



City and County of San Francisco
Meeting Minutes
Government Audit and Oversight Committee

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Members: Jane Kim, Aaron Peskin, London Breed

Clerk: John Carroll (415) 554-4445

Wednesday, February 7, 2018

10:00 AM

City Hall, Legislative Chamber, Room 250

Regular Meeting

Present: 3 - Jane Kim, London Breed, and Sandra Lee Fewer

Excused: 1 - Aaron Peskin

The Government Audit and Oversight Committee met in regular session on February 7, 2018, with Chair Jane Kim presiding.

President London Breed appointed Supervisor Sandra Lee Fewer in place of Vice Chair Aaron Peskin, for the Government Audit and Oversight Committee meeting of February 7, 2018.

ROLL CALL AND ANNOUNCEMENTS

Member Fewer called the meeting to order at 10:05 a.m. On the call of the roll, Member Breed and Member Fewer were noted present. Chair Kim and Vice Chair Peskin were noted not present. There was a quorum.

AGENDA CHANGES

There were no agenda changes.

Supervisor Peskin Excused from Attendance

Member Breed moved that Supervisor Peskin be Excused from the Government Audit and Oversight Committee meeting of February 7, 2018. The motion carried by the following vote:

Ayes: 2 - Breed, Fewer

Excused: 1 - Peskin

Absent: 1 - Kim

REGULAR AGENDA

Chair Kim was noted present at 10:48 a.m.

160265 [Hearing - San Francisco Public Utilities Commission Emergency Water Supply System]

Sponsors: Peskin; Yee, Fewer and Tang

Hearing on the operations and maintenance status of the City's emergency water supply system since taking it over from the Fire Department in 2010, and receiving an update on plans to dispose of spare parts deemed no longer useful or necessary to the ongoing functions of the system; and requesting the San Francisco Public Utilities Commission to report.

03/15/16; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

03/21/16; REFERRED TO DEPARTMENT. Referred to the Fire Department and the San Francisco Public Utilities Commission for informational purposes and requesting the departments to report.

04/07/16; CONTINUED TO CALL OF THE CHAIR. Heard in Committee. Speakers: David Briggs (Public Utilities Commission); David Myerson (Public Utilities Commission); Assistant Deputy Chief Ken Lombardi (Fire Department); Brian Strong (Capital Planning Program); presented information and answered questions raised throughout the discussion. James Dalessandro; James Douglas; Thomas W. Doudiet; Daniel Casey (San Francisco Firefighters Local 798); Bryan Rubenstein, President (San Francisco Fire Chief's Association); Dan Linehan; spoke on various concerns relating to the hearing matter.

10/27/16; REMAIN ACTIVE. Supervisor Peskin requested this matter remain active for an additional six months until April 27, 2017.

03/15/17; CONTINUED TO CALL OF THE CHAIR. Heard in Committee. Speakers: David Briggs (Public Utilities Commission); Assistant Deputy Chief Anthony Rivera (Fire Department); David Myerson (Public Utilities Commission); Anne Simonds (Architecture, Engineering, Consulting, Operations, and Maintenance (AECOM)); John Scarpulla (Public Utilities Commission); Supervisor Sandra Lee Fewer (Board of Supervisors); Katie Miller (Public Utilities Commission); presented information and answered questions raised throughout the discussion. Thomas Doudiet; spoke on various concerns relating to the hearing matter.

09/19/17; REMAIN ACTIVE. Supervisor Peskin requested this matter remain active for an additional six months until March 19, 2018.

Heard in Committee. Speakers: Harlan Kelly, General Manager (San Francisco Public Utilities Commission); Supervisor Katy Tang (Board of Supervisors); Chief Joanne Hayes-White (Fire Department); John Scarpulla (San Francisco Public Utilities Commission); Charles Scawthorn (SPA Risk, LLC); presented information and answered questions raised throughout the discussion. Eileen Boken; Thomas Doudiet; Ace Washington; spoke on various concerns relating to the hearing matter.

Supervisor Tang requested to be added as a co-sponsor.

Member Fewer moved that this Hearing be HEARD AND FILED. The motion carried by the following vote:

Ayes: 3 - Kim, Breed, Fewer

Excused: 1 - Peskin

Chair Kim requested Files Nos. 171313, 180092, 180094, and 180095 be called together.

Member Breed was noted absent at 11:44 a.m., and for the remainder of the meeting.

171313 [Development Agreement - Seawall Lot 337 Associates, LLC - Seawall Lot 337 - Mission Rock Project]

Sponsors: Mayor; Kim

Ordinance approving a Development Agreement between the City and County of San Francisco and Seawall Lot 337 Associates, LLC, for 28 acres of real property known as Seawall Lot 337, located east of Third Street between China Basin Channel and Mission Rock Street, China Basin Park and the portion of Terry A. Francois Boulevard abutting the park, Pier 48, the marginal wharf between Pier 48 and Pier 50, and Parcel P20; for the proposed Mission Rock Mixed-Use Project; waiving certain provisions of the Administrative Code, Planning Code, and Subdivision Code; and adopting findings under the California Environmental Quality Act, public trust findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1(b).

(Economic Impact)

12/12/17; ASSIGNED UNDER 30 DAY RULE to Government Audit and Oversight Committee, expires on 1/12/2018.

01/26/18; NOTICED. Ten-day notice for February 7, 2018 Government Audit and Oversight Committee hearing mailed to property owners within 300 feet of project boundaries, published in a local newspaper of record, and posted in accordance with Planning Code, Sections 56.8, 56.15, and 306.3, and California Government Code, Section 65867.

Heard in Committee. Speakers: Rebecca Benassini (Port of San Francisco); Fran Weld, Senior Vice President (San Francisco Giants); Asim Khan (Office of Economic Analysis); Severin Campbell (Office of the Budget and Legislative Analyst); Ken Rich (Office of Economic and Workforce Development); presented information and answered questions raised throughout the discussion. Ace Washington; Fernando Marti; Michael Theriault (San Francisco Building Trades Council); Conny Ford (San Francisco Labor Council); Takija Gardner, Executive Director (Bayview Hunters Point YMCA); Amanda Montez (San Francisco Parks Alliance); Chris Kelton; Chad Houston (Laborers International Union, Local 261); Arnold Townsend; spoke on various concerns relating to the hearing matter.

Member Fewer moved that this Ordinance be RECOMMENDED. The motion carried by the following vote:

Ayes: 2 - Kim, Fewer

Excused: 1 - Peskin

Absent: 1 - Breed

180092 [Disposition and Development Agreement - Seawall Lot 337 Associates, LLC - Mission Rock Project]**Sponsors: Breed; Kim**

Resolution approving a Disposition and Development Agreement between the Port and Seawall Lot 337 Associates, LLC, for 28 acres of real property known as Seawall Lot 337, located east of Third Street between China Basin Channel and Mission Rock Street, China Basin Park, and the portion of Terry A. Francois Boulevard abutting the park, Pier 48, the marginal wharf between Pier 48 and Pier 50, and Parcel P20, for the proposed Mission Rock Project; adopting findings under the California Environmental Quality Act; adopting findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1(b); and adopting public trust consistency findings. (Fiscal Impact)

01/23/18; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

01/30/18; SUBSTITUTED AND ASSIGNED to Government Audit and Oversight Committee.

Heard in Committee. Speakers: Rebecca Benassini (Port of San Francisco); Fran Weld, Senior Vice President (San Francisco Giants); Asim Khan (Office of Economic Analysis); Severin Campbell (Office of the Budget and Legislative Analyst); Ken Rich (Office of Economic and Workforce Development); presented information and answered questions raised throughout the discussion. Ace Washington; Fernando Marti; Michael Theriault (San Francisco Building Trades Council); Conny Ford (San Francisco Labor Council); Takija Gardner, Executive Director (Bayview Hunters Point YMCA); Amanda Montez (San Francisco Parks Alliance); Chris Kelton; Chad Houston (Laborers International Union, Local 261); Arnold Townsend; spoke on various concerns relating to the hearing matter.

Chair Kim moved that this Resolution be AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE, by adding a request that the Executive Director of the Port provide an annual written report in May of each year to the Board of Supervisors on the status of the Project and project financing. The motion carried by the following vote:

Ayes: 2 - Kim, Fewer

Excused: 1 - Peskin

Absent: 1 - Breed

(Fiscal Impact)

Member Fewer moved that this Resolution be RECOMMENDED AS AMENDED. The motion carried by the following vote:

Ayes: 2 - Kim, Fewer

Excused: 1 - Peskin

Absent: 1 - Breed

180094 [Memorandum of Understanding Regarding Interagency Cooperation - Mission Rock Project]**Sponsors: Breed; Kim**

Resolution approving a Memorandum of Understanding between the Port and other City Agencies regarding Interagency Cooperation for the proposed Mission Rock Project; adopting findings under the California Environmental Quality Act; and adopting findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1(b).

01/23/18; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

Heard in Committee. Speakers: Rebecca Benassini (Port of San Francisco); Fran Weld, Senior Vice President (San Francisco Giants); Asim Khan (Office of Economic Analysis); Severin Campbell (Office of the Budget and Legislative Analyst); Ken Rich (Office of Economic and Workforce Development); presented information and answered questions raised throughout the discussion. Ace Washington; Fernando Marti; Michael Theriault (San Francisco Building Trades Council); Conny Ford (San Francisco Labor Council); Takija Gardner, Executive Director (Bayview Hunters Point YMCA); Amanda Montez (San Francisco Parks Alliance); Chris Kelton; Chad Houston (Laborers International Union, Local 261); Arnold Townsend; spoke on various concerns relating to the hearing matter.

Chair Kim moved that this Resolution be AMENDED, AN AMENDMENT OF THE WHOLE BEARING THE SAME TITLE, on Page 5, Line 4, by inserting the date and resolution number for the San Francisco Municipal Transportation Agency's February 6, 2018 action to consent to the Interagency Cooperation Agreement. The motion carried by the following vote:

Ayes: 2 - Kim, Fewer

Excused: 1 - Peskin

Absent: 1 - Breed

Member Fewer moved that this Resolution be RECOMMENDED AS AMENDED. The motion carried by the following vote:

Ayes: 2 - Kim, Fewer

Excused: 1 - Peskin

Absent: 1 - Breed

180095 [Memorandum of Understanding - Port Commission - Mission Rock Special Use District Financing Districts - Mission Rock Project]**Sponsors: Breed; Kim**

Resolution approving a Memorandum of Understanding relating to and appointing Port Commission as agent of Mission Rock Special Use District financing districts; and approving related matters, as defined herein.

01/23/18; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

01/30/18; SUBSTITUTED AND ASSIGNED to Government Audit and Oversight Committee.

Heard in Committee. Speakers: Rebecca Benassini (Port of San Francisco); Fran Weld, Senior Vice President (San Francisco Giants); Asim Khan (Office of Economic Analysis); Severin Campbell (Office of the Budget and Legislative Analyst); Ken Rich (Office of Economic and Workforce Development); presented information and answered questions raised throughout the discussion. Ace Washington; Fernando Marti; Michael Theriault (San Francisco Building Trades Council); Conny Ford (San Francisco Labor Council); Takija Gardner, Executive Director (Bayview Hunters Point YMCA); Amanda Montez (San Francisco Parks Alliance); Chris Kelton; Chad Houston (Laborers International Union, Local 261); Arnold Townsend; spoke on various concerns relating to the hearing matter.

Member Fewer moved that this Resolution be RECOMMENDED. The motion carried by the following vote:

Ayes: 2 - Kim, Fewer

Excused: 1 - Peskin

Absent: 1 - Breed

LITIGATION

Chair Kim requested Files Nos. 180028, 180024, 180025, 180029, 180023, 180026, 180027, 180030, and 180068 be called together.

Speakers: None.

Conference with City Attorney

[Convene in Closed Session - Existing Litigation - City as Plaintiff and/or Defendant]

Motion that the Government Audit and Oversight Committee of the Board of Supervisors convene in closed session with the City Attorney for the purpose of conferring with, or receiving advice from, the City Attorney regarding the following existing lawsuits and claims in which proposed settlements are being considered by the Committee. Administrative Code Section 67.10(d) permit this closed session. Discussion in open session concerning these matters would likely and unavoidably prejudice the position of the City in the pending lawsuits and claims listed below.

After a closed session, if one occurs, the Committee shall adopt a motion either to disclose or not to disclose.

Persons in attendance: Jon Givner (Office of the City Attorney) and John Carroll (Office of the Clerk of the Board).

Member Fewer moved to convene in closed session. The motion carried by the following vote:

Ayes: 2 - Kim, Fewer

Excused: 1 - Peskin

Absent: 1 - Breed

180028 [Partial Settlement of Lawsuit - David Alfaro and Jessica Alfaro - \$75,000]

Ordinance authorizing settlement of the lawsuit filed by David Alfaro and Jessica Alfaro against the City and County of San Francisco for \$75,000; the lawsuit was filed on August 20, 2015, in San Francisco Superior Court, Case No. CGC-15-547492; entitled David Alfaro, et al. v. City and County of San Francisco; the lawsuit involves inverse condemnation arising out of flooding damage during major rainstorms; as it relates only to property loss of plaintiffs David Alfaro and Jessica Alfaro, by the payment of \$75,000 and excluding the claim by these plaintiffs for diminution of value for plaintiffs' real property and the claim by plaintiffs for attorney's fees, costs and interest, which will be addressed in later proceedings. (City Attorney)

01/08/18; RECEIVED FROM DEPARTMENT.

01/23/18; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

Member Fewer moved that this Ordinance be RECOMMENDED. The motion carried by the following vote:

Ayes: 2 - Kim, Fewer

Excused: 1 - Peskin

Absent: 1 - Breed

180024 [Partial Settlement of Lawsuit - Cesar and Fe Ponferrada - \$34,000]

Ordinance authorizing settlement of the lawsuit filed by Cesar and Fe Ponferrada against the City and County of San Francisco for \$34,000; the lawsuit was filed on August 20, 2015, in San Francisco Superior Court, Case No. CGC-15-547492; entitled David Alfaro, et al. v. City and County of San Francisco; the lawsuit involves inverse condemnation arising out of flooding damage during major rainstorms; as it relates only to property loss of plaintiffs Cesar and Fe Ponferrada, by the payment of \$34,000 and excluding the claim by these plaintiffs for diminution of value for plaintiffs' real property and the claim by plaintiffs for attorney's fees, costs and interest, which will be addressed in later proceedings. (City Attorney)

01/08/18; RECEIVED FROM DEPARTMENT.

01/23/18; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

Member Fewer moved that this Ordinance be RECOMMENDED. The motion carried by the following vote:

Ayes: 2 - Kim, Fewer

Excused: 1 - Peskin

Absent: 1 - Breed

180025 [Partial Settlement of Lawsuit - Rizaldi Gache - \$65,000]

Ordinance authorizing settlement of the lawsuit filed by Rizaldi Gache against the City and County of San Francisco for \$65,000; the lawsuit was filed on August 20, 2015, in San Francisco Superior Court, Case No. CGC-15-547492; entitled David Alfaro, et al. v. City and County of San Francisco; the lawsuit involves inverse condemnation arising out of flooding damage during major rainstorms; as it relates only to property loss of plaintiff Rizaldi Gache, by the payment of \$65,000, and excluding the claim by this plaintiff for diminution of value for plaintiff's real property and the claim by plaintiff for attorney's fees, costs and interest, which will be addressed in later proceedings. (City Attorney)

01/08/18; RECEIVED FROM DEPARTMENT.

01/23/18; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

Member Fewer moved that this Ordinance be RECOMMENDED. The motion carried by the following vote:

Ayes: 2 - Kim, Fewer

Excused: 1 - Peskin

Absent: 1 - Breed

180029 [Partial Settlement of Lawsuit - Baikonur 1701 LLC - \$34,284.59]

Ordinance authorizing settlement of the lawsuit filed by Baikonur 1701 LLC against the City and County of San Francisco for \$34,284.59; the lawsuit was filed on August 20, 2015, in San Francisco Superior Court, Case No. CGC-15-547492; entitled David Alfaro, et al. v. City and County of San Francisco; the lawsuit involves inverse condemnation arising out of flooding damage during major rainstorms; as it relates only to property loss of plaintiff Baikonur 1701 LLC, by the payment of \$34,284.59 and excluding the claim by this plaintiff for diminution of value for plaintiff's real property and the claim by plaintiff for attorney's fees, costs and interest, which will be addressed in later proceedings. (City Attorney)

01/08/18; RECEIVED FROM DEPARTMENT.

01/23/18; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

Member Fewer moved that this Ordinance be RECOMMENDED. The motion carried by the following vote:

Ayes: 2 - Kim, Fewer

Excused: 1 - Peskin

Absent: 1 - Breed

180023 [Settlement of Lawsuit - Mikaela Anna Merchant - \$50,000]

Ordinance authorizing settlement of the lawsuit filed by Mikaela Anna Merchant against the City and County of San Francisco for \$50,000; the lawsuit was filed on November 29, 2016, in San Francisco Superior Court, Case No. CGC-16-555561; entitled Mikaela Anna Merchant v. City and County of San Francisco, et al.; the lawsuit involves an employment dispute. (City Attorney)

01/08/18; RECEIVED FROM DEPARTMENT.

01/23/18; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

Member Fewer moved that this Ordinance be RECOMMENDED. The motion carried by the following vote:

Ayes: 2 - Kim, Fewer

Excused: 1 - Peskin

Absent: 1 - Breed

180026 [Settlement of Lawsuit - Donald Spadini - \$120,600]

Ordinance authorizing settlement of the lawsuit filed by Donald Spadini against the City and County of San Francisco for \$120,600; the lawsuit was filed on September 13, 2016, in San Francisco Superior Court, Case No. CGC-16-554218; entitled Donald Spadini v. City and County of San Francisco, et al.; the lawsuit involves alleged negligence of doctors, nurses and staff; other material terms of the settlement are Co-Defendant The Regents of the University of California is paying \$59,400. (City Attorney)

01/08/18; RECEIVED FROM DEPARTMENT.

01/23/18; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

Member Fewer moved that this Ordinance be RECOMMENDED. The motion carried by the following vote:

Ayes: 2 - Kim, Fewer

Excused: 1 - Peskin

Absent: 1 - Breed

180027 [Settlement of Lawsuit - David Zeller (Deceased) - \$290,000]

Ordinance authorizing settlement of the lawsuit filed by David Zeller against the City and County of San Francisco for \$290,000; the lawsuit was filed on March 14, 2013, in San Francisco Superior Court, Case No. CGC-13-529554; entitled David Zeller v. San Francisco General Hospital, et al.; the lawsuit involves alleged medical malpractice; other terms of the settlement are UC Regents to pay \$200,245 and upon approval by the probate court and Plaintiff's acceptance of the probate court's allocation of funds, California Department of Health Care Services to disgorge \$65,300 paid for MediCal lien to be paid to plaintiff. (City Attorney)

01/08/18; RECEIVED FROM DEPARTMENT.

01/23/18; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

Member Fewer moved that this Ordinance be RECOMMENDED. The motion carried by the following vote:

Ayes: 2 - Kim, Fewer

Excused: 1 - Peskin

Absent: 1 - Breed

180030 [Settlement of Lawsuit - Elyse Duckett - \$250,000]

Ordinance authorizing settlement of the lawsuit filed by Elyse Duckett against the City and County of San Francisco for \$250,000; the lawsuit was filed on May 9, 2014, in San Francisco Superior Court, Case No. CGC-14-539201; entitled Elyse Duckett vs. City and County of San Francisco, et al.; the lawsuit involves an employment dispute. (City Attorney)

01/08/18; RECEIVED FROM DEPARTMENT.

01/23/18; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

Member Fewer moved that this Ordinance be RECOMMENDED. The motion carried by the following vote:

Ayes: 2 - Kim, Fewer

Excused: 1 - Peskin

Absent: 1 - Breed

180068 [Settlement of Lawsuit - MBIA Inc., MBIA Insurance Corp., MBIA Insurance Corp. of Illinois, and Jason Kissane - City to Receive \$388,591]

Ordinance authorizing a settlement of the lawsuit filed by the City and County of San Francisco against MBIA Inc., its affiliates, MBIA Insurance Corp. and MBIA Insurance Corp. of Illinois, and its former employee, Jason Kissane, for \$388,591; the lawsuit was filed on October 8, 2008, in San Francisco Superior Court, Case No. CGC-08-480708; entitled City and County of San Francisco v. Ambac Financial Group Inc., et al.; the lawsuit involves breach of contract, fraud and antitrust claims against bond insurance companies; this settlement applies to claims against the last remaining defendants in the case, the MBIA entities. (City Attorney)

01/09/18; RECEIVED FROM DEPARTMENT.

01/23/18; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

Member Fewer moved that this Ordinance be RECOMMENDED. The motion carried by the following vote:

Ayes: 2 - Kim, Fewer

Excused: 1 - Peskin

Absent: 1 - Breed

[Elect Not to Disclose]

Motion that the Committee finds that it is in the best interest of the public that the Committee elect at this time not to disclose its closed session deliberations listed above.

Member Fewer moved not to disclose closed session deliberations. The motion carried by the following vote:

Ayes: 2 - Kim, Fewer

Excused: 1 - Peskin

Absent: 1 - Breed

ADJOURNMENT

There being no further business, the Government Audit and Oversight Committee adjourned at the hour of 1:05 p.m.

N.B. The Minutes of this meeting set forth all actions taken by the Government Audit and Oversight Committee on the matters stated, but not necessarily in the chronological sequence in which the matters were taken up.