

Draft Minutes

January 21, 2021 Special Meeting

Draft Minutes of the Special Meeting of
The San Francisco Ethics Commission
Thursday, January 21, 2021

Remote Meeting Held Online via **WebEx** and aired live on **SFGovTV**

(Approved __, 2021)

Note: SFGovTV provides a continuous archive of audio, video, and Caption Notes recordings of Ethics Commission meetings that allows viewers to watch those meetings online in full at the viewer's convenience. These archives of Ethics Commission meetings may be accessed at SFGovTV at http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=142.

Item 1. Call to order and roll call.

(Note: This item appears beginning at the 00:03:50 mark in the [video recording at SFGovTv.](#))

Chair Noreen Ambrose convened the meeting at 9:30 am and stated that the meeting is being held by Teleconference Pursuant to the Governor's Executive Order N-29-20 and the Twelfth Supplement to Mayoral Proclamation Declaring the Existence of a Local Emergency Dated February 25, 2020. Online Meeting Moderator Ronald Contreras summarized procedures for remote participation by members of the public.

COMMISSION MEMBERS PRESENT: With Chair Ambrose, Vice Chair Yvonne Lee, and Commissioners Daina Chiu and Larry Bush attending, a quorum was present.

STAFF PRESENTING: LeeAnn Pelham, Executive Director; Ronald Contreras, Online Meeting Moderator.

REPRESENTATIVES OF THE OFFICE OF THE CITY ATTORNEY PRESENT: Andrew Shen, Deputy City Attorney.

MATERIALS DISTRIBUTED:

- [Informational presentation on Commission budget priorities for the Fiscal Year 2022, July 1, 2021 through June 30, 2022.](#)

Item 2. Public comment on matters appearing or not appearing on the agenda.

(Note: This item appears beginning at the 00:05:40 mark in the video recording at SFGovTv.)

No public comment was received.

Item 3. Presentation, public hearing, and possible action on Ethics Commission budget priorities for the Fiscal Year 2022, July 1, 2021 through June 30, 2022.

(Note: This item appears beginning at the 00:09:20 mark in the video recording at SFGovTv.)

Executive Director Pelham explained the background for the meeting, noting a City ordinance providing for public participation in departmental budget proposals. She stated that the goal of this meeting is to receive public input on budget priorities, and that at its regular meeting scheduled for February the Commission will receive public input on budget proposals.

Pelham described the requirements the Mayor's Office has imposed on departmental budget proposals, including 7.5 percent mandatory cuts, an additional 2.5 percent contingency cut, and the attrition savings target imposed on the Commission.

Pelham offered a presentation explaining the Commission's current budget and the figures resulting from the proposed cuts. She explained that Staff's presentation at this point offers theoretical approaches to meeting the cuts for the sake of discussing the tradeoffs that any particular approach might impose.

Chair Ambrose sought clarification on the number of positions impacted by the base reductions to administrative support. Director Pelham identified three positions.

Chair Ambrose asked whether departments submit a single proposal or whether they can submit alternatives and allow the Mayor's Office to choose between them. Director Pelham stated departments must submit a single proposal.

Pelham then explained the four possible approaches that Staff have prepared for discussion, as presented in the agenda materials.

Commissioner Bush asked whether these proposals account for revenue enhancements the Commission has discussed, and Pelham stated that was beyond the scope of this presentation but that Staff are prepared to continue those conversations.

Chair Ambrose asked whether the Commission continues to pay the salaries of those deployed to Disaster Service Work, and Pelham responded yes. Chair Ambrose asked whether reimbursements from federal and state agencies for relief efforts would be credited back to individual departments for deployed employees, and Pelham stated she would have to follow up with the Mayor's Office.

Chair Ambrose asked what the Commission pays in rent and asked whether the Commission could forfeit its physical office and save the cost of rent. Pelham stated that Staff have considered doing so but noted that the City has not affirmatively made that option available to departments.

Chair Ambrose asked whether the Commission is moving forward with its hiring and how that affects the budget process.

Commissioner Bush sought clarification on whether Staff's view of the Charter mandates includes other mandates the voter added by statute, and Pelham stated yes.

Pelham then explained that even if the cuts were not imposed, the Commission needs additional resources to accomplish its mandates and identified two scenarios where the Commission would benefit from additional funding, related to staff for training and enforcement.

Chair Ambrose noted written public comment from Esther Marks, highlighting that Marks had endorsed Staff's proposal for increased funding for training and investigations.

Chair Ambrose asked whether it might be realistic to anticipate that the Commission might obtain that increase funding in a challenging budget season when the Commission was unable to obtain that funding during a good year, noting that the corruption scandals may or may not engender increased funding for the Commission.

Chair Ambrose proposed that City contracts could include a provision whereby contractors pay a fee for Ethics@Work training, noting that the Controller's Office investigations show that unlawful practices in contracting costs the City significant amounts of money.

Vice Chair Lee requested an explanation of the budget process, namely what happens after the Commission submits its proposal. She further reiterated the need to restore public trust in the wake of the corruption scandal, affirming the need for increased training and increased investigative staff.

Commissioner Chiu emphasized the need to invest sooner than later in Ethics, and identified the value of an op-ed.

Vice Chair Lee proposed that the Commission submit its budget proposal "under protest."

Chair Ambrose requested that Deputy City Attorney Shen clarify the Commission's media posture. Shen stated that the Commission is empowered to speak to the media or author an op-ed, and stated that for efficiency it can identify fewer Commissioners than a quorum to prepare such communications, noting further that the Bylaws identify the Chair as the default spokesperson.

Chair Ambrose sought further clarification about whether the Commission must approve the budget. Shen stated that it is best practice for the Commission to affirmatively adopt the budget prior to submission. Pelham noted that Staff would endeavor to prepare an actual budget proposal by February 9, in time for the Commission's consideration at its February 12 regular meeting.

Chair Ambrose sought further clarification about whether the Commission can delegate to the Executive Director responsibility to flesh out the details of a budget proposal if the Commission is unable to consider and approve a specific proposal by February 12. Shen noted that the budget ordinance does not explicitly require departments to have finely detailed proposals prepared by February 14. Shen further clarified that the final day for budget submission is February 22.

Commissioner Bush stated that he had served for four years on the Bond Oversight Committee, and highlighted that the budget process invited departments to enjoy new revenue sources. He further identified work orders as an additional new revenue source. Commissioner Bush further noted that Ethics@Work may not identify a demonstrable outcome, suggesting that enforcement actions may do more to educate than training itself. Bush further noted that the proposals do not

explicitly account for impacts on small businesses, stating his view that corrupt bidding harms small businesses especially.

Chair Ambrose sought clarification on the source of Bush's citation to the costs of improper bidding, and Bush identified it as the National Association of Inspectors General.

Chair Ambrose expressed her agreement that if the Commission pursues Ethics@Work it will need to be more specific about what the program offers, adding that she has ideas about how to do so, including by expanding those who might engage in whistleblowing.

Commissioner Bush stated that there is not clarity about who enforces a department's Statement of Incompatible Activities. Pelham responded that the Commission has authority to, and does in practice, enforce those Statements but that other agencies, including departments, may also enforce them.

Commissioner Chiu stated that the City faces multiple crises, noting that the Chinese word for crisis (literally "danger-opportunity") acknowledges that there is opportunity in danger. She expressed her view that the Commission should not settle for partial success alone.

Commissioner Bush reminded the Commission that the Budget and Legislative Analyst found that San Francisco's investigative resolutions take longer than those at the Fair Political Practices Commission or the Los Angeles City Ethics Commission. He further stated that the Commission's staff are doing good work but that they are expected to do too much. He reiterated his view that the Commission might use advisory committees to supplement staff's output.

Chair Ambrose asked whether Staff have considered leaving the vacant positions unfilled instead of any of the approaches identified. Director of Technology Steven Massey noted that Staff had not proposed that but that the math indicates that doing so would meet the required cuts.

Chair Ambrose stated that these cuts would appear to create a challenging scenario for the Commission's hiring efforts, if the new hires might soon be defunded. Pelham responded that as recently as December the Mayor's Office had instructed the Commission to move forward with its hiring but that Staff would be transparent with candidates during the hiring process.

Chair Ambrose stated that she opposes Approach C, noting that the City should implement its e-filing for all project. She further noted that the Commission should protect enforcement before it protects engagement and compliance, in part considering that there is not another election until 2022. She urged Staff to continue to explore relinquishing its real estate.

Vice Chair Lee stated that enforcement is her top priority.

Commissioner Bush stated that the Commission should require that departments submit pdfs of all their Form 700 filings this year, so that the City need not wait an additional year for all Forms 700 to become viewable. Chair Ambrose stated that it may be more efficient for the Mayor to direct departments to make their Forms 700 available on their websites to save Commission staff the responsibility of organizing an additional 3,600 pdfs.

Commissioner Bush encouraged Commissioners to review Esther Marks's ideas, identifying her as a former member of the Building Inspection Commission and now a treasurer and consultant for political campaigns.

Commissioner Chiu identified her priorities as enforcement and audits, and requested that Staff present a hiring freeze as an alternative approach.

Public Comment

Esther Marks identified investigations and enforcement as priorities. She stated that e-filing of Forms 700 might not be a priority, considering that some of those implicated in the corruption scandal already file electronically but that their filings did not enable detection of their corrupt practices. She further stated that the Commission's status as a commission and not a department harms its capacity to be taken seriously and to achieve its mandate.

Item 4. Additional opportunity for public comment on matters appearing or not appearing on the agenda pursuant to Ethics Commission Bylaws Article VII Section 2.

(Note: This item appears beginning at the 02:32:30 minute mark in the video recording at SFGovTv.)

No public comment was received.

Item 5. Adjournment.

Motion 201214-05 (Chiu/Bush): Moved, seconded, and passed unanimously (4-0) to adjourn the meeting.

The Commission adjourned at 12:08 p.m.