

1 [Establishing Board procedures for the official misconduct proceedings against Supervisor
2 Edmund Jew]

3 **Motion directing the Clerk of the Board of Supervisors to advertise for outside counsel**
4 **to represent the Board of Supervisors on the matter of the official misconduct charges**
5 **filed against Supervisor Edmund Jew, setting forth the process of selecting said**
6 **outside counsel, and requiring that all hearings before the Board of Supervisors**
7 **regarding the official misconduct proceedings against Supervisor Jew occur in a**
8 **Committee of the Whole of the Board of Supervisors.**

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10 WHEREAS, On September 25, 2007, Mayor Gavin Newsom served notice to the Clerk
11 of the Board of Supervisors that, under the authority of Section 15.105 of the Charter of the
12 City and County of San Francisco, he had suspended Supervisor Edmund Jew on the
13 grounds of official misconduct; and,

14 WHEREAS, Under the provisions of Section 15.105 of the Charter, the Ethics
15 Commission must hold a hearing not less than five days after the filing of these charges; and,

16 WHEREAS, The Ethics Commission, upon completion of this hearing, must then
17 transmit the full record of the hearing to the Board of Supervisors with a recommendation as
18 to whether or not the charges should be sustained; and,

19 WHEREAS, The Board of Supervisors may then review the complete record and vote
20 on whether or not the Mayor's charges should be sustained; and

21 WHEREAS, On September 28, 2007, the City Attorney advised the Board of
22 Supervisors that it should retain outside counsel to represent itself, specifically to the subject
23 matter of Supervisor Edmund Jew's suspension, prior to, during, and after the official
24 misconduct proceedings; and

1 WHEREAS, As the Board of Supervisors will be executing its responsibilities under
2 Charter Section 15.105 for the first time, there is little precedent on which to base the format
3 of, procedures for and standards of Supervisor Jew's misconduct hearing; now, therefore, be
4 it

5 MOVED, That the Board of Supervisors directs the Clerk of the Board to advertise in
6 the City and County of San Francisco's various Type I and Type II publications for official
7 advertisements and in local legal publications the Board's desire to hire outside counsel to
8 represent the Board during the official misconduct proceedings; and, be it

9 FURTHER MOVED, That the Board of Supervisors directs the Clerk of the Board to
10 include in the advertisement the Board's desire that prospective applicants have the following
11 minimum qualifications:

- 12 • 10 years of membership and good standing within the Bar of California
- 13 • 5 years of experience with appellate litigation
- 14 • 5 years of experience with both civil and criminal procedure
- 15 • Experience working with California and San Francisco ethics laws

16 and, be it

17 FURTHER MOVED, That the Board of Supervisors directs the Clerk of the Board to
18 include in the advertisement the Board's desire that prospective applicants have the following
19 preferred qualifications:

- 20 • Experience working with the Charter of the City and County of San Francisco
- 21 • Experience working with the California Elections Code

22 and, be it

23 FURTHER MOVED, That the Board of Supervisors directs the Clerk of the Board to
24 include in the advertisement a provision that states the Board of Supervisors may hire private

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1 counsel only if the Board deems it necessary, and that said private counsel must adhere to
2 the conflict of interest provisions of Charter Section 13.103.5; and, be it

3 FURTHER MOVED, That the Board of Supervisors directs the Clerk of the Board to
4 additionally include in the advertisement a request that all applicants submit a proposed
5 budget and scope of work for their proposed services; and, be it

6 FURTHER MOVED, That the Board of Supervisors directs the Clerk of the Board to
7 provide for a two (2) week application period, after which the Clerk should create a public file
8 for all the submitted applications; and, be it

9 FURTHER MOVED, That the Board of Supervisors directs the Clerk to schedule at the
10 next regularly scheduled Board of Supervisors meeting after the close of the application
11 period, a hearing of the Committee of the Whole to: (1) allow all applicants to present their
12 qualifications; (2) allow members of the public to comment on the applications; and (3) vote to
13 enter into an agreement with one of the applicants, or alternatively reject all applicants and
14 request the Clerk to re-advertise the Board's desire to hire outside counsel; and, be it

15 FURTHER MOVED, That in the event that qualified pro-bono outside counsel is
16 identified, the Board of Supervisor reserves the right to, at any time before, during or after the
17 official misconduct proceedings of Supervisor Jew, retain said counsel without completing a
18 competitive bidding process; and, be it

19 FURTHER MOVED, That, upon confirmation of the outside counsel by the Board, the
20 Board of Supervisors directs the Clerk to immediately enter into an agreement with the
21 Board's selected outside counsel; and, be it

22 FURTHER MOVED, That all hearings to discuss the Board's responsibilities under
23 Section 15.105 of the Charter of the City and County of San Francisco, and the process by
24 which the Board shall fulfill those responsibilities, be heard and approved in a Committee of
25 the Whole of the Board of Supervisors; this shall include, but not be limited to, all

1 consideration of the retention of outside legal counsel, establishing the format of Supervisor
2 Jew's official misconduct hearing before the Board of Supervisors, developing procedures and
3 standards for the administration of said misconduct hearing, as well as any other procedural
4 considerations regarding these proceedings.

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