

SFMTA Board- Legal Training

San Francisco City Attorney's Office

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Part I

Role of the SFMTA,
the SFMTA Board
and the Parking Authority



SFMTA Organizational History

- Under the 1932 Charter, Muni was part of the PUC. In 1993, a Charter Amendment created the Public Transportation Commission (PTC), incorporated into the 1996 Charter.
- Prop. E (1999) combined the PTC and the City's parking and traffic functions under a single agency, the SFMTA. Department of Parking and Traffic (DPT) officially merged into the SFMTA in 2002.
- Prop. A (2007) increased the SFMTA's autonomy, authorized the Agency to issue bonds and adopt parking and traffic regulations, provided a larger allocation of General Fund revenues, and authority to issue a two-year budget.
- In 2009, the SFMTA began taxi regulation.



SFMTA Exclusive Authority, Charter § 8A

- over acquisition, construction, management of its property, including its real, personal, and financial assets;
- over contracting, leasing, and purchasing for the Agency
- to adopt fares, fines and fees
- to enter into agreements for fare media
- to enter into joint arrangements with other public entities for the common use of transit facilities and for through-ticketing
- to legislatively adopt, and to enforce parking and traffic regulations
- applying for, accepting, and expending grants



Exclusive Jurisdiction is Broad, but also Limited by Charter

Examples:

- Agency must comply with ordinances of general application passed by Board of Supervisors
- Board of Supervisors has review of certain SFMTA decisions
- CEQA appeals go to Board of Supervisors



Role of the SFMTA Board

- Provide policy direction to the Agency
- Appoint/remove Director of Transportation and Secretary
- Approve settlements recommended by the City Attorney
- Approve fares, fines and fees
- Approve MTA Budget
- Approve contracts and collective bargaining agreements
- Inquire into any matter within the MTA's jurisdiction



SFMTA Board–Administrative Interference

- The MTA Board and individual members may seek information from the Director about MTA operations
- With approval from the Director, individual Board members may seek information from subordinate staff
- Dictation, suggestion, or interference by a Board member in the administrative affairs of the MTA, other than through the Director, is official misconduct



SFMTA Board-Power of Hearing & Inquiry

- Administrative Interference prohibition does not affect full Board's powers of hearing and inquiry
- Board can call any MTA officer or employee before the Board to answer questions regarding MTA operations



SFMTA Board - Approving Budget

- MTA must submit balanced 2-year budget to Mayor and Board of Supervisors by May 1 in even numbered years; In odd numbered years, MTA must submit a budget amendment only if it seeks increased appropriations, fare increases, or route abandonments
- Budget is approved by operation of law unless rejected by 7/11 vote of Board of Supervisors
- Requested increase in general fund spending over guaranteed base amount requires normal budget approval from Mayor and Board;
- With Board of Supervisors approval, MTA may incur debt secured by Agency revenues without voter approval



SFMTA Board - Policy Direction

- The Board sets policy for the Agency, consistent with City legislation, and gives direction to staff through the Director of Transportation
- Board can require the Director to obtain Board approval of specific actions. For example, the Board recently adopted a revised policy that sets parameters for DOT delegated authority.



SFMTA Board - Individual v. Board Action

- Board members must set policy and make decisions as a body
- Individual members cannot exercise the powers of the MTA Board
- Board may act only at a noticed meeting attended by a quorum of members and by means of a vote



Parking Authority- Creation and Governance

- Created in October 1949, the Parking Authority is a State agency serving a local function, governed by State law (Parking Law of 1949)
- PA is not a City department, and is not required to follow SF Charter
- Under its home rule Charter authority, the City can do everything the Parking Authority can do (and more)



Parking Authority- Purpose, History, and Status

- Parking Authority was created to finance parking garage construction to support the downtown commercial core
- Parking Authority Commission originally appointed by BOS, included representatives of downtown merchants; under Prop E, SFMTA Board members currently sit *ex officio* as the PA Commission
- Charter amendments that created Dept. of Parking and Traffic in 1987 and SFMTA in 1999 consolidated management of (then) 6 Parking Authority, 12 City-owned garages, and 22 lots, but Parking Authority staff continued to manage all parking facilities



Use of Parking Authority Properties

- State law requires the Parking Authority to use its properties for parking and limits developing or using properties for anything other than minor “related” ancillary activities, such as coffee and sundries shops
- SFMTA can develop non Parking Authority parking facilities for non-parking use, subject to Charter 9.118 (revenue contracts over \$1M; ground lease and development agreements with a term over 10 years)
- Board of Supervisors’ supermajority approval is required under State law to transfer Parking Authority properties to the SFMTA
- Moscone Center Garage and the Performing Arts Garage were transferred to the SFMTA in July 2017 to facilitate their development



Current Parking Authority Properties

The Parking Authority currently owns four parking garages:

- **North Beach Garage**, 735 Vallejo Street
- **Polk/Bush Garage**, 1399 Bush Street
- **San Francisco General Hospital Parking System**, 2500 24th Street
- **Lombard Street Garage**, 2055 Lombard Street



Part 2
Sunshine and Public
Records Requests

Our Sunshine Policy

The right of the people to know what their government and those acting on behalf of their government are doing is fundamental to **democracy**, and with very few exceptions, that right supersedes any other policy interest government officials may use to prevent public access to information. Only in rare and unusual circumstances does the public benefit from allowing the business of government to be conducted in secret, and those circumstances should be carefully and narrowly defined to prevent public officials from abusing their authority.
(San Francisco Administrative Code 67.1(d))



What's a Public Record

The term “public record” includes:

- any writing
- containing information relating to the conduct of the public's business
- prepared, owned, used, or retained by any state or local agency
- regardless of physical form or characteristics.

(Cal. Gov't Code 6252(e))



Exemptions

- Attorney client communications
- Attorney work product
- Some aspects of the competitive procurement process
- Some investigations
- Trade secrets
- Privacy
- Pending litigation
- Misc. other exemptions



“Writing” is broadly construed

- Includes any “handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile,” (Cal. Gov’t Code 6252(g))
- Includes e-mail attachments.
- **AND TEXT MESSAGES!**



Personal Electronic Devices

Case Law Catching up with new norms

(City of San Jose v. Superior Court)

- Holding: When a city employee or official uses a personal account to communicate about the conduct of public business, the writings may be subject to disclosure under the California Public Records Act
- Court emphasized 6 points in its decision.



1. Government employees cannot avoid disclosure under public records law by using personal electronic devices to create public records.

Government employees include officials

- **Communications include:** Emails you send or receive, Text messages you send or receive;
- **Personal electronic devices include:** Private email, telephone accounts, personal computers and cell phones

2. Only communications that relate to the conduct of the public's business are public records

3. Government employees and officials may be required to search their personal electronic devices and retrieve possible public records



4. Existing exemptions from disclosure apply to communications made using personal electronic devices (attorney-client privilege, personnel documents, privacy, etc.)
5. Existing records retention policies apply to communications made using personal electronic devices
 - No requirement to keep public records on personal electronic devices, May transfer public records to government-owned devices
6. A public records request may cover communications on personal electronic devices even if not expressly specified



Practice good e-mail and document etiquette

- DO: Be succinct
- DO: Be clear
- DO: Be professional
- DO: Communicate for City business only from designated accounts
- DO NOT: mix non work-related purposes in work-related e-mail or texts.
- DO NOT: express personal thoughts or opinions
- DO NOT: continue to forward long chains
- DO NOT: REPLY ALL with other Directors



Avoid this:

Embarrassing email



Your name here



And This . . .



Things to remember in 2021

1. Remember that your work in City Government is subject to Sunshine
2. Pause before pushing “send” or “reply all”
3. Practice good e-mail and document management etiquette
4. Call our Office with any questions





Questions