



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

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Date: April 5, 2021

To: Members of the Ethics Commission

From: Pat Ford, Senior Policy and Legislative Affairs Counsel

Subject: **AGENDA ITEM 5 – Discussion and possible action regarding request for waiver of compensated advocacy prohibition for Commissioner Ruchira Nageswaran**

Summary

This memo provides background and analysis to assist the Commission in deciding whether to grant a waiver to allow Historic Preservation Commissioner Ruchira Nageswaran to engage in compensated advocacy before certain commissions and departments, notwithstanding the restriction contained in Campaign and Governmental Conduct Code § 3.224(a).

Recommendation

That the Commission evaluate the waiver request as discussed below and, if it chooses to grant a waiver, narrowly tailor the waiver to address Ms. Nageswaran's needs.

I. Background

On March 26th, Mayor London Breed's office submitted to the Ethics Commission a written request (attached to this memorandum as Attachment 1) that Ruchira Nageswaran, whom the Mayor nominated to fill Seat 1 on the Historic Preservation Commission, be exempted in part from the compensated advocacy restriction contained in Campaign and Governmental Conduct Code ("Code") section 3.224(a). The Mayor's office also included a letter from Ms. Nageswaran (attached as Attachment 2) in support of the waiver request. The facts included in this memorandum are drawn from the Mayor's written request and Ms. Nageswaran's letter.

On March 2nd, the Board of Supervisors confirmed Ms. Nageswaran's appointment to Seat 1 on the Historic Preservation Commission. Ms. Nageswaran is a San Francisco architect, and Seat 1 on the Commission can only be filled by "licensed architects meeting the Secretary of the Interior's Professional Qualifications Standards for historic architecture."¹ As part of Ms. Nageswaran's architecture practice, she has regularly communicated with City departments to urge the approval of her clients' projects.

¹ See CHARTER OF THE CITY AND COUNTY OF SAN FRANCISCO § 4.125 (establishing qualifications for seats 1 and 2 on the Historic Preservation Commission).

Because Ms. Nageswaran is now an Historic Preservation Commissioner, she is prohibited from receiving compensation to perform this advocacy. The Mayor and Ms. Nageswaran have requested that Ms. Nageswaran be permitted to engage in compensated advocacy before certain City commissions and departments.

II. Applicable Law

A. Compensated Advocacy Prohibition

Code section 3.224(a) states that “[n]o officer of the City and County shall directly or indirectly receive any form of compensation to communicate orally, in writing, or in any other manner on behalf of any other person with any other officer or employee of the City and County with the intent to influence a government decision.”² This prohibits City officials from, among other things, receiving payment from a client for communicating with City officials or staff to urge the approval of the client’s project. The prohibition contains certain exceptions, such as when a City officer is communicating on behalf of the City and when a City officer is practicing law and representing a client in discussions with the offices of the City Attorney, District Attorney, or Public Defender.³

The compensated advocacy prohibition furthers the purpose of the Government Ethics Ordinance, which is chiefly to “promote fairness and equity for all residents and to maintain public trust in governmental institutions.”⁴ The law seeks to ensure “that public officers and employees [are] independent, impartial, and responsible to the people and that public office and employment [is] not [] used for personal gain.”⁵ The compensated advocacy prohibition furthers these goals by prohibiting City officers from receiving compensation in exchange for communicating with other officers or employees of the City in an attempt to influence the decisions made by those individuals. This is an important way to safeguard the integrity of government decision making and to preserve the public’s trust in those decisions. The rule contemplates that City officers, in light of their positions, may be able to exert undue influence over other City officers or employees to secure favorable outcomes for paying clients. This would create serious issues of unfair advantage, since City officers might be able to secure outcomes for clients that non-officials are not able to. This competitive advantage could also result in the officer using his or her office for personal gain, since it could make the officer more attractive to clients. In turn, this situation would risk harming the public’s confidence that City processes are carried out on the basis of merit, not under circumstances of undue influence.

B. Waivers

Notwithstanding these important policy interests, the Code allows the Commission to grant waivers of the compensated advocacy prohibition. The Code allows for waiver of the prohibition

² Campaign & Gov. Conduct Code § 3.224(a).

³ *Id.* at § 3.224(b).

⁴ *Id.* at § 3.200(a).

⁵ *Id.* at § 3.200(b).

for an “officer who, by law, must be appointed to represent any profession, trade, business, union or association.”⁶ Regulation 3.224-2 adds that when considering whether to grant such a waiver, “the Commission may consider: the ability of the City to recruit qualified individuals to fill the position in question if the waiver is not granted; the ability of the member to engage in his or her particular vocation if the waiver is not granted; and any other factors the Commission deems relevant.”⁷ Only an officer whose appointment was based on membership in a given profession, trade, business, union or association can apply for a waiver from the compensated advocacy prohibition.

When considering a waiver requested by such an officer, the Commission should consider the potential for undue influence or unfair advantage. This consideration should always be the basis of the Commission’s decision as to whether a waiver is appropriate. However, this limited set of waiver requests should be analyzed in a way that gives added weight to the requestor’s need for a waiver. The Code’s specific reference to officers appointed to represent particular professions envisions that the compensated advocacy prohibition will sometimes create difficulties when appointments must be filled by persons who, by nature of their qualifying characteristic, may also be involved with matters before City departments. However, such applications do not need to be automatically granted; applications by this set of officers still require evaluation to ensure that a waiver is appropriate.⁸

When considering waiver requests, the Commission should consider whether granting a waiver would further the purposes of the Government Ethics Ordinance. The Commission should only grant a waiver if it finds that, on balance, the factors that indicate the need for a waiver outweigh the danger of undue influence, favoritism or preferential treatment that is present with respect to the grantee’s compensated advocacy.

Waiver requests are evaluated based on the facts that are provided in the request. These facts allow the Commission to evaluate whether a waiver is appropriate, and the facts provided must therefore be complete and accurate. Any waiver that the Commission grants is limited to the facts provided, and, should the facts change, the requestor should seek an updated waiver from the Commission.

III. Facts Presented in the Request

Ruchira Nageswaran is an architect based in San Francisco. She is one of two architects at Knapp Architects, an architecture firm that specializes in historic buildings. Ms. Nageswaran is qualified

⁶ *Id.* at § 3.224(c).

⁷ Campaign & Gov. Conduct Code Regulation 3.224-2(b).

⁸ See Campaign & Gov. Conduct Code § 3.224(c) (“The Ethics Commission *may* waive the prohibitions in this section....” [emphasis added]). Had the Code intended all former board and commission members appointed on the basis of membership in a given profession, trade, business union or association to be automatically exempt from the rule, it would have provided for an exception for such individuals, rather than a provision giving the Commission discretion to grant a waiver.

under the Secretary of the Interior's Professional Qualifications Standards for architecture and historic architecture. As part of Ms. Nageswaran's work, she has communicated with employees of various City departments, as well as the commissions that oversee those departments, to urge the approval of projects undertaken by Knapp Architects. Those departments and commissions are:

- Planning,
- Public Utilities Commission,
- Port,
- Arts,
- Treasure Island Development Authority (TIDA),
- Public Works,
- Building Inspection,
- Mayor's Office on Disability,
- Mayor's Office on Housing and Community Development,
- Public Health,
- Fire,
- Homelessness and Supportive Housing, and
- Airport.

Ms. Nageswaran's past communications with Planning Department staff and commissioners has largely been limited to her work on Historic Resource Evaluations (HREs). An HRE evaluates whether a development project will impact an historic resource that is on the site of the project or nearby. The architect presenting an HRE provides an objective assessment of a project, which may or may not be beneficial to the client that pays for the HRE. The client does not review an HRE before the architect submits the HRE to the Planning Department.

Ms. Nageswaran's architectural work may require her to engage in compensated advocacy with these departments and commissions again in the future. Ms. Nageswaran has stated that if her service on the Historic Preservation Commission precludes her from engaging in this advocacy in the future, she will likely forego her service as a commissioner. The Mayor states that this is because the advocacy constitutes an important part of Ms. Nageswaran's service to her architecture clients. According to the Mayor's written request, Ms. Nageswaran's ability to do her work as an architect would be negatively impacted if she were not able to communicate with commissions or departments in support of her clients' projects.

The Mayor also stated that the requirement that this seat on the Historic Preservation Commission be filled by a licensed architect meeting the Secretary of the Interior's Professional Qualifications Standards for historic architecture limits the pool of potential appointees. The Mayor added that Ms. Nageswaran is a particularly desirable appointee because of "her unique perspective as a practicing professional from a small firm with extensive experience in local historic preservation projects...."

IV. Analysis

As discussed in section II above, the Commission should grant waivers only in situations where the need for a waiver outweighs the danger of unfair advantage or undue influence. And, when a waiver is granted, it should be narrowly tailored to the specific needs of the requestor.

A. Applicability of Waiver Provision

The waiver provision for the compensated advocacy prohibition states that the Commission may waive the rule for “any officer who, by law, must be appointed to represent any profession, trade, business, union or association.” In the current situation, Seat 1 on the Historic Preservation Commission must be filled by an architect with specific credentials. Ms. Nageswaran, as a licensed architect holding those credentials, was appointed to Seat 1. Thus, she is in the class of individuals who can request a waiver under this provision, meaning that the Commission may grant a waiver if it finds that doing so is appropriate.

B. Factors that Indicate the Need for a Waiver

In deciding whether to grant a waiver, the Commission may evaluate any factors, including the ability of the appointing authority to find qualified appointees in the profession and the ability of the appointee to practice his or her vocation without a waiver. Ultimately, the Commission should balance factors indicating the need for a waiver against the danger of undue influence, favoritism or preferential treatment that might arise from the waiver. This will ensure that the purposes of the rule will be fairly balanced with the rule’s impact on the requestor.

Here, there are multiple factors that indicate Ms. Nageswaran’s need for a waiver. Of primary importance is the limiting effect that the rule would have on the field of potential appointees, given the specific and unique qualification requirements of the commission seat. The Mayor states that the rule will limit qualified appointments to architects who are retirees or who are members of large firms in which others can perform any necessary advocacy with the City.

Secondly, it is likely that many architects engage in compensated advocacy and that this is a part of the profession that clients expect. This entails that an architect’s inability to communicate with City commissions and departments to urge the approval of projects would likely harm the architect’s business or make her less effective in her work. Ms. Nageswaran has stated that if she is subject to the full scope of the rule, she will likely forego service on the Historic Preservation Commission. This appears to be because she is unable to sustain the anticipated impact the rule would have on her work at Knapp Architects.

As stated above, because Ms. Nageswaran falls within the set of City officers that are eligible to request a waiver, added weight should be given to the need for a waiver. The narrow waiver provision envisions that the compensated advocacy prohibition will sometimes create difficulties when appointments must be filled by persons from specific trades or professions that commonly

involve compensated advocacy. This creates a high likelihood that persons who are eligible for the appointment because of their profession would also find themselves subject to a rule that would prevent them from engaging in activities that are central to that very profession.

C. Factors that Indicate the Danger of Undue Influence or Unfair Advantage

On the other hand, the Commission should also weigh the danger of undue influence or unfair advantage that might exist should Ms. Nageswaran be allowed to engage in compensated advocacy.

1. Departments Other Than Planning

The requests ask that Ms. Nageswaran be allowed to receive compensation to communicate with thirteen City departments and any Commissions that averses them. This limitation to a defined set of City commissions and departments tailors the waiver to the applicant's existing business needs and thereby reduces the potentially negative impact that a blanket waiver would have (which would allow compensated advocacy with any commission or department in the City).

Additionally, most of the departments and commissions listed in section III above have limited overlap with the work of the Historic Preservation Commission. Because commissioners and staff in those departments are therefore less likely to feel pressured to give preferential treatment to Ms. Nageswaran in order to preserve a working relationship with her, this reduces the likelihood that Ms. Nageswaran's position as an Historic Preservation Commissioner would allow her to exert significant undue influence over these other departments and commissions.

Additionally, if a waiver were tailored to allow only the kinds of compensated advocacy in which Ms. Nageswaran has typically engaged as part of her work for Knapp Architects, this would further reduce the danger of undue influence and unfair advantage. A waiver should only allow advocacy on behalf of clients of Knapp Architects and only on architectural projects, regardless of the department or commission with which Ms. Nageswaran was communicating. This would prevent Ms. Nageswaran from using the waiver to advocate on issues or projects unrelated to her profession as an architect or to the business of her firm. This feature would reduce the risks associated with a waiver while still serving the concerns of the requestors.

2. Planning Department

The requests also ask that Ms. Nageswaran be allowed to continue compensated advocacy communications with Planning Department staff and members of the Planning Commission. The Historic Preservation Commission is nested within the Planning Department. It is therefore possible that her advocacy communications will be directed to members of the department's staff with whom she works in her capacity as a commissioner. This presents a danger that those staff members may feel unduly influenced by Ms. Nageswaran's advocacy efforts because of their existing professional relationship with her.

Likewise, because of the closeness in subject matter between the Historic Preservation Commission and the Planning Commission, as well as the fact that the two commissions share staff, it is possible that Planning Commissioners would feel pressure to give preferential treatment to Ms. Nageswaran if she were to communicate with them to advocate for a private client.

However, in the past when Ms. Nageswaran has communicated with Planning staff and commissioners on behalf of a client, it has typically been in the context of an HRE. As discussed above, HREs are largely objective and serve to provide a professional opinion about a project, rather than to promote the project. The architect submits an HRE directly to Planning without prior review by the client. HREs do not usually go before the Historic Preservation Commission, which indicates that there is a certain level of removal between HREs and Ms. Nageswaran's work as a commissioner.

If a waiver were tailored to only allow for Ms. Nageswaran to continue her work on HREs, her communications with Planning staff and commissioners would be reasonably limited in scope. The resulting danger of undue influence and unfair advantage would thus be limited as well. Her communications would be confined to seeking information about a project and providing her professional opinion about the historic resources impacted by the project. It would thus be less likely that Ms. Nageswaran could secure preferential outcomes for clients through her communications with Planning staff and commissioners.

D. Balance of Factors

To determine whether a waiver is appropriate, the Commission should weigh the risk of undue influence against the applicant's need for a waiver.

Regarding the listed departments and commissions other than planning, the risks of undue influence and unfair advantage associated with Ms. Nageswaran's compensated work would be limited if her communications were limited to architectural projects of Knapp architects. Staff therefore recommends that a waiver be granted as to communications with these departments and commissions that is limited to only these architectural projects.

Regarding Planning Department staff and the Planning Commission, there is a higher level of inherent risk that advocacy by a Historic Preservation Commissioner would result in undue influence and unfair advantage. However, if advocacy communications were limited only to HREs, this risk would be significantly curtailed because of the nature of the HRE process. Staff therefore recommends that a waiver be granted as to communications with Planning staff and commissioners that is limited to HREs only.

V. Conclusion

As discussed, Staff recommends a narrowly tailored waiver be granted for Ms. Nageswaran. This waiver should be:

- Applicable only to Ms. Nageswaran's advocacy communications with staff at the following departments and commissions that oversee the departments:
 - Planning,
 - Public Utilities Commission,
 - Port,
 - Arts,
 - Treasure Island Development Authority,
 - Public Works,
 - Building Inspection,
 - Mayor's Office on Disability,
 - Mayor's Office on Housing and Community Development,
 - Public Health,
 - Fire,
 - Homelessness and Supportive Housing, and
 - Airport.
- Applicable only to Ms. Nageswaran's advocacy on behalf of clients of Knapp Architects;
- Applicable only to Ms. Nageswaran's advocacy in relation to architectural projects; and
- For communications with Planning Department staff or Planning Commissioners, applicable only to communications related to Historic Resource Evaluations (HREs).

It is important to note that all other ethics rules would still apply to Ms. Nageswaran were a waiver of the compensated advocacy prohibition to be granted. Notably, Ms. Nageswaran must recuse herself from any matters before the Historic Preservation Commission in which she has a personal financial interest, including any matters concerning Knapp Architects.⁹ Additionally, all commissioners are prohibited from using their public position or office to seek anything of value for the private or professional gain of themselves, their immediate family members, or an organization with which they are associated.¹⁰ This rule would prohibit Ms. Nageswaran from using her title as commissioner or in any other way invoking her City position when communicating with City commissions or staff in regard to a project of Knapp Architects. Ms. Nageswaran must also follow the rules contained in the Planning Department Statement of Incompatible Activities.¹¹

⁹ Cal. Gov. Code § 87100.

¹⁰ Campaign & Gov. Conduct Code § 3.207(a)(1).

¹¹ Available at https://sfethics.org/wp-content/uploads/2015/08/Planning_Department_and_Planning_Commission_SIA.pdf.

ATTACHMENT 1



March 25, 2021

San Francisco Ethics Commission
25 Van Ness Avenue, #220
San Francisco, CA 94102

Re: Waiver Request for Ruchira Nageswaran: San Francisco Campaign and Governmental Conduct Code Section 3.224 – Prohibition on Representing Private Parties Before Other City Officers and Employees

Dear Commissioners:

I have nominated Ruchira Nageswaran to fill Seat 1 on the Historic Preservation Commission (“HPC”). HPC advises the Mayor, Board of Supervisors and City departments on San Francisco’s historic preservation goals, policies and programs. *See attached* S.F. Charter § 4.135. HPC consists of seven seats, six of which must be filled with candidates with very specific professional qualifications and accreditations related to architecture and historic preservation. *Id.* Specifically, HPC Seat 1 must be filled by a licensed architect meeting the Secretary of the Interior’s Professional Qualifications Standards for historic architecture. *Id.*

I have concluded that Ms. Nageswaran is the best candidate for the position based on her extensive qualifications, deep experience in historic architecture, including international study, and unique perspective as an up and coming architect at a small firm and woman of Indian origin.

I respectfully submit this request for a waiver of the compensated advocacy prohibition of San Francisco Campaign and Governmental Conduct Code (C&GCC) § 3.224 because of Ms. Nageswaran’s unique suitability for the position and because the absence of a waiver would force her to choose between service to the City and professional work critical to her livelihood. Due to the highly specialized professional qualifications required for this seat, it is difficult to fill without a waiver. Also, without the flexibility of a waiver, the field of qualified recruits narrows greatly and is tilted away from practicing and diverse candidates.

Background on Ruchira Nageswaran

Ms. Nageswaran is a California licensed architect and meets the Secretary of the Interior’s professional qualification standards for architecture and historic architecture. She received a Bachelor of Architecture from the University of Notre Dame in 1996 and spent two semesters abroad studying classical architecture in Rome. She has practiced as an architect and historic preservation expert in San Francisco for nearly 25 years. She currently practices



at San Francisco-based Knapp Architects, which provides full architectural services and specializes in local historic preservation and related architectural rehabilitation. Knapp Architects currently consists solely of herself and her employer Frederic Knapp.¹

Ms. Nageswaran has worked on several public sector historic preservation and architectural rehabilitation projects for various culturally significant sites and educational institutions, including the Bayview Opera House, Kelly Cullen Community (Historic Central YMCA), the Presidio Theatre, the University of California Berkeley and Stanford University. Her civic-mindedness carries over into her volunteer work for Habitat for Humanity, the AIA San Francisco mentorship program and the California Academy of Sciences.

Ms. Nageswaran's work requires her to draft and sign drawings and other written work product and submit them to City departments like the PUC and DBI. She will also occasionally communicate with City staff regarding such submissions and questions regarding her projects. Knapp Architects is also on the Planning Department's list of firms qualified to prepare Historic Resource Evaluations ("HREs") which assess whether a proposed development or project involves historic resources on site or in the vicinity and any impact on such resources. Ms. Nageswaran will from time to time prepare and submit HREs to the Planning Department on behalf of clients.

Ms. Nageswaran does not generally appear to present before the Planning Commission or other city commissions for her work; such representations are ordinarily handled by Mr. Knapp. She understands the requirements to recuse herself as a commissioner should any of Knapp Architects' projects ever come before HPC.

Campaign and Governmental Conduct Code Section 3.224

C&GCC § 3.224 prohibits an officer of the City and County from directly or indirectly receiving any form of compensation to communicate orally, in writing, or in any other manner on behalf of any other person with any other officer or employees of the City and County with the intent to influence a government decision. *See attached C&GCC § 3.224.*

This compensated advocacy prohibition has certain exceptions including allowing for an attorney to represent clients in communications with various City offices. However, it does not explicitly provide an exception for other professions who may be called upon to communicate with and submit their work to City bodies, such as architects. Nevertheless, certain commission seats, such as the seat at issue here and others on HPC and other commissions like the Arts Commission, must be filled by specifically qualified professionals like architects. C&GCC § 3.224 acknowledges such seats by allowing that "[t]he Ethics Commission may waive the

¹ Ms. Nageswaran is not a general or limited partner in Knapp Architects and holds no equity stake in the firm. Ms. Nageswaran does not exercise management or control at the firm and accordingly we understand that she is not subject to the contracting prohibition in C&GCC § 3.222.



prohibitions in this section for any officer who, by law, must be appointed to represent any profession, trade, business, union or association.” C&GCC § 3.224(c).

Ethics Commission Regulation 3.224.2(b) provides the following factors for the Commission to consider in determining whether to grant a request for such a waiver: “the ability of the City to recruit qualified individuals to fill the position in question if the waiver is not granted; the ability of the member to engage in his or her particular vocation if the waiver is not granted; and any other factors the Commission deems relevant.”

Arguments in Support of the Waiver

I respectfully request that the Ethics Commission waive the compensated advocacy prohibition for certain professional activities of Ms. Nageswaran and submit that the waiver is appropriate and warranted for the following reasons.

The Ability of the City to Recruit Qualified Individuals

A waiver is called for in the case of Ms. Nageswaran because of the challenges in filling this highly specialized historic architect seat. Under the Charter, this seat must be filled by someone meeting the Secretary of the Interior’s Professional Qualifications Standards for historic architecture. This rigorous standard requires the following:

“The minimum professional qualifications in historic architecture are a professional degree in architecture or a State license to practice architecture, plus one of the following:

At least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field; or

At least one year of full-time professional experience on historic preservation projects. Such graduate study or experience shall include detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specifications for preservation projects.” *See attached* https://www.nps.gov/history/local-law/arch_stnds_9.htm.

The requirement in the Charter that an eligible local elector for this seat have these strict qualifications is precisely the type of situation contemplated by the waiver provision of C&GCC § 3.224(c) for seats that must be appointed to represent a particular profession.

Practicing local historic architects will naturally be called upon from time to time to communicate on behalf of their clients with relevant regulating bodies of the City that oversee development, construction and restorations of structures that implicate historic preservation issues. This is particularly true with mid-career and more diverse applicants who may work at smaller firms and who have less of an ability to delegate such work and communications to other colleagues. Some of the very qualities that I find compelling in choosing Ms. Nageswaran for



this seat – her unique perspective as a practicing professional from a small firm with extensive experience in local historic preservation projects, including those impacting underserved communities like the Bayview Opera House and Kelly Cullen Community (Historic Central YMCA) – are the same qualities that make application of the compensated advocacy prohibition unwarranted. Without a waiver, it becomes extremely difficult to recruit someone with these attributes. My staff consulted a network of contacts in the field in searching for a qualified applicant and found this to be the case.

The inability to obtain a waiver shrinks the already limited selection of qualified recruits available to the City. This disproportionately impacts mid-career, highly-qualified, more diverse candidates from smaller and up and coming firms and favors older, more established, less diverse candidates such as practitioners from larger firms, academics and retirees.

These are the types of concerns that were recently considered by the Ethics Commission in granting a waiver from the compensated advocacy prohibition for Arts Commissioner Yakuh Askew, an architect and principal of his own firm. *See attached* Ethics Commission July, 10 2020 Minutes. Similarly, in 2013 the Ethics Commission granted a waiver from the rule for Architectural Historian Jonathan Pearlman to fill Seat 3 on HPC because Commissioner Pearlman had his own small and specialized practice with limited local projects and engagements before City commissions. *See attached* Ethics Commission April 22, 2013 Minutes.

The Ability of the Member to Engage in His or Her Particular Vocation if the Waiver is Not Granted

Additionally, the ability of Ms. Nageswaran to engage in her professional vocation in the absence of a waiver is severely impaired in the absence of a waiver. Without a waiver, Ms. Nageswaran would not be able to prepare drawings under her own name and submit them to City staff. This goes to the heart of her professional skill set and would require her colleague to sign off on such work product which is one of her core competencies and responsibilities as a licensed architect. This would create an additional and inefficient step in how her firm carries out its work. Further, she would not be able to follow up with City staff regarding such submissions or answer their questions regarding such work and would need to refer these inquiries to her colleague. She would also be restricted from ever personally appearing at City commissions to have the opportunity to present her work. All of these limitations on her practice might eventually impair her career to the point where she would need to step down to follow her livelihood, depriving the City of her service.

Additional Relevant Factors

Additional factors also weigh in favor of granting this waiver. Without the ability to obtain a waiver in situations like these, it becomes more difficult for the City to meet its directives of creating a diverse and representative body of City commissioners reflective of the City's



population. Specifically, City Charter Section 4.101(a)(1) requires that the composition of each City commission “[b]e broadly representative of the communities of interest, neighborhoods, and the diversity in ethnicity, race, age, and sexual orientation, and types of disabilities of the City and County and have representation of both sexes.” *See attached* S.F. Charter § 4.101. The absence of a waiver for candidates like Ms. Nageswaran has the unintended effect of skewing the field toward older and less diverse candidates or even retirees and away from women professionals and professionals of diverse ethnic and cultural backgrounds.

This is clearly not the intent of the compensated advocacy rule. In fact, this demonstrates the importance of the waiver provision and why a waiver is appropriate in this case.

Furthermore, the compensated advocacy rule is designed to protect against the risk of undue influence, favoritism and conflicts of interest or the appearance of the same. These risks should not counsel against a waiver in Ms. Nageswaran’s case. She practices in a small firm and she does not engage directly with HPC on her projects, nor does she frequently engage with other departments other than to submit HREs, drawings and other correspondence to staff.

Ms. Nageswaran submits that a waiver is appropriate for her to engage with these departments because there is no significant potential for overlap between her professional projects before such departments and the jurisdiction of HPC. For example, while Ms. Nageswaran has submitted HREs to the Planning Department on occasion, the majority of HREs in general do not come before HPC. HPC generally has jurisdiction over projects that are actual or potential landmarks or located in historic districts. The vast majority of City building stock does not fall into those categories. An HRE could determine that a project is not a historic resource at all. Also, a site deemed a historic resource does not necessarily qualify for landmark designation or fall within a historic district. Moreover, these HREs are objective assessments and not advocacy pieces. The clients pay for them but they do not review them before the firm submits them to Planning. Sometimes the findings will point out deviation from historic resources which could be a burden on the interests of the client.

Regarding other department submissions made by Ms. Nageswaran, stamped and signed drawings are typically only submitted to DBI after permitting, and not to Planning. Ms. Nageswaran sometimes prepares sponsor packets for a project submitted to Planning but these are not signed by her and only list her firm’s name.

Ms. Nageswaran would, of course, be required to recuse herself if any of her own work product, submissions or her firm’s projects came before HPC.

Finally, withholding the waiver in a way that discourages the selection of candidates like Ms. Nageswaran has its own risks of creating actual or perceived undue influence, favoritism and conflicts of interest because this benefits candidates from large architecture firms with larger clients focused more on commercial development than preservation projects.



Scope of Waiver Request

For all of these reasons, I am requesting that a limited waiver be granted from C&GCC § 3.224 to allow Ms. Nageswaran to communicate orally with, and to prepare, sign and submit written work product to the following City departments, and to appear before any commissions associated with such departments:

PUC
Port
Planning
Arts Commission
Treasure Island Development Authority
Department of Public Works
Department of Building Inspection
Mayor's Office on Disability
Mayor's Office of Housing and Community Development
Public Health
Fire Department
Homelessness and Supportive Housing
Airport

This list comprises departments with which she has communicated in the past regarding projects or for which she anticipates a potential need to do so in the future. She would like to retain the ability to engage in compensated advocacy with such departments' staff going forward. While Ms. Nageswaran does not typically appear before commissions for clients, she would like to retain the ability to do so for these specific department commissions. This will allow her to appear in situations where her personal expertise and knowledge is required or her colleague is unavailable to attend.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, reading "London N. Breed".

London N. Breed
Mayor
City and County of San Francisco

SEC. 4.135. HISTORIC PRESERVATION COMMISSION.

GENERAL. There is hereby created a Historic Preservation Commission, which shall advise the City on historic preservation matters, participate in processes that involve historic or cultural resources, and take such other actions concerning historic preservation as may be prescribed by ordinance. The Historic Preservation Commission shall consist of seven members nominated by the Mayor and subject to approval by a majority of the Board of Supervisors.

The term and tenure of all members sitting on the Landmarks Preservation Advisory Board, created under [Article 10](#) of the Planning Code, as of the effective date of this section shall terminate on December 31, 2008. Of the original appointments to the Historic Preservation Commission, four shall be for a four-year term and three for a two-year term as follows; the odd-numbered seats shall be for four-year terms and the even-numbered seats shall be for two-year terms. After the expiration of the original terms, all appointments shall be for four-year terms, provided however, that a member may holdover until a successor has been nominated by the Mayor and approved by the Board of Supervisors. There shall be no limit on the number of terms a member may serve.

The original nominations shall be made no later than 31 days after the date of the election creating this section. If the Mayor fails to nominate an original appointment within said period, the nomination for the original appointment may be made by the President of the Board of Supervisors, subject to the approval of a majority of the Board of Supervisors.

Within 60 days of the expiration of a term or other vacancy the Mayor shall nominate a qualified person to fill the vacant seat for the term, or the remainder of the term, subject to approval by a majority of the Board of Supervisors who shall hold a public hearing and vote on the nomination within 60 days of the Mayor's transmittal of the nomination to the Clerk of the Board of Supervisors. If the Mayor fails to make such nomination within 60 days, the nomination may be made by the President of the Board of Supervisors, subject to the approval of a majority of the Board of Supervisors. The appointment shall become effective on the date the Board of Supervisors adopts a motion approving the nomination or after 60 days from the date the Mayor transmits the nomination to the Clerk of the Board of Supervisors if the Board of Supervisors fails to act.

Members may be removed by the appointing officer only pursuant to Section [15.105](#).

QUALIFICATIONS. In addition to the specific requirements set forth below, members of the Historic Preservation Commission shall be persons specially qualified by reason of interest, competence, knowledge, training and experience in the historic, architectural, aesthetic, and cultural traditions of the City, interested in the preservation of its historic structures, sites and areas, and residents of the City. Six of the members of the Historic Preservation Commission shall be specifically qualified in the following fields:

1. Seats 1 and 2: licensed architects meeting the Secretary of the Interior's Professional Qualifications Standards for historic architecture;
2. Seat 3: an architectural historian meeting the Secretary of the Interior's Professional Qualifications Standards for architectural history with specialized training and/or demonstrable experience in North American or Bay Area architectural history;
3. Seat 4: an historian meeting the Secretary of the Interior's Professional Qualifications Standards for history with specialized training and/or demonstrable experience in North American or Bay Area history;

4. Seat 5: an historic preservation professional or professional in a field such as law, land use, community planning or urban design with specialized training and/or demonstrable experience in historic preservation or historic preservation planning.

5. Seat 6 shall be specially qualified in one of the following fields or in one of the fields set forth for Seats 1, 2, or 3;

a. A professional archeologist meeting the Secretary of the Interior's Professional Qualification Standards for Archeology;

b. A real estate professional or contractor who has demonstrated a special interest, competence, experience, and knowledge in historic preservation;

c. A licensed structural engineer with at least four years of experience in seismic and structural engineering principals applied to historic structures; or

d. A person with training and professional experience with materials conservation.

Seat 7 shall be an at large seat subject to the minimum qualifications set forth above.

LANDMARK AND HISTORIC DISTRICT DESIGNATIONS. The Historic Preservation Commission shall have the authority to recommend approval, disapproval, or modification of landmark designations and historic district designations under the Planning Code to the Board of Supervisors. The Historic Preservation Commission shall send recommendations regarding landmarks designations to the Board of Supervisors without referral or recommendation of the Planning Commission. The Historic Preservation Commission shall refer recommendations regarding historic district designations to the Planning Commission, which shall have 45 days to review and comment on the proposed designation, which comments, if any, shall be forwarded to the Board of Supervisors together with the Historic Preservation Commission's recommendation. Decisions of the Historic Preservation Commission to disapprove designation of a landmark or historic district shall be final unless appealed to the Board of Supervisors.

CERTIFICATES OF APPROPRIATENESS. The Historic Preservation Commission shall approve, disapprove, or modify certificates of appropriateness for work to designated landmarks or within historic districts. For minor alterations, the Historic Preservation Commission may delegate this function to staff, whose decision may be appealed to the Historic Preservation Commission.

For projects that require multiple planning approvals, the Historic Preservation Commission must review and act on any Certificate of Appropriateness before any other planning approval action. For projects that (1) require a conditional use permit or permit review under Section [309](#), et seq., of the Planning Code and (2) do not concern an individually landmarked property, the Planning Commission may modify any decision on a Certificate of Appropriateness by a 2/3 vote, provided that the Planning Commission shall apply all applicable historic resources provisions of the Planning Code.

For projects that are located on vacant lots, the Planning Commission may modify any decision on a Certificate of Appropriateness by a two-thirds vote, provided that the Planning Commission shall apply all applicable historic resources provisions of the Planning Code.

The Historic Preservation Commission or Planning Commission's decision on a Certificate of Appropriateness shall be final unless appealed to the Board of Appeals, which may modify the decision by a 4/5 vote; provided, however, that if the project requires Board of Supervisors approval or is appealed to the Board of Supervisors as a conditional use, the decision shall not be appealable to the Board of Appeals, but rather to the Board of Supervisors, which may modify the decision by a majority vote.

SIGNIFICANT OR CONTRIBUTORY BUILDING AND CONSERVATION DISTRICT DESIGNATIONS IN THE C-3 DISTRICTS. The Historic Preservation Commission shall have the authority to recommend approval, disapproval, or modification of Significant or Contributory building and Conservation District designations under the Planning Code to the Board of Supervisors. The Historic Preservation Commission shall send recommendations regarding Significant or Contributory Buildings to the Board of Supervisors without referral or recommendation of the Planning Commission. The Historic Preservation Commission shall refer recommendations regarding Conservation District designations to the Planning Commission, which shall have 45 days to review and comment on the proposed designation, which comments, if any, shall be forwarded to the Board of Supervisors together with the Historic Preservation Commission's recommendation. Decisions of the Historic Preservation Commission to disapprove designation of a Significant or Contributory building or Conservation District shall be final unless appealed to the Board of Supervisors.

ALTERATION OF SIGNIFICANT OR CONTRIBUTORY BUILDINGS OR BUILDINGS IN CONSERVATION DISTRICTS IN THE C-3 DISTRICTS. The Historic Preservation Commission shall have the authority to determine if a proposed alteration is a Major Alteration or a Minor Alteration. The Historic Preservation Commission shall have the authority to approve, disapprove, or modify applications for permits to alter or demolish designated Significant or Contributory buildings or buildings within Conservation Districts. For Minor Alterations, the Historic Preservation Commission may delegate this function to staff, whose decision may be appealed to the Historic Preservation Commission.

For projects that require multiple planning approvals, the Historic Preservation Commission must review and act on any permit to alter before any other planning approval action. For projects that (1) require a conditional use permit or permit review under Section [309](#), et seq., of the Planning Code and (2) do not concern a designated Significant (Categories I and II) or Contributory (Category III only) building, the Planning Commission may modify any decision on a permit to alter by a 2/3 vote, provided that the Planning Commission shall apply all applicable historic resources provisions of the Planning Code.

For projects that are located on vacant lots, the Planning Commission may modify any decision on a permit to alter by a two-thirds vote, provided that the Planning Commission shall apply all applicable historic resources provisions of the Planning Code.

The Historic Preservation Commission's or Planning Commission's decision on a permit to alter shall be final unless appealed to the Board of Appeals, which may modify the decision by a 4/5 vote; provided, however, that if the project requires Board of Supervisors approval or is appealed to the Board of Supervisors as a conditional use, the decision shall not be appealable to the Board of Appeals, but rather to the Board of Supervisors, which may modify the decision by a majority vote.

MILLS ACT CONTRACTS. The Historic Preservation Commission shall have the authority to recommend approval, disapproval, or modification of historical property contracts to the Board of Supervisors, without referral or recommendation of the Planning Commission.

PRESERVATION ELEMENT OF THE GENERAL PLAN. The Historic Preservation Commission shall recommend to the Planning Commission a Preservation Element of the General Plan and shall periodically recommend to the Planning Commission proposed amendments to such Preservation Element of the General Plan. Other objectives, policies, and provisions of the General Plan and special area, neighborhood, and other plans designed to carry out the General Plan, and proposed amendments thereto, that are not contained within such

Preservation Element but that concern historic preservation shall be referred to the Historic Preservation Commission for its comment and recommendations prior to action by the Planning Commission. When the Planning Commission recommends to the Board of Supervisors for approval or rejection proposed amendments to the General Plan that concern historic preservation, any recommendation or comments of the Historic Preservation Commission on such proposed amendments shall be forwarded to the Board of Supervisors for its information.

REFERRAL OF CERTAIN MATTERS. The following matters shall, prior to passage by the Board of Supervisors, be submitted for written report by the Historic Preservation Commission regarding effects upon historic or cultural resources: ordinances and resolutions concerning historic preservation issues and historic resources; redevelopment project plans; waterfront land use and project plans; and such other matters as may be prescribed by ordinance. If the Planning Commission is required to take action on the matter, the Historic Preservation Commission shall submit any report to the Planning Commission as well as to the Board of Supervisors; otherwise, the Historic Preservation Commission shall submit any report to the Board of Supervisors.

OTHER DUTIES. For proposed projects that may have an impact on historic or cultural resources, the Historic Preservation Commission shall have the authority to review and comment upon environmental documents under the California Environmental Quality Act and the National Environmental Policy Act. The Historic Preservation Commission shall act as the City's local historic preservation review commission for the purposes of the Certified Local Government Program, may recommend properties for inclusion in the National Register of Historic Places, and may review and comment on federal undertakings where authorized under the National Historic Preservation Act. The Historic Preservation Commission shall review and comment upon any agreements proposed under the National Historic Preservation Act where the City is a signatory prior to any approval action on such agreement. The Historic Preservation Commission shall have the authority to oversee and direct the survey and inventory of historic properties.

Once a quorum of members of the Historic Preservation Commission has been originally appointed and approved, the Historic Preservation Commission shall assume any powers and duties assigned to the Landmarks Preservation Advisory Board until the Municipal Code has been amended to reflect the creation of the Historic Preservation Commission.

BUDGET, FEES, DEPARTMENT HEAD, AND STAFF. The provisions of Charter subsections [4.102\(3\)](#), [4.102\(4\)](#), [4.102\(5\)](#), and [4.102\(6\)](#) shall not apply to the Historic Preservation Commission. The Historic Preservation Commission may review and make recommendations on the Planning Department budget and on any rates, fees, and similar charges with respect to appropriate items coming within the Historic Preservation Commission's jurisdiction to the department head of the Planning Department or the Planning Commission. The department head of the Planning Department shall assume the powers and duties that would otherwise be executed by an Historic Preservation Commission department head. The Planning Department shall render staff assistance to the Historic Preservation Commission.

(Added by Proposition J, 11/4/2008)

SEC. 3.224. PROHIBITION ON REPRESENTING PRIVATE PARTIES BEFORE OTHER CITY OFFICERS AND EMPLOYEES – COMPENSATED ADVOCACY.

(a) **Prohibition.** No officer of the City and County shall directly or indirectly receive any form of compensation to communicate orally, in writing, or in any other manner on behalf of any other person with any other officer or employee of the City and County with the intent to influence a government decision.

(b) **Exceptions.** This section shall not apply to any communication by: (1) an officer of the City and County on behalf of the City and County; (2) an officer of the City and County on behalf of a business, union, or organization of which the officer is a member or full-time employee; (3) an associate, partner or employee of an officer of the City and County, unless it is clear from the totality of the circumstances that the associate, partner or employee is merely acting as an agent of the City and County officer; or (4) a City officer in his or her capacity as a licensed attorney engaged in the practice of law, which includes representing clients in communications with the City Attorney's Office, District Attorney's Office, Public Defender's Office, attorneys in the Tax Collector's Office or Sheriff's Office, outside legal counsel hired by the City, representatives of the City who are named in a pending litigation matter or witnesses or potential witnesses in a pending litigation matter.

(c) **Waiver.** The Ethics Commission may waive the prohibitions in this section for any officer who, by law, must be appointed to represent any profession, trade, business, union or association.

(Added by Proposition E, 11/4/2003; Ord. 97-06, File No. 051837, App. 5/19/2006; Ord. 244-09, File No. 091013, App. 12/3/2009)



ARCHEOLOGY AND HISTORIC PRESERVATION:

Secretary of the Interior's Standards and Guidelines

[As Amended and Annotated]

.Contents

Standards & Guidelines for:

[Introduction](#)

[Preservation Planning](#)

[Identification](#)

[Evaluation](#)

[Registration](#)

[Note on Documentation and
Treatment of Hist. Properties](#)

[Historical Documentation](#)

[Architectural and Engineering
Documentation](#)

[Archeological Documentation](#)

[Historic Preservation Projects](#)

Qualification Standards

[Preservation Terminology](#)



print

Professional Qualifications Standards

The following requirements are those used by the National Park Service, and have been previously published in the Code of Federal Regulations, 36 CFR Part 61. The qualifications define minimum education and experience required to perform identification, evaluation, registration, and treatment activities. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the historic properties involved. In the following definitions, a year of full-time professional experience need not consist of a continuous year of full-time work but may be made up of discontinuous periods of full-time or part-time work adding up to the equivalent of a year of full-time experience.

History

The minimum professional qualifications in history are a graduate degree in history or closely related field; or a bachelor's degree in history or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historic organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

Archeology

The minimum professional qualifications in archeology are a graduate degree in archeology, anthropology, or closely related field plus:

1. At least one year of full-time professional experience or equivalent specialized training in archeological research, administration or management;
2. At least four months of supervised field and analytic experience in general North American archeology, and
3. Demonstrated ability to carry research to completion.

In addition to these minimum qualifications, a professional in prehistoric archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the prehistoric period. A professional in historic archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the historic period.

Architectural History

The minimum professional qualifications in architectural history are a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American

architectural history, or a bachelor's degree in architectural history, art history, historic preservation or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

Architecture

The minimum professional qualifications in architecture are a professional degree in architecture plus at least two years of full-time experience in architecture; or a State license to practice architecture.

Historic Architecture

The minimum professional qualifications in historic architecture are a professional degree in architecture or a State license to practice architecture, plus one of the following:

1. At least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field; or
2. At least one year of full-time professional experience on historic preservation projects.

Such graduate study or experience shall include detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specifications for preservation projects.

[<< Hist. Preserv. Projects](#) | [Intro](#) | [Preserv. Terms >>](#)

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[Laws](#) | [Search](#) | [E-mail](#) | [Links to the Past](#)



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SEC. 4.101. BOARDS AND COMMISSIONS – COMPOSITION

(a) Unless otherwise provided in this Charter, the composition of each appointive board, commission or advisory body of any kind established by this Charter or legislative act of the United States of America, the State of California or the Board of Supervisors shall:

1. Be broadly representative of the communities of interest, neighborhoods, and the diversity in ethnicity, race, age, and sexual orientation, and types of disabilities of the City and County and have representation of both sexes; and
2. Consist of electors of the City and County at all times during the term of their respective offices, unless otherwise specifically provided in this Charter; or in the case of boards, commissions or advisory bodies established by legislative act the position is (a) designated by ordinance for a person under legal voting age, or (b) unless specifically exempt from the provisions, or waived by the appointing officer or entity upon a finding that an elector with specific experience, skills or qualifications willing to serve could not be located within the City and County.

It shall be the official City policy that the composition of each appointive board, commission, or advisory body of any kind established by this Charter or legislative act of the United States of America, the State of California, or the Board of Supervisors shall reflect the interests and contributions of both men and women of all races, ethnicities, sexual orientations, and types of disabilities. The voters therefore urge in the strongest terms all City officers and agencies involved in nominating, appointing or confirming members of those appointive boards, commissions, or advisory bodies to consider and as appropriate support the nomination, appointment or confirmation of female, minority, and disabled candidates to fill seats on those bodies.

The Commission on the Status of Women shall conduct an analysis of appointments to appointive boards, commissions, and advisory bodies in the second and fourth year of each mayoral administration to track the diversity of appointments to such bodies. This analysis, to be based only on voluntary disclosures, shall include gender, ethnicity, sexual orientation, disability status, and any other relevant demographic qualities.

(b) Vacancies on appointive boards, commissions or other units of government shall be filled for the balance of the unexpired term in the manner prescribed by this Charter or ordinance for initial appointments.

(c) Terms of office shall continue as they existed on the effective date of this Charter.

(Amended by Proposition D, 6/3/2008)



Ethics Commission City and County of San Francisco

Draft Minutes – July 10, 2020

Draft Minutes of the Regular Meeting of The San Francisco Ethics Commission Friday, July 10, 2020 Remote Meeting Held Online via Webex and aired live on SFGovTV (Approved __, 2020)

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 [here](#).

Item 1. Call to order and roll call.

(Note: This item appears beginning at the 00:6:04 mark in the [video recording at SFGovTV](#).)

Chair Noreen Ambrose called the meeting to order at 9:30 am.







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

STAFF PRESENTING: LeeAnn Pelham, Executive Director; Steven Massey, Director of Technology Services; Patrick Ford, Senior Policy and Legislative Affairs Counsel; Jeffrey Pierce, Director of Enforcement and Legal Affairs; Jarrod Flores, Information Systems Analyst/Online Meeting Moderator.

REPRESENTATIVES OF THE OFFICE OF THE CITY ATTORNEY PRESENT: Jenica Maldonado and Andrew Shen, Deputy City Attorneys.

MATERIALS DISTRIBUTED:

- [Executive Director's Report](#) dated July 2, 2020.
- [Staff Report on revised FY21 annual budget submitted](#) to the Mayor's office in the wake of the COVID-19 Public Health Emergency, dated July 2, 2020.

- Proposed Stipulation, Decision, and Order *In the Matter of Aaron Peskin for Supervisor 2016, Aaron Peskin, and Stacy Owens*  (SFEC Complaint No.1516-37A).
- Proposed Stipulation, Decision, and Order *In the Matter of Keep San Francisco Affordable, Support by Tenant and Housing Advocates, and Jennifer Fieber*  (SFEC Complaint No. 1516-43, 1718-24).
- Proposed Stipulation, Decision, and Order *In the Matter of Marjan Philhour for Supervisor 2016, Marjan Philhour, and Stacy Owens*  (SFEC Complaint No. 1617-082).
- [Staff report on waiver request by Arts Commission nominee Yakuh Askew](#)  regarding the compensated advocacy restriction contained in Campaign and Governmental Conduct Code § 3.224(a).
- Monthly [Staff Policy Report](#)  dated July 2, 2020.
- Monthly [Staff Enforcement Report and attachments](#)  dated July 2, 2020.

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

(Note: This item appears beginning at the 00:14:19 mark in the [video recording at SFGovTv.](#))

Ali Altaha, Marc Solomon, and an unidentified caller gave public comment.

Chair Ambrose asked whether the meeting was live on SFGovTV and Flores clarified that it is on channel 78.

No other public comment was provided.

Item 3. Discussion of Executive Director's Report.

(Note: This item appears beginning at the 00:23:55 mark in the [video recording at SFGovTv.](#))

Executive Director Pelham discussed the contents of the [Executive Director's report](#). The report highlighted operational developments at the Commission since the emergence of the COVID-19 public health emergency and addressed key programmatic and organizational developments since the Commission's last meeting in February 2020.

Mark de la Rosa of the Controller's Office provided an overview of his office's report on contracts at the Department of Public Works.

Ali Altaha, Marc Salomon, and Francisco de Costa gave public comment.

No action was taken as the item was for informational purposes only.

Item 4. Discussion and possible action on FY21 Revised Budget submitted by the Ethics Commission on June 12, 2020 as required by Mayoral instruction for all City Departments in the wake of the COVID-19 public health emergency.

(Note: This item appears beginning at the 02:07:34 mark in the [video recording at SFGovTv.](#))

Director Pelham stated that the Commission had submitted a revised budget proposal to the Mayor's Office on June 12, 2020, as required by all City departments in the wake of the COVID-19 public health emergency. Pelham also spoke about the impacts that the Mayor's targeted budget cuts would have on Commission operations and noted that staff are still in conversation with the Mayor's office regarding the budget.

Chair Ambrose spoke about the difficulty of funding via the general fund. Commissioner Chiu expressed concern that cuts to the Commission's budget during a significant corruption scandal would send a bad message. Commissioner Bush spoke about the ability of ethics programs to save government funds overall and expressed a desire to see more reporting about how budget constraints impact the Commission's

achievement of its mandate and how matters are prioritized. Commissioner Lee proposed that money the Commission raises be retained for its budget.

Ali Altaha, Francisco de Costa, Marc Salomon, and an unidentified caller gave public comment.

Vice-Chair Lee moved and Commissioner Chiu seconded a motion to request that Commissioners Ambrose and Lee transmit a letter on behalf of the Commission regarding the Commission's budget to the Board of Supervisors.

Motion 200710-01 (Lee/Chiu): Moved, seconded and passed unanimously (5-0) a motion that Commissioners Ambrose and Lee transmit a letter regarding the Commission's budget to the Board of Supervisors.

CONSENT CALENDAR ITEMS

Chair Ambrose called the consent calendar items.

(Note: This item appears beginning at the 04:08:55 mark in the [video recording at SFGovTv.](#))

Item 5. Draft Minutes for the Ethics Commission's January 17, 2020 regular meeting

Item 6. Draft Minutes for the Ethics Commission's February 21, 2020 regular meeting.

Item 7. Proposed Stipulation, Decision, and Order *In the Matter of Aaron Peskin for Supervisor 2016, Aaron Peskin, and Stacy Owens* (SFEC Complaint No. 1516-37A).

Item 8. Proposed Stipulation, Decision, and Order *In the Matter of Keep San Francisco Affordable, Support by Tenant and Housing Advocates, and Jennifer Fieber* (SFEC Complaint No. 1516-43, 1718-24).

Item 9. Proposed Stipulation, Decision, and Order *In the Matter of Marjan Philhour for Supervisor 2016, Marjan Philhour, and Stacy Owens* (SFEC Complaint No. 1617-082).

Commissioner Smith moved and Vice-Chair Lee seconded a motion to approve the Consent Calendar, Items 5 through 9.

No public comment was received.

Motion 200710-02 (Smith/Lee): Moved, seconded and passed unanimously (5-0) a motion to approve the Consent Calendar, Items 5 through 9.

NON-CONSENT CALENDAR ITEMS

Item 10. Discussion and possible action regarding request for waiver of compensated advocacy restriction for Yakuh Askew.

(Note: This item appears beginning at the 04:25:21 mark in the [video recording at SFGovTv.](#))

Pat Ford explained that the agenda item consists of a waiver request by the Mayor's office that a potential Mayoral appointee to the Arts Commission be granted a limited waiver to the rule against compensated advocacy by City officers.

Yakuh Askew, the subject of the waiver request, spoke about his qualifications and his need for a waiver. Hank Heckel, Legal Compliance Officer with the Mayor's office, spoke about the reasons for the waiver application.

Ali Altaha, Rod Henny, and Marc Solomon gave public comment.

Chair Ambrose stated that the Arts Commission would benefit from Mr. Askew's perspective and that the type of waiver requested was appropriate.

Chair Ambrose moved and Commissioner Smith seconded a motion to grant a limited compensated advocacy waiver to Yakuh Askew as recommended in the Staff report.

Motion 200710-03 (Ambrose/Smith): Moved, seconded and passed unanimously (5-0) a motion to grant a limited compensated advocacy waiver to Yakuh Askew as recommended in the Staff report.

The Commission took a recess at 2:35pm and resumed at 2:44pm.

Item 11. Discussion of monthly Staff Policy Report.

(Note: This item appears beginning at the 05:13:30 mark in the [video recording at SFGovTv.](#))

Pat Ford discussed the contents of the [Staff Policy Report](#) .


Chair Ambrose stated that the Policy Prioritization Plan should be agendaized for the Commission's September meeting. Commissioner Bush expressed his desire to approve legislation to be in effect for the November 2020 election. Ford explained that there is not enough time left before the election for legislation. Ford described a potential conflict of interest project to strengthen local ethics rules.

Francisco de Costa gave public comment.

No action was taken as this item was provided for informational purposes only.

Item 12. Discussion of monthly Staff Enforcement Report.

(Note: This item appears beginning at the 05:55:11 mark in the [video recording at SFGovTv.](#))

Enforcement Director Jeff Pierce described the contents of the [Staff Enforcement Report](#) .

Commissioner Chiu asked about the Lynette Sweet matter. Commissioner Bush provided suggestions that he believed would increase the public's engagement with the Enforcement Division.

No public comment was received.

No action was taken as it was provided for informational purposes only.

Item 13. Discussion and possible action on items for future meetings.

(Note: This item appears beginning at the 06:21:00 minute mark in the [video recording at SFGovTv.](#))

Chair Ambrose requested that Staff prepare an annual report. Commissioner Lee requested that Staff produce a report on internet communications. Commissioner Bush expressed interest in internet communications.

No public comment was received.

No action was taken.

Item 14. 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 06:30:35 minute mark in the [video recording at SFGovTv.](#))

No public comment was received.

No action was taken.

Item 15. Adjournment.

(Note: This item appears beginning at the 06:31:45 minute mark in the [video recording at SFGovTv.](#))

Motion 200710-04 (Unanimous): Moved, seconded and passed unanimously (5-0) to adjourn the meeting.

The Commission adjourned at 4:03 p.m.

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Ethics Commission City and County of San Francisco

Minutes – April 22, 2013

Minutes of the Regular Meeting of The San Francisco Ethics Commission April 22, 2013 Room 400, City Hall 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102

I. Call to order and roll call.

Chairperson Hayon called the meeting to order at 5:30 PM. Chairperson Hayon stated that Commissioner Studley was excused. She also noted that Commissioner Liu had resigned and her replacement has yet to be assigned.

COMMISSION MEMBERS PRESENT: Beverly Hayon, Chairperson; Paul A. Renne, Commissioner; Benedict Y. Hur, Commissioner. Commissioner Studley was excused.

STAFF PRESENT: John St. Croix, Executive Director; Mabel Ng, Deputy Executive Director; Steven Massey, Information Technology Officer; Catherine Argumedo, Investigator/Legal Analyst.

OFFICE OF THE CITY ATTORNEY: Josh White, Deputy City Attorney (DCA).

OTHERS PRESENT: Jonathan Pearlman, Historic Preservation Commissioner; Nicole Wheaton, Director of Appointments, Office of the Mayor; David Pilpel; and other unidentified members of the public.

MATERIALS DISTRIBUTED:

- Staff Memorandum re: Request for Waiver from member of Historical Preservation Commission, dated April 15, 2013;
- Waiver request from Mr. Pearlman, dated April 2, 2013;
- Letter from Mayor Ed Lee re: San Francisco Campaign and Governmental Conduct Code, Section 3.224 – Prohibition on Representing Private Parties Before Other City Officers and Employees – Compensated

Advocacy, dated April 8, 2013 and supporting document;

- Staff Memorandum re: Regulation re: CFRO Section 1.112 and draft regulations, dated March 20, 2013;
- Staff Memorandum re: Contracting for the Electronic Filing System, dated April 12, 2013;
- Draft minutes of the Commission's special meeting of April 1, 2013;
- Executive Director's Report.

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

None.

III. Discussion and possible action a request from Jonathan Pearlman and Mayor Lee for a waiver from Campaign and Governmental Conduct Code section 3.224 (compensated advocacy ban) on behalf of Mr. Pearlman, a licensed architect who occupies Seat 3, the architectural historian seat, on the Historic Preservation Commission (HPC), so that Mr. Pearlman may represent private parties before other City officers and employees while he serves on the HPC.

Jonathan Pearlman, HPC Commissioner, stated that he is a practicing architect in San Francisco. He stated that he is serving on the HPC and is quite honored that Mayor Lee appointed him and that the Board supported the appointment. He stated that he cares about San Francisco and its historic buildings. He stated that he has practiced for about 19 years and continues to work on projects throughout the City. He stated that about 70% of his business is within the City – part of his work is presenting plans to the Planning Department or continuing to work with staff of the Planning Department or the Department of Building Inspection. He stated that the firm had about seven people in the 2000s, but now only has about four. He stated that, for the most part, he and his staff do not appear before any commission or board, as most issues are handled administratively. He stated that he has one project that is up for consideration before a commission, which is the Alexandria Theatre project. He stated that he has been solely responsible for that project and there is a hearing scheduled later on that week. He stated that no one else at his firm may present the issues on behalf of his client. He stated that, in the future, he expects to have more staff so that they would be able to present a project before a board or commission. He requested a waiver so that he may continue his livelihood and be able to continue serving on the HPC.

Commissioner Hur asked what Mr. Pearlman would do if he were not granted the waiver. Mr. Pearlman stated that he would probably not serve on the HPC because of the possible potential conflicts in the future. He stated that he would recuse himself, if any matter he had worked on came before the HPC. He stated again that he did not expect many, if any, projects to be heard by a board or commission. He stated that the waiver related to work he would need to do with staff.

Chairperson Hayon asked him about the requirements for Seat 3 on HPC. Mr. Pearlman stated that there are historians that do not work in the field and there are architects who work in the field, but are not historians. Commissioner Renne asked whether any other person who sat in Seat 3 on HPC had sought a waiver. Mr. Pearlman stated that, since HPC was relatively new, there has only been one other person in the Seat. He stated that that individual did not seek a waiver because he worked at a large firm and never presented anything before a board or commission. He also stated that there may not have been that many projects that the former Commissioner's firm had in the City.

Commissioner Renne reminded Mr. Pearlman that he would not use his position to bring any kind of influence on the decisions made on behalf of his or his client's projects. Mr. Pearlman stated that he would be extremely sensitive to that and would find other individuals in his firm who would present before the board or commission. He stated that he would do everything he could to avoid any appearance of taking advantage of his position.

Nicole Wheaton, Director of Appointments for the Mayor's Office, stated that Mr. Pearlman's appointment was unanimously approved by the Board about a month ago. Commissioner Hur asked for the number of candidates. She stated that outreach for the position began at the end of last year and there was a 60-day window from January 1. She stated that the Mayor's Office reviewed between 25-30 candidates and narrowed it to three serious candidates. She stated that the waiver issue was discussed with Mr. Pearlman and would not have been necessary for the other two candidates.

Commissioner Hur asked what distinguished Mr. Pearlman from the other candidates. Ms. Wheaton stated that all of the candidates were fantastic, but what they liked about Mr. Pearlman was that he met all of the qualifications and his philosophy matched what the Mayor wanted to see. She stated that he was a small-business owner and that they were looking for someone with a pragmatic approach to historic preservation. She stated that he has experience in the City working on projects in the City and he has worked on smaller projects with residents and has first-hand experience with preservation. She stated that his approach towards preservation benefits the community now and into the future.

Motion 13-04-22-1 (Renne): Moved, but not seconded that the Commission grant the waiver.

Commissioner Hur stated that he would like to hear public comment first.

Public Comment:

David Pilpel spoke in support of the waiver. He stated that he has had concerns about the Commission granting waivers over time, but that this seat needs to be filled and calls for specific qualifications. He stated that it would have been helpful if the waiver request came sooner, as Mr. Pearlman has already been a part of two HPC meetings.

Executive Director St. Croix stated that the matter had been originally planned for the last meeting, but was postponed due to scheduling problems.

Chairperson Hayon stated that she was concerned about putting undue obstacles in the way of citizens in San Francisco who want to serve, especially when an area of special expertise is required. She stated that the Commission wants people to participate in the governmental process and should not make it more difficult or impossible to serve.

Commissioner Hur stated that he was struggling with the term "necessary" as it sounds like there were other qualified candidates. He stated that he is inclined to vote to allow the waiver because he also recognizes that, if the Commission does not grant the waiver, the Commission is essentially saying that a small-business owner would not be able to sit on a position like this. He did not agree with categorically eliminating an entire group of people from serving on this Commission. Chairperson Hayon agreed.

Motion 13-04-22-2 (Renne/Hur): Moved, seconded, and passed (3-0; Studley excused) that the Commission grant the waiver.

Mr. Pearlman thanked the Commissioners.

IV. Discussion and possible action on proposed Ethics Commission regulations to require signers of electronic campaign finance reports to file a completed Signature Verification Form with the Commission.

Steven Massey, Ethics Commission Information Technology Officer, stated that local agencies may now accept campaign finance statements in an electronic format, instead of paper. He stated that section 1.112 of the Campaign Finance Reform Ordinance was amended last year, approved by the Mayor and Board of Supervisors, and went into effect in March 2013. He stated that all statements must be signed under the penalty of perjury and that the staff memorandum explains how filers will be able to comply with the signature requirement. He stated that staff reviewed what has been proposed in other jurisdictions and staff decided that the filer should sign a signature card and then receive a filer ID and PIN code. He stated that the cards would only be completed once and would be sufficient for all filings filed with the Ethics Commission. He stated that San Diego developed a similar procedure that it began this year, but that the paper is faxed to the office. He stated that staff proposes that the person either sign the card in front of Ethics Commission staff or have the person get the signature card notarized.

Public Comment:

David Pilpel stated that he supported the proposal. He stated that many potential obstacles appear to be addressed by the notary requirement. He commented on the draft notice to committees and asked when staff would notify them of the change. He also stated that Mr. Massey is doing a good job.

Mr. Massey stated that the committees would be notified as soon as possible because they will need some time to complete the card, regardless of whether they will come into the Ethics Commission office. He stated that copies of an individual's ID would not be made or kept by Commission staff and that it would only be used to verify identity in person. Chairperson Hayon asked whether staff would begin the process, even though the Board may not approve the change. Executive Director St. Croix stated that the Board could stop the process, but then staff would just have signature cards.

Commissioner Hur asked whether Mr. Massey was aware of any issues about how San Diego or any other jurisdictions have had using this process. Mr. Massey stated that in San Diego, there is no way to verify who sent the form into the office and who signed it or who is receiving the PIN. He stated that staff would like to use the card for electronic filings for Forms 410 and 501 in the future. He stated that it is important to verify a filer's identity. Executive Director St. Croix stated that the Commission will monitor the process and decide if filers need to sign a new signature card again.

Mr. Massey stated that one of the reasons staff developed this signature card was to separate the candidate and treasurer, using a candidate-controlled committee as an example. He stated that each individual would be required to check in before the statement can be filed. He stated that a treasurer could complete a form, but the form would remain in a pending queue until the candidate confirmed the form as well.

Motion 13-04-22-3 (Hur/Renne): Moved, seconded, and passed (3-0; Studley excused) that the Commission approve the change to the CFRO regulation.

V. Discussion and possible action on Netfile contract.

Mr. Massey stated that the Commission has a contract with NetFile and it ends in September. He stated that the contracting process is lengthy. He stated that NetFile is the only vendor authorized by the Secretary of State. He stated that it is shared by over 20 cities and counties in the state, which has lowered maintenance

costs. Executive Director St. Croix stated that the City has a lot of requirements when it comes to contracts. Commissioner Hur thanked Mr. Massey for his hard work on this and on many other website issues. He stated that it does not appear that there are many viable alternatives. Executive Director St. Croix stated that there is no alternative, but if the Commission did not approve, then staff would try to come up with some alternative. He stated that NetFile's work with the City has helped them to make their product more desirable for other jurisdictions. He stated that staff is now asking for more developments and so costs will increase. Mr. Massey stated that the estimated cost will be less than \$120,000/year. Executive Director St. Croix stated that staff needs the Commission's approval in order to continue with the contract process with other departments.

Public Comment:

David Pilpel stated that the amount quoted is less than the fully loaded costs of a programmer. He stated that a new contract with NetFile is the best course of action.

Motion 13-04-22-4 (Renne/Hur): Moved, seconded, and passed (3-0; Studley excused) that the Commission endorse staff's proposal that contracting out is the most effective way to provide the electronic filing system that meets the needs of the Ethics Commission.

VI. Discussion and possible action on the minutes of the Commission's special meeting of April 1, 2013.

Public Comment:

David Pilpel stated that he found no errors.

Motion 13-04-22-5 (Hur/Renne): Moved, seconded, and passed (3-0; Studley excused) that the Commission approve the minutes of the Commission's special meeting of April 1, 2013.

VII. Discussion of the Executive Director's Report.

Executive Director St. Croix stated that the May meeting is scheduled on a City holiday, so it has been rescheduled for a special meeting at 5:30 PM on Thursday, May 30. He stated that the Commission plans on addressing the Budget & Legislative Analyst's report that it issued last year and that the discussion may take some time. He also attached a publicity piece from a company that chose to highlight the Commission's website and the use of the product.

Public Comment:

David Pilpel thanked staff for including information under section two about settlement agreements.

VIII. Items for future meetings.

None.

Public Comment:

None.

IX. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

None.

X. Adjournment.

Chairperson Hayon thanked staff about her first meeting as Chair and stated that it was the shortest meeting she had ever attended.

Motion 13-04-22-6 (Renne/Hur): Moved, seconded, and passed (3-0; Studley excused) that the Commission adjourn.

The meeting adjourned at 6:16 PM.

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ATTACHMENT 2

Ruchira D. Nageswaran
Senior Architect

99 Mississippi Street, Second Floor, San Francisco, CA 94107
415-986-2327

San Francisco Ethics Commission
25 Van Ness Avenue, #220
San Francisco, CA 94102

February 26, 2021

Re: Waiver Request: San Francisco Campaign and Governmental Conduct Code Section 3.224 – Prohibition on Representing Private Parties Before Other City Officers and Employees

Dear Commissioners:

I have been nominated by Mayor London Breed to serve as Commissioner in Seat 1, one of the historic architect seats, on the Historic Preservation Commission ("HPC"). Seat 1 must be filled by a licensed architect.

I am a California licensed architect and qualified under the Secretary of the Interior's Professional Qualifications Standards for architecture and historic architecture. I received a Bachelor of Architecture from the University of Notre Dame in 1996 and spent two semesters abroad studying classical architecture in Rome. I have also traveled abroad extensively since then, studying classical and traditional architecture forms in a variety of cultures. I have close to 25 years of experience practicing architecture and historic preservation, primarily in San Francisco. I have gained an in-depth understanding and appreciation for the relevant classical, traditional and vernacular architectural styles and historical contexts of San Francisco and the Bay Area at large. My portfolio of work includes residential, public, higher education, commercial and cultural sites.

I currently practice at Knapp Architects based in San Francisco; the firm provides full architectural services and specializes in historic preservation consultation and related architectural rehabilitation. The firm currently consists of myself and the firm founder and principal, Frederic Knapp. Our work has encompassed culturally significant Bay Area sites and educational institutions, including the Bayview Opera House, Kelly Cullen Community (Historic Central YMCA), the Presidio Theatre and projects for the University of California at Berkeley and Stanford University. Throughout my career, I have engaged in volunteer work related to and outside architecture including Habitat for Humanity, the AIA San Francisco mentorship program and the California Academy of Sciences. I have presented to the AIA Historic Resources Committee and California Preservation Foundation.

I am grateful for the opportunity to serve the City by helping HPC perform its critical role in preserving the rich and diverse history and architectural traditions of San Francisco.

As part of my work at Knapp Architects, I draft and sign drawings and submit them to City departments like the Planning Department and PUC. I also engage with the staff of such departments regarding our projects, addressing questions relating to our submissions and receiving feedback. I also prepare and submit Historic Resource Evaluations ("HREs"), requested by the Planning Department, on behalf of our clients. In general, I do not present before City commissions regarding our projects. Mr. Knapp typically takes on that role. However, I do assist in the preparation for these appearances and would like to retain the ability to personally appear before commissions that are likely to be relevant to our work, such as Planning, the PUC, and the Port Commission, and to appear before other commissions, other than HPC, in cases where Mr. Knapp is unavailable to do so. I have never personally presented to HPC or submitted written work directly to HPC.


I understand that local Campaign and Governmental Conduct Code Section 3.224 creates certain restrictions around compensated advocacy for city commissioners. I also understand that a waiver may be granted for a commission seat that requires a representative of a certain profession, such as an architect.

In light of my professional obligations to submit written reports, presentation materials, and drawings to certain City departments and my engagement with City staff regarding the projects underlying those submissions, I am respectfully asking that a waiver be granted allowing me to continue to perform these activities and fill Seat 1 on the HPC. I would also ask that the waiver allow for me to appear on behalf of clients before the Planning Commission, PUC and the Port Commission, and to appear before other City commissions, other than HPC, in cases where my colleague is unavailable. If a particular project of mine ever came before HPC in the future, I would, of course, abide by all applicable recusal procedures.

As a practitioner at a small firm aiming to continue my professional growth, the absence of a waiver could significantly impact my work and could eventually compel me to regretfully forego serving as a Commissioner.

Thank you for your kind attention to my request. Please let me know if I can provide any additional information useful to the Commission's decision.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Ruchira D. Nageswaran', with a stylized, flowing script.

Ruchira D. Nageswaran