

# CONTINUITY REPORTS

## REVIEWING THE STATE OF PRIOR RECOMMENDATIONS

PENSION REPORTS 2009-2010 2008-2009	PAGE 1
CITIZENS' GENERAL OBLIGATION BOND OVERSIGHT COMMITTEE 2007-2008	PAGE 12
ELECTION ISSUES 2007-2008	PAGE 14
DISABLED PARKING PLACARDS 2006-2007	PAGE 20
RISK MANAGEMENT 2006-2007	PAGE 33



CIVIL GRAND JURY  
CITY AND COUNTY OF SAN FRANCISCO  
2010-2011

## THE CIVIL GRAND JURY

The Civil Grand Jury is a government oversight panel of volunteers who serve for one year. It makes findings and recommendations resulting from its investigations.

Reports of the Civil Grand Jury do not identify individuals by name.  
Disclosure of Information about individuals interviewed by the jury is prohibited.  
California Penal Code, section 929

## STATE LAW REQUIREMENT California Penal Code, section 933.05

Each published report includes a list of those public entities that are required to respond to the Presiding Judge of the Superior Court within 60 to 90 days as specified. A copy must be sent to the Board of Supervisors. All responses are made available to the public.

For each finding the response must:

- 1) agree with the finding, or
- 2) disagree with it, wholly or partially, and explain why.

As to each recommendation the responding party must report that:

- 1) the recommendation has been implemented, with a summary explanation; or
- 2) the recommendation has not been implemented but will be within a set timeframe as provided: or
- 3) the recommendation requires further analysis. The officer or agency head must define what additional study is needed. The Grand Jury expects a progress report within six months; or
- 4) the recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

# SAN FRANCISCO PENSION REPORTS UPDATE

## INTRODUCTION

The 2008-2009 and 2009-2010 San Francisco Civil Grand Jury (the Jury) examined the San Francisco Retirement system. These investigations resulted in two different reports. The first entitled Pensions Beyond Our Ability to Pay<sup>i</sup> was published in 2009. The second, Pension Tsunami: The Billion Dollar Bubble<sup>ii</sup> appeared in 2010. Both reports resulted in a number of recommendations.

The 2010-2011 Civil Grand Jury, primarily through review of published documents and updated data analysis, provides updates on two of the recommendations from the 2008-2009 Pensions Beyond Our Ability to Pay report. These are:

2.2.2. Pension Spiking should be prohibited altogether as an unfair and costly practice that benefits no one except for the retiring employee.

2.2.5. The Office of the Controller, Treasurer, and Executive Director of SFERS propose a long-term solution to the OPEB \$4 billion unfunded liability that will ensure a pre-funding alternative that will begin in the near term.

## DISCUSSION

### Recommendation 2.2.2

Pension spiking occurs when an employee's final compensation is increased before retiring, causing an increase the pension amount. In the prior report the Jury defined it as an increase of 10% or greater in a single year. Large salary increases associated with spiking are mainly a function of promotions being granted to an employee shortly before their retirement.

Responses to the Jury's recommendations can be found in Appendix A below.

In summary, the Board of Supervisors supported the implementation of the Jury's findings and recommendations through department heads and the development of the annual budget.

The Controller's Office, agreeing that "pension spiking" is unfair and costly, stated that it should be prevented through controls on assignments, pay and retirement calculations. This should control the risk of "spiking" and ensure that City employees are appropriately compensated and their pensions are determined in accordance with all applicable codes.

The Fire Department claimed that, "Pension spiking has not occurred in the San Francisco Fire Department."

The Police Department stated it did not countenance, nor was it aware of "any practice which is violative of existing law or contrary to the provisions of the Charter: Pensions are governed by the provisions of the City Charter and overseen by the San Francisco Employees Retirement System."

The 2010-2011 Civil Grand Jury requested an update of the pension records for Police, Fire Department and other City employees (Miscellaneous employees). Data was reviewed for employees who began to receive a pension from May 1, 2010 through February 28, 2011. This data was reviewed to identify individuals whose retirement pay increased dramatically as a result of an unusual salary increase during the last year(s) of service.

The Jury found evidence of an increase over 10% in salary during the last three years of service in 21.2% for the Fire Department employees, or 10 of the 47 employees who retired in this period.

The Police retirement data contained 35 individuals. Two had increases over 10% in the three years prior to retirement, or 5.6% of the total police employees. The Miscellaneous Employee data only had 2.6% of the 1032 employees who retired during the period receiving an increase over 10%.

DEPARTMENT	PERCENTAGE SPIKING
Fire	21.2
Police	5.6
Miscellaneous	2.6

Examples of this increase can be seen with the following Fire Department Employees, Employee One and Employee Two.

The fields for the charts below are:

DATE	Values at the end of the year or the final month of retirement.
JOB CODE	Code used by the City to indicate a job classification.
DESCRIPTION	Text description of the Job Code.
STEP	Salary rate within the Job Code. Employees generally start at Step 1. Advancement to Step 2 shall be upon satisfactory completion of the probationary period. Employees shall not advance to Step 2 until they have completed all probationary testing. Advancement to subsequent steps shall be upon satisfactory completion of one year of service at the prior step.
HOURLY RATE IN \$	The hourly pay rate at the end of the year or retirement month.
% INCREASE	Percentage the hourly rate increased (or decreased) relative to the hourly rate of the prior year.

The last row contains the hourly salary from the month of retirement.

EMPLOYEE ONE

DATE	JOB CODE	DESCRIPTION	STEP	HOURLY RATE IN \$	% INCREASE
12/05	H20	Lieutenant	1	37.66	
12/06	H20	Lieutenant	1	39.47	4.81
12/07	H30	Captain	1	48.24	22.2
12/08	H30	Captain	1	51.68	7.1
12/09	H40	Battalion Chief	1	64.55	24.9
06/10	H40	Battalion Chief	1	64.55	0

With Employee One there was a 71% increase in pay in the final 5 years of employment.

EMPLOYEE TWO

DATE	JOB CODE	DESCRIPTION	STEP	HOURLY RATE IN \$	YEAR ON YEAR % INCREASE
12/05	H6	Fire Investigator	42	51.75	
12/06	H22	Lieutenant	2	54.23	4.8
12/07	H22	Lieutenant	42	66.34	22.3
12/08	H51	Assistant Deputy Chief II	2	97.41	46.8
12/09	H51	Assistant Deputy Chief II	2	101.35	4
6/10	H51	Assistant Deputy Chief II	2	101.35	0

With Employee Two there was a 95.8% increase in pay in the final 5 years of employment.

21.2% of Fire Department employees received over a 10% increase in salary in their final three years of service. The Fire Department stated, in response to the prior pension report, that pension spiking does not exist in the department. The Jury questions whether the Fire Department considers this a standard practice and thus would not judge it to be spiking.

The step level in Employee Two did not match the stated salary steps for this [pay grade](#).<sup>iii</sup>

According to the Controller’s Office, the 40 series step (40,41,42,...) is used for firefighters with an 80 hour schedule receiving acting assignment pay. There are also step levels in the 30’s and 50’s related to different schedules. Thirty-four of the forty-seven firefighters in our sample, or 72% had a pay period with an acting assignment. The pay history data was supplied from 2001 through 2011. The Jury only reviewed spiking data over the past three years, thus reducing the majority of the 72% of the employees to 21.2% of employees who had over a 10% increase in salary.

### Recommendation 2.2.5

Response to Recommendation 2.2.5 was uncertain. (see Appendix B)

Both the Mayor's and Controller's offices claimed that the recommendation required "further analysis." The Controller, Treasurer, and Executive Director of SFERS were to propose a long-term solution to the Other Post Employment Benefits (OPEB) \$4 billion unfunded liability.

To summarize, with the passage of Proposition B the City will require cost sharing for new employees. To reduce OPEB unfunded liability by \$1 billion during the next 30 years, the City would pursue other strategies such as including pre-funding contributions for existing employees. (Complete response is found in Appendix B.)

The Controller's Office claimed it had previously worked to analyze, report on, and manage financial liability, including the OPEB liability in accordance with Governmental Accounting Standards Board<sup>iv</sup> (GASB). The GASB was established to improve standards of state and local governmental accounting.

To address long term financial planning, the Controller's Office would undertake additional analysis on this and other long-term financial liability issues. Because of these claims, the Jury requested an update to the "Pension and Retiree Health Subsidy Analysis" report created by the Controller's office for the original 2008-2009 report (see Appendix C).

The retiree health subsidy spreadsheet shows annual increases above 10% in retiree health subsidies over the next three years, from \$144,739,709 in the current FY 2010-2011 budget to \$199,465,793 in FY 2013-2014.

According to the Controller's December 15, 2010 memorandum<sup>y</sup> to the Mayor's and Board of Supervisors, the current unfunded liability for retiree health care subsidies is \$4.36 billion dollars.

This \$4.36 billion shortfall is based on a 2008 valuation report.

Except for employees hired after January 9, 2009, the city does not have money set aside to cover the retiree health costs. The costs will continue to come out of the annual city budgets. If the Mayor's pension plan<sup>vi</sup> is approved, it will require existing employees to contribute to a retiree health trust fund starting in 2016-2017. This fund will eventually help to cover the medical expenses.

## FINDINGS AND RECOMMENDATIONS

### 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 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.

### Recommendation 1

Until such time as the retiree 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.

### 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.

### 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 include a review of all salary increases in excess of actuarial estimates (currently 4.5%<sup>vii</sup>) 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.

APPENDIX A – Responses to 2.2.2 (Pension Spiking)

RESPONSE REQUIRED	RESPONSE	RESPONSE TEXT
Board of Supervisors	Will Not Be Implemented: Not Warranted or Not Reasonable	RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the Superior Court that it agrees with Recommendation Nos. 2.2.2 and 4.2.2 of the 2008-2009 Civil Grand Jury Report entitled "Pensions: Beyond Our Ability to Pay." FURTHER RESOLVED, That the Board of Supervisors urges the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget. (Resolution No. 477-09)
Office of the Controller	Recommendation Implemented	The Controller's Office agrees that "pension spiking" is unfair and costly and should be prevented. There are controls on assignments, on pay and on retirement calculations to control the risk of "spiking" and insure that City employees are appropriately compensated and their pensions are determined in accordance with all applicable codes.
Office of the Mayor	Recommendation Implemented	I concur that "pension spiking" is unfair and costly. However, I agree with the Controller's Office there does not appear to be evidence to support the conclusion that this practice is occurring in the City. Additionally, there are appropriate controls in place on acting assignments and pay practices and pension benefits in accordance with Municipal Code and City Charter. Please refer to the SFERS' response.
San Francisco Fire Department	Will Not Be Implemented: Not Warranted or Not Reasonable	Pension spiking has not occurred in the San Francisco Fire Department.
San Francisco Police Department	Recommendation Implemented	The Police Department does not countenance, nor is it aware of, any practice which is violative of existing law or contrary to the provisions of the Charter. Pensions are governed by the provisions of the City Charter and overseen by the San Francisco Employees Retirement System.

APPENDIX B Responses to 2.2.5 (Retiree Health Care Costs)

RESPONSE REQUIRED	RESPONSE	RESPONSE TEXT
Office of the Mayor	Requires Further Analysis	Due to the passage of Proposition B, the City will require cost-sharing for new employees to reduce other post- employment benefits (OPEB) unfunded liability by \$1 billion during the next 30 years. The City plans to pursue other strategies to reduce the OPEB liability including prefunding contributions for existing employees.
Office of the Controller	Requires Further Analysis	The Controller's Office already works with other City leadership to analyze, report on, and manage financial liability for the City, including the Other Post Employment Benefits (OPEB) liability in accordance with GASB standards. With the passage of Proposition A (requiring specific long term financial planning) in November 2009, the Controller's Office has been mandated to undertake additional analysis on this and other long-term financial liability issues. We note that a pre-funding alternative would not be the only option considered in planning for the OPEB liability.
San Francisco Employees Retirement System	Will Not Be Implemented: Not Warranted or Not Reasonable	The Controller, Treasurer & SFERS Executive Director are 3 members of a 5 member board, charged with administering the Retiree Health Trust Fund, meaning investing already contributed assets and insuring their safe keeping. Decisions regarding the "funding" of such trust are the province of the San Francisco Mayor and Board of Supervisors.

## APPENDIX C

### Pension and Retiree Health Subsidy Analysis 4/7/2011 update

Pension and Retiree Health Subsidy Analysis, FY 17-08 to FY 13-14 (projected)  
 Response to Civil Grand Jury Request, 3/21/2011  
 Updated by San Francisco Controller's Office, Budget and Analysis Division, contact: Cindy Czerwin, Cindy.Czerwin@sfgov.org

		FY 07-08 Actuals	FY 08-09 Actuals	FY 09-10 Actuals	FY 10-11 Budget	FY 11-12 Projected	FY 12-13 Projected	FY 13-14 Projected
SFERS Employer Contribution Rate		5.91%	4.99%	9.49%	13.56%	18.09%	20.98%	25.95%
SFERS Employee Pick-up Rate		7.50%	7.50%	7.50%	7.50%	7.50%	7.50%	7.50%
PERS Rate		18.07%	17.48%	18.13%	18.24%	22.10%	25.66%	31.76%
SFERS Employer Contribution Amount	All funds	125,507,816	112,181,637	208,649,157	276,608,120	378,375,185	459,034,108	584,200,052
SFERS Employee Contribution paid by CCSF (for those labor agreements where CCSF picks up the employee share)	All-funds	66,052,313	68,766,098	67,088,823	65,988,292	21,980,896	15,853,151	16,307,854
CCSF Contributions to SFERS	All-Funds	191,560,129	180,947,735	275,737,980	342,596,412	400,356,081	474,887,259	600,507,906
PERS Employer Contribution	All-Funds	15,619,183	16,666,054	18,349,680	17,655,745	21,744,456	26,297,347	33,492,474
Combined Total SFERS and PERS	All-Funds	207,179,312	197,613,789	294,087,660	360,252,157	422,100,537	501,184,606	634,000,380
Retiree Health Subsidy - CCSF	All-Funds	110,634,134	116,893,684	126,829,433	144,739,709	161,197,901	179,451,676	199,465,793
Retiree Health Subsidy Projected Increase (Actuarial growth)				6.67%	11.62%	10.90%	11.32%	11.15%
Annual Appropriation Ordinance Budget (All-Funds)		FY 07-08	FY 08-09	FY 09-10	FY 10-11			
Less Capital & Facilities Maintenance		6,079,785,411	6,531,467,931	6,586,787,453	6,562,658,343			
CCSF All-Funds Operating Budget		298,446,034	372,008,199	476,082,194	352,322,143			
		5,781,339,377	6,159,459,732	6,110,705,259	6,210,336,200			
CCSF Pension Contributions as % Operating Budget		3.6%	3.2%	4.8%	5.8%			
Retiree Health Subsidy as % of Operating Budget		1.9%	1.9%	2.1%	2.3%			
CCSF All-Funds Salaries Budget		2,427,935,519	2,541,186,562	2,481,063,166	2,389,639,220			
CCSF Pension Contributions as % Salaries		8.5%	7.8%	11.9%	15.1%			
Retiree Health Subsidy as % Salaries		4.6%	4.6%	5.1%	6.1%			

**Notes**

1. SFERS rate for FY 09-10 and forward includes estimated 3.55% attributable to Proposition B retirement enhancements passed by voters on 6/3/2008
2. "All-Funds" represents both General Fund supported costs and those of self-supporting enterprise departments such as the Airport, Port, Public Utilities Commission, etc.
3. The Retiree Health Subsidy amounts have been adjusted to excluded retiree health subsidy paid by the Unified School District and limited to that paid by the City and County of San Francisco and contained in CCSF's annual budget
4. Operating Budget is estimated at total AAO budget less capital and facilities maintenance
5. Contribution Projections are also growing by expected rises in salaries for closed MOU agreements through FY 2012-13 and by CPI in FY 2013-14 as consistent with the joint report to be issued 4/7/2011

N:\BUDGET\Requests for Information\Civil Grand Jury\CCSF Pension and Retiree Health Contributions Updated 2011.04.05.xls Summary  
 4/7/2011

## GLOSSARY

FY	Fiscal Year
GASB	Government Accounting Standards Board
OPEB	Other Post Employment Benefits
SFERS	San Francisco Employee Retirement System

## ENDNOTES

<sup>1</sup> [Pensions beyond our ability to pay](#) -

<http://sfsuperiorcourt.org/Modules/ShowDocument.aspx?documentid=1982>

<sup>1</sup> <http://www.sfsuperiorcourt.org/Modules/ShowDocument.aspx?documentid=2660>

<sup>1</sup> <http://mission.sfgov.org/cgi-bin/dhr/findClass.cgi?MyID=0H22>

<sup>1</sup> <http://www.gasb.org/>

<sup>1</sup> <http://www.sfcontroller.org/Modules/ShowDocument.aspx?documentid=1480>

<sup>1</sup> <http://www.sfmayor.org/index.aspx?page=419>

<sup>1</sup> <http://sfers.org/Modules/ShowDocument.aspx?documentid=807>

RESPONSE MATRIX

FINDING	RECOMMENDATION	RESPONSE
<p>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 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.</p>	<p>Recommendation 1 – Until such time as the retiree 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.</p>	<p>Mayor  Office of the Controller  Board of Supervisors</p>
<p>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.</p>	<p>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 include a review of all salary increases in excess of actuarial estimates (currently 4.5%<sup>1</sup>) 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.</p>	<p>Mayor  Office of the Controller  Board of Supervisors  San Francisco Employee Retirement System</p>

THE CITIZENS' GENERAL OBLIGATION BOND  
OVERSIGHT COMMITTEE  
(CGOBOC)  
2007-2008

FACTS

One of the reports published by the 2007-2008 San Francisco Civil Grand Jury ("Jury") is entitled "Accountability in San Francisco Government: There doesn't seem really to have been anyone in charge of the store." Part of this report involved supervision of general obligation bonds and how they are spent on San Francisco city projects.

The Citizens' General Obligation Bond Oversight Committee (CGOBOC) is a committee charged with overseeing the use of the city's general obligation bonds. The CGOBOC holds quarterly meetings to discuss the projects it is overseeing. It also writes an Annual Report detailing the bonds it oversees which is then submitted to the Board of Supervisors

The Jury's 2007-2008 report made fourteen recommendations.

Recommendation #8 reads: "The [CGOBOC] should appear regularly before the Board [of Supervisors] to report on the bonds it oversees[,] including highlights of successes and challenges." The Jury required a response from the CGOBOC. Its response, dated August 20, 2008, stated that "The CGOBOC accepts recommendation #8 and will make regular presentations to the appropriate body of the San Francisco Board of Supervisors." Neither the Jury's recommendation nor the CGOBOC's response defined what constitutes presenting "regularly"

In a letter dated January 3, 2011, the 2010-2011 Jury contacted the CGOBOC, requesting a report, due by February 2, 2011, documenting the progress made regarding this recommendation. After numerous follow-up requests in February and March, the Jury ultimately received a response on March 18, 2011.

Although the CGOBOC stated on August 20, 2008 that it intended to make regular presentations to the Board of Supervisors, there has only been one such presentation on April 8, 2010.

## FINDINGS

1. Because the 2007-2008 Jury’s recommendation did not define “appearing regularly”, there is a possibility that the CGOBOC and Board of Supervisors would disagree about how often such presentations should occur.
  
2. A 20-month gap between the promise of regular appearances and the first such appearance does not constitute appearing regularly.

## RECOMMENDATION

1. The CGOBOC and Board of Supervisors should work together to ensure that the Annual Report is presented at a hearing annually. This appearance should occur within one month of the CGOBOC’s publishing its Annual Report.

## RESPONSES REQUIRED

FINDINGS	RECOMMENDATIONS	RESPONSE
<p><b>FINDING 1</b>                      Because the 2007-2008 Jury’s recommendation did not define “appearing regularly”, there is a possibility that the CGOBOC and Board of Supervisors would disagree about how often such presentations should occur.</p> <p><b>FINDING 2</b>                      A 20-month gap between the promise of regular appearances and the first such appearance does not constitute appearing regularly.</p>	<p><b>RECOMMENDATION 1</b>                      The CGOBOC and Board of Supervisors should work together to ensure that the Annual Report is presented at a hearing annually.</p> <p>This appearance should occur within one month of the CGOBOC’s publishing its Annual Report.</p>	<p>CGOBAC</p> <p>Board of Supervisors</p>

**ELECTION ISSUES**  
2007-2008 and 2008-2009

**AVAILABILITY OF DRINKING WATER AT PIER 48**

**FACTS**

One of the reports published by the 2007-2008 San Francisco Civil Grand Jury (“Jury”) is entitled “A Year of Five Elections for the City and County of San Francisco”. In its report, the Jury made fourteen findings.

Finding #4 reads: “The current off-site location at Pier 48 does not offer [Department of Elections] personnel consistent access to a reliable supply of drinking water.” The Jury required a response from the Department.

The Department of Elections responded to this finding on August 29, 2008, with the following: “The Department agrees with this finding. The Department is in the final steps of having the city’s water vendor install a filtration system at Pier 48. The Department expects potable water to be available to personnel by early September.”

The report also made nine recommendations. Recommendation #2 reads: “An appropriate source of drinking water must be made available at all times for on-side employees.” The Jury required a response from the Department.

The Department of Elections responded to this finding on August 29, 2008, with the following:

The Department agrees with this recommendation. The Department is nearing completion of the process by which potable water is provided to employees without using bottled water. When the Department began operating from Pier 48, personnel instantly realized that the color of the water and the evidence of particulate matter made the water unsafe to drink. While the Department pursued the necessary steps to acquire a water filtration system, individuals in the Department have been purchasing water, and which is made available to all personnel working at the Pier. The Department is hopeful the filtration system will be installed by the end of August 2008 and will be successful in providing clean, potable water.

In a letter dated January 4, 2011, the 2010-2011 Jury contacted the Department of Elections, requesting a report documenting the progress made regarding this recommendation. The Jury requested this response by February 3, 2011. The Department sent a timely response dated February 3, 2011. The response stated that “[a] water filtration system, which provides a constant source of clean drinking water, was installed in September 2008.”

## FINDINGS

The Department of Elections has adequately addressed the drinking water issue raised by the 2007-2008 Jury.

## RECOMMENDATIONS

The jury has no recommendations about the drinking water at Pier 48.

## RESPONSES REQUIRED

None.

## FINDING A PERMANENT LOCATION TO REPLACE THE DEPARTMENT OF ELECTIONS' SHORT-TERM LEASE AT PIER 48

### FACTS

The 2008-2009 San Francisco Civil Grand Jury published a continuity report. One part of this report looked at the Department of Elections' progress made on recommendations from previous Juries. Of interest to this Jury was recommendation #2, which reads: "A search for storage space should begin immediately to find a permanent and suitable facility for the Pier 48 operations. Strong consideration should be given to excess properties owned by the San Francisco Unified School District (SFUSD). The high probability of available receiving areas, playground parking and security fencing available at school properties would be important factors in this decision. The City could rent, buy, or exchange property with SFUSD. Other options and methods should also be investigated in conjunction with the San Francisco Department of Real Estate."

The Department of Elections was required to respond to this recommendation. The Department responded on August 3, 2009, writing: "This recommendation is being implemented. The Department has already contacted the Mayor's Office to determine the steps necessary for possible consideration of and relocation to surplus SFUSD properties."

In a letter dated January 4, 2011, the 2010-2011 Jury contacted the Department of Elections, requesting a report documenting the progress made regarding this recommendation. The Jury requested this response by February 3, 2011. The Department sent a timely response dated February 3, 2011. The response stated that the Department of Elections has not contacted the SFUSD regarding their excess property. However, the Mayor's Office and the Real Estate Division of the General Services Agency previously indicated that they will determine whether such properties could be used by the Department.

Additionally, the Department stated their desire to extend their lease on Pier 48 beyond 2013. However, in speaking with the Real Estate Division, it has been confirmed that the Department's lease on Pier 48 actually expires on December 31, 2011. The Department informed the Jury that no formal discussions regarding a new lease on Pier 48 have occurred. The Real Estate Division reported to the jury that it has been facilitating informal discussions between the Department of Elections and the Port Authority. These discussions have

established that both parties are interested in continuing the current tenancy for the foreseeable future.

Because the Department's activities are non-maritime related, the maximum duration of any lease of Port property is five years. Additionally, any lease the Department might sign with the Port could be prematurely terminated, with 90 days' notice, by the Port for either redevelopment purposes or maritime use.

Parallel to these discussions with the Port, there is an ongoing effort at the Real Estate Division to find a suitable property in the Civic Center area in which the Department of Elections could consolidate its operations.<sup>viii</sup> The Real Estate Division is not looking outside of the Civic Center because close proximity to City Hall will be important if the Department is to consolidate its operations.

---

<sup>1</sup> Currently, the Department of Elections divides its operations between City Hall and Pier 48.

## FINDINGS

### Finding 1

In its response to this Jury dated February 3, 2011, the Department seems to focus on the previous Juries' recommendation that it relocate to excess property held by the SFUSD to the exclusion of considering other properties.

### Finding 2

Because the Department continues to lease space at Pier 48 on short-term leases without a guarantee of permanent tenancy, it faces the possibility of someday being denied a renewal of its lease. Alternatively, its lease could be prematurely terminated. At that point, the Department would be forced to find another location to carry out the activities it currently performs at Pier 48.

### Finding 3

Being proactive now in finding a permanent location is a preferable alternative to waiting for a situation to arise where the Department faces a looming deadline to vacate Pier 48 and has yet to find a suitable alternative location.

Limiting the geographic scope of a possible Department of Elections move to within the Civic Center is a sound decision.

## RECOMMENDATIONS

### Recommendation 1

The Department of Elections and the Real Estate Division of the General Services Agency should make a current priority of finding a suitable, long-term location for the Department to perform the activities it currently does at Pier 48.

### Recommendation 2

The Department should not limit the scope of its search to excess properties held by the SFUSD. Rather, with the help of the Real Estate Division of the General Services Agency, the Department should cast as wide a net as reasonably possible, while still being near City Hall, to find the best long-term solution available.

## RESPONSES REQUIRED

Department of Elections: Findings 1-4, Recommendations 1-2

Real Estate Division of the General Services Agency: Findings 3-4, Recommendations 1-2

## RESPONSE MATRIX

FINDINGS	RECOMMENDATIONS	RESPONSE REQUIRED
<p><b>FINDING 1</b> In its response to this Jury dated February 3, 2011, the Department seems to focus on the previous Juries' recommendation that it relocate to excess property held by the SFUSD to the exclusion of considering other locations</p>	<p><b>RECOMMENDATION 1</b> The Department and the Real Estate Division of the General Services Agency should make a current priority of finding a suitable, long-term location for the Department to perform the activities it currently does at Pier 48.</p>	<p>Department of Elections  Real Estate Division of General Services Agency</p>
<p><b>FINDING 2</b> In its response to this Jury on 2/3/2011 the Department seems to focus on the previous Juries' recommendation that it relocate to excess property held by the SFUSD to the exclusion of considering other locations.</p>	<p><b>RECOMMENDATION 2</b> The Department should not limit the scope of its search to excess properties held by the SFUSD. Rather, with the help of the Real Estate Division of the General Services Agency, the Department should cast as wide a net as reasonably possible to find the best long-term solution available.</p>	<p>Department of Elections  Real Estate Division of General Services Agency</p>
<p><b>FINDING 3</b> Because the department continues to release space at Pier 48 on short-term leases without a guarantee of permanent tenancy, it faces being denied a renewal of its lease. The department would be forced to find another location to carry out activities currently performed at Pier 48.</p>		<p>Department of Elections  Real Estate Division of General Services Agency</p>
<p><b>FINDING 4</b> Being proactive now in finding a permanent location is a preferable alternative to waiting for a solution arise when the Department faces a deadline to vacate Pier 48.</p>		

**PARKING FOR THE DISABLED –  
ABUSE OR OVER-USE?  
2006-2007**

Disabled placard abuse is one of the most significant challenges to parking management in San Francisco. It's a fraudulent way of people being able to park free for an unlimited time. It hurts all motorists, disabled or not.

Judson True, SFMTA Spokesperson  
San Francisco Chronicle, 1/4/10

**SUMMARY**

In its report, "Parking for the Disabled – Abuse or Over-Use?" (hereafter, "2007 report"), the 2006-2007 Civil Grand Jury studied the rapid increase in the number of disabled parking placards (hereafter, the term "disabled parking placard" also covers "disabled license plates") issued to residents of San Francisco and its impact on the competition for curbside parking. There are more cars registered to San Francisco residents than there are legal on-street parking spaces. The large number of cars that daily enter the City from adjoining counties only exacerbates the parking problem in San Francisco. This in turn is taking a growing financial and emotional toll on the City and its residents.

Over the past few years, the growth in the number of disabled placards in California has accelerated rapidly. By 2009/10 the number of disabled placards registered to San Francisco residents had reached roughly 56,000, including temporary placards, one for approximately every 15 residents of the City, and more than double the number of outstanding disabled placards in 1996. <sup>1</sup>

In order to obtain a disabled placard, an applicant is not automatically required to undergo an actual full scale medical examination. For applicants whose disabilities are not readily observable and uncontested, the Department of Motor Vehicles (DMV) merely requires the submission of a certificate substantiating the disability signed by a physician or surgeon, an optometrist, physician assistant, chiropractor, nurse practitioner or certified nurse midwife. A disabled placard permits the registered owner, "...to park at any legitimate curbside space, any green zone, any blue zone or in any City owned parking lot, but not in a City-owned garage, for up to 72 hours without paying any fees." <sup>2</sup> This applies only when the car is directly transporting the person to whom the placard was issued.

While the State of California exercises authority over the issuance of disabled placards, the City of San Francisco does have enforcement powers regarding the lawful use of disabled placards. With this in mind, several of the recommendations contained in the “2007 report” offer practical steps the City should take to curb the misuse of disabled placards.

## UNFINISHED BUSINESS

**Recommendations II & VII** call upon the San Francisco Board of Supervisors to pass and the Mayor to sign ordinance File No. 090704. Among its provisions, is one that would have established a Disabled Parking Review Panel (hereafter, review panel) to, “...monitor applications for placards and the health practitioners who certify them.”<sup>3</sup> Such review panels are authorized under California Vehicle Code (CVC) 22511.58(b).

In its response to **Recommendations II & VII**, the Board of Supervisors on September 18, 2007 passed resolution No. 517-07 which reads in part, “...Regarding Recommendations Nos. II & VII, the Board of Supervisors agrees to provide ordinance File No. 070409 with full and expeditious consideration when said ordinance is before the Board of Supervisors...”

In his 9/4/07 reply, Mayor Newsom agreed with the recommendation writing: “Earlier this year, I introduced local legislation authorizing increases in penalties for the misuse of disabled parking placards. This legislation also called for an independent panel to review eligibility for placards in an attempt to reduce the misuse of disabled parking placard issuance in San Francisco....I am looking forward to the implementation of this local review panel as a vehicle for increasing local oversight to reduce misuse.”<sup>4</sup>

These were rather disingenuous responses on the part of the Mayor and the Board of Supervisors. At the time the responses were issued, ordinance File No. 070409 had in fact already been languishing for six months in the Budget and Finance Committee. The proposed ordinance began its journey on 3/37/07 with impeccable credentials. Its sponsors were Mayor Gavin Newsom and Board of Supervisor President Aaron Peskin. Two days later, it was assigned to the Budget and Finance Committee.

On 10/4/07 resolution No. 507-17 was forwarded to the Presiding Judge of the Superior Court. At about the same time, the Clerk of the Board was advising the Budget and Finance Committee that the proposed ordinance File No. 070409 had not been heard for five consecutive months, and pursuant to the Board of Supervisors Rules of Order 5.37, the Clerk of the Board was noting on the next committee pending list that unless the proposed ordinance was heard the following

month it would be deemed as inactive and be filed. On 11/4/07 ordinance File No. 070409 was duly filed as inactive.

Efforts to obtain an explanation for the fate of the ordinance from those involved, including the two sponsors, were met with silence. None of the individuals involved with the proposed legislation who responded to the Civil Grand Jury's inquiry could recall the factors that led to the introduction of the ordinance in the first place or the reasons it was left to die in the Budget and Finance Committee. One thing we do know is that two days after ordinance File No. 070409 was made inactive, Gavin Newsom was re-elected mayor of San Francisco.

**Recommendation III** calls upon the San Francisco Metropolitan Transportation Authority (SFMTA) to, "...request the City of San Francisco's State Legislative delegation to consider requesting some form of state legislative hearing on blue placard abuse and on updating criteria for issuance and for use." <sup>5</sup>

In its initial response to **Recommendation III**, the SFMTA said it:

... agrees that a request should be made to the City of San Francisco State Legislative delegation to consider a state legislative hearing request on blue placard use; however further research into and evaluation of existing state policies and procedures that affect local jurisdictions are needed. ... SFMTA anticipates completing its research into state policies of (sic) disabled placards by January 1, 2008." <sup>6</sup>

It also confirmed that:

With the support of the Mayor and Board of Supervisors, SFMTA plans to proceed with the Disabled Placard Review Panel ordinance in 2008 and will continue to work with the DMV [Department of Motor Vehicles] to upgrade placard issuance data and collection efforts." <sup>7</sup>

In 2009 the SFMTA responded that it had:

... completed a survey of best practices related to disabled parking management in North America. This survey is intended to serve as the foundation for an upcoming effort to work with key stakeholders, especially disabled advocacy groups, to develop legislation that would propose a comprehensive approach to disabled parking management improvements that address key issues. That outreach and policy development is expected to take place in 2009 for proposal in 2010." <sup>8</sup>

On July 21, 2009 SFpark (a project of the SFMTA) did indeed issue a survey of best practices entitled, Accessible Parking – Practices and Laws in Other Jurisdictions (hereafter, “best practices report.”) Among its findings are:

- “...official SFMTA enforcement activities and periodic surveys suggest that the abuse of disabled placards is widespread.”<sup>9</sup> As evidence the reports cites: “An informal 2007 DPT (Department of Parking and Traffic) survey of the east side of Main Street between Howard and Mission Streets (that) found numerous violations of both disabled parking placards and commercial plate misuse. Out of 21 metered spaces available, 16 were occupied by vehicles displaying Accessible Parking Placards (APP) or Disabled License Plates (DLD), a disproportionately high number.”<sup>10</sup>
- While: “...the number of APPs issued to San Francisco residents is increasing, most vehicles parked on San Francisco streets that display APPs do not belong to San Francisco residents: a DPT survey done in 2008 on downtown streets found only 43% of the APPs displayed belong to San Francisco residents. In other words, any potential reforms to how APPs are issued in San Francisco will not fully address accessible parking management issues due to the large number of vehicles parked on San Francisco streets with APPs issued in other jurisdictions. This fact suggests that any potential accessible parking reforms considered by SFMTA should strive for regional (and potentially statewide) feasibility in the long term.”<sup>11</sup>
- Some jurisdictions have far stricter rules governing the issuance of disabled placards than California. For example, New York requires a disabled person to present proof of the disability only from a medical doctor, doctor of osteopathy or doctor of podiatric medicine (licensed in New York State only). According to the “best practices report”, a disability must impose an unusual hardship in the use of public transportation and prevents the person from getting around without great difficulty. In New York City, those seeking APPs must have a physician certify the severe disability and then be re-certified by a New York City department of health physician.
- Of the ten major metropolitan areas in the US and Canada examined in the “best practices report,” only San Francisco and Chicago operate under state laws that completely exempt vehicles displaying APPs from posted time limits and paying parking meter rates for on-street parking. A majority subject of vehicles displaying APPs to posted limits and parking meter rates while providing limited accommodations such as extending posted time limits or free parking for those who lack the physical dexterity to insert a coin into a parking meter.
- As outlined in the “best practices report”, other states have found that the first priority for legitimately disabled persons is the availability of designated parking places. In

exchange for more designated parking spaces, members of the disabled community have agreed not only to stricter enforcement of disabled parking regulations but in states such as Pennsylvania to even foregoing their exemption from time limits and the payment of parking fees, thereby eliminating the primary incentive for placard abuse.

Despite its earlier pledge to “develop legislation that would propose a comprehensive approach to disabled parking management improvement that addressed key issues” and the findings in its own “best practices report,” in a letter dated 12/20/10 the SFMTA reversed course and wrote:

...the SFMTA has determined that a more effective strategy to address disabled placard abuse is to attempt to change state law to allow cities and counties to pursue local solutions rather than the current state-wide approach given the varying impact this issue has on individual jurisdictions. SFMTA’s outreach efforts to key stakeholders and the disabled community for this legislative initiative are ongoing and until sufficient support is secured, the SFMTA does not anticipate moving forward with the development of a final legislative proposal.

In response to an inquiry from the Civil Grand Jury whether the SFMTA had any plans to utilize its authority under the City’s charter to establish a review panel, the SFMTA responded in a letter dated 2/22/11:

As a result of this initiative, other efforts including upgrade of the DMV database on blue placards, the establishment of a Disabled Placard Review Panel and investigating health care providers are considered incompatible with the current strategy and are not being pursued. 12

This rather grand statement comes just a few sentences following an admission that based on figures provided by the Office of the Controller the loss of meter revenue to the City resulting from the exemption of vehicles with disabled placards is estimated to be \$19.25 million annually.

The letter continues, “The SFMTA conservatively estimates that roughly 44% of disabled placards in San Francisco are used fraudulently , resulting in a total estimated revenue loss of approximately \$8.47 million annually.”

Every time parking meter rates go up so does the loss of revenue to the City. To put this figure in perspective, the \$8.47 million is more than enough to cover the \$7 million “shortfall” in parking citation revenue announced by the SFMTA at the beginning of 2011, and would eliminate the need to issue more citations. 13

Referring to the need for higher parking meter rates and parking fines to cover the shortfall in parking revenue, Tom Nolan, chairman of the Municipal Transportation Authority board, put it quite succinctly: “It’s been said it is a war on drivers....But...we don’t have a lot of other things to balance the budget.” “War” is an appropriate metaphor. A recent survey of eight major cities found that San Francisco already boasts the highest fines for parking meter violations and the second highest meter rates. <sup>14</sup>

To its credit, in 2009 SFMTA did encourage Assemblywoman Fiona Ma to sponsor AB 144(Ma) that substantially increases the penalty amount for a number of disabled placard violations. However, as we shall see below the SFMTA has undercut the effectiveness of AB 144(Ma) by adopting an overly restrictive enforcement protocol for dealing with disabled placard violations.

**Recommendation IV** calls upon the SFMTA to aggressively pursue funding for training more Parking Control Officers (PCO) for monitoring disabled placard abuse.

In its response, SFMTA agreed and promised to assign more specially trained officers to the Disabled Placard Detail. In its “best practices report”, the SFMTA wrote that it had “...maximized placard enforcement under current staffing levels through the addition of one more enforcement team consisting of four PCOs (parking control officers).” <sup>15</sup>

But referring to its efforts to curb placard abuse, the SFMTA also admitted that:

...enforcement of the current system is not cost effective relative to enforcement for other violations, and is likely producing a relatively low capture rate. This is because the current enforcement protocol is labor intensive (four to seven enforcement personnel are involved in every citation issued) and requires a high degree of discretionary judgment by enforcement personnel to insure that motorists with legitimate APPs are not erroneously cited. <sup>16</sup>

Statistics on the actual confiscation of disabled placards seem to bear out this assessment. In recent years, the SFMTA has been confiscating around two thousand placards per year. That works out to around 3.5% of outstanding placards. This is small when compared to the SFMTA’s own assessment that, “...roughly 44% of disabled placards in San Francisco are used fraudulently...” <sup>17</sup>

SFMTA’s difficulties are puzzling inasmuch as the CVC Sections governing the enforcement of disabled placard regulations are quite straightforward. On page one in the Department of Parking and Traffic’s “Disabled Placard Misuse Abatement Program Procedure Manual” it states that the legal basis for its enforcement protocol is CVC Section 22511.56. This Section states in part:

- (a) “Any person using a distinguishing placard...shall upon request of any peace officer or person authorized to enforce parking laws, ordinances or regulations present identification and evidence of the issuance of that placard to that person.
- (b) “Failure to present the requested identification and evidence of the issuance of the placard shall be rebuttable presumption that the placard is being misused and the associated vehicle has been parked in violation of Section 22507.8
- (c) “In addition to any applicable penalty for the misuse of a placard, the officer or parking enforcement person may confiscate a placard being used for parking that benefit any person other than the person to whom the placard was issued by the Department of Motor Vehicles.”

The problem is that responsibility for combating disabled placard abuse lies entirely with the Department of Parking and Traffic’s small Disabled Placard Detail rather than all PCOs and San Francisco police officers as permitted under CVC Section 22511.56. SFMTA has confirmed that, “Only PCOs who are detailed to the unit [Disabled Placard Detail] are authorized to request certification of a disabled placard.”<sup>18</sup> Currently SFMTA has 262 PCOs. Only eleven of them are assigned to the Disabled Placard Detail, and two of the eleven are assigned to dispatch. For its part, the San Francisco Police Department has confirmed that combating the misuse of disabled parking placards is not one of their missions.<sup>19</sup>

## WHAT STILL NEEDS TO BE DONE

### Finding 1

It is now approaching four years since the 2006-2007 Civil Grand Jury issued its “2007 report”, and with the exception of AB 144(Ma) little or nothing has been done by the Mayor, the Board of Supervisors or the SFMTA to curb what can only be described as the flagrant misuse of disabled placards. Rather than implementing the key recommendations in the “2007 report,” City officials have instead opted for a policy which essentially ignores the problem.

### Finding 2

A positive step was taken by Mayor Newsom and Supervisor Peskin in introducing ordinance File No. 070406 in March of 2007 that would among other things have set up a review panel. However, in November of 2007 this piece of legislation died a quiet and as yet unexplained death without a single hearing. The City Attorney has advised that under the City’s Charter the SFMTA also has the authority to establish a review panel, but it has consciously chosen not to exercise that prerogative.

### Finding 3

Of the ten major metropolitan areas in the US and Canada surveyed in SFpark's 2009 "best practice report," only San Francisco and Chicago operate under state laws that completely exempt vehicles displaying AAPs from posted time limits and paying parking meter rates for on-street parking. According to the SFMTA, the loss of parking meter revenue to San Francisco resulting from the blanket exemption granted under current state law is estimated to be \$19.25 million annually.

### Finding 4

In 2007, 2008 and again in 2009, the SFMTA expressed its intention to request the City of San Francisco's State Legislative delegation to hold hearings on disabled placard abuse and updating the laws governing the issuance of disabled placards. Yet despite the findings contained in its "best practices report," the SFMTA has chosen to abandon its comprehensive approach to the problem, including initiatives to establish a review panel, upgrade DMV's database on disabled parking placards and investigate health care providers who are authorizing disabled parking placards. Instead, the SFMTA has opted for a rather timid approach to the problem with no action to be taken until such time as it has secured sufficient support from its various stakeholders. Apparently, an estimated annual loss of \$8.4 million from the misuse of disabled placards is not considered significant enough to warrant the urgent attention of the cash strapped SFMTA.

### Finding 5

While the cornerstone of SFMTA's current policy for dealing with disabled placard abuse is open ended consultations with its stakeholders, the City's largest stakeholder, namely those who actually pay to park, is not being entirely neglected. As Mr. Tom Nolan's refreshingly candid comment made clear, this group will continue to function as the City's cash cow, filling the revenue hole partially created by disabled placard abuse through paying higher meter rates and parking fines.

### Finding 6

In combating disabled placard abuse, the Department of Parking and Traffic is currently operating under an overly restrictive enforcement protocol. This has made enforcement unnecessarily cumbersome, expensive and ultimately ineffective.

### Finding 7

These are not easy issues to discuss dispassionately. Our natural inclination is to be compassionate and generous toward those with major physical disabilities. But there are also

matters of equity and responsibility. It is the government's responsibility to insure that these privileges are not abused and result in an unfair financial burden being placed on the City's residents. It is not enough that city residents are forced to witness on a daily basis the flagrant misuse of disabled placards on the streets of San Francisco. They must also suffer the added indignity of having to pay higher parking fees and fines to fill the revenue hole created by that abuse.

## RECOMMENDATIONS

### Recommendation 1

Working with the Board of Supervisors, the Mayor should reintroduce legislation establishing an independent review panel. This is the preferred route as it would be easier to ensure that the review panel is organized as an independent body and enjoy a high profile. Should the Board of Supervisors again prove unwilling to pass such legislation, then the Mayor should request the SFMTA Board of Directors to authorize an independent review panel. It is the Civil Grand Jury's expectation that a majority of the panel members would be comprised of knowledgeable and energetic private citizens, including at least one qualified physician or medical authority as specified in CVC Section 255511.58. In order for the panel to perform its work effectively, it is important that it have adequate statistical and clerical staff. The panel should be empowered to hold open hearings and make its findings available to the general public.

### Recommendation 2

The Mayor should urge the SFMTA board to initiate an immediate dialogue with other counties in California with the objective of urging their individual State Legislative delegations to support a comprehensive review of the current laws pertaining to disabled parking placards. The objective of this review should be to bring current regulations more into line with those existing in other states, including the automatic exemption from posted time limits and paying parking meter fees.

### Recommendation 3

The Mayor should urge the SFMTA Board of Directors to instruct the Department of Parking and Traffic to modify its current enforcement protocol with respect to the misuse of disabled placards and initiate a more vigorous approach involving all of their PCOs as permitted under CVC Section 22511.56. Serious consideration should also be given to enlisting the San Francisco Police Department in the effort to combat disabled parking abuse.

#### Recommendation 4

The Board of Supervisors should refrain from passing any new legislation that allows for the installation of additional meters, extending hours of operation or raising meter rates and parking fines until such time as meaningful policies are implemented to eliminate the \$8.4 million hole in the City's parking revenue caused by continued disabled placard abuse. The residents of San Francisco deserve no less.

#### ENDNOTES

1. The number used for disabled placards is a composite of figures provided by the office of Assemblywoman Fiona Ma, the SFMTA and an article in the 1/4/11 San Francisco Chronicle entitled "Big fines ahead for disabled parking abuse". This number does not include disabled license plates for which figures are not broken down by county. For reference, there are currently over 500,000 disabled license plates issued to residents of California.
2. "Parking for the Disabled Parking - Abuse or Over-Use?" 2006-2007 CGJ, 2007, p.2
3. Ibid., p. 3
4. Mayor Gavin Newsom letter to Hon. David L. Ballati, dated 9/4/07
5. "Parking for the Disabled – Abuse or Over Use?" op. cit., p. 7
6. Office of the Controller, "Status of Recommendations by 2006-2007 CGJ", 2010, p. 32
7. Ibid.
8. Ibid.
9. SFpark, "Accessible Parking – Practices and Laws in Other Jurisdictions", 2009, p. 10
10. Ibid.
11. Ibid.
12. City Charter Section 8A. 102(6)(8), as amended in 2007
13. "SF Mild Drivers with Pricey Parking Tickets", SF Chronicle, 1/13/11
14. Ibid.
15. SFpark, op. cit., p. 10
16. Ibid., p. 9
17. SFMTA letter to CGJ dated 2/22/11, p. 2
18. SFpark e-mail to the CGJ dated 3/28/11
19. San Francisco Police Department e-mail to the CGJ dated 3/27/11

#### GLOSSARY

APP	Accessible Parking Placards
CVC	California Vehicle Code
DLD	Disabled License Plate
DMV	Department of Motor Vehicles
PCO	Parking Control Officers
SFMTA	San Francisco Metropolitan Transportation Authority
SFpark	A project of the SFMTA

## BIBLIOGRPHY

“Accessible Parking: Practices and Laws in Other Jurisdictions”, SFpark, 2009

California Vehicle Code, Sections 22511.56 & 22511.58(b)

City and County of San Francisco 1996 Charter, Section 8A, 102(6)(8), as amended in 2007

“Disabled Placard Misuse Abatement Program Procedure Manual” Department of Parking and Traffic, Revised 2005

Letter from Angela Calvillo, Clerk of the San Francisco Board of Supervisors, to the 2010-2011 Civil Grand Jury, dated 12/2/10

Letters from Nathaniel P. Ford Sr., Executive Director/CEO, SFMTA, to the 2010-2011 Civil Grand Jury, dated 12/20/10 and 2/22/11

“Parking for the Disabled – Abuse or Over-Use?” 2006-2007 Civil Grand Jury

“Status of the Recommendations of the Civil Grand Jury 2006-2007,” Office of the Controller, 2010

## RESPONSE MATRIX

FINDINGS	RECOMMENDATIONS	RESPONSE REQUIRED
<p>Finding 1            Since the Civil Grand Jury issued its 2007 report, little or nothing has been done by the Mayor, the Board of Supervisors or the SFMTA to curb the flagrant misuse of disabled placards. City officials have essentially ignored the problem.</p>		
<p>Finding 2            In March 2007 Ordinance File No. 070406 would have set up a review panel. However, in November of 2007 this piece of legislation died without a single hearing. The City Attorney has advised that under the City's Charter the SFMTA has the authority to establish an independent review panel, but it has not done so.</p>	<p>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 255511.58. 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.</p>	<p>Office of the Mayor             The Board of Supervisors             SFMTA Board of Directors</p>
<p>Finding 3            Of the ten major metropolitan areas in the US and Canada, only San Francisco and Chicago operate under state laws that completely exempt vehicles displaying AAPs from posted time limits and paying parking meter rates for on-street parking. The loss of parking meter revenue resulting from this exemption is estimated to be \$19.25 million annually.</p>		

<p>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.</p>	<p>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</p>	<p>Office of the Mayor   SFMTA Board of Directors</p>
<p>Finding 5  Those who actually pay to park will continue to function as the City’s cash cow, filling the revenue hole partially created by disabled placard abuse.</p>		
<p>Finding 6  In combating disabled placard abuse, the DPT follows an overly restrictive enforcement protocol. Enforcement has become unnecessarily cumbersome, expensive and ultimately ineffective.</p>	<p>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 the effort to combat disabled parking abuse.</p>	<p>Office of the Mayor   SFMTA Board of Directors</p>
<p>Finding 7  Polls have shown that a majority of residents do not begrudge disabled drivers some special parking privileges, but it is the government’s responsibility to curb abuse and protect city residents from unfair financial burdens. They pay higher parking fees and fines to fill the revenue hole created by that abuse.</p>	<p>Recommendation 4  The Board of Supervisors should not pass new legislation that allows installing additional meters, extending operation hours or raising meter rates and parking fines until meaningful policies are implemented to eliminate the \$8 million hole in the City’s parking revenue caused by continued disabled placard abuse.</p>	<p>The Board of Supervisors</p>

**RISK MANAGEMENT:  
ARE THE MANAGERS MANAGING THE RISK OF THE CITY?  
2006-2007**

**DISCUSSION**

The 2006– 2007 Civil Grand Jury report found that the City, with assets in excess of \$15 billion, needed a formalized Risk Management Program implemented citywide to manage its risk. Subsequently, the Continuity Committee of the 2008–2009 Civil Grand Jury found “the recommendations of the 2006–2007 Jury regarding Risk Management have either been met or are in the process of being met.” The same report recommended that “a subsequent Jury follow-up to ensure that the expectation of citywide participation is realized.”

The 2010-2011 Continuity Committee, primarily through interviews, has determined that the Risk Management Division has developed a risk management program, based on the International Organization for Standardization (ISO) 31000 standard. (See Appendix A, pages 4 and 5.) A pilot program was implemented in the Business Services Division of the Public Utilities Commission (PUC) and will be implemented in other divisions of the PUC. It is also being implemented at the Port of San Francisco.

In addition, the Municipal Transportation Agency (MTA) found one specific risk area that needed to be addressed. The MTA, in consultation with the Risk Management Division, was able to craft a solution for this area, without having to implement the entire program.

Currently, there is no attempt to establish baseline measurements based on history (e.g. number of lawsuits, injuries, accidents, etc. over the last five years). These could be used to compare business unit performance pre and post program implementation.

With limited staff (three people), the Risk Management Division estimates it can implement only one business unit/department approximately every eighteen months. At this rate, citywide implementation will extend well into the future.

## FINDINGS

1. An appropriate Risk Management Program, based on the ISO 31000, has been formulated.
2. The implementation of the Risk Management Program at the PUC and Port of San Francisco is a good first step towards city-wide implementation.
3. A single risk situation at the MTA was adequately addressed.
4. The success/benefit of implementing the Risk Management Program isn't being measured.
5. The implementation of the ISO-based risk management program is a time-consuming process, and with the limitation of staff and other resources, the city-wide implementation should be viewed as a long-term project.

## RECOMMENDATIONS

1. Because of the long-term nature of this implementation, the Risk Management Division should aggressively pursue single high risk situations in other divisions, departments, and agencies for possible solutions in the short-term.
2. The Risk Management Division should establish baseline measures that will allow some gauge of program success.
3. Based on those measurements, the Risk Management Division should consider the value of adding implementation resources.



## RISK MANAGEMENT DIVISION

*Risk Management is dedicated to minimizing the risk or loss and maximizing opportunities to the City through Strategic Risk Analysis, facilitation of risk transfer, and the creation and maintenance of a culture of collaborative risk management within all City departments.*

### REPORT TO CIVIL GRAND JURY

### Response to December 21, 2010 Letter from Continuity Committee

March 2, 2011

**Presented By:**

**Matt Hansen**

**Director, Risk Management Division**

**Office of City Administrator**

**City & County of San Francisco**

**25 Van Ness, Suite 750**

**San Francisco, CA 94118**

**Phone: (415) 554-2300 Email: [matt.hansen@sfgov.org](mailto:matt.hansen@sfgov.org)**

**RISK MANAGEMENT DIVISION**  
**Response to CIVIL GRAND JURY**  
**Continuity Committee**

---

**Contents**

- Overview of Enterprise Risk Management
  
- History of Enterprise Risk Management (ERM) the City & County of San Francisco
  - Timeline of accomplishments and implementation actions
  - Sample Implementation plan by phase
  - ISO 31000 Principals, Framework and Process
  
- The future of ERM within the City & County of San Francisco

## Overview of ENTERPRISE RISK MANAGEMENT (ERM)

### Goals and Purpose of the Initiative

- To protect the interests of the City and “serve well”.
- To reinforce and support the shared values and high level of commitment within the City.
- To support the desire for an expanded role for risk management and better communication across city as well as within departments – ERM will assist with that.
- To support the desire for coordination between linked departments and internal services.
- Develop a city-wide framework for risk assessments that crosses functions, departments and enterprises.

### Key Concepts

- Risk Management applies at ALL levels of the organization and to all activities.
- Risk Management is about exploiting opportunities as well as preventing problems (both upside and downside risks).
- The process will be tied to business objectives and strategies – and support them.
- The process will work within the City’s culture and eventually become integral to decision making and risk taking.
- All organizations exist to achieve their objectives. The purpose of Risk Management is to manage the barriers and optimize opportunities to achieve those objectives.

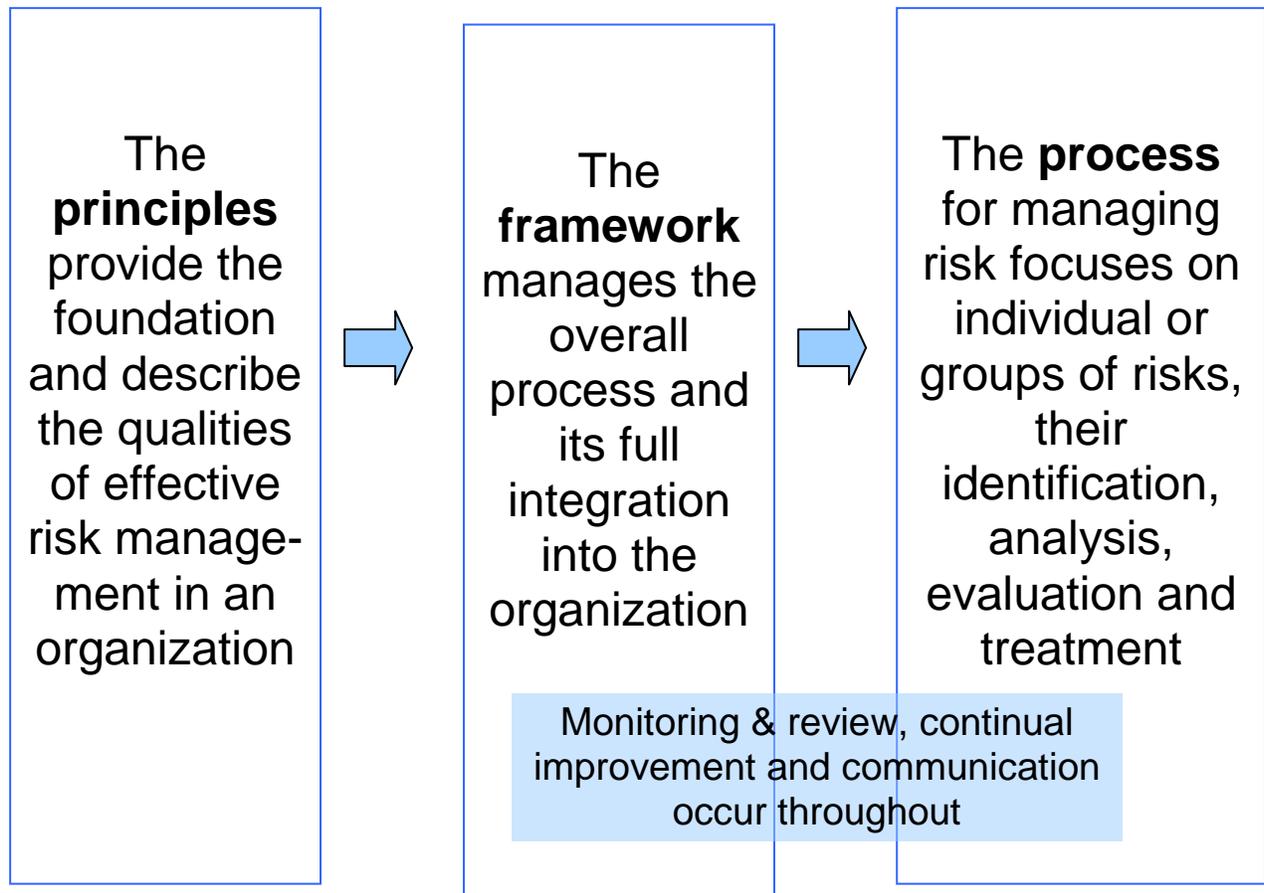
### Drivers of ERM

- **Stakeholders (Internal & External)** – Want to know that key risks are understood and managed.
- **Regulators/Rating Agencies** – Seek assurance around compliance and risk assessment processes.
- **Credit and Rating Analysts** – Want organizations to report risks in a forward-looking context.
- **Activists** – Demand social awareness, safety and environmental consciousness.
- **Peers** – Comparison with others supports industry-wide practice, pushes innovation, and can drive leadership.

### History of ERM at the City & County of San Francisco

1. **2006-2007 Civil Grand Jury Report** – the Civil Grand Jury found that the Office of Risk Management was not “an integral player in the risk management of City departments.” However, they recognized that with a staff of fewer than five employees, the Risk Management office could not “function at the level of sophistication the City requires and deserves.”
  - a. **Finding 1:** The City and County of San Francisco, with assets in excess of \$15 billion, is a major enterprise which engages in numerous and major undertakings, many involving risks with significant loss exposure.
  - b. **Finding 2:** The City should have a sophisticated risk management program comparable to what would be found in a private sector business with similar assets, revenue, and risk exposure.
    - i. **Recommendation 1:** The City should create a risk management program that conforms to the best business practices, is highly developed, embraces technology-based risk management tools, and is applicable to all City departments.
2. **January 2008** - Matt Hansen hired as newly created Director position for Risk Management Division.
3. **April 2008** – Request for Qualifications sent out for Insurance Broker placements and Enterprise Risk Management (ERM) program support.
4. **July 2008** – Insurance Brokers chosen and contracted to market and place insurance citywide, provide consultation on ERM as well as Certificate/Contract compliance.
5. **October 2008** – Risk Management Division selects and contracts with ERM support team regarding a citywide ERM Program.
6. **October 2008** – The then Draft of ISO 31000 is adopted as the framework for the city’s ERM Program.

# ISO 31000: 2009

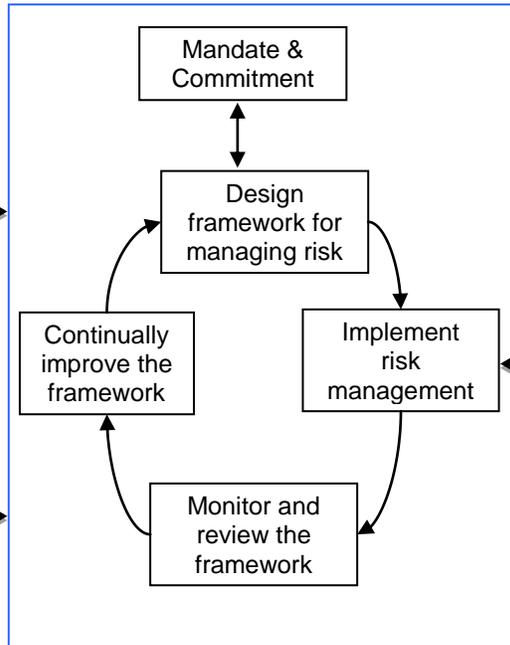


# The Structure & Process

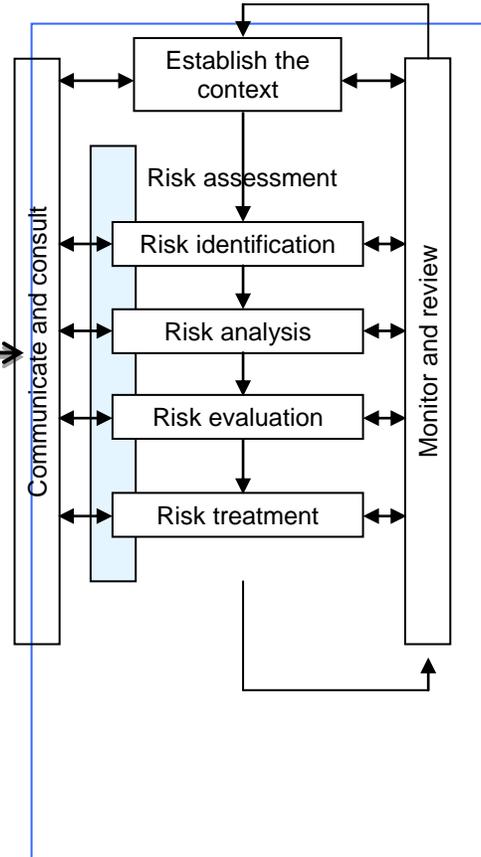
## Principles

- Creates & protects value
- Part of all organizational processes
- Part of decision making
- Explicitly addresses uncertainty
- Systematic, structured & timely
- Tailored
- Takes human & cultural factors into account
- Transparent & inclusive
- Dynamic, iterative & responsive to change
- Facilitates continual improvement

## Framework



## RM Process



**History of ERM at the City & County of San Francisco (continued)**

7. **January 2009** – Risk Management Division begins the implementation of an ERM Program within the department that will eventually expand to other city departments.
8. **May 2009** – ERM Implementation begins at the San Francisco Public Utilities Commission, Business Services Division.
9. **August 2009** – ERM Implementation begins at the Port of San Francisco.

## Sample Implementation Plan

Project Plan	Risk Assessment	Risk Ranking	Mitigation Options & Owners	Implementation & Tracking	Reporting
Develop draft plan and timeline	Implement Mgmt Self Assessment Survey or Risk Survey	Prioritize risks from Mgmt Survey	Clarify responsibilities & develop tools & resources as needed (heat maps, etc.)	Use subsequent surveys to benchmark & track changes	Report to management
Develop talking points (T.P.) to use with key decision-makers	Develop employee survey	Rank risks from employee survey & categorize into risk register	Report to steering committee; identify risk owners & responses	Steering committee or subcommittees to report	Annual report to all employees & council
Identify key decision-makers and timeline for reviewing T.P.	Interview managers & key stakeholders (?)	Incorporate data from interviews (if appropriate)	Meet with risk owners to identify mitigation strategies & benchmarks	Utilize internal audit to validate processes?	RM & steering committee recommends changes/revisions
Consider creating a Risk Committee (or expanding duties of a current group)	Consider an entity-wide risk assessment workshop	Identify risk categories: strategic, operational, financial, human capital, technology, legal & regulatory		Develop dashboard reporting tools for management	
Discuss barriers and brainstorm possible solutions	Implement risk identification for a specific dept	Report to & Consult with Risk Champions			
Identify Risk Champions	Report to & Consult with Risk Champions				

### **History of ERM at the City & County of San Francisco (continued)**

10. **October 2009** - A technological tool that will assist departments with the compliance of all their contracts and track their vendor certificates of insurance is introduced.
11. **January 2010** – An automated tracking tool is introduced to the SFPUC and the Port ERM initiatives.
12. **November 2010** – Risk Management Office became involved in the *ResilientSF* project and introduced automated tracking tool to the Project Manager.
13. **Ongoing** – Meet quarterly with SFPUC and Port to support their respective working groups throughout the continued maturity of their respective initiatives and continue with Risk Management Division efforts moving forward with monthly meetings.

### **The future of ERM within the City & County of San Francisco:**

As previously noted, Enterprise Risk Management (ERM) is an iterative process that continues to advance toward the ultimate goal of citywide participation. Since our last comment, the new international standard for the practice of ERM (ISO 31000) has been published and we have adopted this framework for ERM in San Francisco as noted above. Additionally, I sit on the US Technical Advisory Group that is writing the implementation guidance for ISO 31000 and as an early adopter San Francisco is a nationally recognized leader in this developing field. While the ERM program is expanding, its growth is at a rate consistent with current fiscal and staffing realities, however, I can assure you that the citywide goal remains a focus of this office.

The next steps we are planning to look at in 2011/2012 are:

- Risk Management Committee
- Expand ERM to other divisions of the PUC
- Expand ERM to other city departments or business units as resources are available
- Work with the Controller's Office and City Services Auditor to develop ERM guidelines
- Expand technology and compliance systems to OCA, DPW, MTA

### **Summary**

We thank the Continuity Committee for its interest and efforts to keep focus on this important issue of ERM in City and County of San Francisco.

## ENDNOTES

<sup>i</sup> [Pensions beyond our ability to pay](#) -

<http://sfsuperiorcourt.org/Modules/ShowDocument.aspx?documentid=1982>

<sup>ii</sup> <http://www.sfsuperiorcourt.org/Modules/ShowDocument.aspx?documentid=2660>

<sup>iii</sup> <http://mission.sfgov.org/cgi-bin/dhr/findClass.cgi?MyID=0H22>

<sup>iv</sup> <http://www.gasb.org/>

<sup>v</sup> <http://www.sfcontroller.org/Modules/ShowDocument.aspx?documentid=1480>

<sup>vi</sup> <http://www.sfmayor.org/index.aspx?page=419>

<sup>vii</sup> <http://sfers.org/Modules/ShowDocument.aspx?documentid=807>

## RESPONSE MATRIX

FINDINGS	RECOMMENDATIONS	RESPONSE
<p><b>FINDING 1</b></p> <p>An appropriate Risk Management Program, based on the ISO 31000, has been formulated.</p>		
<p><b>FINDING 2</b></p> <p>The implementation of the Risk Management Program at the PUC and Port of San Francisco is a good first step towards city-wide implementation.</p>	<p><b>RECOMMENDATION 1</b></p> <p>Because of the long-term nature of this implementation, the Risk Management Division should aggressively pursue single high risk situations in other divisions, departments, and agencies for possible solutions in the short-term.</p>	<p>Director of Risk Management</p>
<p><b>FINDING 3</b></p> <p>A single risk situation at the MTA was adequately addressed.</p>		
<p><b>FINDING 4</b></p> <p>The success/benefit of implementing the Risk Management Program isn't being measured.</p>	<p><b>RECOMMENDATION 2</b></p> <p>The Risk Management Division should establish baseline measures that will allow some gauge of program success.</p>	<p>City Administrator Director of Risk Management</p>
<p><b>FINDING 5</b></p> <p>The implementation of the ISO-based risk management program is a time-consuming process, and with the limitation of staff and other resources, the city-wide implementation should be viewed as a long-term project.</p>	<p><b>RECOMMENDATION 3</b></p> <p>Based on those measurements, the Risk Management Division should consider the value of adding implementation resources.</p>	<p>City Administrator Director of Risk Management</p>