

File No. 111208

Committee Item No. 3

Board Item No. 11

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date: January 11, 2012

Board of Supervisors Meeting

Date 1/24/12

#### Cmte Board

<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input type="checkbox"/>	<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Ordinance
<input type="checkbox"/>	<input type="checkbox"/>	Legislative Digest
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Budget & Legislative Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Ethics Form 126
<input type="checkbox"/>	<input type="checkbox"/>	Introduction Form (for hearings)
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Department/Agency Cover Letter and/or Report
<input type="checkbox"/>	<input type="checkbox"/>	MOU
<input type="checkbox"/>	<input type="checkbox"/>	Grant Information Form
<input type="checkbox"/>	<input type="checkbox"/>	Grant Budget
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#### OTHER

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Completed by: Victor Young

Date: January 6, 2012

Completed by: Victor Young

Date: 1-19-12

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

[Administrative Code - Public Guardian/Public Administrator Gift Fund]

Ordinance amending the San Francisco Administrative Code by adding Section 10.100-190, to create a Public Guardian/Public Administrator Gift Fund to support the operations of the Public Guardian's Office, including needs assessment and conservatorship services for vulnerable persons who are unable to manage their basic personal or financial needs.

Note: Additions are single-underline italics Times New Roman;  
deletions are ~~strikethrough italics Times New Roman~~.  
Board amendment additions are double underlined.  
Board amendment deletions are ~~strikethrough normal~~.

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

Section 1. The San Francisco Administrative Code is hereby amended by adding Section 10-100-190, to read as follows:

**SEC. 10-100-190. PUBLIC GUARDIAN/PUBLIC ADMINISTRATOR GIFT FUND.**

(a) Establishment of Fund. The Public Guardian/Public Administrator Fund is established as a category eight special fund, meaning that funds are automatically appropriated, interest shall be accumulated and that any fund balance shall carry forward year to year. The Public Guardian/Public Administrator Fund shall contain all monies collected or appropriated by the Public Guardian's Office for the uses described in subsection (b). The fund shall also be used as a gift fund to receive all donations of money that may be offered to the Public Guardian's Office.

(b) Use of Fund. The S. F. Public Guardian is the official under the California Probate Code to serve as the conservator where there is no one else who is qualified and willing to act and where the Public Guardian's appointment would be in the best interest of the individual as determined by the San Francisco Probate Court. Monies deposited in the fund shall be expended for the purposes designated by the Public Guardian and the Director of the Department of Aging and Adult Services. The fund

1 shall be used primarily to increase and enhance conservatorship services for individuals who are  
2 unable to meet basic personal needs for health, food, clothing, and shelter or who are substantially  
3 unable to manage their financial resources. The fund may be used to increase staffing and other  
4 resources to better provide services including, but not limited to the following: investigating and  
5 processing conservatorships; assessing physical, mental, and financial needs; ensuring appropriate  
6 medical care, social work services, and budgeting for conservatees; securing housing or shelter for  
7 conservatees; locating and managing the assets and income of conservatees; developing plans for both  
8 immediate and long-term care of conservatees; and advocating on behalf of conservatees to  
9 government agencies, private parties, relatives, and other individuals.

10 (c) Administration of the Fund. The Public Guardian and the Director of the Department of  
11 Aging and Adult Services, shall jointly administer the fund.

12  
13 APPROVED AS TO FORM:  
14 DENNIS J. HERRERA, City Attorney

15 By:   
16 ALEETA M. VAN RUNKLE  
17 Deputy City Attorney  
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**Item 3**  
**File 11-1208**

**Department:**  
Human Services Agency  
Department of Aging and Adult Services  
Public Administrator/Public Guardian

## **EXECUTIVE SUMMARY**

### **Legislative Objectives**

- The proposed ordinance would amend the San Francisco Administrative Code by adding Section 10.100-190 to create a Public Guardian/Public Administrator Gift Fund.

### **Key Points**

- The Public Guardian/Public Administrator is responsible for investigating cases where physical and mental limitations make San Francisco residents unable to handle basic personal and financial needs. If no relatives or other responsible parties can assume responsibility for the individual, the San Francisco Superior Court, under the authority of the California State Probate Code, can appoint the Public Guardian's Office to serve as the conservator for the individual.
- The Hospital Council of Northern and Central California (Hospital Council) is a nonprofit organization that represents hospitals in San Francisco, who currently make referrals to the Public Guardian's Office, in order to transfer individuals who need conservatorship, due to advanced dementia, organic brain trauma, developmental disabilities, and/or other cognitive impairments, from acute care hospitals to alternative long-term care facilities.
- The proposed ordinance would provide a financing mechanism for the Hospital Council to pay the City's Public Guardian to provide expedited and comprehensive investigation services on all referrals.

### **Fiscal Impacts**

- The Public Guardian's Office currently completes approximately 125 investigations each year, at a cost of approximately \$8,000 per investigation, or a total cost of approximately \$1,000,000, which is primarily funded through the City's General Fund.
- Currently, investigations take an average of 90 days to complete. Under a proposed agreement between the Public Guardian's Office and the Hospital Council, investigations would be completed within 30 days, an average reduction of 60 days.
- The Public Guardian estimates completing approximately 50 conservator investigations referred by the Hospital Council in the first year, or based on \$8,000 per referral, a total of approximately \$400,000 into the new Public Guardian/Public Administrator Gift Fund, with four new dedicated positions, which were approved in the FY 2011-12 budget.
- To date, the Public Guardian has not collected any additional revenues from the Hospital Council and none of the four positions in the FY 2011-12 budget have been filled.

### **Recommendation**

- Approve the proposed ordinance.

**MANDATE STATEMENT / BACKGROUND****Mandate Statement**

Charter Section 2.105 provides that all legislative acts in San Francisco be by ordinance, subject to approval by a majority of the Board of Supervisors.

In accordance with San Francisco Administrative Code Section 10.100-305, the Board of Supervisors authorizes the creation of gift funds as category eight funds, for the purpose of accepting gifts of cash or goods which may from time to time be offered to the City and County of San Francisco through any department, board or commission, for the benefit of the designated department, board or commission and for the purposes as specified by the donors. In accordance with Administrative Code Section 10.100-1, category eight funds are (a) automatically appropriated for expenditures consistent with the purpose of the fund, (b) accumulate interest provided that the balance in the fund exceeds \$50,000, and (c) any unexpended and unencumbered balance at the end of the fiscal year is carried forward in the fund to the following fiscal year.

**Background**

Among other responsibilities, the City's Public Guardian/Public Administrator is responsible for investigating cases where physical and mental limitations make San Francisco residents unable to handle basic personal and financial needs. Persons with family or friends willing or able to act on their behalf as conservator do not require the City's Public Guardian services. However, if no relatives or other responsible parties can assume responsibility for the person, the San Francisco Superior Court, under the authority of the California State Probate Code, can appoint the Public Guardian's Office to serve as the conservator to these persons. To determine whether an individual needs a conservatorship based on referrals of individual cases, the Public Guardian:

- Assesses the physical, mental and financial needs of the conservatee;
- Ensures appropriate medical care, social work services, money management services and budgeting;
- Locates appropriate housing or shelter;
- Establishes eligibility for government and private benefit programs;
- Develops a comprehensive care plan encompassing both immediate and long term care, including board and care homes, independent living situations, assisted housing and long term care facilities;
- Locates all assets and income and arranges for the storage, sale and/or disposal of real and personal property through sale, public auction or disbursement to relatives, when appropriate; and
- Advises, collaborates, confers and advocates on behalf of the conservatee to government agencies, private parties, relatives and any other individual or entity.

The Hospital Council of Northern and Central California (Hospital Council) is a nonprofit organization that represents hospitals in northern and central California, including all of the hospitals in San Francisco. Currently, individual hospitals in San Francisco make referrals to the Public Guardian's Office for individuals that are hospitalized and need conservatorship due to advanced dementia, organic brain trauma, developmental disabilities, and/or other cognitive impairments.

Ms. Shireen McSpadden, the Deputy Director of the Department of Aging and Adult Services, advises that she has been in discussion with the Hospital Council regarding individuals who are currently hospitalized in acute care hospital beds in San Francisco who should instead be transferred into alternative long-term care or skilled nursing facilities, but who require conservatorship, before such a transfer can be completed. According to Ms. McSpadden, allowing such individuals to remain in acute care hospitals is not preferred by patients with advanced cognitive impairments, and is very costly for San Francisco's hospitals. As a result, the Hospital Council, on behalf of the hospitals in San Francisco, is requesting that the City expedite the conservatorship investigations, in order to move patients, who are not in need of acute care beds, into alternative long term care facilities. Ms. McSpadden advises that the proposed ordinance is intended to provide a financing mechanism for the Hospital Council to pay the City's Public Guardian to provide such expedited investigation services for those referrals made by participating hospitals in San Francisco.

#### **DETAILS OF PROPOSED LEGISLATION**

The proposed ordinance would amend the City's Administrative Code by adding Section 10.100-190 to create a Public Guardian/Public Administrator Gift Fund as a category eight fund, which as specified above, allows for automatic appropriation, the accumulation of interest, and the carry forward of any fund balance.

In accordance with the proposed ordinance, the proposed Public Guardian/Public Administrator Gift Fund would receive all monies donated to the Public Guardian's Office, to be administered and expended for purposes jointly designated by the Public Guardian and the Director of the Department of Aging and Adult Services. The proposed ordinance specifies that the subject new Public Guardian/Public Administrator Gift Fund be used primarily to increase and enhance conservatorship services for individuals who are unable to meet basic personal needs for health, food, clothing and shelter or who are substantially unable to manage their financial resources. To provide such conservatorship services, the Public Guardian/Public Administrator Gift Fund may be used to increase staff and other resources in the Public Guardian/Public Administrator's Office, to investigate and process conservatorships; assess physical, mental and financial needs; ensure appropriate medical care, social work services, and budgeting for conservatees; secure housing or shelter for conservatees; locate and manage the assets and income of conservatees; develop plans for both immediate and long-term care of conservatees; and advocate on behalf of conservatees to government agencies, private parties, relatives and other individuals.

**FISCAL IMPACTS**

Currently, Ms. McSpadden advises that the Public Guardian receives approximately 150 referrals annually to investigate the need for individual conservatorships, including approximately 100 annual referrals from hospitals and 50 annual referrals from other sources, such as Adult Protective Services and senior centers. According to Ms. McSpadden, the Public Guardian's Office completes approximately 125 investigations each year, at a cost of approximately \$8,000 per investigation, depending on the complexity of the referral, or a total cost of approximately \$1,000,000. Currently, these Public Guardian investigations are primarily funded through the City's General Fund.

Ms. McSpadden advises that each investigation involves searching for potential family members or others individuals willing or able to act on behalf of the individual, reviewing medical and other health records, talking with experts to ensure that the individual lacks decision-making capacity, completing an inventory of the individual's assets and liabilities, determining the level of care needed, setting up a care and placement plan and preparing the petition for Superior Court. Currently, Ms. McSpadden estimates that these investigations take an average of 90 days to complete, from the time the Public Guardian receives the referral until the Superior Court appoints the Public Guardian as the conservator for the individual. According to Ms. McSpadden, once the Public Guardian is appointed as the conservator, the Public Guardian is able to access other funding sources, such as MediCal, Social Security Income (SSI) or other revenue sources to fund the long term care and other services provided to the individuals.

Ms. McSpadden advises that if the proposed ordinance is approved, the Hospital Council would pay the Public Guardian a flat fee of \$8,000 per referral, to be deposited into the subject new Public Guardian/Public Administrator Gift Fund, if the Public Guardian completes the necessary investigation and files conservatorship documents with the Superior Court, as appropriate, within 30 days of the hospital's referral. Given the above-noted average of 90 days to currently complete an investigation, the proposed additional Hospital Council funding is intended to expedite these investigations, by reducing the time by approximately 60 days to within 30 days.

Ms. McSpadden estimates that the Public Guardian would be able to complete approximately 50 conservator investigations on behalf of the Hospital Council in the first year, or based on \$8,000 per referral, a total of approximately \$400,000 into the new Public Guardian/Public Administrator Gift Fund.

The Budget and Legislative Analyst notes that the FY 2011-12 Human Services Agency budget currently includes a \$327,614 Gift Fund from the Hospital Council, and includes the following four additional new positions to undertake this proposed new work:

- 1 1458 Legal Secretary;
- 1 1873 Legal Assistant; and
- 2 4230 Estate Investigators.

In FY 2011-12, these four positions are budgeted at \$227,786 for salaries, plus \$79,725 for fringe benefits, or a total of \$307,511. Although this funding and the four positions are included

in the FY 2011-12 budget, Ms. McSpadden advises that to date, the Public Guardian has not collected any additional revenues from the Hospital Council and none of these four positions have been filled.

If the proposed ordinance is approved to establish the subject new Public Guardian/Public Administrator Gift Fund, Ms. McSpadden advises that the Public Guardian/Public Administrator's Office would enter into a one-year agreement with the Hospital Council to specify the major parameters, including (a) within two days of receipt of a written referral of a patient to the City by a participating hospital, the City shall assign a Deputy Public Conservator to investigate, recommend and process the conservatorship, if appropriate; and b) the Hospital Council would compensate the City a flat fee of \$8,000 per referral, if the Public Guardian files with the Superior Court for conservatorship, where appropriate, within 30 days of the hospital's referral.

Currently, the Public Guardian has a total of 23 staff to conduct the required investigations to determine conservatorship and to provide ongoing services for conservatees. Ms. McSpadden advises that if the proposed ordinance is approved, such that the four new positions would be dedicated to the Hospital Council referrals, the existing 23 staff would also be able to more quickly expedite the remaining referrals for conservatorship, to reduce the current average of 90 days to complete each investigation.

Although the proposed new Public Guardian/Public Administrator Gift Fund would be a category eight fund, which allows for automatic appropriation, the accumulation of interest, and the carry forward of any fund balance, as noted above, this funding source and positions to be funded with these revenues would be included in the annual budget for the Human Services Agency.

## RECOMMENDATION

Approve the proposed ordinance.



# City and County of San Francisco



Edwin M. Lee, Mayor

## Human Services Agency

Department of Human Services  
Department of Aging and Adult Services

Trent Rhorer, Executive Director

November 3, 2011

Angela Calvillo, Clerk of the Board  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689

*File 111208*

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2011 NOV -4 AM 11:36

Dear Ms. Calvillo:

Attached please find one original and four copies of a proposed ordinance for Board of Supervisors approval. If enacted, this legislation would amend the San Francisco Administrative Code by adding Section 10-100-190 establishing a gift fund to support the operations of the Public Guardian's Office, including needs assessment and conservatorship services for vulnerable persons who are unable to manage their basic personal or financial needs.

Should you need additional information, the contact person for this matter at the Human Services Agency is Shireen McSpadden, Deputy Director, Department of Aging & Adult Services, who can be reached at (415) 355-6767 or at [shireen.mcspadden@sfgov.org](mailto:shireen.mcspadden@sfgov.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Trent Rhorer", followed by a horizontal line.

Trent Rhorer  
Executive Director

### Attachments:

- Proposed ordinance creating a Public Guardian Gift Fund (5 copies)

