

# BOARD OF SUPERVISORS CITY AND COUNTY OF SAN FRANCISCO

## MEETING MINUTES

Tuesday, October 9, 2012 - 2:00 PM

Legislative Chamber, Room 250  
City Hall, 1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

Special Meeting

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DAVID CHIU, PRESIDENT

JOHN AVALOS, DAVID CAMPOS, CARMEN CHU, MALIA COHEN, SEAN ELSBERND,  
MARK FARRELL, JANE KIM, ERIC MAR, CHRISTINA OLAGUE, SCOTT WIENER

*Angela Calvillo, Clerk of the Board*

### BOARD COMMITTEES

<b>Budget and Finance Committee</b> Supervisors Chu, Avalos, Kim	Wednesday 11:00 AM
<b>City and School District Select Committee</b> Supervisors Campos, Olague, Chiu, Commissioners Fewer, Maufas, Mendoza	4th Thursday 3:30 PM
<b>City Operations and Neighborhood Services Committee</b> Supervisors Elsbernd, Chu, Olague	2nd and 4th Monday 10:00 AM
<b>Government Audit and Oversight Committee</b> Supervisors Farrell, Elsbernd, Chiu	2nd and 4th Thursday 1:00 PM
<b>Land Use and Economic Development Committee</b> Supervisors Mar, Cohen, Wiener	Monday 1:00 PM
<b>Public Safety Committee</b> Supervisors Avalos, Olague, Mar	1st and 3rd Thursday 10:30 AM
<b>Rules Committee</b> Supervisors Kim, Farrell, Campos	1st and 3rd Thursday 1:30 PM

**Members Present:** John Avalos, David Campos, David Chiu, Carmen Chu, Malia Cohen, Sean Elsbernd, Mark Farrell, Jane Kim, Eric Mar, Christina Olague, and Scott Wiener

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## **ROLL CALL AND PLEDGE OF ALLEGIANCE**

*The meeting was called to order at 2:07 p.m. On the call of the roll, all Supervisors were noted present.*

## **AGENDA CHANGES**

*There were none.*

## **COMMUNICATIONS**

*There were none.*

## **OFFICIAL MISCONDUCT HEARING**

## **Board of Supervisors Sitting as a Committee of the Whole**

**120949 [Hearing - Determination on Charges of Official Misconduct Proceedings Against Sheriff Ross Mirkarimi]**

Hearing to consider the recommendation of the San Francisco Ethics Commission related to the charges of Official Misconduct presented by Mayor Edwin Lee against Sheriff Ross Mirkarimi, pursuant to Charter Section 15.105(a). (Presented by Mayor on 3/21/12.) (Received from Ethics Commission on 9/18/12). (Clerk of the Board)

*The President provided an overview of the process and inquired as to whether any member of the public wished to address the Committee of the Whole relating to determination on charges of official misconduct proceedings against Sheriff Ross Mirkarimi. Ben Hur, Chair, San Francisco Ethics Commission, provided an overview of the Ethics Commission's determination. A question and answer period followed. Sherri Kaiser (Mayor's Counsel); provided an overview of the Mayor's charges of official misconduct. A question and answer period followed. David Waggoner and Shephard Kopp (Sheriff's Counsel); provided an overview of the facts of the alleged charges of official misconduct. A question and answer period followed. Sherri Kaiser (Mayor's Counsel); provided a rebuttal and further requested the Board to sustain the charges of official misconduct. Nicole Barron; Elizabeth Curtain; Gabby Herrera; Lucia Hernon; Barbara Marquez; Beverly Upton; Male Speaker; Female Speaker; Sheila Rivera; Katherine Berg; Anne Steward; Richard Gorman; Brianne Morgan; expressed support for sustaining the charges. Abdallah Megahed; Art Agnos (Former Mayor); Diana Hamilton; Margaret Brooks; George Goyarres; James Chaffee; Paulette Brown; Hertha McGuire; James Sealy; Maurice James; Jerome May; Male Speaker; Sylvia Alvarez Lynch; Patrick Monette Shaw; Arthur Morrillo; Rudy; Rosario Cervantes; Female Speaker; Nancy Kier; Female Speaker; Pierre Dayron; Emilio; Pedro Finn; Male Speaker; Jerry Anders; Mindy Enner; Paul Melbostadt; Sanford Forte; Aurora; Sylvia Ramirez; Joe Rochelle; Male Speaker; Male Speaker; Reso Ashad; Emile Lawrence; Satyr; Brenda Belles; Nick Ochapenti; Johnny Effey; Patrick Connors; Female Speaker; Ron Stokes; Patricia Forsythe; Donna Orvela; Male Speaker; Josh Wolf; Steven Hill; Michael Feinstein; Erika McDonald; Cathy Black; Cynthia; Male Speaker; Arnold Fields; Gillian Etherington; Ms. Khan; Daniel; Theresa Cooper; Female Speaker; Ernestine Weiss; Sonia Melara; Michael O'Rourke; Female Speaker; Ray Hart; Jose Morales; Nina; Lindsay Vurek; Male Speaker; Ed Kinchley; Maria Guillen; Vivian Imperiale; Beni; Male Speaker; Austin James; Male Speaker; Alicia; Tess Hawthorne; Female Speaker; Val McKenna; Female Speaker; Edward Swovski; Gus Feldman; Female Speaker; Don Backner; Emmitt Powell; Sharen Hewitt; Katie; Peter Warfield; Male Speaker; Reverend Roland Gordon; Eric Brooks; Don Eichelburg; Chris Lychel; Frank Martin del Campo; Franchesca Rosa; Moira Cyrus; Female Speaker; Julie Fisher; Zack Marks; Male Speaker; Isabel; Male Speaker; Laurie Liederman; Kimberly Hathaway; Everett; Richard Stone; Robert Meyer; Cable Holland; Steve Zeltzer; Lucy Kiefer; Laural Muniz; Christy O'Keene; Valerie Tulier; Paul Currier; Louisa; Male Speaker; Otto Duffy; Paula Canny; Male Speaker; Lia; David Elliot Lewis; Rosa Moss; Rod Cayman; Ann Garrison; Robert Newman; Ace Washington; Female Speaker; Chad Connor; Tammy Bryant; Female Speaker; Tad Buckner; Larry Juicye Edmond; Alex; Female Speaker; Female Speaker; Male Speaker; expressed opposition for sustaining the charges. Male Speaker; spoke neither in support or opposition to the charges. Paul Currier; expressed various concerns (See additional information submitted on Page 5). There were no other speakers. The President declared the public hearing closed, adjourned as the Committee of the Whole, reconvening as the Board of Supervisors.*

**HEARD AND FILED**

**Committee of the Whole Adjourn and Report**

**120950 [Determination - Sustaining the Charges of Official Misconduct Against Sheriff Ross Mirkarimi]**

Motion sustaining the charges of Official Misconduct against Sheriff Ross Mirkarimi presented by Mayor Edwin Lee. (Clerk of the Board)

**Supervisor Wiener, seconded by Supervisor Elsbernd, moved that this Motion be APPROVED. The motion FAILED by the following vote:**

Ayes: 7 - Chiu, Chu, Cohen, Elsbernd, Farrell, Mar, Wiener

Noes: 4 - Avalos, Campos, Kim, Olague

**120951 [Determination - Not Sustaining the Charges of Official Misconduct Against Sheriff Ross Mirkarimi]**

Motion not sustaining the charges of Official Misconduct against Sheriff Ross Mirkarimi presented by Mayor Edwin Lee. (Clerk of the Board)

**Supervisor Wiener, seconded by Supervisor Elsbernd, moved that this Motion be TABLED. The motion carried by the following vote:**

Ayes: 7 - Chiu, Chu, Cohen, Elsbernd, Farrell, Mar, Wiener

Noes: 4 - Avalos, Campos, Kim, Olague

**ROLL CALL FOR INTRODUCTIONS**

*Legislation Introduced will appear on the Final Minutes for this meeting. Once the Legislation Introduced is approved, it will be available on [http://www.sfbos.org/legislation\\_introduced](http://www.sfbos.org/legislation_introduced).*

**GENERAL PUBLIC COMMENT**

*James Chaffee; expressed concerns relating to the SF Public Library.*

*Otto Duffy; expressed various concerns.*

*Steve Hill; expressed concerns relating to public comment.*

## LEGISLATION INTRODUCED AT ROLL CALL

### Introduced by a Supervisor or the Mayor

*Pursuant to Charter Section 2.105, an Ordinance or Resolution may be introduced before the Board of Supervisors by a Member of the Board, a Committee of the Board, or the Mayor and shall be referred to and reported upon by an appropriate Committee of the Board.*

### Ordinances

#### **111278 [Planning Code, Zoning Map - Establishing the Art and Design Educational Special Use District - 1111 Eighth Street]**

**Sponsor: Cohen**

Ordinance amending the San Francisco Planning Code by adding Section 249.67 and amending Section Map SU08 of the Zoning Map to: 1) establish the Art and Design Educational Special Use District at 1111 Eighth Street to facilitate the continued operation of the California College of the Arts and provide a regulatory scheme for a potential future phased expansion of the campus; and 2) making environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

11/22/11; RECEIVED AND ASSIGNED to Land Use and Economic Development Committee.

12/08/11; REFERRED TO DEPARTMENT.

01/31/12; REMAIN ACTIVE.

05/10/12; REMAIN ACTIVE.

10/09/12; SUBSTITUTED AND ASSIGNED to Land Use and Economic Development Committee.

#### **120882 [Administrative Code - Board of Supervisors Review of Affordable Housing Trust Fund]**

**Sponsor: Chiu**

Ordinance amending the San Francisco Administrative Code by adding Section 1.60 to require the Mayor's Office of Housing and the Planning Department to report to the Board of Supervisors every five years on the implementation of Charter Section 16.110, the Affordable Housing Trust Fund Charter Amendment.

09/04/12; ASSIGNED UNDER 30 DAY RULE to Land Use and Economic Development Committee, expires on 10/4/2012.

09/14/12; REFERRED TO DEPARTMENT.

10/09/12; SUBSTITUTED AND ASSIGNED to Land Use and Economic Development Committee.

**120996 [Planning Code - Efficiency Dwelling Units - Numerical Cap and Open/Common Space Requirements]****Sponsor: Wiener**

Ordinance amending the San Francisco Planning Code by: 1) adding Section 318 to put a cap on the number of Efficiency Dwelling Units, as defined in the Building Code, that can be constructed with reduced square footage unless the units are group housing, affordable housing, or student housing; 2) amending Section 135(d) and adding Section 135.4 to impose open space and common space requirements on Efficiency Dwelling Units with reduced square footage; and 3) making environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

10/09/12; ASSIGNED UNDER 30 DAY RULE to Land Use and Economic Development Committee.

**120997 [Appropriating \$2,705,000 for San Francisco Unified School District - FY2012-2013]****Sponsors: Kim; Campos, Mar, Avalos and Olague**

Ordinance appropriating \$3,000,000 of State Reserves for the San Francisco Unified School District for FY2012-2013.

(Fiscal Impact)

10/09/12; ASSIGNED UNDER 30 DAY RULE to Budget and Finance Committee.

**Request for Hearing****120999 [Hearing - Power Outages on Treasure Island]****Sponsor: Kim**

Hearing regarding the City's response to the frequent number of unplanned power outages on Treasure Island, including reports from the City Administrator's Office, Treasure Island Development Authority Operations, and the San Francisco Public Utilities Commission regarding the current monitoring, inspections, maintenance, and response times to reports of outages on the Island; and requesting solutions be presented that will improve the reliability of service to Island residents.

10/09/12; RECEIVED AND ASSIGNED to Rules Committee.

**Introduced by the President at the Request of a Department**

*Pursuant to Rules of Order of the Board of Supervisors Section 2.8, Department Heads may submit proposed legislation to the Clerk of the Board, in which case titles of the legislation will be printed at the rear of the next available agenda of the Board and introduced by the President.*

**PROPOSED RESOLUTIONS****120980 [Expansion of Authority Regarding Lease - 1455 Market Street]**

Resolution authorizing additional allowance of up to \$10.00 per rentable square foot for construction of improvements amortized by Landlord over initial term of seven years at eight percent to be paid as additional rent in the amount of \$3,809.27 per month for property located at 1455 Market Street. (Real Estate Department)  
(Fiscal Impact)

10/01/12; RECEIVED FROM DEPARTMENT.

10/09/12; RECEIVED AND ASSIGNED to Budget and Finance Committee.

**120981 [Approval of Construction of Structures in Union Square Park for Central Subway Project]**

Resolution approving, under Charter Section 4.113, construction of surface and subsurface structures in Union Square Park for the Central Subway Project's Union Square Market Street Station. (Municipal Transportation Agency)

10/01/12; RECEIVED FROM DEPARTMENT.

10/09/12; RECEIVED AND ASSIGNED to Land Use and Economic Development Committee.

**ADJOURNMENT**

*There being no further business, the Board adjourned at the hour of 11:03 p.m.*

*N.B. The Minutes of this meeting set forth all actions taken by the Board of Supervisors on the matters stated, but not necessarily the chronological sequence in which the matters were taken up.*

*Approved by the Board of Supervisors on November 20, 2012.*

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Angela Calvillo, Clerk of the Board

**ADDENDUM**

*The following information is provided by a speaker, pursuant to Administrative Code Section 67.16. The content is neither generated by, nor subject to approval or verification of accuracy by, the Clerk of the Board or the Board of Supervisors.*

*Paul Currier submitted the following additional information during the hearing relating to File No. 120949 as follows: All through these hearings of the Mayor's charges against the Sheriff, the Ethics Commission violated the Brown Act and the San Francisco Sunshine Ordinance. None of the proceedings were properly agendized. None of the minutes were issues in a timely manner, according to law. Public records were not made available to the public. And the charges shape/shifted without any specificity open to review or public comment. In fact, this October 9, 2012, hearing of the Board of Supervisors is improperly agendized. The Ethics Commission and the Board of Sup[er]visors have committed official misconduct.*