



City and County of San Francisco
Meeting Minutes
Government Audit and Oversight Committee

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

Members: Gordon Mar, Aaron Peskin, Matt Haney

Clerk: John Carroll (415) 554-4445

Thursday, January 16, 2020

10:00 AM

City Hall, Committee Room 263

Regular Meeting

Present: 3 - Gordon Mar, Aaron Peskin, and Matt Haney

The Government Audit and Oversight Committee met in regular session on January 16, 2020, with Chair Gordon Mar presiding. Chair Mar called the meeting to order at 10:03 a.m.

ROLL CALL AND ANNOUNCEMENTS

On the call of the roll, Chair Mar, Vice Chair Peskin, and Member Haney were noted present. A quorum was present.

AGENDA CHANGES

There were no agenda changes.

REGULAR AGENDA

191303 [Management Agreement - Owners' Association for Administration/Management - Downtown Community Benefit District]

Sponsor: Peskin

Resolution approving an agreement with the nonprofit Owners' Association for administration/management of the established property-based Community Benefit District known as the "Downtown Community Benefit District," pursuant to the California Streets and Highways Code, Section 36651, for a period commencing upon Board approval, through June 30, 2034.

12/17/19; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

12/20/19; REFERRED TO DEPARTMENT. Referred to the Controller and the Office of Economic and Workforce Development for informational purposes. Referred to the Planning Department for environmental review.

01/10/20; RESPONSE RECEIVED. Not defined as a project under CEQA Guidelines Sections 15378 and 15060 (c)(2) because it would not result in a direct or indirect physical change in the environment.

Heard in Committee. Speakers: None.

Vice Chair Peskin moved that this Resolution be RECOMMENDED. The motion carried by the following vote:

Ayes: 3 - Mar, Peskin, Haney

191133 [Setting the Budget and Legislative Analyst Services Audit Plan - Ethics Commission - FY2019-2020]**Sponsor: Yee**

Motion directing the Budget and Legislative Analyst to conduct a performance audit in FY2019-2020 of the Ethics Commission as a priority.

11/05/19; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

11/13/19; REFERRED TO DEPARTMENT. Referred to the Office of the Budget and Legislative Analyst and the Ethics Commission for informational purposes.

Heard in Committee. Speakers: None.

RECOMMENDED by the following vote:

Ayes: 3 - Mar, Peskin, Haney

171320 [Real Property Lease - NPU, Inc. - United States Old Mint - 88 Fifth Street - \$20,000 per Month]**Sponsor: Mayor**

Resolution authorizing and approving a Lease with NPU, Inc., a California corporation, for the United States Old Mint at 88 Fifth Street, at the monthly base rent of \$20,000; requiring tenant to be responsible for all utilities and services, participation rent of 50% of venue rental fees and \$2,500 per ticketed event, for a two year term to commence upon approval by the Board of Supervisors and Mayor through July 31, 2019, with three one-year options to extend; adopting findings under the California Environmental Quality Act, Public Resources Code, Section 21000 et seq.; and making findings that the proposed transaction is in conformity with the General Plan, and the eight priority policies of Planning Code, Section 101.1. (Real Estate Department)

12/12/17; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

07/26/18; REMAIN ACTIVE. Mayor Breed requested this matter remain active for additional six months until January 26, 2019.

02/27/19; REMAIN ACTIVE. Mayor Breed requested this matter remain active for additional six months until August 27, 2019.

09/04/19; REMAIN ACTIVE. Mayor Breed requested this matter remain active for additional six months until March 4, 2020.

Heard in Committee. Speakers: None.

Chair Mar moved that this Resolution be CONTINUED TO CALL OF THE CHAIR. The motion carried by the following vote:

Ayes: 3 - Mar, Peskin, Haney

LITIGATION

Chair Mar requested that File Nos. 191204, 191205, 191206, 191207, 191221, 191236, 200001, 200002, 200003, 200004, 191208, 191213, 191222, 191239, and 191238 be called together.

Speakers: None.

Conference with City Attorney

[Convene in Closed Session - Existing Litigation - City as Plaintiff and/or Defendant]

Motion that the Government Audit and Oversight Committee of the Board of Supervisors convene in closed session with the City Attorney for the purpose of conferring with, or receiving advice from, the City Attorney regarding the following existing litigation and anticipated litigation. Administrative Code Section 67.10(d) permit this closed session. Discussion in open session concerning these matters would likely and unavoidably prejudice the position of the City in the pending lawsuits and claims listed below.

After a closed session, if one occurs, the Committee shall adopt a motion either to disclose or not to disclose.

The Deputy City Attorney reported that the Government Audit and Oversight Committee has met in closed session with the City Attorney, under the provisions of Government Code Section 54956.9 (a) and Administrative Code Section 67.8 (3), for the purpose of conferring with, or receiving advice from, the City Attorney regarding settlements in the lawsuits or claims listed above.

Persons in attendance: Anne Pearson (Office of the City Attorney) and John Carroll (Office of the Clerk of the Board).

Vice Chair Peskin moved to convene in closed session. The motion carried by the following vote:

Ayes: 3 - Mar, Peskin, Haney

191204 [Settlement of Lawsuit - PJ Dayacamos - \$57,000]

Ordinance authorizing settlement of the lawsuit filed by PJ Dayacamos against the City and County of San Francisco for \$57,500; the lawsuit was filed on May 8, 2017, in the United States District Court, Northern District of California, Case No. 3:17-cv-02644-JSC; entitled PJ Dayacamos v. City and County of San Francisco; the lawsuit involves an employment dispute. (City Attorney)

11/18/19; RECEIVED FROM DEPARTMENT.

12/10/19; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

RECOMMENDED by the following vote:

Ayes: 3 - Mar, Peskin, Haney

191205 [Settlement of Lawsuit - Tureko Straughter and K.R., a minor - \$160,000]

Ordinance authorizing settlement of the lawsuit filed by Tureko Straughter and K.R., a minor, against the City and County of San Francisco for \$160,000; the lawsuit was filed on August 22, 2018, in the United States District Court, Case No. 18-cv-03651; entitled Tureko Straughter, individually and as the guardian for minor K.R.; and K.R., a minor, by and through his guardian Tureko Straughter; the lawsuit involves alleged civil rights violations. (City Attorney)

11/25/19; RECEIVED FROM DEPARTMENT.

12/10/19; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

RECOMMENDED by the following vote:

Ayes: 3 - Mar, Peskin, Haney

191206 [Settlement of Lawsuit - Scanvinski Jerome Hymes - \$35,000]

Ordinance authorizing settlement of the lawsuit filed by Scanvinski Jerome Hymes against the City and County of San Francisco for \$35,000; the lawsuit was filed on July 28, 2016, in United States District Court - Northern District of California, Case No. 16-cv-04288 JSC; entitled Scanvinski Jerome Hymes v. Milton Bliss, et al.; the lawsuit involves alleged excessive force and personal injuries by Sheriff's deputies. (City Attorney)

11/25/19; RECEIVED FROM DEPARTMENT.

12/10/19; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

RECOMMENDED by the following vote:

Ayes: 3 - Mar, Peskin, Haney

191207 [Settlement of Lawsuit - Claudia High-Matthews - \$40,000]

Ordinance authorizing settlement of the lawsuit filed by Claudia High-Matthews against the City and County of San Francisco for \$40,000; the lawsuit was filed on May 25, 2018, in San Francisco Superior Court, Case No. CGC-18-566804; entitled Claudia High-Matthews v. City and County of San Francisco; the lawsuit involves an alleged personal injury on a City sidewalk. (City Attorney)

12/02/19; RECEIVED FROM DEPARTMENT.

12/10/19; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

RECOMMENDED by the following vote:

Ayes: 3 - Mar, Peskin, Haney

191221 [Settlement of Lawsuit - Peggy Ung - \$50,000]

Ordinance authorizing settlement of the lawsuit filed by Peggy Ung against the City and County of San Francisco for \$50,000; the lawsuit was filed on November 8, 2017, in San Francisco Superior Court, Case No. CGC-17-562378; entitled Peggy Ung v. Yong L. Wang, et al.; the lawsuit involves alleged personal injury on a City sidewalk; other material terms of the settlement are that the City, Yong L. Wang, Michelle Wang, and Farmers Insurance Company mutually waive any and all rights they may have against each other for indemnity concerning the lawsuit. (City Attorney)

12/02/19; RECEIVED FROM DEPARTMENT.

12/10/19; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

RECOMMENDED by the following vote:

Ayes: 3 - Mar, Peskin, Haney

191236 [Settlement of Lawsuit - Katherine Cantwell - \$150,000]

Ordinance authorizing settlement of the lawsuit filed by Katherine Cantwell against the City and County of San Francisco for \$150,000; the lawsuit was filed on February 27, 2018, in San Francisco Superior Court, Case No. CGC-18-564646; entitled Katherine Cantwell v. Mohammad Waraich et al.; the lawsuit involves alleged personal injury from a vehicle versus pedestrian collision. (City Attorney) 12/04/19; RECEIVED FROM DEPARTMENT.

12/17/19; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

RECOMMENDED by the following vote:

Ayes: 3 - Mar, Peskin, Haney

200001 [Settlement of Lawsuit - Rosa Rivera Keel - \$75,000]

Ordinance authorizing settlement of the lawsuit filed by Rosa Rivera Keel against the City and County of San Francisco for \$75,000; the lawsuit was filed on October 4, 2018, in San Francisco Superior Court, Case No. CGC-18-570303; entitled Rosa Rivera Keel v. City and County of San Francisco; the lawsuit involves an alleged personal injury on a City crosswalk. (City Attorney)

12/13/19; RECEIVED FROM DEPARTMENT.

01/07/20; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

RECOMMENDED by the following vote:

Ayes: 3 - Mar, Peskin, Haney

200002 [Settlement of Lawsuit - William Maier - \$198,000]

Ordinance authorizing settlement of the lawsuit filed by William Maier against the City and County of San Francisco for \$198,000; the lawsuit was filed on February 2, 2018, in Superior Court of the State of California, County of San Francisco, Case No. CGC-18-564070, entitled William "Bill" Maier v. City and County of San Francisco, et al.; the lawsuit involves an employment dispute. (City Attorney)

12/30/19; RECEIVED FROM DEPARTMENT.

01/07/20; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

RECOMMENDED by the following vote:

Ayes: 3 - Mar, Peskin, Haney

200003 [Settlement of Lawsuit - Tiffany Cross, Tiana Reddic, Arron Mathews, Acacia McNeal, Shalonda Adams, Crystal Anthony, and Darlene Rouse - \$225,000]

Ordinance authorizing settlement of the lawsuit filed by Tiffany Cross, Tiana Reddic, Arron Mathews, Acacia McNeal, Shalonda Adams, Crystal Anthony, and Darlene Rouse against the City and County of San Francisco for \$225,000; the lawsuit was filed on October 3, 2018, in United States District Court, Case No. 18-cv-06097; entitled Tiffany Cross, et al. v. City and County of San Francisco, et al.; the lawsuit involves alleged civil rights violations. (City Attorney)

12/30/19; RECEIVED FROM DEPARTMENT.

01/07/20; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

RECOMMENDED by the following vote:

Ayes: 3 - Mar, Peskin, Haney

200004 [Settlement of Lawsuit - Luz de Verano Cervantes - \$49,500]

Ordinance authorizing settlement of the lawsuit filed by Luz de Verano Cervantes against the City and County of San Francisco for \$49,500; the lawsuit was filed on May 16, 2018, in San Francisco Superior Court, Case No. CGC-18-566598; entitled Luz de Verano Cervantes v. City and County of San Francisco, et al.; the lawsuit involves alleged personal injury from a motor vehicle collision. (City Attorney)

12/30/19; RECEIVED FROM DEPARTMENT.

01/07/20; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

RECOMMENDED by the following vote:

Ayes: 3 - Mar, Peskin, Haney

191208 [Amended Settlement of Unlitigated Claim - United States Environmental Protection Agency - Yosemite Slough Sediment Site - \$821,839; Related Appropriation - Wastewater Enterprise Fund Balance]

Ordinance approving an amendment to the 2016 settlement of United States Environmental Protection Agency's ("EPA") unlitigated claim against the City and County of San Francisco approved by Resolution No. 350-16; no formal claim has been filed; the amendment resolves EPA's claims against the City to perform additional pre-design technical studies in support of cleanup of the Yosemite Slough Sediment Site; the amendment requires the City to perform two technical studies at an estimated cost of \$821,839; additional material terms of the amended settlement are that the City will contract with a third party environmental consultant to perform the studies, the City will assume responsibility for completion of the work pursuant to the amendment, the City will assume responsibility and indemnify EPA for any stipulated penalties or claims arising in connection with performance of the additional work under the amendment, and the City will reimburse EPA for its future response costs related to the additional work; and appropriating \$821,839 from the Public Utilities Commission Wastewater Enterprise fund balance for payment of the costs. (City Attorney)

11/25/19; RECEIVED FROM DEPARTMENT.

12/10/19; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

RECOMMENDED by the following vote:

Ayes: 3 - Mar, Peskin, Haney

191213 [Settlement of Unlitigated Claim - Spotify USA Inc. - \$217,290.29]

Resolution approving the settlement of the unlitigated claim filed by Spotify USA Inc. against the City and County of San Francisco for \$217,290.29; the claim was filed on July 15, 2019; the claim involves a refund of payroll expense and gross receipts taxes, penalties, and interest (City Attorney)

11/25/19; RECEIVED FROM DEPARTMENT.

12/10/19; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

RECOMMENDED by the following vote:

Ayes: 3 - Mar, Peskin, Haney

191222 [Settlement of Unlitigated Claim - Clinton Bailey - \$49,076.68]

Resolution approving the settlement of the unlitigated claim filed by Clinton Bailey against the City and County of San Francisco for \$49,076.68; the claim was filed on February 19, 2016; the claim involves an employment dispute. (City Attorney)

12/02/19; RECEIVED FROM DEPARTMENT.

12/10/19; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

RECOMMENDED by the following vote:

Ayes: 3 - Mar, Peskin, Haney

191239 [Settlement of Unlitigated Claim - Ho Tan and Lionel Tan - \$47,000]

Resolution approving the settlement of the unlitigated claim filed by Ho Tan and Lionel Tan against the City and County of San Francisco for \$47,000; the claim was filed on June 20, 2017; the claim involves flooding damage during major rainstorms. (City Attorney)

12/06/19; RECEIVED FROM DEPARTMENT.

12/17/19; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

RECOMMENDED by the following vote:

Ayes: 3 - Mar, Peskin, Haney

191238 [California Code of Civil Procedure, Section 998 - Offer to Compromise Litigation - Kellan Dunn - \$45,000]

Ordinance authorizing the service of an Offer to Compromise under Code of Civil Procedure, Section 998, in the lawsuit filed by Kellan Dunn against the City and County of San Francisco, to include a payment from the City and County of San Francisco of up to \$45,000 plus reasonable attorneys' fees and costs to be determined by the Court; the lawsuit was filed on May 9, 2018, in San Francisco Superior Court, Case No. CGC-18-566427; entitled Kellan Dunn v. City and County of San Francisco, et al.; the lawsuit involves an employment dispute. (City Attorney)

12/09/19; RECEIVED FROM DEPARTMENT.

12/17/19; RECEIVED AND ASSIGNED to Government Audit and Oversight Committee.

RECOMMENDED by the following vote:

Ayes: 3 - Mar, Peskin, Haney

[Elect Not To Disclose]

Motion that the Committee finds that it is in the best interest of the public that the Committee elect at this time not to disclose its closed session deliberations listed above.

Vice Chair Peskin moved not to disclose closed session deliberations. The motion carried by the following vote:

Ayes: 3 - Mar, Peskin, Haney

ADJOURNMENT

There being no further business, the Government Audit and Oversight Committee adjourned at the hour of 10:37 a.m.

N.B. The Minutes of this meeting set forth all actions taken by the Government Audit and Oversight Committee on the matters stated, but not necessarily in the chronological sequence in which the matters were taken up.