; and to amend the Business and Tax Regulations Code to add a special parcel tax primarily to fund the City's maintenance of street trees and the maintenance of trees on San Francisco Unified School District property; and to increase the City's appropriations limit by the amount of the parcel tax for four years from November 8, 2016; and to affirm the Planning Department's determination under the California Environmental Quality Act.

Signature of Sponsoring Supervisor: _____

Scott Wiener

For Clerk's Use Only:

President, District 5
BOARD of SUPERVISORS



London Breed

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7630
Fax No. 554-7634
TDD/TTY No. 544-5227

*Orig: B/F Clerk
Copy: Rules Clerk, COB,
Leg. Dep., BOS-11, Aides*

PRESIDENTIAL ACTION

Date: 6/1/2016

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. _____
(Primary Sponsor)

Title. _____

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2016 JUN -2 PM 2:34

Transferring (Board Rule No 3.3)

File No. 160381 Wiener
(Primary Sponsor)

Title. Charter Amendment and Business and Tax Regulations Code - City
Responsibility and Parcel Tax for Street Trees

From: Rules _____ Committee

To: Budget & Finance _____ Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor _____

Replacing Supervisor _____

For: _____ Meeting
(Date) (Committee)

London Breed

London Breed, President
Board of Supervisors