

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee Government Audit and Oversight

Date September 23, 2010

Board of Supervisors Meeting

Date October 5, 2010

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Completed by: LaTonia Stokes
Completed by: LaTonia Stokes

Date September 17, 2010
Date September 27, 2010

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1 [Board Response to the 2009-2010 Civil Grand Jury Report Entitled "Sharing the Roadway:
2 From Confrontation to Conversation"]

3 **Resolution responding to the Presiding Judge of the Superior Court on the findings**
4 **and recommendations contained in the 2009-2010 Civil Grand Jury Report entitled**
5 **"Sharing the Roadway: From Confrontation to Conversation" and urging the Mayor to**
6 **cause the implementation of accepted findings and recommendations through his/her**
7 **department heads and through the development of the annual budget.**

8
9 WHEREAS, Under California Penal Code Section 933 et seq., the Board of
10 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior
11 Court on the findings and recommendations contained in Civil Grand Jury Reports; and,

12 WHEREAS, In accordance with Penal Code Section 933.05(c), if a finding or
13 recommendation of the Civil Grand Jury addresses budgetary or personnel matters of a
14 county agency or a department headed by an elected officer, the agency or department head
15 and the Board of Supervisors shall respond if requested by the Civil Grand Jury, but the
16 response of the Board of Supervisors shall address only budgetary or personnel matters over
17 which it has some decision making authority; and,

18 WHEREAS, The 2009-2010 Civil Grand Jury Report entitled "Sharing the Roadway:
19 From Confrontation to Conversation" is on file with the Clerk of the Board of Supervisors in
20 File No. 100466, which is hereby declared to be a part of this resolution as if set forth fully
21 herein; and,

22 WHEREAS, The Civil Grand Jury has requested that the Board of Supervisors respond
23 to Finding Nos. 1, 2a, 2b, 2c, 2d, 3a, 3b, 3c, 3d, 3e, 3f, 3g, and 4, as well as Recommendation
24 Nos. 1, 2a, 2b, 2c, 2d, 3a, 3b, 3c, 3d, 3f, 3g, and 4, contained in the subject Civil Grand Jury
25 report; and,

1 WHEREAS, Finding No. 1 states: "Issues of conflict, anger, mistrust, and
2 misunderstanding exist among motorists, cyclists, and the police. Studies and reports of
3 attitudes indicate motorists and cyclists both exhibit negative attitudes, hostility, and lack of
4 understanding of each other's concerns;" and,

5 WHEREAS, Finding No. 2a states: "Availability of safe cycling educational materials in
6 many formats is extensive, yet there is no systematic distribution to non-cyclists, motorists,
7 and police;" and,

8 WHEREAS, Finding No. 2b states: "Police training materials are out-of-date and not
9 relevant. The San Francisco Bicycle Plan's goals, objectives, and actions do not include the
10 police. The California Commission on Peace Officer Standards and Training is a center for
11 information on training materials;" and,

12 WHEREAS, Finding No. 2c states: "Cyclists may not be aware of the advantages of
13 having liability insurance. Homeowners' insurance covers those cyclists who own a home;
14 renters' insurance (property and liability) provides coverage if one does not have
15 homeowner's insurance;" and,

16 WHEREAS, Finding No. 2d states: "Police involvement is critical to the success of the
17 Plan, yet their involvement has been minimal; the authors of the San Francisco Bicycle Plan
18 only included one officer (a member of the Technical Advisory Committee) among a group of
19 119 individuals listed under acknowledgements. Pedestrians, public transit riders, and
20 motorists were not represented;" and,

21 WHEREAS, Finding No. 3a states: "Traffic enforcement of the Traffic Code and
22 California Vehicle Code is often lax. The bicycle community, for the most part, desires
23 effective and consistent police enforcement. A campaign to publicize increased enforcement
24 could help make the city streets safer for all street users, including bicyclists, pedestrians, and
25 motorists. Equal enforcement of the law will help improve trust and general relations between

1 people using different types of transportation. Publicizing should also emphasize that
2 increased enforcement of bicycle and motorist laws related to bicycling is being
3 complemented by (and is important for supporting) the city's efforts to provide better bicycle
4 facilities and a more connected bicycle network through-out San Francisco;" and,

5 WHEREAS, Finding No. 3b states: "The San Francisco Bicycle Plan calls for increasing
6 San Francisco Police Department enforcement of motorist and bicyclist traffic violations that
7 pose the greatest threat to safety, and for San Francisco Municipal Transportation Agency to
8 provide bicycle safety education to SFPD staff and to those cited for moving violations that
9 focuses on safe cycling, relevant traffic laws and safe sharing of the road. The Plan
10 recommends that SFPD does the following: place a high priority on violations that most
11 frequently cause injuries and fatalities; develop a "fix-it" ticket program for equipment
12 violations; share data with SFMTA; and develop and implement a bicycle traffic school. The
13 police are requested or will be directed to implement these programs, yet they appear to be
14 the only group not included in the development of the Plan's Enforcement recommendations.
15 Not all moving violation citations get into the computer. Some tickets are dismissed due to
16 technicalities (e.g., no "bicycle" box on the ticket);" and,

17 WHEREAS, Finding No. 3c states: "Neither motorists nor cyclists receive many moving
18 violation citations. Enforcement of the Traffic Code and California Vehicle Code is weak.
19 Motorists receive 99:1 of the moving violation-citations. Police officers on average ticket a
20 bicyclist once a year and ticket a motorist every third day;" and,

21 WHEREAS, Finding No. 3d states: "Bicycling to work is at 2.9%, an increase of 0.2
22 over the prior year. The increase in violations (2008 to 2009) for riding on the sidewalk (7.6%)
23 and riding the wrong-way (2.1%) may be due to, in part, two variables: 1) increase in the
24 numbers of cyclists; and/or 2) failure to enforce the Traffic Code or California Vehicles Code,
25 which in turn, may give tacit approval to violate the codes;" and,

1 WHEREAS, Finding No. 3e states: "San Francisco does not require licensing bicycles
2 or cyclists. Administering the program would be expensive and enforcement would be
3 challenging. The usual reasons to support licensing are: theft prevention, accident victim
4 identification, and funds for bicycle programs;" and,

5 WHEREAS, Finding No. 3f states: "There is no Bicycle Traffic School/Court or "fix-it"
6 ticket option for cyclists. A Bicycle Traffic Court/School and a "fix-it" ticket program would
7 provide an opportunity for bicycle education, which will increase safety for all;" and,

8 WHEREAS, Finding No. 3g states: "Because of the frequent complaints made about
9 police by cyclists, the police are reluctant to cite cyclists. Members of the police department
10 have shared their frustration regarding the mixed messages they receive regarding ticket
11 enforcement and the lack of support they receive from the community. Police officers
12 comment that they "enforce the spirit of the law, not the letter of the law." The determining
13 factor in citing a motorist/bicycles is the severity or impact of the consequences of the
14 infraction. The police cite the power of the bicycle community, and the power they are
15 perceived to wield;" and,

16 WHEREAS, Finding No. 4 states: "The bicycle community views itself as engaging in a
17 low-impact activity, that cycling should be encouraged, and that any further financial
18 contribution would act as a deterrent and that cyclists pay their fair share through state and
19 local sales taxes. Most of the non-cycling community believe that cyclists do not pay a fair
20 share. While it is difficult to provide exact numbers to support or deny this claim, it is found
21 that some fees associated with cycling be considered. It would seem that some contribution,
22 even a nominal amount, would do something to reduce the tension regarding this strongly
23 held belief by non-cyclists. The primary objective of the Transit First Policy (TFP) is the safe
24 and efficient movement of people and goods. While public transportation, taxis, and vanpools
25 are viewed as an economically and environmentally sound alternative to the transportation by

1 individual automobiles, the TFP does not require one mode of transportation (e.g., automobile
2 or transit) to financially support all costs associated with road usage. San Francisco should
3 be careful not to pit one group against another. The TFP does not preclude bicyclists from
4 contributing to the cost of sharing the roadway. A nominal fee raised through "negative
5 registration" to encourage safety would most likely not be a deterrent to cycling. The data
6 collected should contribute to the Chief of Police's goal of relevant community safety and law
7 enforcement statistics. There is potential for perceived equity. A database is established, fees
8 are generated, and equity is addressed;" and,

9 WHEREAS, Recommendation No. 1 states: "Conflict, anger, mistrust and
10 misunderstanding among motorists, cyclists, police, transit riders, and pedestrians have
11 frustrated the successful implementation of the San Francisco Bicycle Plan. The Plan should
12 be amended to address the different and sometimes hostile attitudes and perceptions. San
13 Francisco should create innovative strategies so that residents can more fairly and safely
14 share the roadways of the City. Amending the Plan should be a priority and be completed by
15 January 1, 2011. The SFCGJ recommends that the Bicycle Advisory Committee, with active
16 input and cooperation from the SFMTA and the SFPD, amend the San Francisco Bicycle Plan
17 (the Plan) to include the recommendations set forth in this report. The amended Plan should
18 be presented to the Mayor and BOS for adoption by January 1, 2011. The SFCGJ
19 recommends that the BAC, SFMTA, and the SFPD meet annually;" and,

20 WHEREAS, Recommendation No. 2a states: "The Plan should be amended to include
21 a comprehensive program to distribute, to the public as well as cyclists, the extensive
22 available safe cycling educational materials;" and,

23 WHEREAS, Recommendation No. 2b states: "By January 1, 2011, Police should
24 update training materials related to bicycles in a joint effort with the bicycle community and the
25 California Commission on Peace Officer Standards and Training (POST). Updated materials

1 should include CVC and TC enforcement in alignment with the current SFMTA Bike Guide.
2 By January 1, 2011, the SFPD should have a plan to distribute these materials and train
3 officers;" and,

4 WHEREAS, Recommendation No. 2c states: "The Bicycle Plan should be amended by
5 January 1, 2011 to include the importance and availability of property, liability, and health
6 insurance for cyclists;" and,

7 WHEREAS, Recommendation No. 2d states: "The Plan should include the Police
8 Department, pedestrians, public transit riders and motorists in any further discussion or
9 revision. Representation should include at a minimum the Police Chief or his designee, and
10 at least two officers familiar with cycling issues on appropriate committees;" and,

11 WHEREAS, Recommendation No. 3a states: "The Plan should insist that all users of
12 the roadways comply with the current traffic laws. The Plan should consider a self-
13 enforcement campaign along with the current co-exist campaign. Motorists and cyclists need
14 to step-up to the plate to begin self-enforcement. The Plan should encourage and educate all
15 users to act responsibly;" and,

16 WHEREAS, Recommendation Nos. 3b, 3c, and 3d state: "Police should enforce the
17 Traffic Code and California Vehicle Code. Starting September 2010, the police should have a
18 goal of entering all bicycle citations into the database. By January 1, 2011, San Francisco
19 moving violation tickets should include a box for "bicycle." By January 1, 2011, COMSTAT
20 should include a section for bicycle related data;" and,

21 WHEREAS, Recommendation No. 3f states: "By January 1, 2011, the Traffic Court
22 should establish a Bicycle Court Traffic School option, as a tool for education, patterned on
23 Traffic Schools currently in use, for when bicyclists (and motorists with bicycle-related
24 infractions) have been cited for moving violations. Such sessions will be scheduled at least
25

1 once each quarter. The Traffic Court should consult with the BAC in the development of the
2 Bicycle Court option;" and,

3 WHEREAS, Recommendation No. 3g states: "There should be an overall citywide
4 policy about how the existing CVC and TC codes will be implemented so police have the
5 direction and support they seek and deserve;" and,

6 WHEREAS, Recommendation No. 4 states: "The city should consider a form of
7 "negative registration" to capture names and other pertinent data about cyclists who are
8 ticketed by SFPD for moving or equipment violations or otherwise involved in traffic accidents
9 where the cyclist is cited at fault. The cyclist should be required to appear at a "bicycle court"
10 where proscribed safety education would be required. The format of the court, including a
11 cycle friendly venue such as a ride-up location, and an educational curriculum should be
12 provided through collaboration among SFPD bicycle officers, the Bicycle Coalition and other
13 cycling advocates. Notices to Appear, if ignored, should be pursued through SFPD and the
14 courts;" and,

15 WHEREAS, in accordance with Penal Code Section 933.05(c), the Board of
16 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior
17 Court on Finding Nos. 1, 2a, 2b, 2c, 2d, 3a, 3b, 3c, 3d, 3e, 3f, 3g, and 4, as well as
18 Recommendation Nos. 1, 2a, 2b, 2c, 2d, 3a, 3b, 3c, 3d, 3f, 3g, and 4, contained in the subject
19 Civil Grand Jury report; now, therefore, be it

20 RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the
21 Superior Court that it incorporates and adopts as its own the response of the Mayor on
22 Finding No. 1 of the 2009-2010 Civil Grand Jury Report Entitled "Sharing the Roadway: From
23 Confrontation to Conversation"; and, be it

24 FURTHER RESOLVED, That the Board of Supervisors partially disagrees with
25 Recommendation No. 1 because while the Bicycle Plan should not be amended, more

1 coordination should exist between the Bicycle Advisory Committee, the Municipal
2 Transportation Agency, and the Police Department; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors, partially agrees with Finding
4 No. 2a because while educational materials exist and are widely distributed, they are not
5 systematically distributed equally among the various groups who use the roadways. The
6 Board of Supervisors also finds that educational efforts should include, in addition to
7 educational materials, other forms of education; and, be it

8 FURTHER RESOLVED, That the Board of Supervisors disagrees with
9 Recommendation No. 2a because the Bicycle Plan should not be amended; however,
10 improvements to an overall education program, which includes educational materials and
11 other forms of education, can be created and implemented without amending the Bicycle
12 Plan; and, be it

13 FURTHER RESOLVED, That the Board of Supervisors incorporates and adopts as its
14 own the response of the Police Department on Finding No. 2b; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors incorporates and adopts as its
16 own the response of the Police Department on Recommendation No. 2b; and, be it

17 FURTHER RESOLVED, That the Board of Supervisors agrees with Finding No. 2c;
18 and, be it

19 FURTHER RESOLVED, That the Board of Supervisors disagrees with
20 Recommendation No. 2c because, the Departments can work to provide information to
21 bicyclists regarding the advantages of having insurance without amending the Bicycle Plan by
22 January 1, 2011; however, the Bicycle Plan should be amended at the next scheduled
23 revision of the Plan to include the education of cyclists on the advantages of bicycle
24 insurance; and, be it
25

1 FURTHER RESOLVED, That the Board of Supervisors incorporates and adopts as its
2 own the response of the Municipal Transportation Agency on Finding No. 2d, and additionally
3 responds that police officers experienced in traffic safety and bicycle safety should be more
4 fully utilized in the development of policy, and that future scheduled revisions of the Bicycle
5 Plan should include additional input from pedestrians and the Police Department; and, be it

6 FURTHER RESOLVED, That the Board of Supervisors partially agrees with
7 Recommendation No. 2d, because the Police Department should have discretion to determine
8 what amount of representation is necessary to provide full involvement by the Police
9 Department; and, be it

10 FURTHER RESOLVED, That the Board of Supervisors incorporates and adopts as its
11 own the response of the Police Department for Finding No. 3a; and, be it

12 FURTHER RESOLVED, That the Board of Supervisors incorporates and adopts as its
13 own the response of the Police Department for Recommendation No. 3a; and, be it

14 FURTHER RESOLVED, That the Board of Supervisors incorporates and adopts as its
15 own the response of the Police Department for Finding No. 3b; and, be it

16 FURTHER RESOLVED, That the Board of Supervisors, in response to
17 Recommendation Nos. 3b, 3c, and 3d incorporates and adopts as its own the response of the
18 Police Department for Recommendation No. 3b; and, be it

19 FURTHER RESOLVED, That the Board of Supervisors finds that Finding No. 3c
20 requires further analysis including information regarding the amount of violations which do not
21 result in citations and the data source used by the Civil Grand Jury to develop this Finding;
22 and, be it

23 FURTHER RESOLVED, That the Board of Supervisors partially disagrees with Finding
24 No. 3d, because there is no solid data as to why people break the law and there is no direct
25 connection between the increased number of cyclists and the violations which occur; however

1 the Police Department should work to ensure full compliance with traffic law, and future
2 enforcement policy should emphasize education and the safety of all road users including
3 pedestrians; and, be it

4 FURTHER RESOLVED, That the Board of Supervisors agrees with Finding No. 3f;
5 and, be it

6 FURTHER RESOLVED, That the Board of Supervisors incorporates and adopts as its
7 own the response of the Mayor for Recommendation No. 3f; and, be it

8 FURTHER RESOLVED, That the Board of Supervisors partially agrees with Finding
9 No. 3g because there might be other reasons that the Police Officers may or may not be citing
10 cyclists; and, be it

11 FURTHER RESOLVED, That the Board of Supervisors incorporates and adopts as its
12 own the response of the Bicycle Advisory Committee for Recommendation No. 3g; and, be it

13 FURTHER RESOLVED, That the Board of Supervisors partially disagrees with Finding
14 No. 4 because while the Transit First Policy of the City does not require one mode of
15 transportation to financially support all costs associated with road usage, a fee charged to
16 cyclists under a negative registration who violate the traffic code would likely be a deterrent to
17 cycling; and, be it

18 FURTHER RESOLVED, That the Board of Supervisors incorporates and adopts as its
19 own the response of the Mayor for Recommendation No. 4; and, be it

20 FURTHER RESOLVED, That the Board of Supervisors urges the Mayor to cause the
21 implementation of accepted findings and recommendations through his/her department heads
22 and through the development of the annual budget.