


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 
Board of Supervisors

DATE: July 10, 2020

SUBJECT: CHARTER AMENDMENT
November 3, 2020 Election

On July 9, 2020, the Board of Supervisors' Rules Committee amended 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 (Fourth Draft) to amend the Charter of the City and County of San Francisco to create the Department of Sanitation and Streets to succeed to specific duties currently performed by the Department of Public Works; to create a Sanitation and Streets Commission to oversee the Department of Sanitation and Streets; to create a Public Works Commission to oversee the Department of Public Works; and to require an annual performance audit and cost and waste analysis for both departments; 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 - Department of Sanitation and Streets, Sanitation and Streets Commission,
2 and Public Works Commission]

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 the**
5 **Department of Sanitation and Streets to succeed to specific duties currently performed by**
6 **the Department of Public Works; to create a Sanitation and Streets Commission to oversee**
7 **the Department of Sanitation and Streets; to create a Public Works Commission to oversee**
8 **the Department of Public Works; and to require an annual performance audit and cost**
9 **and waste analysis for both departments; and affirming the Planning Department’s**
10 **determination under the California Environmental Quality Act.**

11
12 Section 1. The Planning Department has determined that the actions contemplated in this
13 proposed Charter Amendment comply with the California Environmental Quality Act (California
14 Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of
15 the Board of Supervisors in File No. 200510 and is incorporated herein by reference. The Board
16 affirms this determination.

17
18 Section 2. The Board of Supervisors hereby submits to the qualified voters of the City
19 and County, at an election to be held on November 3, 2020, a proposal to amend the Charter of
20 the City and County by revising Sections 3.104, 16.129, and F1.102, adding Sections 4.138,
21 4.139, and 4.141, and revising and renumbering Section 4.130 as Section 4.140, to read as
22 follows:

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

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

3 * * * *

4 The City Administrator shall have power to:

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

9 * * * *

10
11 **SEC. 4.138. DEPARTMENT OF SANITATION AND STREETS.**

12 (a) **Establishment.** There shall be a Department of Sanitation and Streets, which
13 shall come into existence three months after the Transition Date for the Sanitation and Streets
14 Commission in Section 4.139(d). The Department shall be headed by the Director of Sanitation
15 and Streets, who shall be qualified by either technical training or management experience in
16 environmental services or the maintenance, sanitation, or cleaning of public spaces; and shall
17 have a demonstrated knowledge of best practices regarding cleaning and maintenance of high-
18 traffic or publicly accessible areas. The Department shall assume all responsibilities previously
19 under the jurisdiction of the Department of Public Works that pertain to the duties specified in
20 subsection (b).

21 (b) **Duties.** Except as otherwise provided in the Charter or pursuant to Section
22 4.132, in addition to any other duties assigned by ordinance, the Department shall have the
23 following duties:

24 (1) efficient and systematic street sweeping, sidewalk cleaning, and litter
25 abatement;

- 1 (2) maintenance and cleaning of public restrooms in the public right of way;
2 (3) provision and maintenance of city trash receptacles;
3 (4) removal of illegal dumping and graffiti in the public right of way;
4 (5) maintenance of public medians, and of street trees in the public right of
5 way pursuant to section 16.129;
6 (6) maintenance of City streets and sidewalks;
7 (7) construction, repair, remodeling, and management services for City-
8 owned buildings and facilities; and
9 (8) control of pests on City streets and sidewalks.

10 The Board of Supervisors may limit, modify, or eliminate the duties set forth in
11 subsections (1) through (8), and may transfer any of those duties to the Department of Public
12 Works or other City departments, by ordinance approved by two-thirds of the Board. Nothing in
13 this Section 4.138 shall relieve property owners of the legal responsibilities set by local or State
14 law, including as those laws may be amended in the future.

15 (c) **Refuse Collection and Disposal Ordinance.** The Director of Sanitation and Streets
16 shall perform the responsibilities assigned to the Director of Public Works by the Refuse
17 Collection and Disposal Ordinance of November 8, 1932, as it may be amended from time to
18 time.

19 (d) **Administrative Support.** By no later than the Transition Date in Section 4.139(d),
20 the Board of Supervisors shall by ordinance require the City Administrator, the Department of
21 Public Works, and/or any other City department to provide administrative support for the
22 Department, which shall include but need not be limited to human resources, performance
23 management, finance, budgeting, technology, emergency planning, training, and employee safety
24 services. At any time more than two years and three months after the Transition Date, the Board
25

1 of Supervisors may adopt ordinances requiring the Department of Sanitation and Streets to
2 assume responsibility for some or all of that administrative support.

3 **(e) Transition.**

4 No later than the Transition Date in Section 4.139(d), the City Administrator shall submit
5 to the Board of Supervisors a proposed ordinance amending the Municipal Code, including but
6 not limited to the Public Works Code, to conform to Sections 3.104, 4.139, 4.140, 4.141, 16.129,
7 F1.102, and this Section 4.138, as adopted or amended by the voters at the November 3, 2020
8 election.

9
10 **SEC. 4.139. SANITATION AND STREETS COMMISSION.**

11 **(a) Purpose.** There is hereby established a Sanitation and Streets Commission. The
12 Commission shall set policy directives and provide oversight for the Department of Sanitation
13 and Streets.

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

15 **(1)** The Commission shall consist of five members, appointed as follows:
16 Seats 1 and 2 shall be appointed by the Mayor subject to confirmation by the
17 Board of Supervisors. Each nomination shall be the subject of a public hearing and vote within
18 60 days. If the Board of Supervisors fails to act on a nomination within 60 days of the date the
19 nomination is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed
20 confirmed. Seat 1 shall be held by a person who is a small business owner. Seat 2 shall be held
21 by a person with experience in project management.

22 Seat 3 shall be appointed by the Controller subject to confirmation by the Board
23 of Supervisors. The nomination shall be the subject of a public hearing and vote within 60 days.
24 If the Board of Supervisors fails to act on a nomination within 60 days of the date the nomination
25

1 is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed confirmed.

2 Seat 3 shall be held by a person who has a background in finance and audits.

3 Seats 4 and 5 shall be appointed by the Board of Supervisors. Seat 4 shall be held
4 by a person who has a background in either urban forestry, urban design, or environmental
5 services. Seat 5 shall be held by a person with significant experience in cleaning and
6 maintaining public spaces.

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

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

10 (c) **Duties.** With regard to the Department of Sanitation and Streets, beginning three
11 months after the Transition Date in subsection (d), the Commission shall exercise all the powers
12 and duties of boards and commissions set forth in Sections 4.102, 4.103, and 4.104, and may
13 take other actions as prescribed by ordinance. In addition, the Commission shall:

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

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

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

22 (4) perform an annual cost analysis evaluating whether there are
23 inefficiencies or waste in the Department's administration and operations; and

24 (5) perform an annual review on the designation and filling of Department
25 positions, as exempt, temporary, provisional, part-time, seasonal or permanent status, the

1 number of positions that are vacant, and at the Commission's discretion, other data regarding
2 the Department's workforce. This function shall not in any way limit the roles of the Civil
3 Service Commission or the Department of Human Resources under the Charter.

4 (d) **Transition provisions.**

5 (1) The Commission shall come into existence on the Transition Date, which
6 shall be established by the Board of Supervisors by written motion adopted by a majority vote of
7 its members, provided that the Transition Date shall be no earlier than July 1, 2022. The Board
8 of Supervisors shall vote on a written motion to establish the Transition Date no later than
9 January 1, 2022. If the Board of Supervisors fails to adopt such a motion by January 1, 2022,
10 the Clerk of the Board of Supervisors shall place such a motion on the agenda of a Board of
11 Supervisors meeting at least once every three months thereafter until such time as the Board of
12 Supervisors adopts a motion establishing the Transition Date. The Mayor, Board of
13 Supervisors, and Controller shall make initial appointments to the Commission by no later than
14 three months before the Transition Date. The terms of all five members shall commence at noon
15 on the Transition Date.

16 (2) The Commission shall have its inaugural meeting by no later than 30 days
17 after three members of the Commission have assumed office.

18 (3) The Director of Public Works or person serving in an acting capacity as
19 Director of Public Works, at the time the Commission comes into existence, shall perform the
20 duties of the Director of the Department of Sanitation and Streets in an acting capacity until the
21 Commission appoints a new Director in accordance with the Charter provisions governing
22 appointment of a department head serving under a commission.

1 **SEC. ~~4.1404.130~~. DEPARTMENT OF PUBLIC WORKS.**

2 Except as otherwise specified in the Charter, including in Section 4.138(b)(7), ~~The duties~~
3 ~~and functions~~ of the Department of Public Works shall *design, build, and improve the City's*
4 *infrastructure and public right of way, and assume any other duties* ~~be assigned by the City~~
5 ~~Administrator~~, by ordinance or pursuant to Section 4.132. *The Department shall be headed by*
6 *the Director of Public Works, who shall be qualified by either technical training or management*
7 *experience in engineering or architecture.*

8
9 **SEC. 4.141. PUBLIC WORKS COMMISSION.**

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

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

14 (1) *The Commission shall consist of five members, appointed as follows:*
15 *Seats 1 and 5 shall be appointed by the Board of Supervisors. Seat 1 shall be held*
16 *by a registered professional engineer licensed in the State of California, with a background in*
17 *civil, mechanical, or environmental engineering, and Seat 5 shall be an at-large position.*

18 *Seats 2 and 4 shall be appointed by the Mayor subject to confirmation by the*
19 *Board of Supervisors. Each nomination shall be the subject of a public hearing and vote within*
20 *60 days. If the Board of Supervisors fails to act on a nomination within 60 days of the date the*
21 *nomination is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed*
22 *confirmed. Seat 2 shall be held by a registered architect licensed in the State of California, and*
23 *Seat 4 shall be an at-large position.*

24 *Seat 3 shall be held by a person with a background in finance with at least 5*
25 *years in auditing experience, appointed by the Controller subject to confirmation by the Board of*

1 Supervisors. The nomination shall be the subject of a public hearing and vote within 60 days. If
2 the Board of Supervisors fails to act on a nomination within 60 days of the date the nomination is
3 transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed confirmed.

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

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

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

9 (1) With regard to the Department of Public Works, beginning on September
10 1, 2022, the Commission shall exercise all the powers and duties of boards and commissions set
11 forth in Sections 4.102, 4.103, and 4.104, and may take other actions as prescribed by
12 ordinance.

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

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

18 (4) The Commission shall require the Director of Public Works, or the
19 Director's designee, to provide the Commission with proof of adequate performance of any
20 contract entered into by the Department for public works involving the City's infrastructure or
21 public right of way, based on written documentation including documentation that the building
22 official has issued a building or site permit and a final certificate of occupancy.

23 (5) The Commission shall perform an annual review on the designation and
24 filling of Department positions, as exempt, temporary, provisional, part-time, seasonal or
25 permanent status, the number of positions that are vacant, and at the Commission's discretion,

1 other data regarding the Department's workforce. This function shall not in any way limit the
2 roles of the Civil Service Commission or the Department of Human Resources under the
3 Charter.

4 (d) **Transition provisions.**

5 (1) The Mayor, Board of Supervisors, and Controller shall make initial
6 appointments to the Commission by no later than the Appointment Deadline, which shall be
7 either noon on June 1, 2022, or an earlier date established by the Board of Supervisors by
8 written motion adopted no later than January 1, 2022 by a majority vote of its members. The
9 Commission shall come into existence either at noon on the 31st day after the Appointment
10 Deadline, or at noon on the date that three members of the Commission have assumed office,
11 whichever is later. The terms of all five members shall commence at noon on the 31st day after
12 the Appointment Deadline, regardless of when the Commission comes into existence.

13 (2) The Commission shall have its inaugural meeting by no later than three
14 months after the terms of the initial members begin.

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

1 **SEC. 16.129. STREET TREE MAINTENANCE.**

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

3 * * * *

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

17 * * * *

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

22 * * * *

23 (g) Beginning in fiscal year 2018-2019, the City may suspend growth in the City’s \$19
24 million contribution to the Fund under subsection (f) of this Section 16.129 if the City’s
25 projected budget deficit for the upcoming fiscal year at the time of the Joint Report or Update to

1 the five-year financial plan as prepared jointly by the Controller, the Mayor’s Budget Director,
2 and the Board of Supervisors’ Budget Analyst exceeds \$200 million adjusted annually by
3 changes in aggregate discretionary revenues as defined in subsection (f) of this Section 16.129.

4 (h) Administration and Use of the Fund. The Department of Sanitation and
5 StreetsPublic Works shall administer the Fund. Monies in the Fund shall only be used for the
6 following purposes:

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

12 * * * *

13 (i) 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 Sanitation and StreetsPublic
15 Works shall file annually with the Board of Supervisors, by January 1 of each year, a report
16 containing the amount of monies collected in and expended from the Fund during the prior fiscal
17 year, and such other information as the Director of the Department of Sanitation and
18 StreetsPublic Works, in the Director’s sole discretion, shall deem relevant to the operation of this
19 Section 16.129.

20 * * * *

21
22 **F1.102. STREET, SIDEWALK, AND PARK CLEANING AND MAINTENANCE.**

23 (a) The Services Audit Unit shall conduct annually a performance audit of the City's
24 street, sidewalk, and public park maintenance and cleaning operations. The annual audit shall:
25

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

5 * * * *

6 (b) The Services Audit Unit shall conduct annually a cost and waste analysis evaluating
7 whether there are inefficiencies or waste in the administration and operations of the Department
8 of Sanitation and Streets, and the Department of Public Works or inefficiencies or waste in the
9 division of labor between the two departments. The annual audit shall make quantifiable,
10 measurable recommendations for the elimination of inefficient operations and functions, and
11 shall include:

12 (1) Consolidation of duplicative and overlapping activities and functions;

13 (2) Integration and standardization of information maintenance systems that
14 promote interdepartmental sharing of information and resources;

15 (3) Departmental accounting for expenditure of resources in terms of effectiveness
16 of the service or product delivered;

17 (4) Departmental deployment and utilization of personnel, the City's personnel
18 procurement system, and reforms to enhance the quality of work performance of public
19 employees; and

20 (5) Methods of operation to reduce consumption and waste of resources.

21 (b~~c~~) In addition, all City agencies engaged in street, sidewalk, or park maintenance
22 shall establish regular maintenance schedules for streets, sidewalks, parks and park facilities,
23 which shall be available to the public and on the department's website. Each such department
24 shall monitor compliance with these schedules, and shall publish regularly data showing the
25 extent to which the department has met its published schedules. The City Services Audit Unit

1 shall audit each department's compliance with these requirements annually, and shall furnish
2 recommendations for meaningful ways in which information regarding the timing, amount and
3 kind of services provided may be gathered and furnished to the public.

4

5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

7 By: _____
8 JON GIVNER
9 Deputy City Attorney

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