


EFFECTS OF PROPOSITION B (2022) ON
THE CHARTER AUTHORITY OF
THE PUBLIC WORKS COMMISSION AND
THE SANITATION AND STREETS COMMISSION

PRESENTED BY
DEPUTY CITY ATTORNEY CHRISTOPHER TOM

Outline

- I. Recent Legislative History: Governance of the Department of Public Works before and after Proposition B (2020)
- II. Merger of Department of Sanitation and Streets and Department of Public Works (Prop. B, 2022)
- III. Text of Charter Amendments
- IV. Discussion



I. RECENT LEGISLATIVE HISTORY:
GOVERNANCE OF DEPARTMENT
OF PUBLIC WORKS BEFORE AND
AFTER PROP. B (2020)

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, sidewalk trash cans, and sidewalks; regulates tree removals and maintains trees; 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 (2020)

Establishment of:

- Public Works Commission
- Sanitation and Streets Commission
- 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 and public restrooms,
 - Regulating street tree removal and planting, and
 - Planting and maintaining street trees.

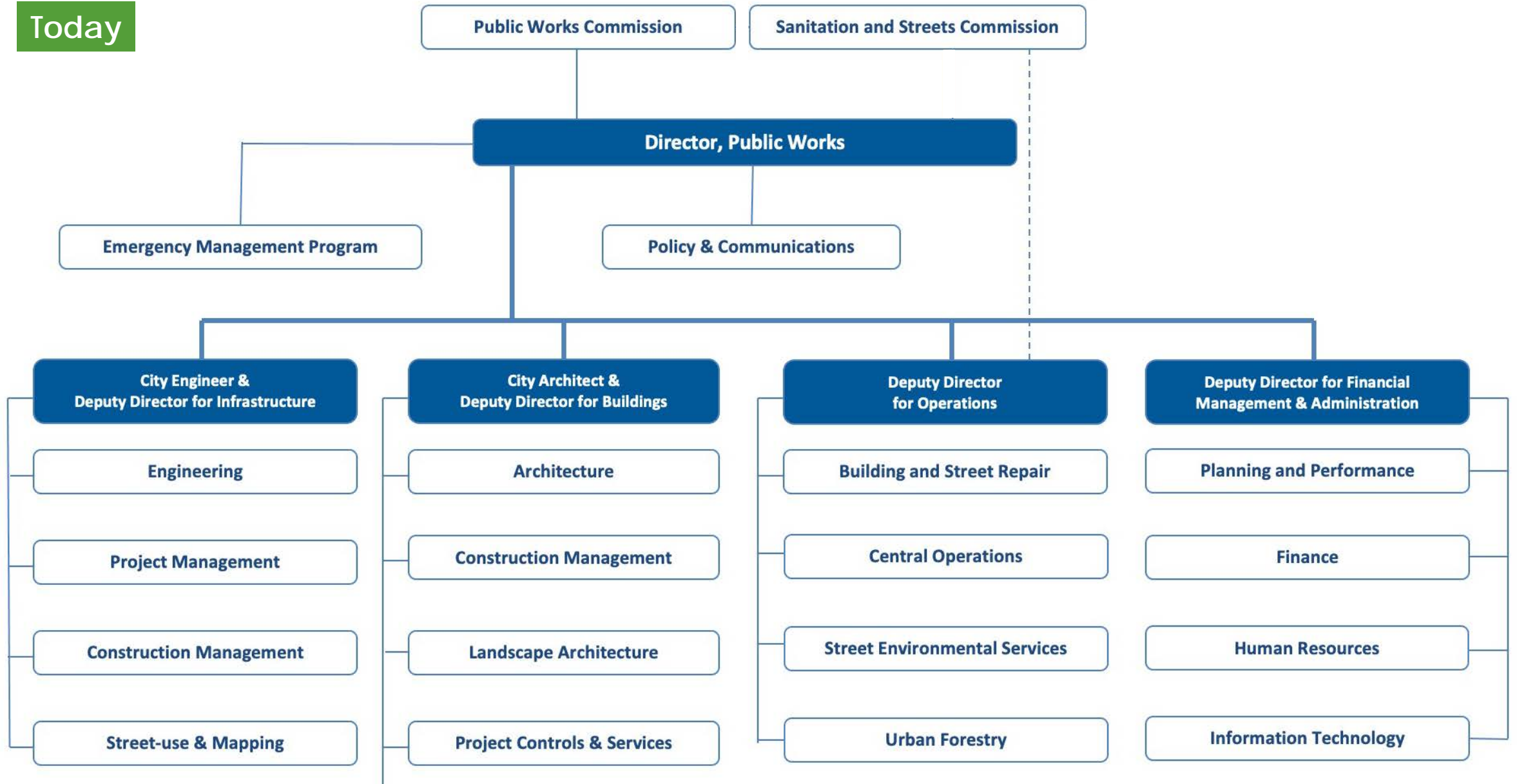


II. MERGER OF DEPARTMENTS (PROP. B, 2022)

Voter's Pamphlet (Digest)

- **“The Proposal:** Proposition B would eliminate the Department of Sanitation and Streets and transfer its duties back to the Department of Public Works. Proposition B would retain both the Public Works Commission and the Sanitation and Streets Commission. The Sanitation and Streets Commission would hold public hearings and set policies on sanitation issues for the Department of Public Works.”
- **“A ‘YES’ Vote Means:** If you vote ‘yes,’ you want to eliminate the Department of Sanitation and Streets and transfer its duties back to the Department of Public Works. You also want to retain both commissions.”
- **“A ‘NO’ Vote Means:** If you vote ‘no,’ you do not want to make these changes.

Today



Proposition B (2020)



Created new Commissions

Director, Public Works

Operations Division removed to create SAS Department

Emergency Management Program

Policy & Communications

City Engineer & Deputy Director for Infrastructure

City Architect & Deputy Director for Buildings



Deputy Director for Financial Management & Administration

Engineering

Architecture

Planning and Performance

Project Management

Construction Management

Finance

Construction Management

Landscape Architecture

Human Resources

Street-use & Mapping

Project Controls & Services

Information Technology

Proposition B (2020)

Public Works Commission

Director, Public Works

Emergency Management Program

Policy & Communications

Removed
Operations
Division to create
SAS Department

City Engineer &
Deputy Director for Infrastructure

Engineering

Project Management

Construction Management

Street-use & Mapping

City Architect &
Deputy Director for Buildings

Architecture

Construction Management

Landscape Architecture

Project Controls & Services

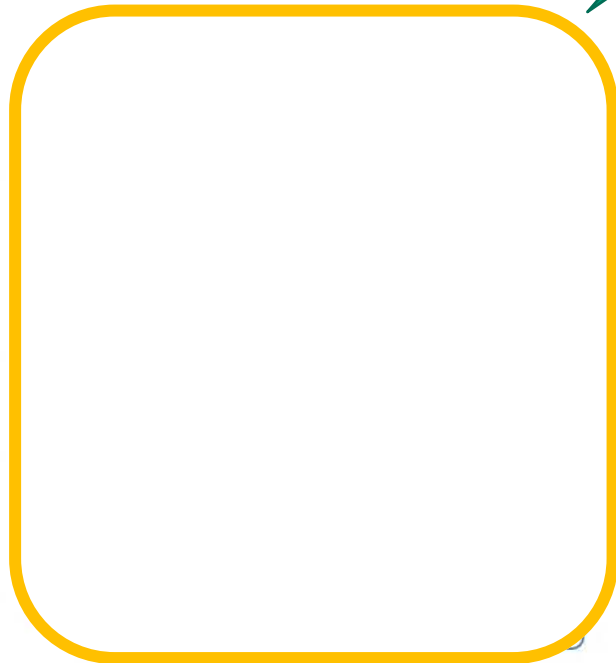
Deputy Director for Financial
Management & Administration

Planning and Performance

Finance

Human Resources

Information Technology



Proposition B (2022)



Modified Commissions' authority

Director, Public Works

Merged Operations Division with Department of Public Works

Emergency Management Program

Policy & Communications

City Engineer & Deputy Director for Infrastructure

City Architect & Deputy Director for Buildings



Deputy Director for Financial Management & Administration

Engineering

Architecture

Planning and Performance

Project Management

Construction Management

Finance

Construction Management

Landscape Architecture

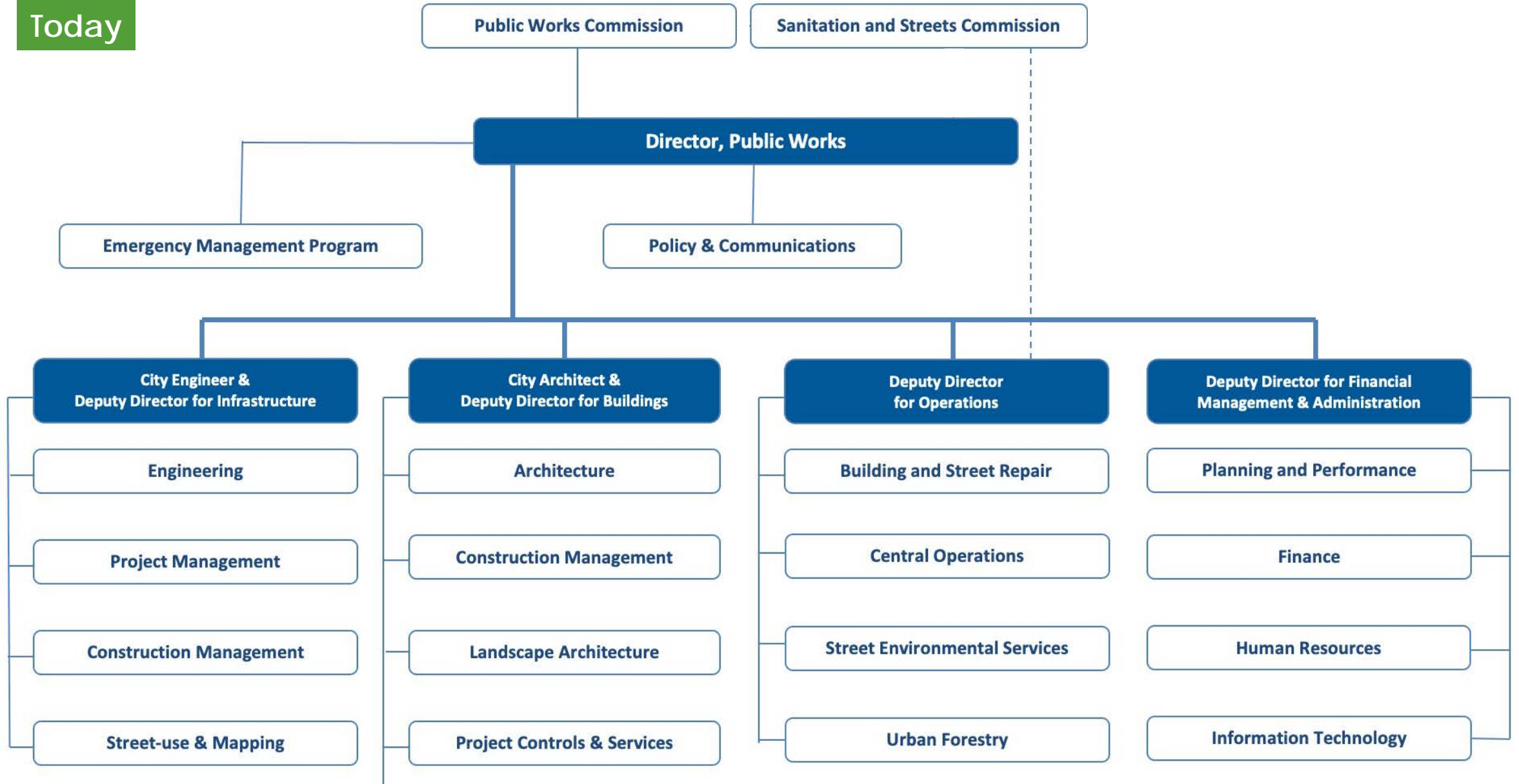
Human Resources

Street-use & Mapping

Project Controls & Services

Information Technology

Today





III. TEXT OF CHARTER AMENDMENTS

Changes to Commission's Charter Authority

- Deleted:

- Sec. 4.138 (Department of Sanitation and Streets)

- Revised:

- Sec. 4.139 (Sanitation and Streets Commission),
- Sec. 4.140 (Department of Public Works),
- Sec. 4.141 (Public Works Commission),
- Sec. 16.129 (Street Tree Maintenance),
- Sec. F1.102 (Street, Sidewalk, and Park Cleaning and Maintenance)

Deletion of Sec. 4.138

- ~~SEC. 4.138. DEPARTMENT OF SANITATION AND STREETS.~~
- ~~(a) **Establishment.** There shall be a Department of Sanitation and Streets, which shall come into existence three months after the Transition Date for the Sanitation and Streets Commission in Section 4.139(d). The Department shall be headed by the Director of Sanitation and Streets, who shall be qualified by either technical training or management experience in environmental services or the maintenance, sanitation, or cleaning of public spaces; and shall have a demonstrated knowledge of best practices regarding cleaning and maintenance of high-traffic or publicly accessible areas. The Department shall assume all responsibilities previously under the jurisdiction of the Department of Public Works that pertain to the duties specified in subsection (b).~~
- ~~(b) **Duties.** Except as otherwise provided in the Charter or pursuant to Section 4.132, in addition to any other duties assigned by ordinance, the Department shall have the following duties: [...]~~

Revisions to Sec. 4.139 (Sanitation and Streets Commission)

- **Purpose**. Removed Commission's purpose of "[setting] policy directives and provid[ing] oversight for the Department of Sanitation and Streets." (Former Sec. 4.139(a).)
- **Composition**. (Sec. 4.139(b)(1).)
 - Seats 1 and 2 appointed by Board of Supervisors.
 - Seat 3 appointed by Controller subject to Board's confirmation.
 - Seats 4 and 5 appointed by Mayor, subject to Board's confirmation.
- **Qualifications**. Refers to certain "desirable" background qualifications, which are no longer "required": "background or experience in cleaning and maintaining public spaces, urban forestry, urban design, construction, skilled crafts and trades, finance and audits, architecture, landscape architecture, engineering, or performance measurement and management." (Sec. 4.139(b).)

Revisions to Sec. 4.139 (Sanitation and Streets Commission)

Duties and Authority

- Removed: Authority to “exercise all powers and duties” set forth in Sec. 4.102 (Powers and Duties), Sec. 4.103 (Annual Report), Sec. 4.104 (Rules and Regulations).
- Added:
 - “...the Commission shall exercise only the powers set forth in this subsection (c), and the Public Works Commission shall exercise the oversight authority described in those sections over the Department of Public Works, as set forth in Section 4.141.” (Sec. 4.139(c).)
 - “The Commission shall hold public hearings and set policies for the Department of Public Works (the “Department”) regarding sanitation standards and protocols, and maintenance of the public right of way.” (Sec. 4.139(c).)
- Unchanged (Sec. 4.139(c)) duties:
 - Reviewing and evaluating “data regarding the conditions ... of the public right-of-way” and
 - Establishing “minimum standards of cleanliness” and setting “baselines for services to be administered by the Department to maintain cleanliness of the public right of way”

Revisions to Sec. 4.140 (Department of Public Works)

- **Merger.** “On January 1, 2023, the Department shall assume the responsibilities of the Department of Sanitation and Streets as they existed on December 31, 2022, and shall retain the existing responsibilities of the Department of Public Works.” (Sec. 4.140(a).)
- **Director’s Service.** “...the Director ... or person serving in an acting capacity as Director of Public Works on December 31, 2022, shall continue to serve in that capacity beginning on January 1, 2023....if at any time the position of Director of Public Works is vacant for any reason, the position shall be filled in accordance with the Charter provisions governing appointment of a department head.” (Sec. 4.140(c)(1).)
- **Conforming Legislation.** By June 30, 2023, the Director “shall submit to the Board of Supervisors a proposed ordinance amending the Municipal Code to conform to Sections 4.139, 4.140, and 4.141 and the repeal of Section 4.138.” (Sec. 4.140(c)(2).)

Revisions to Sec. 4.141 (Public Works Commission)

- **Qualifications**. Refers to certain “desirable” background qualifications, which are no longer “required”: “background or experience in cleaning and maintaining public spaces, urban forestry, urban design, construction, skilled crafts and trades, finance and audits, architecture, landscape architecture, engineering, or performance measurement and management.” (Sec. 4.141(b).)
- **Powers and Duties**.
 - *Authority Under Specified Charter Sections; SAS Commission Carveout*. “With regard to the Department of Public Works, With regard to the Department of Public Works, ... the Commission shall exercise all the powers and duties of boards and commissions set forth in Sections 4.102, 4.103, and 4.104, except for the authority conferred on the Sanitation and Streets Commission in Section 4.139, and may take other actions as prescribed by ordinance.” (Sec. 4.141(c).)

Revisions to Sec. 4.141 (Public Works Commission)



Powers and Duties.

- Removed: References to the Commission's "oversee[ing] Department's performance," the Commission's "approv[ing] all contracts proposed to be entered into by the Department," Director's "proof of adequate performance of any contract ... for public works involving City's infrastructure or public right of way," and the Commission's performance of an annual review of the filling of Department vacancies.

Specific Charter Provisions

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 outlining jurisdiction, authorities, purpose, and goals
- After public hearing, approve departmental budgets (initiated by the Mayor) or budget modifications or fund transfers requiring Board of Supervisors' approval
- Recommend rates, fees and similar charges within the Commission's jurisdiction
- 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 executive secretary to manage Commission's affairs and operations
- Hold hearings and take testimony
- Retain temporary counsel, subject to Mayor's and City's Attorney's consent
- Each Commission, relative to the affairs of its own department, shall deal with administrative matters "solely through the department head" and "any "interference herein prohibited . . . shall constitute official misconduct...."

Charter Authority (Continued)

- **Annual Report (Charter § 4.103)**. Prepare an annual report describing the Commission's activities, and file the report with the Mayor and the Clerk of the 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



Revisions to Sec. 16.129 (Street Tree Maintenance); Sec. F1.102 (Street, Sidewalk, and Park Cleaning and Maintenance)



- **Replaced**: References to Department of Sanitation and Streets with Department of Public Works throughout Sec. 16.129 and Sec. F1.102.
- **Removed**: Requirement that the Services Audit Unit “conduct annually a cost and waste analysis evaluating whether there are inefficiencies or waste in the administration and operations of the Department of Sanitation and Streets, and the Department of Public Works or inefficiencies or waste in the division of labor between the two departments.” (Sec. F1.102).



IV. DISCUSSION