



# THE PUBLIC WORKS COMMISSION AND THE SANITATION AND STREETS COMMISSION: A BRIEF INTRODUCTION

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# A Brief Introduction

- I. Overview: Proposition B
- II. Charter Authority
- III. Ethics Overview: Reminders and Resources
- IV. Roles and Responsibilities
- V. Open Government





# I. OVERVIEW: PROPOSITION B

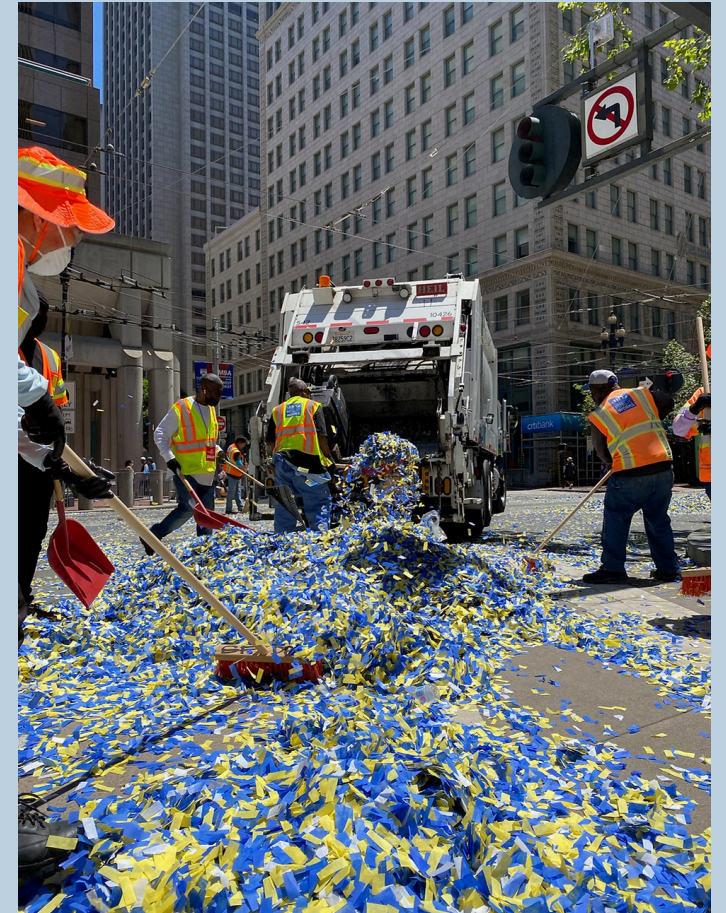
# Before Proposition B

- Department of Public Works (“Public Works”) managed by Public Works Director and overseen by City Administrator
- Main Divisions:
  - **Operations:** maintains City buildings, streets, sewers, street trees, sidewalk trash cans and sidewalks, and removes graffiti;
  - **Building Design and Construction:** designs, builds, and renovates City buildings and structures;
  - **Infrastructure Design and Construction:** maintains City streets, sidewalks, curb ramps, plazas, bridges, tunnels and stairways; and
  - **Financial Management and Administration.**

# Changes Due To Proposition B

Establishment of:

- Sanitation and Streets (SAS) Department, tasked with:
  - Sweeping streets and cleaning sidewalks
  - Providing and maintaining sidewalk trash cans
  - Removing graffiti and illegally dumped waste
  - Maintaining City buildings, public restrooms and street trees
- Sanitation and Streets Commission
- Public Works Commission



# Transition Period

- Transition Date: Both Commissions came into existence July 1, 2022
- Commissions do not assume powers and duties until:
  - Public Works Commission - September 1, 2022
  - SAS Commission - October 1, 2022
- Department Heads:
  - Public Works: Interim Public Works Director will continue to serve as Public Works Director
  - SAS: Interim Public Works Director will serve as Acting SAS Director until SAS Commission recommends qualified candidates and Mayor appoint a new director

# New Charter Amendment on Ballot (November 8, 2022)

If approved, the Charter amendment would:

- Eliminate Dept. of Sanitation and Streets and transfer power and duties back to DPW
- Limit duties of SAS Commission to holding hearings, reviewing data, and setting policies for DPW related to sanitation standards and protocols and maintenance of the public right of way
- Authorize Public Works Commission to remove Director
- Change qualifications for all commissioners from a requirement to desirable
- Commissions will continue to exist uninterrupted, and appointed members may continue to serve current terms



## II. CHARTER AUTHORITY



# Department of Public Works

Subject to any exceptions in the Charter, the Department shall:

- “design, build, and improve the City’s infrastructure and public right of way” (Charter § 4.140)
- “assume any other duties assigned by ordinance” (Charter § 4.140)
- “or pursuant to Section 4.132 [Executive Branch Reorganization]” (Charter § 4.140)



# Public Works Commission

- Purpose: To “set policy directives and provide oversight” (Charter § 4.141 (a))
- Membership/Term: 5 members
  - Seats 2 & 4 (4 years) and seats 1, 3, & 5 (initially 2 years)
- Powers and Duties: Starting September 1, 2022
  - To “oversee the Department’s performance,” including evaluation of data collected by City agencies (Charter § 4.141 (c)(2))
  - To “approve all contracts proposed to be entered into by the Department”; the Commission may delegate this responsibility to the Director (Charter § 4.141 (c)(3))
  - To “require the Director ... to provide the Commission with proof of adequate performance of any contract entered into by the Department for public works involving the City’s infrastructure or public right of way” (Charter § 4.141 (c)(4))
  - To “perform an annual review on the designation and filling of Department positions,” the number of vacant positions, and other workforce data (Charter § 4.141 (c)(5))

# Department of Sanitation and Streets

Duties: SAS to assume all responsibilities previously under the jurisdiction of DPW that pertain to following (Charter § 4.138(b)):

- efficient and systematic street sweeping, sidewalk cleaning, and litter abatement;
- maintenance and cleaning of public restrooms in the public right of way;
- provision and maintenance of city trash receptacles;
- removal of illegal dumping and graffiti in the public right of way;
- maintenance of public medians, and of street trees in the public right of way;
- maintenance of City streets and sidewalks;
- construction, repair, remodeling, and management services for City-owned buildings and facilities; and
- control of pests on City streets and sidewalks.

# Department of Sanitation and Streets (Cont.)

- BOS may limit, modify, or eliminate SAS duties and transfer to DPW or other City departments (Charter § 4.138(b))
- Change or transfer by ordinance approved by two-thirds of the Board (Charter § 4.138(b))
- Refuse Collection and Disposal Ordinance (Charter § 4.138(c))



# Sanitation and Streets Commission – Charter § 4.139

- Purpose: To set policy directives and provide oversight of SAS
- Membership/Term: 5 members; 4 year terms, except initial appointment of seats 1 & 4 for 2 year term
- Duties: Starting October 1, 2022:
  - review and evaluate data regarding street and sidewalk conditions
  - establish minimum standards of cleanliness for ROW, and set baselines for services
  - approve all SAS contracts; may delegate to the Director or the Director's designee
  - perform an annual cost analysis evaluating whether there are inefficiencies or waste
  - perform an annual review on the designation, filling, and vacancy of Department positions

# Charter Authority of Both Commissions

Powers and Duties (Charter § 4.102): Unless otherwise provided in the Charter, each commission shall:

- Formulate, evaluate, and approve:
  - goals, objectives, plans and programs and set policies consistent with the City's overall objectives (evidenced through legislation)
- Develop an Annual Statement of Purpose
- After public hearing, approve departmental budgets (subject to the authority of the Mayor and Board of Supervisors)
- Recommend rates, fees and similar charges within the respective Commission's jurisdiction
- If the department head position is vacant, submit to Mayor at least three qualified applicants, subject to appointment by Mayor
- Act on Mayor's recommendation to remove department head

# Charter Authority (Continued)

- Conduct investigations into governmental operations within Commission's jurisdiction through "the power of inquiry," and make recommendations to the Mayor or the Board
- Exercise other powers and duties prescribed by the Board of Supervisors
- Appoint an executive secretary to manage the Commission's affairs and operations
- Hold hearings and take testimony
- Each Commission, shall deal with administrative matters "solely through the department head or ... designees, and any dictation, suggestion or interference herein prohibited . . . shall constitute official misconduct...."

# Charter Authority (Continued)

- Annual Report (Charter § 4.103): Prepare annual report describing Commission's activities, and file report with Mayor and Clerk of Board of Supervisors.
  - Annual Report can be included in Annual Statement of Purpose (Charter § 4.102(2))
- Rules and Regulations (Charter § 4.104):
  - Adopt, amend, or repeal rules and regulations consistent with Charter and City ordinances, following a public hearing
  - Hold open public meetings and encourage participation of interested persons
  - Keep a record of each regular or special meeting, including voting records
  - Presence of majority of commissioners constitutes quorum for transaction of business
  - Unless otherwise required by Charter, approval of any matter requires affirmative vote of a majority of commissioners
  - Except rules and regulations may provide that Commission may act on procedural matters by affirmative vote of majority of members present, so long as there is a quorum
- Each member present shall vote "yes" or "no" when a question is put, unless excused from voting by a motion adopted by a majority of members present.





# III. ETHICS OVERVIEW: REMINDERS AND RESOURCES

# Required Trainings & Filings

- Consult the City Attorney's *Good Government Guide (2021)*
- Within 30 days after assuming Office:
  - File Statement of Economic Interests (Form 700)
  - Complete Ethics training and Sunshine Ordinance training
    - **Topics include: Form 700, gifts and gift limits, behested payments, conflicts of interest, fundraising, Sunshine Ordinance, and more**
  - File Ethics and Sunshine Training Declaration
- Within 60 days after assuming Office:
  - Complete training on Implicit Bias
- Complete Harassment Free Workplace training



## IV. ROLES AND RESPONSIBILITIES

# Roles and Responsibilities



- Members of the Public
- Commissioners
  - Chair
  - Vice Chair
- Commission Secretary
- Director of Public Works;  
Director of Sanitation and  
Streets
- Public Works Staff
- City Attorney's Office

# Roles and Responsibilities

- Non-Interference. Each Commission, shall deal with administrative matters “solely through the department head or ... designees, and any dictation, suggestion or interference herein prohibited . . . shall constitute official misconduct....” (Charter § 4.102)
- Authority to Act on Commission’s Behalf. Individual commissioners lack authority to act on behalf of the Commission unless so authorized by the Commission’s bylaws (rules and regulations) or by a vote of the Commission.



# V. OPEN GOVERNMENT

# Public Meetings

- All business must be done in public. Members should familiarize themselves with requirements in Part 3 Good Government Guide.
- Meeting occurs when majority of commission comes together at the same time.
- Majority of commission cannot discuss department/commission business (other than scheduling) outside of meeting. Includes phone, emails, or text.
- Unlawful meeting - Seriatim or “hub and spoke” meeting
- Meeting Requirements
  - Agenda; no discussions on items not on agenda
  - Public Comment
    - Required on every agenda item before vote
    - Generally 3 minutes per person
- Same rules apply to subcommittees.

# Public Records

- Governed by the California Public Records Act (Govt. Code § 6250 et seq.) and the Sunshine Ordinance (Admin. Code Ch. 67)
- Defined very broadly
  - A public record is a 1) writing 2) containing information relating to the conduct of the public's business 3) prepared, owned, used, or retained 4) by a state or local agency
- A “writing” can include memos, emails, texts, voice recordings, photos, even if on a personal device
- Limited exceptions to disclosure
- **Good rule of thumb: assume anything you write about the Commission or the Department's business could be a public record and subject to disclosure**



# Quiet Period During Procurement

- To avoid real or perceived interference in the competitive procurement process for City work, Commissioners should not engage in communications with an actual or potential proposer or bidder about a specific business opportunity with the department.
- Period is from date of advertisement until contract is awarded or procurement is terminated.

# Thank you!

