From: Hernandez, Melissa G (BOS)
To: BOS Legislation, (BOS)
Subject: FW: More Unconditional Pay Raises for SFPOA? - Item #80, Meeting of June 7, 2022 (#220594)
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Can you add this to the file for Item 80? Thanks!

From: John Crew <johnmikecrew@gmail.com>
Sent: Tuesday, June 07, 2022 1:23 PM
To: Walton, Shamann (BOS) <shamann.walton@sfgov.org>; Preston, Dean (BOS) <dean.preston@sfgov.org>; Mandelman, Rafael (BOS) <rafael.mandelman@sfgov.org>; ChanStaff (BOS) <chanstaff@sfgov.org>; Stefani, Catherine (BOS) <catherine.stefani@sfgov.org>; Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Mar, Gordon (BOS) <gordon.mar@sfgov.org>; Ronen, Hillary <hillary.ronen@sfgov.org>; MelgarStaff (BOS) <melgarstaff@sfgov.org>; DorseyStaff (BOS) <DorseyStaff@sfgov.org>
Cc: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; SFPD, Commission (POL) <SFPD.Commission@sfgov.org>; Carter-Oberstone, Max (POL) <max.carter-oberstone@sfgov.org>; James Byrne <jbyrne@byrne-law.net>; J.Gabriel Yanez <elxchui@gmail.com>; Elias, Cindy (POL) <cindy.elias@sfgov.org>; Kevin Benedicto <kevin.benedicto@outlook.com>; Knight, Heather <hknight@sfchronicle.com>; Hernandez, Melissa G (BOS) <melissa.g.hernandez@sfgov.org>
Subject: More Unconditional Pay Raises for SFPOA? - Item #80, Meeting of June 7, 2022 (#220594)

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Dear Supervisors,

I learned yesterday that an item misleadingly described simply as an amendment to an existing MOU with the SFPOA to merely "restore.. a deferred one-percent (1%) base wage increase" ***actually*** involves a ***far more consequential*** elimination of the "step one" starting salary level for police officers and provides ***new*** significant salary increases for all police officers at the prior step one, two and three levels as well as increased retention pay incentives. Upon learning this, I viewed the recent GAO Committee discussion where this failure to accurately describe this item was briefly discussed. No explanation was provided for publicly noticing this in a manner that so fundamentally misleads the public, the press and the Board. No one seemed to know who made that decision or why it was made.

Putting aside the Brown Act implications for a moment (since it's premature to demand a "cure and correction" when the Board has not yet taken action on this item), please consider the much larger implications of suddenly increasing the salary levels for the first three levels of police officer salaries and increasing retention pay incentives with ***no meaningful public notice or discussion*** --

- The City will have, once again, awarded significant financial rewards to the SFPOA without obtaining or seemingly even discussing the quite obvious and on-going need to obtain reform-related concessions and enhanced performance-related guarantees in return.

- DHR Director Isen indicated during the GAO hearing that negotiations on a new MOU would begin next month. The starting point for those upcoming negotiations will be ***after*** the City has already locked in the salary increases for the first three levels with this amendment (if approved) -- thus giving away key leverage the City could use to seek and obtain greater cooperation from the SFPOA on reforms and on the need for more diligent and consistent job performance ... ***before*** the talks with the SFPOA even begin!

- To the best of my knowledge, there has been no hearing and no public discussion at either the Police Commission or the Board of Supervisors -- (which has spent significant time in public hearings pushing and prodding the SFPD to make more progress and to show more urgency on still-not-addressed reforms that would, in particular, start to drive down SFPD's quite extreme and persistent racial disparities) -- about the need and opportunity for the City to use its leverage in MOU-related discussions with the SFPOA to actually pursue the reform-agenda that is allegedly a top priority in this City. Given the role of the SFPOA, why does the City continue to allow DHR treat the MOU with the SFPOA as though it's a one-way street -- where it's entirely about what we provide ***to*** their members with no consideration at all (much less action) on what the City needs, expects and has a right to get ***from*** SFPOA members in return?

- Giving an unconditional pay raise for the first three salary levels at this particular moment is bizarrely disconnected from the relentless series of stories, anecdotes and studies about too many San Francisco police officers simply refusing to do their jobs.. lying to the public about what the elected District Attorney allegedly would or would not do.. openly committing criminal and administratively prohibited acts of neglect of duty.. producing very low arrest and clearance rates compared to comparable jurisdiction.. skyrocketing levels of "neglect of duty" complaints filed by a deeply frustrated public with the Department of Police Accountability.. causing a leading *San Francisco Chronicle* columnist to recently dub them the "do little police." This certainly does not describe all SFPOA members and maybe not even most of them. But to deny this has been a major problem is to deny reality. I have no objection to generous compensation packages for police officers. I do object to any group of public employees -- regardless of their role or political connections -- taking that compensation and yet being consistently allowed to not actually perform the basic duties they're expected and required to perform. That's corruption. When the City rewards this.. when DHR fails to use the leverage it has with the SFPOA during MOU talks involving compensation levels to put a stop to this.. when the Board rubber-stamps (over and over and over) unconditional pay raises notwithstanding this... that's enabling the corruption and the too often shockingly poor levels of response and performance from SFPD. We're already paying top dollar for what ***should be*** highly professional, community-oriented, as non-violent as possible, racially equitable and effective policing services. Do you really think your constituents are getting that.. or that SFPOA plays no role in and shares no responsibility for the quality of policing in San Francisco?

- The proposed stepped-up salary levels and increase in retention bonuses have been framed as being necessary for SFPD to remain competitive in its recruitment efforts and to deal with officers retiring and leaving the SFPD to work for other law enforcement agencies (so-called

"lateral transfers"). Yet, it appears those broad claims have received no critical scrutiny.. at least not in public. SFPD management did not attend the GAO hearing and DHR has shown little track record of pushing back against the often exaggerated claims and self-serving assumptions behind the SFPOA's and SFPD's rationales related to budgeting and compensation levels. The realities behind the challenges facing police hiring and retention in this moment -- nationally, not just in San Francisco -- are far more complex and involve (A) larger societal changes after two years of covid involving major shifts in "work/life" calculations for employees that have created recruitment and retention challenges in a wide variety of industries; (B) resistance to public demands for police reform (leading to an increase in retirements and transfers to smaller, less reform-oriented agencies); and, (C) coordinated messaging and political strategies among big city police unions seeking to spiral up salary levels in the guise of needing to "remain competitive."

This current attempt to avoid meaningful public scrutiny of unconditional pay raises for the SFPOA -- to keep the SFPOA MOUs needlessly (and disastrously) compartmentalized far away from the SFPD reform process and to treat the topic of compensation as though it should have nothing at all to do with the SFPOA ensuring their members actually perform their duties -- is now part of a well-established pattern. The Board has repeatedly expressed concern about this self-sabotaging practice in the past but the only reason it continues is because Board inaction has allowed it to continue.

In 2018, a community coalition, called "No Justice, No Deal" pressed the City to seek reform concessions the SFPOA during MOU negotiations. The GAO Committee held a major public hearing on the topic with then-Supervisor Breed commenting at the time -- "We are definitely committed to the reforms and committed to making sure that we will ***embed in the contract*** specifically what we can as it relates to how we can make this work to address many of the concerns that have been addressed here today." The result was DHR seeking an important reform-related concession in an unprecedented public arbitration proceeding featuring community testimony. The arbitrator ultimately felt he should not impose this condition but nonetheless went out his way in his ruling to "encourage the parties to continue to discuss ways to mutually expedite the adoption of the DOJ proposals." Yet, four years later, the Police Commission is ***still*** bogged down in "meet and confer" sessions with the SFPOA on policy issues that cause unconscionable delays, are seemingly legally-unnecessary and that, even if they were arguably-required, the City took the position four years ago ***could and should*** be waived by the SFPOA in exchange for negotiated pay raises. Why has that demand been abandoned? The Board certainly didn't approve that. The Police Commission was never asked.

Just 18 months ago, the City faced the same situation but DHR inexplicably failed to seek that concession from the SFPOA after a secretive MOU process -- with no public scrutiny and no Board input this time -- but the Board in the position of having a fiscal gun put to its head with another deal with SFPOA that allegedly needed to be immediately approved. Again, the Bar Associations of San Francisco and members of the pubic objected and a number of Board members reluctantly approved the deal while publicly criticizing the process that had "squandered the opportunity" to speed reforms. Supervisor Ronen commented, "The pace of reform in San Francisco is far too slow. And the Department of Human Resources is simply not doing its job and using its power to advance reforms." She introduced legislation that would require at least some basic level of transparency around DHR's negotiations with SFPOPA which, to date, has not been enacted. But without that

legislation.. without further proactive direction to DHR from the Board... here we are yet again in the exact same situation with DHR asking the Board to approve unconditional pay hikes for the SFPOA -- on a "take it or leave it" basis.. which will have the effect of unilaterally forfeiting the City's primary source of leverage in upcoming MOU negotiations with the SFPOA next month .. which will once again play out in secret, with no prior input from the Board, Police Commission or public.

That's not how cities that are serious about reform, equitable policing and ensuring high quality, responsive public safety services for the public carry out contract negotiations with their police unions. Not anymore. It's not what big city police chiefs -- including Chief Scott -- were calling for just two years ago. In 2018, DHR told an arbitrator that speedy implementation of the USDOJ COPS reforms was an "essential objective" of the City that could and should be pursued (through selective waivers of meet and confer rights negotiated in exchange for compensation hikes) through the MOU. Yet, four years later, the extreme racial disparities highlighted in that report remain as horrific as ever with key reforms that ***would*** more effectively address them delayed or resisted by the SFPOA. Two examples --

1. The 2016 USDOJ report -- like the 2008 Police Executives Research Forum (PERF) comprehensive assessment of the SFPD had as well -- blasted SFPD's failure to fully implement its Early Intervention System (EIS) designed to track well-known markers of possibly problematic officer behavior. Two years ago, Mayor Breed's "Roadmap for New Police Reforms" echoed promises made by Mayor Newsom about finally and fully implementing EIS. Yet a few months ago, when questioned about the racial disparities during a Board hearing, Chief Scott expressed hope EIS would positively impact the problem if it could be fully implemented by the end of the year! The SFPD's on-going failure to implement EIS (pg 9 -10 of pdf) has always traced back to internal resistance to it. Before awarding any additional pay raises, the City should at least seek SFPOA's support for the program and obtain a waiver of any of additional meet and confer claims that will inevitably further delay its implementation.

2. The Police Commission is finally poised to consider a long-recommended ban on pretext stops after years other cities have taken similar steps and many years of research nationwide confirming the ineffectiveness of the tactic and identifying it as a clear driver of racial profiling. Already and true to form, the SFPOA has already publicly suggested they will oppose the change. The SFPOA ***should*** make their views known and advocate for their position on an equal basis with others ***in public*** during the Police Commission's process for considering these issues. There is no reason any reform or policy change on this topic should be delayed by secretive "meet and confer" sessions with the SFPOA -- especially with these disparities persisting for so very long and in the absence of any proposal at all from the SFPOA for addressing them. If San Francisco is serious about dealing with these racial disparities, it would not award pay raises to the SFPOA without a waiver of any theoretical claim about "meet and confer" rights over pretext stop policies.

Before the Board accepts the notion that it must sacrifice reform and performance goals that could and should be pursued in exchange for any pay hikes in order to quickly boost salary levels and retention bonuses in the name of "remaining competitive" with other agencies, it should at least pause to ask a few questions first. For example, of the SFPD members who, in recent years, have left SFPD to accept positions with other agencies, what portion of them have done so seeking better

compensation? If a significant portion of them have left to accept positions with smaller agencies less likely to be under pressure currently to reform and/or that do not have vaccine mandates, and for lower compensation and benefit packages, the DHR-proposed higher salaries and increased retention bonuses will have much less (if any) impact on the problem than seems to be the assumption. What consideration, if any, has been given by DHR to the big city police unions working in concert with one another o try pit cities against one another in their campaign to boost compensation for all? (Are they even aware of that reality?) A few years ago when now-convicted family abuser Nate Ballard was working for them, the SFPOA joined with a number of other politically-aggressive police groups to form UCOPS (United Coalition of Public Safety) to coordinate messaging and political strategy -- an organization whose address remains the SFPOA headquarters. The same "competitiveness" arguments being floated for the unconditional pay raises in San Francisco are being raised in other cities with UCOPS police unions. What makes DHR think these pay hikes will actually serve the SFPD's retention and recruitment goals more than UCOPS police union political goal of pitting cities against one another?

Thank you for considering my views.

John Crew
(415) 793-4146

cc. Members, San Francisco Police Commission
San Francisco Police Commission Office
Heather Knight, *San Francisco Chronicle*