

BOARD of SUPERVISORS



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MEMORANDUM

TO: Sophia Kittler, Liaison to the Board of Supervisors, Mayor's Office
Anne Pearson, Deputy City Attorney, Office of the City Attorney
John Arntz, Director, Department of Elections
LeeAnn Pelham, Executive Director, Ethics Commission
Alaric Degrafinried, Interim Director, Public Works
Naomi Kelly, City Administrator, Office of the City Administrator

FROM: Victor Young, Assistant Clerk, Rules Committee *Victor Young*
Board of Supervisors

DATE: May 26, 2020

SUBJECT: CHARTER AMENDMENT INTRODUCED
November 3, 2020 Election

The Board of Supervisors' Rules Committee has received the following Charter Amendment for the November 3, 2020, Election. This matter is being referred to you in accordance with Rules of Order 2.22.4.

File No. 200510

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to create a Public Works Commission to oversee the Department of Public Works; to create the Sanitation and Streets Department to succeed to specific duties currently performed by the Department of Public Works; to create a Sanitation and Streets Commission to oversee the Sanitation and Streets Department; and affirming the Planning Department's determination under the California Environmental Quality Act; at an election to be held on November 3, 2020.

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) 554-7723 or email: victor.young@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.

c: Andres Power, Mayor's Office

Rebecca Peacock, Mayor's Office
Kanishka Cheng, Mayor's Office
Patrick Ford, Ethics Commission
David Steinberg, Public Works
Jeremy Spitz, Public Works
Jennifer Blot, Public Works
John Thomas, Public Works
Lena Liu, Public Works
Lynn Khaw, Office of the City Administrator
Lihmeei Leu, Office of the City Administrator

1 [Charter Amendment - Public Works Commission, Sanitation and Streets Commission, and
2 Sanitation and Streets Department]

3 **Describing and setting forth a proposal to the voters at an election to be held on November**
4 **3, 2020, to amend the Charter of the City and County of San Francisco to create a Public**
5 **Works Commission to oversee the Department of Public Works; to create the Sanitation**
6 **and Streets Department to succeed to specific duties currently performed by the**
7 **Department of Public Works; to create a Sanitation and Streets Commission to oversee the**
8 **Sanitation and Streets Department; and affirming the Planning Department’s**
9 **determination under the California Environmental Quality Act.**

10
11 Section 1. The Planning Department has determined that the actions contemplated in this
12 proposed Charter Amendment comply with the California Environmental Quality Act (California
13 Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of
14 the Board of Supervisors in File No. ___ and is incorporated herein by reference. The Board
15 affirms this determination.

16
17 Section 2. The Board of Supervisors hereby submits to the qualified voters of the City
18 and County, at an election to be held on November 3, 2020, a proposal to amend the Charter of
19 the City and County by revising Sections 3.104, 4.130, 16.129, and F1.102, and adding Sections
20 4.116, 4.138, and 4.139, to read as follows:

21 NOTE: **Unchanged Charter text and uncodified text** are in plain font.
22 **Additions** are *single-underline italics Times New Roman font*.
23 **Deletions** are ~~*strike-through italics Times New Roman font*~~.
24 **Asterisks** (* * * *) indicate the omission of unchanged Charter
25 subsections.

1 **SEC. 3.104. CITY ADMINISTRATOR.**

2 * * * *

3 The City Administrator shall have power to:

4 6. With the concurrence of the Mayor, appoint and remove the directors of the
5 Departments of Administrative Services, Solid Waste, and Public Guardian/Administrator, ~~and~~
6 ~~Public Works~~, and such other department heads which are placed under his or her direction;

7 * * * *

8 **SEC. 4.130. DEPARTMENT OF PUBLIC WORKS.**

9 *Except as otherwise specified in the Charter, ~~The duties and functions of~~ the Department*
10 *of Public Works shall design, build, and improve the City's infrastructure and public right of*
11 *way, and assume any other duties be assigned by the City Administrator, by ordinance or*
12 *pursuant to Section 4.132.*

13 **SEC. 4.116. PUBLIC WORKS COMMISSION.**

14 *(a) Purpose. There is hereby established a Public Works Commission. The*
15 *Commission shall set policy directives and provide oversight for the Department of Public*
16 *Works.*

17 *(b) Membership and Terms of Office.*

18 *(1) The Commission shall consist of five members, appointed as follows:*
19 *Seats 1 and 5 shall be appointed by the Board of Supervisors. Seat 1 shall be held*
20 *by a licensed engineer or associated registered engineer, with a background in mechanical or*
21 *environmental engineering and program management, and Seat 5 shall be an at-large position.*

22 *Seats 2 and 4 shall be appointed by the Mayor subject to confirmation by the*
23 *Board of Supervisors. Each nomination shall be the subject of a public hearing and vote within*
24 *60 days. If the Board of Supervisors fails to act on a nomination within 60 days of the date the*
25

1 nomination is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed
2 confirmed. Seat 2 shall be held by a licensed architect, and Seat 4 shall be an at-large position.

3 Seat 3 shall be held by a person with a background in finance with at least 5
4 years in auditing experience, appointed by the Controller subject to confirmation by the Board of
5 Supervisors. The nomination shall be the subject of a public hearing and vote within 60 days. If
6 the Board of Supervisors fails to act on a nomination within 60 days of the date the nomination is
7 transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed confirmed.

8 (2) Members of the Commission shall serve four-year terms; provided,
9 however, the term of the initial appointees in Seats 1, 3, and 5 shall be two years.

10 (3) Commissioners may be removed from office at will by their respective
11 appointing authority.

12 **(c) Powers and Duties.**

13 (1) With regard to the Department of Public Works, beginning on September
14 1, 2021, the Commission shall exercise all the powers and duties of boards and commissions set
15 forth in Sections 4.102, 4.103, and 4.104, and may take other actions as prescribed by
16 ordinance.

17 (2) The Commission shall oversee the Department's performance, including
18 evaluation of data collected by the Department, the Controller, and other City agencies.

19 (3) The Commission shall approve all contracts proposed to be entered into
20 by the Department, provided that the Commission may delegate this responsibility to the
21 Director of Public Works, or the Director's designee.

22 (4) The Commission shall perform an annual review on the designation and
23 filling of Department positions, as exempt, temporary, provisional, part-time, seasonal or
24 permanent status, the number of positions that are vacant, and at the Commission's discretion,
25 other data regarding the Department's workforce. This function shall not in any way limit the

1 roles of the Civil Service Commission or the Department of Human Resources under the
2 Charter.

3 (d) **Transition provisions.**

4 (1) The Mayor, Board of Supervisors, and Controller shall make initial
5 appointments to the Commission by no later than noon on June 1, 2021. The Commission shall
6 come into existence on either June 1, 2021 at noon, or noon of the date that three members of the
7 Commission have assumed office, whichever is later. The terms of all five members shall
8 commence at noon on June 1, 2021, regardless of when the Commission comes into existence.

9 (2) The Commission shall have its inaugural meeting by no later than
10 September 1, 2021.

11 (3) The Director of Public Works at the time the Commission comes into
12 existence shall remain in that position unless removed from it in accordance with the Charter
13 provisions governing removal of a department head serving under a commission. If a person is
14 serving in an acting capacity as Director at the time the Commission comes into existence, the
15 preceding sentence applies, except that the position shall also be considered vacant for purposes
16 of the next sentence. If the position of Director is vacant for any reason, including removal of
17 the incumbent Director, the position shall be filled in accordance with the Charter provisions
18 governing appointment of a department head serving under a commission. In that event, a
19 person removed from the position under the first sentence of this subsection may be considered
20 for appointment to the position.

21
22 **SEC. 4.138. SANITATION AND STREETS COMMISSION.**

23 (a) **Purpose.** There is hereby established a Sanitation and Streets Commission. The
24 Commission shall set policy directives and provide oversight for the Department of Sanitations
25 and Streets.

1 **(b) Membership and Terms of Office.**

2 **(1) The Commission shall consist of five members, appointed as follows:**

3 **Seats 1 and 2 shall be appointed by the Mayor subject to confirmation by the**
4 **Board of Supervisors. Each nomination shall be the subject of a public hearing and vote within**
5 **60 days. If the Board of Supervisors fails to act on a nomination within 60 days of the date the**
6 **nomination is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed**
7 **confirmed. Seat 1 shall be held by a person who is a small business owner. Seat 2 shall be held**
8 **by a person with experience in project management.**

9 **Seat 3 shall be appointed by the Controller subject to confirmation by the Board**
10 **of Supervisors. The nomination shall be the subject of a public hearing and vote within 60 days.**
11 **If the Board of Supervisors fails to act on a nomination within 60 days of the date the nomination**
12 **is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed confirmed.**
13 **Seat 3 shall be held by a person who has a background in finance and audits.**

14 **Seats 4 and 5 shall be appointed by the Board of Supervisors. Seat 4 shall be held**
15 **by a person who has a background in either public health or urban design. Seat 5 shall be held**
16 **by a person with significant experience in cleaning and maintaining public spaces.**

17 **(2) Members of the Commission shall serve four-year terms; provided,**
18 **however, the term of the initial appointees in Seats 1 and 4 shall be two years.**

19 **(3) Members may be removed at will by their respective appointing officer.**

20 **(c) Duties. With regard to the Department of Sanitation and Streets, beginning on**
21 **September 1, 2021, the Commission shall exercise all the powers and duties of boards and**
22 **commissions set forth in Sections 4.102, 4.103, and 4.104, and may take other actions as**
23 **prescribed by ordinance. In addition, the Commission shall:**

1 (1) review and evaluate data regarding street and sidewalk conditions,
2 including but not limited to data collected by the Department, and annual reports generated by
3 the Controller;

4 (2) establish minimum standards of cleanliness for the public right of way,
5 and set baselines for services to be administered by the Department;

6 (3) approve all contracts proposed to be entered into by the Department,
7 provided that the Commission may delegate this responsibility to the Director of the Department,
8 or the Director's designee;

9 (4) perform an annual review on the designation and filling of Department
10 positions, as exempt, temporary, provisional, part-time, seasonal or permanent status, the
11 number of positions that are vacant, and at the Commission's discretion, other data regarding
12 the Department's workforce. This function shall not in any way limit the roles of the Civil
13 Service Commission or the Department of Human Resources under the Charter.

14 (d) **Transition provisions.**

15 (1) The Mayor, Board of Supervisors, and Controller shall make initial
16 appointments to the Commission by no later than noon on June 1, 2021. The Commission shall
17 come into existence on either June 1, 2021 at noon, or noon of the date that three members of the
18 Commission have assumed office, whichever is later. The terms of all five members shall
19 commence at noon on June 1, 2021, regardless of when the Commission comes into existence.

20 (2) The Commission shall have its inaugural meeting by no later than
21 September 1, 2021.

22 (3) The Director of Public Works or person serving in an acting capacity as
23 Director of Public Works, at the time the Commission comes into existence, shall perform the
24 duties of the Director of the Department of Sanitation and Streets in an acting capacity until the
25

1 Commission appoints a new Director in accordance with the Charter provisions governing
2 appointment of a department head serving under a commission.

3 **SEC. 4.139. DEPARTMENT OF SANITATION AND STREETS.**

4 (a) **Establishment.** There shall be a Department of Sanitation and Streets, which
5 shall come into existence on September 1, 2021. The Department shall be headed by the
6 Director of Sanitation and Streets, who shall be qualified by either technical training or
7 administrative experience in program development, management, and implementation; and shall
8 have a demonstrated knowledge of best practices regarding cleaning and maintenance of high-
9 traffic or publicly accessible areas. The Department shall assume all responsibilities previously
10 under the jurisdiction of the Department of Public Works that pertain to the duties specified in
11 subsection (b).

12 (b) **Duties.** In addition to any other duties assigned by ordinance, or pursuant to
13 Section 4.132, the Department shall have the following duties:

14 (1) efficient and systematic street sweeping, sidewalk cleaning, maintenance
15 and cleaning of public restrooms in the public right of way, and litter abatement;

16 (2) provision and maintenance of city trash receptacles;

17 (3) removal of illegal dumping and graffiti in the public right of way;

18 (4) maintenance of public medians, and of street trees in the public right of
19 way pursuant to section 16.129;

20 (5) maintenance of City streets and sidewalks; and

21 (6) construction, repair, remodeling, and management services for City-
22 owned buildings and facilities.

23 (c) **Transition.** No later than March 1, 2021, the City Administrator shall submit to the
24 Board of Supervisors a proposed ordinance amending the Municipal Code, including but not
25 limited to the Public Works Code, to conform to Sections 3.104, 4.116, 4.130, , 4.138, 16.129,

1 FI.102, and this Section 4.139, as adopted or amended by the voters at the November 3, 2020
2 election.

3
4 **SEC. 16.129. STREET TREE MAINTENANCE.**

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

6 * * * *

7 “Maintenance” (and its root “Maintain”) shall mean those actions necessary to
8 promote the life, growth, health, or beauty of a Tree. Maintenance includes both routine
9 maintenance and major maintenance. Routine maintenance includes adequate watering to ensure
10 the Tree’s growth and sustainability; weed control; removal of Tree-well trash; staking;
11 fertilizing; routine adjustment and timely removal of stakes, ties, Tree guards, and Tree grates;
12 bracing; and Sidewalk repairs related to the Tree’s growth or root system. Major maintenance
13 includes structural pruning as necessary to maintain public safety and to sustain the health,
14 safety, and natural growth habit of the Tree; pest and disease-management procedures as needed
15 and in a manner consistent with public health and ecological diversity; and replacement of dead
16 or 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 ~~Sanitation and Streets~~*Public Works*.

20 * * * *

21 “Street Tree” shall mean any Tree growing within the public right-of-way, including
22 unimproved public streets and Sidewalks, and any Tree growing on land under the jurisdiction of
23 the Department of Public Works or the Department of Sanitation and Streets. “Street Tree” does
24 not include any other forms of landscaping.

25 * * * *

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

7 (h) Administration and Use of the Fund. The Department of Sanitation and
8 ~~StreetsPublic Works~~ shall administer the Fund. Monies in the Fund shall only be used for the
9 following purposes:

- 10 (1) Maintenance and Removal of Street Trees;
- 11 (2) Necessary costs of administering the Fund; and
- 12 (3) Making grants totaling up to \$500,000 annually to the San Francisco Unified
13 School District exclusively to fund Maintenance and Removal of Trees on School District
14 property.

15 * * * *

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

23 * * * *

24 **F1.102. STREET, SIDEWALK, AND PARK CLEANING AND MAINTENANCE.**

1 (a) The Services Audit Unit shall conduct annually a performance audit of the City's
2 street, sidewalk, and public park maintenance and cleaning operations. The annual audit shall:

3 (1) Include quantifiable, measurable, objective standards for street, sidewalk, and
4 park maintenance, to be developed in cooperation and consultation with the Department of
5 Sanitation and Streets, the Department of Public Works, and the Recreation and Park
6 Department;

7 * * * *

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

10 By: _____
11 AUSTIN M. YANG
12 Deputy City Attorney

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LEGISLATIVE DIGEST

[Charter Amendment - Public Works Commission, Sanitation and Streets Commission, and Sanitation and Streets Department]

Describing and setting forth a proposal to the voters at an election to be held on November 3, 2020, to amend the Charter of the City and County of San Francisco to create a Public Works Commission to oversee the Department of Public Works; to create the Sanitation and Streets Department to succeed to specific duties currently performed by the Department of Public Works; to create a Sanitation and Streets Commission to oversee the Sanitation and Streets Department; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Under the Charter, the Department of Public Works' responsibilities are determined by the City Administrator and include the responsibility for maintaining and cleaning the public right of way.

Charter section 4.102 provides that a commission of the executive branch has the responsibility to formulate, evaluate and approve goals, set policies, develop Annual Statements of Purpose for the departments under its jurisdiction, and approve departmental budgets.

Charter section F1.102 provides that the City Auditor shall develop quantifiable, measurable, objective standards for street, sidewalk, and park maintenance in consultation with the Department of Public Works.

Amendments to Current Law

This Charter amendment would remove the Department of Public Works from the purview of the City Administrator. The amendment would create a new Public Works Commission which would have oversight over the Department of Public Works. At the same time, the responsibilities for cleaning and maintaining the public right of way, and certain other responsibilities such as the maintenance of street trees in the public right of way would be transferred to a newly created Department of Sanitation and Streets. The new Department would also be responsible for maintaining City buildings. The amendment would also create a Sanitation and Streets Commission which would have oversight responsibilities over the new Department of Sanitation and Streets. The new Department and Commission would have a focus on street cleaning, including measurement of the City's performance using objective metrics. Street cleaning would include the deep cleaning of sidewalks using methods such as power washing.

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