



September 9, 2011

The Honorable Katherine Feinstein
Presiding Judge
Superior Court of California, County of San Francisco
400 McAllister Street
San Francisco, CA 94102

Dear Judge Feinstein:

The following is in response to the 2010-2011 Civil Grand Jury report, "Continuity Reports Reviewing the State of Prior Recommendations."

The Mayor's Office response to the Civil Grand Jury's findings and recommendations are as follows:

San Francisco Pension Reports Update

Finding 1: The City is relying on the Mayor's pension reform proposal that will, hopefully, appear on the November 2011 ballot to address the City's health care plan's unfunded liability. However, as presently written the higher contribution rates mandated in the measure would only apply to employees hired after January 2009. Higher contributions for the majority of City workers hired before January 2009 do not take effect until 2016-2017. Therefore, the measure will not begin to have a meaningful impact on the City's health care costs for several years.

Response: Partially Disagree. I do not agree with the Civil Grand Jury that we will not see any meaningful impact from the consensus measure (Proposition C) on the November 2011 ballot. As a preliminary matter, the Board of Supervisors unanimously approved the Mayor's pension reform proposal, so it will appear on the November 2011 ballot. While the increased employee contributions to the City's unfunded health care liability will take effect in 2016, there will be more immediate meaningful impacts in other ways.

First, the measure clarifies that the City may bargain with the labor organizations to raise employee contributions to the Retiree Health Care Trust Fund earlier than mandated, and to levels greater than the minimums in the Charter measure, and that the increased contributions can also be awarded to the City through arbitration. Second, the measure will change the composition of the Health Service System Board so that the number of member-appointed Board members and City-appointed Board members will be equal, with the Controller's appointee to the Board potentially acting as a tie-breaking vote. This should create a more balanced decision-making body that will likely make more cost-effective decisions regarding the City's health service options. The measure also clarifies language in the Charter to allow the Health Service System Board more flexibility to choose health plans at lower costs.

Third, the ballot measure will limit the costly retiree health care benefits for former employees who have left City service, but who have not yet retired, to those benefits in place at the time they left City

employment. Finally, the measure will raise the minimum retirement age for miscellaneous employees, and raise the age at which all employees can earn their maximum pension benefit, which will lower retiree health care costs by extending the careers of healthy City employees.

Finding 2: A number of employees in the Fire Department and to a lesser extent the Police and other departments continue to receive annual salary increases in excess of 10% in at least one of the three years before they retire. This leads to a deficit in the City's retirement system account, which is calculated on an anticipated 4.5% annual salary increase. It also unfairly spreads the costs of pension spiking to other departments that do not engage in this practice.

Response: Partially Disagree. As the San Francisco Employees' Retirement System (SFERS) stated in its July 14, 2011 response, its actuary currently takes the safety salary increases in the last working year into account when preparing its annual valuation reports and takes that into account when determining the liability associated with those increases. As previously stated in the City's response to this report, we disagree that pension spiking is occurring. I would welcome data and information from the Civil Grand Jury to identify instances of pension spiking.

Recommendation 1: Until such time as the retirees health trust fund can cover the expense, the Controller, the Mayor and the Board of Supervisors' Budget and Finance Committee should develop a temporary remedy to the Other Post Employment Benefits unfunded liability, until the retiree health trust fund can cover the expense, in order to reduce its negative impact on funding levels for other city programs.

Response: Disagree; Will Not be Implemented. This recommendation is not warranted, and would require massive set-asides of City funds, to the detriment of needed City services. San Francisco's approach of requiring pre-funding for new employees, and legislating or negotiating increased employee contributions over time, is more realistic given our economic constraints and obligations.

Recommendation 2: The City should implement changes as to how salary increases are currently granted to employees within at least three years of their retirement. Changes would increase a review of all salary increases in excess of actuarial estimates (currently 4.5%) within 3 years of full retirement age, including temporary assignments. This review should be performed by the Office of the Controller and the San Francisco Employee Retirement System's Actuarial and would identify the additional funds needed by the pension system to support the higher salary. The employee's department would then transfer the additional pension liability arising from the promotion to the Retirement System.

Response: Disagree; Will Not be Implemented. This recommendation is not warranted. SFERS directs its actuaries to perform actuarial studies as required based on the Charter. SFERS' actuary already takes into account the final year safety salary increases into account when determining actuarial liability and funding. The recommendation is also impossible to implement: while we can attempt to predict retirement rates, employees have the individual right to determine when they will retire. To attempt to withhold or divert wage increases from employees approaching retirement age may well violate age discrimination laws. Finally, such an action would impair the City's ability to comply with its collective bargaining obligations pursuant to state law (the Meyers-Milias-Brown Act).

Parking for the Disabled – Abuse or Over-use?

Finding 2: In March 2007 Ordinance File No. 070406 would have set up a review panel. However, in November 2007 this piece of legislation died without a single hearing. The City Attorney advised that under the City's Charter the SFMTA has the authority to establish an independent review panel, but it has not done so.

Response: Agree. The San Francisco Municipal Transportation Agency (SFMTA) has indicated that while it may establish an independent review panel, that it will not do so because it would prove ineffective to combat the issue of disabled placard abuse. A more meaningful response to this issue is to push for a change to state law that would then allow cities and counties to enact local legislation to curb disabled placard abuse.

Finding 4: Since 2007 the SFMTA expressed support for initiating legislative hearings to update the laws governing the issuance of disabled placards with the aim of curtailing abuse. The SFMTA neglected to act and abandoned earlier initiatives to establish a review panel, upgrade DMV's disabled placard database, and investigate health care providers who authorize disabled placards. An estimated annual loss of over \$8 million results from SFMTA taking no action.

Response: Partially Disagree. The SFMTA determined that a review panel was not an effective method to address the disabled placard abuse issue. The SFMTA is currently looking to find a state sponsor to change state law to allow more flexibility for cities and counties to better manage accessible parking.

Finding 6: In combating disabled placard abuse, the DPT follows an overly restrictive enforcement protocol. Enforcement has become unnecessarily cumbersome, expensive and ultimately ineffective.

Response: Agree. The enforcement of disabled placards is a labor-intensive and time-consuming process and expensive process. The SFMTA believes that additional enforcement can reduce disabled placard abuse. The SFMTA is currently working on plans to remove the financial incentives to disabled placard abuse.

Recommendation 1: The Board of Supervisors and Mayor should work to establish an independent review panel. If the Board of Supervisors does not act, the Mayor should request the SFMTA Board of Directors to authorize an independent review panel. The panel should include at least one qualified physician or medical authority as specified in CVC Section 25551.58. The panel should have adequate statistical and clerical staff. The panel should be empowered to hold open hearings and make its findings available to the general public.

Response: Disagree; Will Not be implemented. While I agree that the City should address any abuse of the use of disabled placards, I agree with the SFMTA that it is more effective to change state law in order to allow cities and counties to pursue local solutions to this problem. If we could enact this change, the City and County of San Francisco could then move forward legislation to address this issue.

While the City Attorney did state that the SFMTA could create an independent review panel, the SFMTA stated in its response that a panel would be ineffective as it would fail to address the financial

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incentive to misuse placards. I will work with the SFMTA to look at ways to address this problem by better managing accessible parking and pushing to change state law.

Recommendation 2: The Mayor should urge the SFMTA board to initiate dialogue with other state counties in California to urge their State Legislative delegations to review current laws pertaining to disabled parking placards. The objective is to bring current regulations into line with those existing in other states, including the automatic exemption from posted time limits and paying parking meter fees.

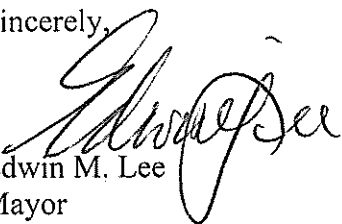
Response: Agree; Will be Implemented. The SFMTA has stated in its own response that it intends to conduct outreach and find a state legislative sponsor to carry a bill to address the disabled placard issue. I will work with the SFMTA to work with our partners in Sacramento as well as other cities and counties to push for a change in state law.

Recommendation 3: The Mayor should urge the SFMTA Board of Directors to instruct the DPT to modify enforcement protocol with respect to the misuse of disabled placards and initiate a more vigorous approach involving all PCOs as permitted under CVC Section 22511.56. Serious consideration should also be given to enlisting the SFPD in an effort to combat disabled parking abuse.

Response: Disagree; Will Not be Implemented. In a time of scarce resources and many competing responsibilities, I agree with the SFMTA that a more effective method to deal with the misuse of disabled placards is to remove the financial incentives to misusing placards. The SFMTA has provided the Civil Grand Jury with several methods to remove the financial incentives, which I am also attaching to my response. With respect to the use of the San Francisco Police Department resources to combat disabled parking abuse, I do not believe that at this time it is appropriate to take our police officers away from combating violent crime in order to prevent parking abuse.

Thank you again for the opportunity to comment on this Civil Grand Jury report.

Sincerely,



Edwin M. Lee
Mayor