

File 09 1240

Petitions and Communications received from October 20, 2009, through October 26, 2009, for reference by the President to Committee considering related matters or to be ordered filed by the Clerk on November 3, 2009.

From Office of the Controller, submitting its financial audit report of the Statement of Grant Revenues and Expenditures for the Sheriff's Department for the period from February 1, 2007, through June 30, 2009. (1)

From Office of the Controller, submitting an audit report for Gotham Enterprises, LLC, dba Peet's Coffee & Tea. Gotham has two lease agreements with the Airport Commission to operate six Peet's Coffee & Tea facilities in the San Francisco International Airport. Copy: Budget and Finance Committee Clerk (2)

From Department of Human Resources, submitting the annual report on Sexual Harassment Complaints filed in FY 2008-2009. Copy: Each Supervisor (3)

From Human Services Agency, submitting FY 2009-2010 First Quarter Human Services Care Fund Report. Copy: Each Supervisor (4)

From Office of the Clerk of the Board, submitting Form 700 Statement of Economic Interest for Alexa Delwiche, Office of Legislative Analyst and Nilka Julio, Office of the Clerk of the Board. (5)

From Capital Planning Committee, submitting recommendations for the following S.F. Port resolutions: authorizing the issuance of revenue bonds for various capital improvements and (2) the supplemental appropriation request for various capital improvements. (6)

From Office of the Controller, submitting the Monthly Economic Barometer Report for the City and County of San Francisco for July/August 2009. (7)

From Department of Building Inspection, submitting the second Project Progress Report for the Permit and Project Tracking System. (8)

From Emil Lawrence, regarding the Board of Supervisors response to the FY 2008-2009 Civil Grand Jury Report entitled "Pensions: Beyond Our Ability to Pay." Copy: Government Audit and Oversight Committee Clerk, File No. 091159 (9)

From Sanger Sacramento Street, LLC, regarding the basement of his building at 576 Sacramento Street flooding each year after a heavy rain storm due to an inadequately sized side sewer and an inadequately sized Sacramento Street sewer line. (10)

From Office of the Controller, submitting the audit report for Portsmouth Plaza Parking Corporation. Copy: Government Audit and Oversight and Budget and Finance Committee Clerks (11)

From concerned citizens, submitting support for the expansion of Redwood Park to 555 Washington Street. 2 letters (12)

From Health Service System, regarding claims denied by Blue Shield and policies the Health Service system has on assisting members of Blue Shield . (Reference No. 20090922-001) (13)

From concerned citizens, submitting support for extending parking meter hours in San Francisco. 2 letters (14)

From concerned citizens, submitting opposition to proposed legislation to extend parking meter hours in San Francisco. 2 letters (15)

From State Office of Historic Preservation, submitting notice that on October 8, 2009, the "Roos House" was placed on the National Register of Historic Places. Copy: Each Supervisor (16)

From concerned citizens, regarding proposed legislation concerning the "Carryout Bag Rebate" Ordinance. File No. 091211, Copy: Each Supervisor, City Operations and Neighborhood Services Committee Clerk, 4 letters (17)

From concerned citizens, commenting on proposed ordinance regarding confidentiality of juveniles' immigration status. File No. 091032, 5 letters (18)

From Andrea Nelson, regarding allowing dogs on Muni. (19)

From Round the Diamond, submitting proposal to initiate a public-private partnership to build a Basketball Education and Career Pathway Arena. File Nos. 090782, 090920, Copy: Each Supervisor (20)

From Park Animal Hospital, regarding proposed legislation prohibiting onychectomy (declawing) and tendonectomy procedures on cats. File No. 091039 (21)

From William McGowan, submitting support for proposed legislation urging Federal officials to support Irish Unification. File No. 091216 (22)

From Ryan Van Lenning, urging the Board of Supervisor to adopt a Clean Power SF (Community Choice) RPF with a strong local renewable energy and efficiency mandates that conform to the original project implementation Plan passed in July 2007. (23)

From State Fish and Game Commission, submitting notice of findings regarding the American Pika which will be published in the California Regulatory Notice Register on October 23, 2009. (24)

From State Public Utilities Commission, submitting notice that PG&E has filed an application for expedited Commission authorization to change residential electric rates effective January 1, 2010. Copy: Each Supervisor (25)

From concerned citizens, regarding Sharp Park Golf Course. (26)

From concerned citizens, regarding the Entertainment Commission. 2 letters (27)

From Patrick Missue, regarding the intersection of Alemany Boulevard and San Juan Avenue. (28)

From Rebecca Sarinelli, regarding the nightclubs in North Beach. (29)

From John Morrison, regarding motorcycles and boom car noise. (30)

From Danny Tamayo, regarding the mandatory composting law in San Francisco. (31)

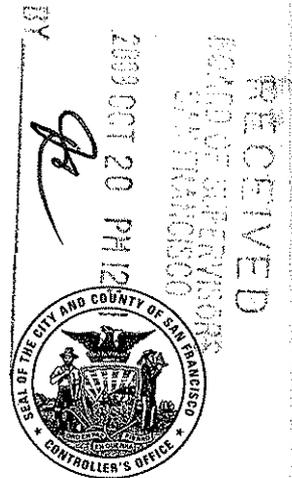
# City and County of San Francisco

Office of the Controller – City Services Auditor

UNLAWFUL  
AS TO THE

## SHERIFF'S DEPARTMENT:

Financial Statement Audit of the  
Intergovernmental Partnership Grant  
February 1, 2007, Through  
June 30, 2009



October 20, 2009



CITY AND COUNTY OF SAN FRANCISCO  
OFFICE OF THE CONTROLLER

Ben Rosenfield  
Controller

Monique Zmuda  
Deputy Controller

October 20, 2009

Michael Hennessey, Sheriff  
Sheriff's Department  
City Hall, Room 456  
1 Dr. Carlton B. Goodlett Place  
San Francisco, California 94102

Dear Sheriff Hennessey:

The Office of the Controller presents its financial audit report of the Statement of Grant Revenues and Expenditures and related schedules of the Intergovernmental Partnership Grant (IGP grant) of the Sheriff's Department (Sheriff) of the City and County of San Francisco for the period from February 1, 2007, through June 30, 2009. The financial statement presents the results of the IGP grant's operations for the audit period.

The statement presents fairly, in all material respects, the results of the IGP grant's operations for the audit period in conformity with generally accepted accounting principles. However, the audit found disallowed costs of \$2,772 for overcharged payroll and related expenses by one of the Sheriff's subcontractors.

The Sheriff's response to the management letter of minor findings and recommendations is attached. The Controller's Office, City Services Auditor, will work with the Sheriff to follow up on the status of the recommendations.

Respectfully submitted,

Tonia Lediju  
Director of Audits

cc: Mayor  
Board of Supervisors  
Civil Grand Jury  
Budget Analyst  
Public Library

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**CITY AND COUNTY OF SAN FRANCISCO**  
**OFFICE OF THE CONTROLLER**

**Ben Rosenfield**  
**Controller**

**Monique Zmuda**  
Deputy Controller

**INDEPENDENT AUDITOR'S REPORT**

Board of Supervisors  
City and County of San Francisco  
San Francisco, California

We have audited the accompanying Statement of Grant Revenues and Expenditures of the Sheriff's Department (Sheriff) of the City and County of San Francisco (City), in accordance with the State of California's Department of Corrections and Rehabilitation's Intergovernmental Partnership Grant (IGP grant), Agreement No. C06.443, for the period February 1, 2007, through June 30, 2009. This statement is the responsibility of the Sheriff's management. Our responsibility is to express an opinion on the Statement of Grant Revenues and Expenditures based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Statement of Grant Revenues and Expenditures is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As discussed in Note 1, the financial statement presents only the grant revenues and expenditures of the Sheriff's State of California's Department of Corrections and Rehabilitation's Intergovernmental Partnership Grant (IGP grant), Agreement No. C06.443, and does not purport to, and does not, present fairly the grant revenues and expenditures of the Sheriff or of the City for the period then ended in conformity with accounting principles generally accepted in the United States of America. This report is intended for the purpose of complying with the audit requirements of the State of California's Department of Corrections and Rehabilitation's Intergovernmental Partnership Grant, Agreement No. C06.443.

In our opinion, the Statement of Grant Revenues and Expenditures presents fairly, in all material respects, the grant revenues and expenditures for the period February 1, 2007, through June 30, 2009, in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued a report dated September 25, 2009, on our consideration of the Sheriff's internal controls over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements. The purpose of that report is to describe the scope of our

testing on internal controls over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal controls over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and important for assessing the results of our audit.

Our audit was conducted for the purpose of forming an opinion on the Statement of Grant Revenues and Expenditures. The supplemental schedules are presented for purposes of additional analysis and are not a required part of the Statement of Grant Revenues and Expenditures. Such information has been subjected to the auditing procedures applied in the audit of the Statement of Grant Revenues and Expenditures and, in our opinion, is fairly stated in all material respects in relation to the Statement of Grant Revenues and Expenditures.

*Government Auditing Standards* require auditors and audit organizations to maintain independence, both in fact and in appearance, so that opinions, conclusions, judgments, and recommendations will be impartial and be viewed as impartial by knowledgeable third parties. The Office of the Controller (Controller), City Services Auditor Division (CSA), is not organizationally independent in performing this audit because the Controller is the City Services Auditor for the City and County of San Francisco, and as such, is responsible for carrying out the functions of auditing, accounting, and financial reporting. These functions are separate and discrete tasks independently performed by personnel within their respective divisions, but they ultimately report to the Controller who is the organizational head of the agency.

Nevertheless, the reader of this report is advised to consider the above disclosure as a qualification of scope that may have an effect on this report.

This report is intended solely for the information and use of the Sheriff's management, the State of California's Department of Corrections and Rehabilitation, the Board of Supervisors, and others within the City, and is not intended to be and should not be used by anyone other than these specific parties. However, this report is a matter of public record and its distribution is not limited.

CONTROLLER'S CITY SERVICES AUDITOR DIVISION



Noriaki Hirasuna, CPA  
September 25, 2009

**CITY AND COUNTY OF SAN FRANCISCO  
SHERIFF'S DEPARTMENT  
INTERGOVERNMENTAL PARTNERSHIP GRANT  
STATEMENT OF GRANT REVENUES AND EXPENDITURES**

**GRANT PERIOD: FROM FEBRUARY 1, 2007, THROUGH JUNE 30, 2009**

	<u>Total</u>
<b>Revenues: (see Note 3)</b>	
Intergovernmental Partnership Grant Allocation	\$ 1,147,792
<b>Total Revenues:</b>	<b>1,147,792</b>
<b>Expenditures: (see Note 4)</b>	
Program Subcontracts	733,982
Nonexpendable Equipment	6,570
Case Management Coordination	131,370
Support Services Fund	209,756
Indirect Costs	7,333
Other-Final Independent Audit	<u>35,000</u>
<b>Total Expenditures:</b>	<b>1,124,011</b>
Excess of Revenues over Expenditures:	<b>\$ 23,781</b>

**See Accompanying Notes to the Financial Statement**

**INTERGOVERNMENTAL PARTNERSHIP GRANT  
NOTES TO THE BASIC FINANCIAL STATEMENTS  
FEBRUARY 1, 2007, THROUGH JUNE 30, 2009**

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**NOTE 1 – SUMMARY OF  
SIGNIFICANT  
ACCOUNTING POLICIES**

The financial statement of the Intergovernmental Partnership Grant (IGP Grant) of the Sheriff's Department (Sheriff) of the City and County of San Francisco (City) is prepared in accordance with generally accepted accounting principles (GAAP). The accounting and reporting framework and the more significant accounting principles and practices are described in subsequent sections of this Note. The remainder of the Notes is organized to provide explanations, including required disclosures, of the IGP Grant's financial activities for the period from February 1, 2007, through June 30, 2009.

(a) Financial Reporting Entity

The California Department of Corrections and Rehabilitation (CDCR) created the Intergovernmental Partnership Grant Program (IGP) to enhance local government collaboration to develop strategies for safer communities through effective programs and services. This grant program created opportunities for collaboration and provided incentives to encourage the participation of key stakeholders in offender program planning and reintegration. Recent evidence from efforts supported by the U.S. Department of Justice, the Urban Institute and the National Governors Association strongly suggests that similar partnerships and collaborative relationships among government agencies are critical to the success of offender reentry into the community.

The Sheriff of the City and County of San Francisco applied for and was awarded an IGP grant to provide various services to support successful reentry of violent offender parolees into the San Francisco Community, modeled after the Sheriff's No Violence Alliance Project (NoVA). The initial NoVA Project was created in 2006 with funding from the San Francisco Board of Supervisors to address the growing problems arising from violence in the San Francisco communities of Bayview Hunters Point, the Mission, and Western Addition. This proposed NoVA Parolee Project will address several of the needs that arise as a result of an increasing number of prisoners reentering the community following periods of incarceration. Specifically, the project provided case management, job readiness services and linkages to employment, education, and housing for 100 individuals yearly who are paroled to the City. The project identified and recruited candidates in state prison six months prior to their release and developed reentry plans and referrals, working closely with

community-based partners and local law enforcement agencies.

(b) Basis of Presentation - Fund Accounting

The financial transactions of the Sheriff's IGP Grant are accounted for in a special revenue fund within the City's basic financial statements, since the grant revenue received by the Sheriff is legally restricted to specific use. Moneys allocated and awarded to the Sheriff by the California Department of Corrections and Rehabilitation (CDCR) Division of Community Partnerships (DCP) can be expended only for purposes authorized by the grant agreement between the Sheriff and the CDCR.

(c) Basis of Accounting

The Sheriff uses the modified accrual basis of accounting for its fund. Under this basis of accounting, revenues are recorded when measurable and available. Measurable means the amount of the transaction can be determined and available means collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period. Expenditures are recorded when the related liability is incurred.

(d) Budgetary Data

The City adopts annual budgets for all governmental funds on a substantially modified accrual basis of accounting. The budget of the City is a detailed operating plan, which identifies estimated costs and results in relation to estimated revenues. The budget includes (1) the programs, projects, services and activities to be provided during the fiscal year, (2) the estimated resources (inflows) available for appropriation, and (3) the estimated charges to appropriations. The budget represents a process through which policy decisions are deliberated, implemented, and controlled. The City Charter prohibits expending funds for which there is no legal appropriation.

**NOTE 2 – GRANT  
AMENDMENTS AND  
BUDGET  
MODIFICATIONS**

The Grant Agreement was amended for a change in name reference from "Contractor" to "Grantee," and the deletion of paragraph 3 of Exhibit B, Budget Detail and Payment Provisions, which was the "Budget Contingency Clause."

The Sheriff submitted three budget modifications to the CDCR for reallocation of funds between budget categories, the first in March 2009, the second in April 2009, and the

**INTERGOVERNMENTAL PARTNERSHIP GRANT  
NOTES TO THE BASIC FINANCIAL STATEMENTS  
FEBRUARY 1, 2007, THROUGH JUNE 30, 2009**

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third in October 2009. The CDCR approved all budget modifications. While not covered by any written amendment, the Sheriff's staff stated that CDCR allowed the Sheriff to carry over unused grant funds from the prior fiscal year's budget, to the succeeding fiscal year's budget.

**NOTE 3 – GRANT  
REVENUES**

The Sheriff submitted 10 fiscal invoices to the CDCR for reimbursement of grant program costs of \$1,147,792. The final invoice dated May 15, 2009, covering the period from April through June 2009, included estimated expenditures as requested by the CDCR due to unexpected state budget issues.

Subsequently, the Sheriff submitted April and May 2009 invoices with actual expenditures to the CDCR and is holding the June 2009 invoice until receipt of final evaluation costs. The Sheriff anticipates returning \$23,781 to the CDCR, because it overestimated expenditures in its initial April through June 2009 invoice.

**NOTE 4 – GRANT  
EXPENDITURES**

The Sheriff paid the majority of its grant funds, or \$669,815, to San Francisco Pretrial Diversion Project, Inc. (SF Pretrial). The scope of work for this community based organization (CBO) included case management, implementing an electronic case management system to be shared by contractors, hiring two full time case managers, acting as the fiscal agent and managing the disbursement of housing and support services fund for approved services to NoVA parolee participants. The Sheriff also made payments to other CBOs as follows:

- \$96,440 to Bayview Hunters Point Multipurpose Senior Services (Senior Ex-Offender Program) to provide a full time case manager.
- \$72,105 to Center on Juvenile & Criminal Justice to provide two case managers and a few hours per week from a staff person trained in cognitive restructuring and behavioral modification.
- \$96,865 to Haight Ashbury Free Clinics, Inc. to provide a full time case manager.
- \$106,463 to Positive Directions Equals Change, Inc. to provide a full time case manager.
- \$22,920 to Community Works, Inc. to provide a victim/survivor advocate for a few hours per week for the Sheriff's NoVA Parolee Project.

The Sheriff has included \$10,500 in its Statement of Grant Revenues and Expenditures for the estimated cost of its final evaluation report. However, as of the date of this audit report, the evaluation report has not yet been completed and a final invoice has not been submitted.

**NOTE 5 –  
RECOMMENDED  
DISALLOWANCES**

SF Pretrial overcharged payroll and related expenses by \$2,772 when it charged 100 percent of the salary and benefits of one employee to the IGP Grant, instead of the correct 50 percent.

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**CITY AND COUNTY OF SAN FRANCISCO**  
**OFFICE OF THE CONTROLLER**

**Ben Rosenfield**  
**Controller**

**Monique Zmuda**  
Deputy Controller

**INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL  
REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF  
FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT  
AUDITING STANDARDS**

Board of Supervisors  
City and County of San Francisco  
San Francisco, California

We have audited the Statement of Grant Revenues and Expenditures of the Sheriff's Department (Sheriff) of the City and County of San Francisco (City), in accordance with the State of California Department of Corrections and Rehabilitation's Intergovernmental Partnership Grant (IGP grant) Agreement No. C06.443, for the period February 1, 2007, through June 30, 2009, and have issued our report thereon dated September 25, 2009. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

**Internal Control Over Financial Reporting**

In planning and performing our audit, we considered the Sheriff's internal controls over financial reporting as a basis for designing our audit procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Sheriff's internal controls over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Sheriff's internal controls over financial reporting.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control.

Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not

identify any deficiencies in internal controls over financial reporting that we consider to be material weaknesses, as defined above. However, we noted other matters involving the internal controls over financial reporting that we have reported to the Sheriff in a separate letter dated September 25, 2009.

**Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the Sheriff's financial statement is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of the financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we noted certain matters that we reported to management in a separate letter dated September 25, 2009.

This report is intended solely for the information and use of the Board of Supervisors, the Sheriff's management, and others within the City and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.



Noriaki Hirasuna, CPA  
September 25, 2009

## Required Supplementary Information

**CITY AND COUNTY OF SAN FRANCISCO  
SHERIFF'S DEPARTMENT  
INTERGOVERNMENTAL PARTNERSHIP GRANT  
STATEMENT OF ELIGIBLE COSTS (BUDGET TO ACTUAL)**

**GRANT PERIOD: FROM FEBRUARY 1, 2007, THROUGH JUNE 30, 2009**

	<u>Budget</u>	<u>Actual</u>	<u>(Over)/Under</u>
Program Subcontracts	\$ 742,029	\$ 733,982	\$ 8,047
Nonexpendable Equipment	10,000	6,570	3,430
Case Management	136,013	131,370	4,643
Support Services Fund	272,958	209,756	63,202
Indirect Costs	7,333	7,333	0
Other-Final Independent Audit	<u>40,000</u>	<u>35,000</u>	<u>5,000</u>
<b>Total:</b>	<b>\$ 1,208,333</b>	<b>\$ 1,124,011</b>	<b>\$ 84,322</b>

**CITY AND COUNTY OF SAN FRANCISCO**  
**SHERIFF'S DEPARTMENT**  
**INTERGOVERNMENTAL PARTNERSHIP GRANT**  
**SCHEDULE OF RECOMMENDED DISALLOWED COSTS (STATE FUNDS)**

**GRANT PERIOD: FROM FEBRUARY 1, 2007, THROUGH JUNE 30, 2009**

	<b>Total Costs Claimed</b>	<b>Costs Accepted</b>	<b>Recommended Disallowances</b>
Program Subcontracts	\$ 733,982	\$ 731,210	\$ 2,772
Nonexpendable Equipment	6,570	6,570	0
Case Management	131,370	131,370	0
Support Services Fund	209,756	209,756	0
Indirect Costs	7,333	7,333	0
Other-Final Independent Audit	<u>35,000</u>	<u>35,000</u>	<u>0</u>
<b>Total:</b>	<b>\$ 1,124,011</b>	<b>\$ 1,121,239</b>	<b>\$ 2,772</b>

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11/11/2011 10:10:10 AM

**Management Letter to the  
San Francisco Sheriff Department**



**CITY AND COUNTY OF SAN FRANCISCO**  
**OFFICE OF THE CONTROLLER**

**Ben Rosenfield**  
**Controller**

**Monique Zmuda**  
Deputy Controller

September 25, 2009

Michael Hennessey, Sheriff  
Sheriff's Department  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 482  
San Francisco, California 94102

Dear Sheriff Hennessey:

We have audited the financial statement of the Sheriff's Department's (Sheriff) Intergovernmental Partnership Grant (IGP) for the period of February 1, 2007, through June 30, 2009, and have issued our report thereon dated September 25, 2009. Professional standards require that we provide you with the following information related to our audit. In addition, we have included suggestions regarding opportunities for strengthening internal controls and operating efficiency. This letter does not affect our report on the financial statement.

**Our Responsibility Under U.S. Generally Accepted Auditing Standards and Government Auditing Standards**

As stated in our engagement letter dated June 19, 2009, our responsibility, as described by professional standards, is to plan and perform our audit to obtain reasonable, but not absolute, assurance about whether the financial statement is free of material misstatement and is fairly presented in accordance with U.S. generally accepted accounting principles. Because an audit is designed to provide reasonable, but not absolute, assurance and because we did not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us.

As part of our audit, we considered the internal controls of the Sheriff and of the Sheriff's subcontractors. Such considerations were solely for the purpose of determining our audit procedures and not to provide any assurance concerning such internal controls.

As part of obtaining reasonable assurance about whether the financial statement is free of material misstatement, we performed tests of the Sheriff's compliance with certain provisions of laws, regulations, contracts, and grants. However, the objective of our tests was not to provide an opinion on compliance with such provisions.

**Significant Accounting Policies**

Management is responsible for the selection and use of appropriate accounting policies. In accordance with the terms of our engagement letter, we will advise management about the appropriateness of accounting policies and their application. The significant accounting policies used by the Sheriff are described in Note 1 to the financial statements. No new accounting

policies were adopted and the application of existing policies was not changed during the audit period. We noted no transactions entered into by the Sheriff during the period that were both significant and unusual, and of which, under professional standards, we are required to inform you, or transactions for which there is a lack of authoritative guidance or consensus.

### **Audit Adjustments**

For purposes of this letter, professional standards define an audit adjustment as a proposed correction of the financial statements that, in our judgment, may not have been detected except through our auditing procedures. An audit adjustment may or may not indicate matters that could have a significant effect on the Sheriff's financial reporting process (that is, cause future financial statements to be materially misstated). In our judgment, none of the adjustments we proposed, whether recorded or unrecorded by the Sheriff, either individually or in the aggregate, indicate matters that could have a significant effect on the Sheriff's financial reporting process.

### **Disagreements with Management**

For purposes of this letter, professional standards define a disagreement with management as a matter, whether or not resolved to our satisfaction, concerning a financial accounting, reporting, or auditing matter that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

### **Difficulties Encountered in Performing the Audit**

We encountered no significant difficulties in dealing with management in performing and completing our audit.

### **Audit Comments and Recommendations**

#### **Audit Comment #1: Error in Salary Reimbursement**

In its January 2009 subcontractor invoice, San Francisco Pretrial Diversion Project, Inc. (SF Pretrial) erroneously claimed 100 percent of the salary and benefits of one of its staff who only worked 50 percent of her time on the project, according to its deputy director's memo. Per its agreement with the Sheriff, SF Pretrial can only claim payroll and related expenditures based on the actual time spent on the project. As a result of this error and a misallocation of taxes for its staff assigned to the project in this same period, the Sheriff overpaid SF Pretrial \$1,875 in payroll and \$897 in taxes, or a total of \$2,772.

### **Audit Recommendation #1**

The Sheriff should require SF Pretrial to return the overpayment of \$2,772 in reimbursed salaries and taxes, and the Sheriff should return the same amount to the CDCR as a disallowed cost.

### **Audit Comment #2: Non-Payroll Costs Claimed as Payroll Expenditures**

SF Pretrial claimed as payroll expenditures on its April through July 2008 invoices to the Sheriff payments to Harm Reduction Therapy Center and Insight Prison Project totaling \$4,250. The agreement between the Sheriff and SF Pretrial included a fiscal year 2007-08 budget for staff payroll and for specific subcontract services, which did not include these two organizations. Further, these two subcontractors were not identified by the Sheriff to the CDCR, as required by the grant agreement. According to SF Pretrial administration staff, she was told to claim these expenditures under payroll. Although the Sheriff approved these payments, which were supported by invoices and appeared appropriate for the grant program, they were not authorized under SF Pretrial's agreement.

### **Audit Recommendation #2**

The Sheriff should ensure that its subcontractors request budget modifications or amendments to its agreements when necessary to allow appropriate expenditures to be authorized by its agreements.

### **Audit Comment #3: Expired Subcontracts**

SF Pretrial's subcontractor agreements did not run through the duration of the IGP grant, which was February 1, 2007, through June 30, 2009. SF Pretrial's agreement with Pendergrass Smith Consulting expired on June 30, 2007; Recovery Survival Network and Mission Council on Alcohol Abuse, Inc. agreements both expired on June 30, 2008; and Insight Prison Project's agreement expired on December 31, 2008. SF Pretrial's agreement with the Sheriff requires subcontractor agreements to be in form and substance acceptable to the City, which the auditors believe should be in writing and effective during the term of the grant agreement. According to SF Pretrial staff, the contracts were not formally extended, but verbally agreed upon with the subcontractors to be on a month to month basis.

### **Audit Recommendation #3**

The Sheriff should require subcontractors to submit copies of subcontractor agreements and should review the agreements to ensure that they are current and in proper form.

#### **Audit Comment #4: Payroll Based on Estimated Allocation**

SF Pretrial allocated salaries of staff working part time on the program based on percentage estimates of the time worked. The CDCR provided an audit documentation checklist to the Sheriff which states that estimates and approximate percentages are not acceptable for salaries of staff that work part time on the program. Further, SF Pretrial's agreement with the Sheriff states that SF Pretrial is required to establish and maintain payroll and time records relating to eligible expenses. Timesheets are an important, basic payroll record. According to SF Pretrial, they were unaware that they had to document the actual time of staff working on the program. Although SF Pretrial submitted a description of the work performed to justify the percentages estimated each month of the grant period, without properly signed and approved detailed timesheets, the Sheriff cannot be assured that it is reimbursing proper salary costs.

#### **Audit Recommendation #4**

The Sheriff should require its contractors to keep appropriate time records, such as timesheets, for work performed on grant agreements and to charge only actual salary costs. Also, the Sheriff should review its subcontractors' supporting documentation carefully to ensure that it is providing adequate records.

#### **Audit Comment #5: Inequitable Allocation**

On its invoices to the Sheriff, SF Pretrial allocated consultant expenditures, which benefited a number of SF Pretrial's programs, by charging its different programs intermittently and inequitably. For example, it charged one program for the entire quarterly expense and in the next quarter, it charged another program for the entire quarter's expense. However, the expenditures varied by quarter and therefore, this allocation method are not equitable. According to SF Pretrial's accountant, this seemed the easiest way to allocate this expenditure.

#### **Audit Recommendation #5**

The Sheriff should require its contractors to equitably allocate expenditures that benefit multiple programs. The Sheriff should also carefully review its contractor expenditures to ensure that they are accurately allocated.

#### **Audit Comment #6: Sheriff's Unallowed Grant Expenditures**

The audit disclosed eight instances in the sample months selected for testing where grant funds were used to purchase cigarettes for program participants. The Sheriff's Guidelines on Flex Fund Spending prohibit the purchase of cigarettes as eligible grant expenditures. Flex Funds are grant funds spent only for client needs after they are released from prison, such as housing and transportation; the guidelines have been in effect since the No Violence Program (NoVA) was first implemented according to Sheriff staff. According to SF Pretrial's deputy director, case managers occasionally purchased cigarettes for clients to help them feel more at ease and to be comfortable with the case managers and become more engaged in the

program. According to Sheriff staff, the purchases were approved initially, but subsequently it was decided that cigarettes would no longer be allowed.

**Audit Recommendation #6**

The Sheriff should review its subcontractor's invoices carefully to ensure that it does not approve unallowable expenditures.

**Audit Comment #7: Minor Clerical Errors**

The audit disclosed various minor clerical errors in some Flex Fund supporting documents for the sample invoices selected for testing. There were 15 instances where the billed invoice amounts did not exactly match the amounts on the supporting documents. The differences were from a few cents to a few dollars. There were also a few instances where copies of receipts were not a full reproduction or only a partial copy of the actual receipt, instances where receipts were not descriptive, and other instances where invoiced service dates did not match the supporting documents. The Sheriff is required to maintain, or cause its subcontractors to maintain, adequate supporting documents for all eligible expenditures. Without adequate or accurate supporting documents, the Sheriff or the CDCR cannot be assured that it is reimbursing proper, accurate expenditures.

**Audit Recommendation #7**

The Sheriff should review and recalculate its subcontractor invoices to ensure that all invoiced expenditures accurately match its supporting documentation prior to reimbursing its subcontractors.

**Audit Comment #8: Budget Transfer Without Approval**

One of the Sheriff's grantees, Positive Directions Equals Change, Inc. (Positive Directions), increased its claim for indirect costs to offset the overcharge of salary on its June 2008 invoice in order to stay within the salary budget. The agreement between the Sheriff and Positive Directions requires the Sheriff's prior approval before transferring expenditures between budget categories. The Sheriff caught the error, but allowed the excess salaries to be charged as indirect costs.

**Audit Recommendation #8**

The Sheriff should require its CBOs to follow the terms of its agreements, which state that CBOs should formally request budget changes between categories.

#### **Audit Comment #9: Director Salary Charged as Case Manager**

Positive Directions allocated 100 percent of its executive director's salary for one pay period to the June 2008 program invoice. The agreement between the Sheriff and Positive Directions did not list the executive director as an approved program case manager. The deputy director of Positive Directions stated that the executive director did work full time for the program during this pay period. However, there was no program modification or grant amendment describing this change. Further, there was no indication on the invoice or supporting documents highlighting this change.

#### **Audit Recommendation #9**

The Sheriff should require its subcontractors to formally request program modifications or amendments when necessary to document changes to its agreements.

#### **Audit Comment #10: Same Pay Charged for Fewer Hours**

Positive Directions charged \$2,200 for a case manager on its July 2008 invoice, although the case manager worked only three hours a day instead of the agreed-upon four hours a day. Because an hourly rate is stated in the approved budget attached to its agreement, fewer hours worked should result in less pay. Positive Directions' deputy director stated that he might have made a mistake or allowed the same salary in order to compensate for the case manager's travel, which he stated was not reimbursed. However, travel expenses, if appropriate, should be claimed under another line item expense in the budget, which requires prior approval from the Sheriff. As a result, Positive Directions did not provide supporting documentation for \$550 of grant funds reimbursed.

#### **Audit Recommendation #10**

The Sheriff should require its subcontractors to formally request program modifications or amendments when necessary to allow additional, appropriate expenditures to be reimbursed.

#### **Audit Comment #11: Unapproved Timesheets**

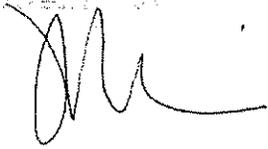
Of six Positive Directions' case manager's timesheets selected for sample testing, four were not signed as approved. However, the Petty Cash/Check Request form authorizing payment of this payroll expenditure was signed. Nevertheless, timesheets should always be approved by a supervisor to validate the time worked on the grant program. Positive Directions' deputy director indicated that he had probably overlooked this task.

#### **Audit Recommendation #11**

The Sheriff should implement procedures to ensure that all timesheets are signed prior to paying invoices.

This information is intended solely for the use of management of the Sheriff, and the California Department of Corrections and Rehabilitation and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tonia Lediju', written over a faint horizontal line.

Tonia Lediju  
Director of Audits

# RESPONSE TO MANAGEMENT LETTER

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City and County of San Francisco

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OFFICE OF THE SHERIFF

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Michael Hennessey  
SHERIFF

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(415) 554-7225

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October 6, 2009  
Reference: 2009-119

Tonia Lediju, Director of Financial Audits  
Audits Division Office of the Controller  
City Hall, Room 477  
San Francisco, CA 94102-4694

Dear Ms. Lediju,

This letter is in response to the audit findings of the Intergovernmental Partnership Grant (IGP grant) conducted of the Sheriff's Department (Sheriff). In summary, the department agrees with all findings and accepts the current recommendations.

**1. Error in Salary Reimbursement**

**Audit Recommendation #1:** The Sheriff should require SF Pretrial to return the overpayment of \$2,772 in reimbursed salaries and benefits, and the Sheriff should return the same amount to the CDCR as a disallowed cost.

***Response:*** *The department agrees and will require SF Pretrial to return the overpayment of \$2,772 in reimbursed salaries and benefits. The department will return the same amount to the CDCR as a disallowed cost.*

*Below, please find a response to recommendations #2 through #11.*

**2. Non-Payroll Costs Claimed as Payroll Expenditures**

**Audit Recommendation # 2:** The Sheriff should ensure that its subcontractors request budget modifications or amendments to its agreements when necessary to allow appropriate expenditures to be authorized by its agreements.

**3. Expired Subcontractors**

**Audit Recommendation # 3:** The Sheriff should require subcontractors to submit copies of subcontractor agreements and should review the agreements to ensure that they are current and in proper form.

4. **Payroll Based on Estimated Allocation**  
**Audit Recommendation #4:** The Sheriff should require its contractors to keep appropriate time records, such as timesheets, for work performed on grant agreements and to charge only actual salary costs. Also, the Sheriff should review its subcontractors' supporting documentation carefully to ensure that it is providing adequate records.
5. **Inequitable Allocation**  
**Audit Recommendation #5:** The Sheriff should require its contractors to equitably allocate expenditures that benefit multiple programs. The Sheriff should also carefully review its contractor expenditures to ensure that they are accurately allocated.
6. **Unallowed Grant Expenditures – Cigarettes**  
**Audit Recommendation #6:** The Sheriff should review its subcontractor's invoices carefully to ensure that it does not approve unallowable expenditures.
7. **Minor Clerical Errors**  
**Audit Recommendation #7:** The Sheriff should review and recalculate its subcontractor invoices to ensure that all invoiced expenditures accurately match its supporting documentation prior to reimbursing its subcontractors.
8. **Budget Transfer without Approval**  
**Audit Recommendation #8:** The Sheriff should require its CBOs to follow the terms of its agreements, which state that CBOs should formally request budget changes between categories.
9. **Director Salary Charged as Case Manager**  
**Audit Recommendation #9:** The Sheriff should require its subcontractors to formally request program modifications or amendments when necessary to document changes to its agreements.
10. **Same Pay Charged for Less Hours**  
**Audit Recommendation #10:** The Sheriff should require its subcontractors to formally request program modifications or amendments when necessary to allow additional, appropriate expenditures to be reimbursed.
11. **Unapproved Timesheets**  
**Audit Recommendation #11:** The Sheriff should implement procedures to ensure that all time sheets are signed prior to paying invoices.

***Response:*** *The department agrees with all the above audit recommendations. We will institute the following corrective actions and require contractors:*

- *to request budget modifications or amendments to its agreements when necessary.*
- *to request copies of subcontractor agreements and review them to ensure they are current and in proper form.*
- *to keep appropriate time records for work performed on grant agreements and to charge only actual salary costs.*

- *to equitably allocate expenditures that benefits multiple programs.*
- *to review its subcontractor's invoices carefully to ensure that it does not approve unallowable expenditures.*
- *to review and recalculate its subcontractor invoices to ensure that all invoiced expenditures accurately match its supporting documentation prior to reimbursing its subcontractors.*
- *to formally request budget changes between categories.*
- *to implement procedures to ensure that all time sheets are signed prior to paying invoices.*

*In addition, on October 01, 2009, the department's chief financial officer and senior contract analyst conducted training for contractors on proper invoice submittals and supporting documentation. Contract provisions were also reviewed to facilitate compliance by everyone.*

I would like to take this opportunity to thank you and your staff for an expeditious and professional audit. If you have any questions, please do not hesitate to contact Maureen Gannon, Chief Financial Officer, at (415) 554-4316.

Sincerely,

  
MICHAEL HENNESSEY  
Sheriff

B+F clerk  
cpage

2

# City and County of San Francisco

Office of the Controller – City Services Auditor

## AIRPORT COMMISSION:

Concession Audit of  
Gotham Enterprises, LLC dba  
Peet's Coffee & Tea

RECEIVED  
FOR THE SUPERVISORS  
SAN FRANCISCO  
BY \_\_\_\_\_  
2009 OCT 22 PM 12:4



October 22, 2009

2

10/10/10  
10/10/10

**CONTROLLER'S OFFICE  
CITY SERVICES AUDITOR**

The City Services Auditor was created within the Controller's Office through an amendment to the City Charter that was approved by voters in November 2003. Under Appendix F to the City Charter, the City Services Auditor has broad authority for:

- Reporting on the level and effectiveness of San Francisco's public services and benchmarking the city to other public agencies and jurisdictions.
- Conducting financial and performance audits of city departments, contractors, and functions to assess efficiency and effectiveness of processes and services.
- Operating a whistleblower hotline and website and investigating reports of waste, fraud, and abuse of city resources.
- Ensuring the financial integrity and improving the overall performance and efficiency of city government.

The audits unit conducts financial audits, attestation engagements, and performance audits. Financial audits address the financial integrity of both city departments and contractors and provide reasonable assurance about whether financial statements are presented fairly in all material aspects in conformity with generally accepted accounting principles. Attestation engagements examine, review, or perform procedures on a broad range of subjects such as internal controls; compliance with requirements of specified laws, regulations, rules, contracts, or grants; and the reliability of performance measures. Performance audits focus primarily on assessment of city services and processes, providing recommendations to improve department operations.

We conduct our audits in accordance with the Government Auditing Standards published by the U.S. Government Accountability Office (GAO). These standards require:

- Independence of audit staff and the audit organization.
- Objectivity of the auditors performing the work.
- Competent staff, including continuing professional education.
- Quality control procedures to provide reasonable assurance of compliance with the auditing standards.

Audit Team: Mark Tipton, Audit Manager  
Donna Crume, Associate Auditor



CITY AND COUNTY OF SAN FRANCISCO  
OFFICE OF THE CONTROLLER

Ben Rosenfield  
Controller

Monique Zmuda  
Deputy Controller

October 22, 2009

San Francisco Airport Commission  
P.O. Box 8097  
San Francisco International Airport  
San Francisco, CA 94128

President and Members:

The Controller's Office, City Services Auditor, presents its report concerning the audit of Gotham Enterprises, LLC, dba Peet's Coffee & Tea (Gotham). Gotham has two lease agreements with the Airport Commission of the City and County of San Francisco to operate six Peet's Coffee & Tea facilities in the San Francisco International Airport (SFO). The first lease has a term of 10 years, expiring on February 23, 2015, and the second has a term of 11 years and 2 months, expiring on November 8, 2015.

**Reporting Period:** January 1, 2007, through December 31, 2008

**Rent Paid:** \$1,588,393

**Results:**

- Gotham overreported \$143,398 in gross revenues and overpaid \$17,060 in rent because it included employee discounts in reported revenues.
- The Airport overbilled Gotham, causing it to overpay its minimum monthly rent by \$859.
- Gotham overpaid its rent by \$15,957 due to using the incorrect lease year to calculate its rent.
- The combined effect of these findings is that Gotham overpaid its rent by \$33,876.

The responses of the Airport and Gotham are attached to this report. The Controller's Office, City Services Auditor, will work with the Airport to follow up on the status of the recommendations made in this report.

Respectfully submitted,

Robert Tarsia  
Deputy Audit Director

cc: Mayor  
Board of Supervisors  
Budget Analyst  
Civil Grand Jury  
Public Library

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# INTRODUCTION

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## **Audit Authority**

The Office of the Controller (Controller) has authority under the San Francisco Administrative Code, Chapter 10, Article 1, Section 10.6-2 to audit, at regular intervals, all leases of city-owned real property where rent of \$100,000 or more a year is to be paid to the City and County of San Francisco (City). In addition, the City Charter provides the Controller, City Services Auditor (CSA), with broad authority to conduct audits. This audit was conducted under that authority and pursuant to an audit plan agreed to by the Controller and the Airport Department (Airport).

## **Background**

Gotham Enterprises, LLC doing business as (dba) Peet's Coffee & Tea (Gotham) has two lease agreements with the Airport Commission of the City. Lease 03-0069 has a rent commencement date of December 1, 2004, a term of 10 years, and expires on February 23, 2015. Lease 03-0193 has a rent commencement date of September 1, 2004, for two of the locations and February 24, 2005, for one location, a term of 11 years and two months, and expires on November 8, 2015. The leases allow Gotham to operate six Peet's Coffee & Tea shops at the San Francisco International Airport (SFO).

Both leases require Gotham to pay the Airport monthly the greater of one-twelfth of a minimum annual guarantee (MAG) or a tiered percentage rent of 8 to 12 percent of its gross revenues. The percentage rent rate to be applied each month depends on the cumulative amount of Gotham's total gross revenues per lease year it has reached that month. Lease 03-0069 required monthly MAG rent of \$8,415 for January through December 2007, \$8,704 for January through November 2008, and \$8,914 for December 2008. Lease 03-0193 required monthly MAG rent of \$3,761 for January through December 2007 and \$3,885 for January to December 2008.

## **Scope and Methodology**

The purpose of this audit was to determine whether:

- The monthly statements of gross revenues that Gotham submitted to the Airport accurately reflected actual gross revenues based on monthly and daily records.

- Gotham paid the proper amount of rent to the Airport, according to the terms of its lease.
- Gotham currently has no overdue rent payable to the Airport for the audit period.
- Gotham complied with other provisions of its lease.

The audit covered the period January 1, 2007, through December 31, 2008. However, December 2006 was the first month of the lease year for lease 03-0069. Therefore, to properly assess whether Gotham paid the correct percentage rent under this lease, the auditor included December 2006 in the analysis of rent paid due to Gotham's use of the wrong lease year.

To conduct the audit, the audit team:

- Examined the applicable terms of the lease and the adequacy of Gotham's procedures for collecting, recording, summarizing, and reporting its gross revenues to the Airport.
- Compared on a sample basis Gotham's reported gross revenues to those recorded in its internal monthly summary records in order to determine whether Gotham accurately reported its gross revenues to the Airport.
- Compared on a sample basis Gotham's internal monthly summary records to daily sales reports and other specific source documents.
- Examined the Airport's aged accounts receivable report to determine whether Gotham had any outstanding payments due to the Airport.
- Selected key lease requirements and performed inquiry, observation, and testing to determine whether Gotham complied with other provisions of its leases.

This performance audit was conducted in accordance with generally accepted government auditing standards. These standards require planning and performing the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

## AUDIT RESULTS

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### **Gotham Erroneously Included Employee Discounts as Revenues and Consequently Overpaid Its Rent**

For the audit period January 1, 2007, through December 31, 2008, Gotham reported gross revenues under both of its leases of \$16,099,960 and accordingly calculated and paid rent of \$1,588,393; however, Gotham incorrectly included in its reported gross revenues discounts it gave to employees. Section 4.1 of each lease lists the items to be excluded from gross revenues. Included in this list is "discount sales to employees, to the extent of the discount." At the request of the auditor, Gotham calculated that it erroneously reported \$143,398 in discounts as revenues during the audit period. This total is consistent with the amount of discounts Gotham reported as revenues during the sample months the audit tested. For the audit period, this error caused Gotham to overpay its rent by \$17,060. Gotham also calculated that the effect of this error since inception of the leases is a rent overpayment of \$32,783.

### **The Airport Overbilled Gotham When It Adjusted the Minimum Annual Guarantee (MAG) Rent**

Gotham overpaid its rent by \$859 because it paid retroactive bills from the Airport for increased monthly minimum rent resulting from annual MAG adjustments. For lease 03-0069, the Airport did not notify Gotham until February 9, 2007, of the increase in monthly minimum rent based on the increased MAG that was effective December 1, 2006. Likewise, for the MAG increase under this lease that was effective December 1, 2007, the Airport did not notify Gotham until February 9, 2008. For lease 03-0193 the Airport did not notify Gotham until March 30, 2007, of the increase in monthly minimum rent due to the annual MAG adjustment that was effective January 1, 2007.

Upon notifying Gotham of the adjusted MAG, the Airport billed Gotham for the increases in minimum monthly rent dating back to the effective dates of the MAG increases. By the time the bills were prepared, Gotham had already paid percentage rent for some billed months that exceeded the new, higher minimum rent. (The minimum monthly rent payments of an Airport tenant such as Gotham, whose percentage rent always significantly exceeds its minimum monthly rent, are early, partial rent payments.) Gotham did not realize it had already paid rent for some months that exceeded the new, higher minimum rent. Gotham paid the retroactive bills and consequently overpaid its rent under

the two leases by \$859. The Airport owes Gotham \$859 for the invoicing error.

**Gotham Overpaid Rent Because It Used an Incorrect Lease Year to Calculate Its Percentage Rent**

Because Gotham used the calendar year to calculate rent payments due under lease 03-0069 instead of the December to November lease year specified in the lease, Gotham overpaid its rent by \$15,957. Gotham's rent calculations were significantly higher than they should have been because the rental rates increase as the cumulative revenue increases throughout the year. Therefore, starting and ending the year with the wrong months may cause the application of a higher or lower rate to be applied to revenues collected in some months.

Gotham's leases require the rental rate applied to gross revenues to increase, from 8 percent to 10 percent, then to 12 percent, as cumulative revenues reach specified thresholds during the lease year. Under lease 03-0069, all gross revenues during the lease year that exceed \$1,400,000 are subject to the rental rate of 12 percent. Therefore, as Gotham earned more revenue under this lease each year, more revenue was subject to the 12 percent rate, causing large overpayments of rent in December 2006 and December 2007. Although use of the wrong lease year also caused Gotham to underpay rent for some months, the net result was an overpayment of rent.

**The Combined Effect of the Audit Findings Is That Gotham Overpaid Its Rent by \$33,876**

The cumulative effect of these three rent overpayments are summarized in the Exhibit below.

**EXHIBIT Rent Overpayments January 1, 2007, through December 31, 2008**

<b>Period and Description</b>	<b>Rent Paid</b>	<b>Rent Overpayments</b>	<b>Rent Due</b>
<u>January 1, 2007 – December 31, 2007</u>	\$ 757,906		
• Use of Incorrect Lease Year*		\$ 15,957	
• Rent Paid on Employee Discounts		8,556	
• Duplicate Payment of MAG Adjustments		570	
<i>Subtotal</i>		\$ 25,083	\$ 732,823
<u>January 1, 2008 – December 31, 2008</u>	\$ 830,487		
• Rent Paid on Employee Discounts		\$ 8,504	
• Duplicate Payment of MAG Adjustments		289	
<i>Subtotal</i>		\$ 8,793	\$ 821,694
<b>Total</b>	<b>\$1,588,393</b>	<b>\$ 33,876</b>	<b>\$1,554,517</b>

\*Note: December 2006 is included in calculation to reflect the full effect of the error.

Source: Airport monthly sales reports and FAMIS cash receipts reports.

**Recommendations**

The Airport should take the following actions:

1. Refund Gotham \$17,060 for rent it overpaid because it included employee discounts in the gross revenues it reported to the Airport for the audit period.
2. Consult with Gotham to resolve the issue of rent Gotham appears to have overpaid because it included employee discounts in the gross revenues it reported to the Airport for periods before the audit period.
3. Refund Gotham \$859 for rent it overpaid by paying the Airport's bills for MAG rent increases for past months after it had already paid all rent due for those months.
4. In the future, adjust the MAG and notify tenants promptly of the MAG adjustment to adequately ensure that tenants begin paying the new monthly minimum rent on the effective date of the adjustment. If this is not feasible, the Airport should retroactively bill tenants for the increase in monthly minimum rent only for months for which the rent already paid was less than the new monthly minimum rent.

5. Refund Gotham \$15,957 for rent it overpaid for December 2006 through December 2007 because it used the incorrect lease year of January through December to calculate its rent under one of its leases.

THE CORPORATION OF THE CITY OF GOTHAM

# ATTACHMENT A: AIRPORT'S RESPONSE



San Francisco International Airport

October 9, 2009

**VIA EMAIL**

Mr. Robert Tarsia  
Deputy Audit Director  
Office of the Controller  
City and County of San Francisco  
City Hall, Room 476  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

PO Box 3097  
San Francisco, CA 94128  
Tel 650 821.5200  
Fax 415 821.5065  
www.sfo.com

Reference: Concession Audit of Gotham Enterprises, LLC dba Peet's Coffee and Tea  
Concession Lease Nos. 03-0069 and 03-0193 by the City and County of  
San Francisco, through its Airport Commission.

AIRPORT  
COMMISSION  
CITY AND COUNTY  
OF SAN FRANCISCO

Dear Mr. Tarsia:

GAVIN NEWSOM  
MAYOR

The San Francisco International Airport ("Airport") is in receipt of the Audit Recommendation from City Services Auditor Division for its audit of Gotham Enterprises, LLC dba Peet's Coffee and Tea Concession Lease Nos. 03-0069 and 03-0193, through its Airport Commission.

LARRY MAZZOLA  
PRESIDENT

GLIDA S. CRALTON  
VICE PRESIDENT

The Airport will draft letter to tenant outlining audit findings and reiterate importance of maintaining provisions of the Lease under penalty of fines. The following is the Airport's response to the Audit Report findings:

CARLETTO

LELANOR PHINIS

RICHARD J. GARGIULO

JOHN E. MARTIN  
AIRPORT DIRECTOR

- 1. Refund Gotham \$17,060.00 for rent it overpaid because it included employee discounts in the gross revenues it reported to the Airport for the audit period.** The Airport agrees with this statement. The Airport request for Auditor to inform Airport how much is to be credited to which lease numbers and what terminal /revenue type (SFO accounting system requires index code sub-object attribution for credits).
- 2. Consult with Gotham to resolve the issue of rent Gotham appears to have overpaid because it included employee discounts in the gross revenues it reported to the Airport for periods before the audit period.** The Airport agrees with this statement and will address issue with tenant.
- 3. Refund Gotham \$859.00 for rent it overpaid by paying the Airport's bills for MAG rent increases for past months after it had already paid all rent due for those months.** The Airport agrees with this statement. The Airport request for Auditor to inform Airport how much is to be credited to which lease numbers and what terminal/revenue type (SFO accounting system requires index code sub-object attribution for credits).
- 4. In the future, adjust the MAG and notify tenants promptly of the MAG adjustment to adequately ensure that tenants begin paying the new monthly minimum rent on the effective date of the adjustments. If this is not feasible, the**

**Airport should retroactively bill tenants for the increase in monthly minimum rent only for months for which the rent already paid was less than the new monthly minimum rent. The Airport agrees with this statement.**

- 5. Refund Gotham \$15,957.00 for rent it overpaid for December 2006 through December 2007 because it used the incorrect lease year of January through December to calculate its rent under one of its leases. The Airport agrees with this statement. The Airport request for auditor to inform Airport how much is to be credited to which lease number and what terminal /revenue type (SFO accounting system requires index code sub-object attribution for credits).**

Thank you for your staff's work on this audit. Please do not hesitate to call at (650) 821-4500 if you have any questions.

Sincerely,



Cheryl Nashir  
Associate Deputy Airport Director  
Revenue Development and Management



Wallace Tang  
Airport Controller

Attachment

cc: Mark Tipton (Mark.Tipton@sfgov.org)  
Vic Bartolome

Recommendation	Responsible Agency	Response
1. Refund Gotham \$17,060 for rent it overpaid because it included employee discounts in the gross revenues it reported to the Airport for the audit period.	AIR	Airport agrees – Auditor should inform Airport how much is to be credited to which lease numbers and what terminal / revenue type (SFO accounting system requires index code sub-object attribution for credits).
2. Consult with Gotham to resolve the issue of rent Gotham appears to have overpaid because it included employee discounts in the gross revenues it reported to the Airport for periods before the audit period.	AIR	Airport agrees – will address issue with tenant.
3. Refund Gotham \$859 for rent it overpaid by paying the Airport's bills for MAG rent increases for past months after it had already paid all rent due for those months.	AIR	Airport agrees – Auditor should inform Airport how much is to be credited to which lease numbers and what terminal / revenue type (SFO accounting system requires index code sub-object attribution for credits).

Recommendation	Responsible Agency	Response
<p>4. In the future, adjust the MAG and notify tenants promptly of the MAG adjustment to adequately ensure that tenants begin paying the new monthly minimum rent on the effective date of the adjustment. If this is not feasible, the Airport should retroactively bill tenants for the increase in monthly minimum rent only for months for which the rent already paid was less than the new monthly minimum rent.</p>	<p>AIR</p>	<p>Airport agrees - will notify tenant promptly in the future.</p>
<p>5. Refund Gotham \$15,957 for rent it overpaid for December 2006 through December 2007 because it used the incorrect lease year of January through December to calculate its rent under one of its leases.</p>	<p>AIR</p>	<p>Airport agrees – Auditor should inform Airport how much is to be credited to which lease numbers and what terminal / revenue type (SFO accounting system requires index code sub-object attribution for credits).</p>

# ATTACHMENT B: GOTHAM'S RESPONSE

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## HIGH FLYING FOODS *Restaurant Group*

133 Stillman Street • San Francisco, CA 94107  
Office: 415.243.8908 • Fax: 415.243.8695 • Email: firewoodcafe@yahoo.com

# Memo

**To:** Mark Tipton & Donna Crume  
**From:** Glenn Meyers  
**CC:**  
**Date:** 10.16.09  
**Re:** Concession Audit of Gotham Enterprises LLC

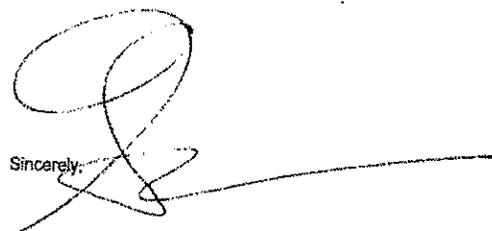
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### Mark & Donna:

I have reviewed the Concession Audit emailed to us on October 14, 2009 and we agree with your findings. Please send your findings to SFO Airport and notify us when you have done so.

I want to thank you for all your hard work. Both you and Donna acted in a very professional manner and made the audit process very pleasant.

Sincerely,



Glenn Meyers  
High Flying Foods, Inc.  
Corporate Office  
133 Stillman Street  
San Francisco Ca 94107  
415.243.8909 w  
415.243.8695 f  
415.706.8171 m

firewood



firewood





Gavin Newsom  
Mayor

Micki Callahan  
Human Resources Director

BOS-11 - email  
COB, cpage

MEMORANDUM

3

TO: The Honorable Mayor Gavin Newsom  
Honorable Members of the Board of Supervisors  
Patricia Sparks, Executive Director, Human Rights Commission  
Emily Murase, Executive Director, Department on the Status of Women

FROM: Micki Callahan, Human Resources Director

DATE: October 21, 2009

SUBJECT: Annual Report on Sexual Harassment Complaints filed in Fiscal Year 2008/2009

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2009 OCT 22 PM 4:10  
BY: JN

I. Annual Report on Sexual Harassment Complaints

Pursuant to San Francisco Administrative Code, Section 16.9-25(e)(2):

The Human Resources Director shall provide annually to the Mayor, the Board of Supervisors, the Human Rights Commission, and the Commission on the Status of Women a written report on the number of claims of sexual harassment filed, including information on the number of claims pending and the departments in which claims have been filed. The reports shall not include names or other identifying information regarding the parties or the alleged harassers.

In accordance with the San Francisco Administrative Code, Section 16.9-25(e)(2), enclosed is the "Annual Report on Sexual Harassment Complaints." Attachment A identifies "internal" complaints filed with individual City and County of San Francisco Departments and the Department of Human Resources, Equal Employment Opportunity Division (DHR EEO). Attachment B identifies "external" complaints filed with the U.S. Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH). For Fiscal Year 2008/2009, a total of 25 complaints (19 internal and 6 external) alleging sexual harassment were filed.

Please feel free to contact Linda Simon, Acting Manager DHR EEO at 415-557-4837, for further information.

Enclosure

cc: Dennis Herrera, City Attorney

3

**ANNUAL REPORT ON SEXUAL HARASSMENT COMPLAINTS  
INTERNAL COMPLAINTS<sup>1</sup>**

Fiscal Year 2008/2009 (July 1, 2008 through June 30, 2009)

DEPARTMENT	TOTAL FILED	STATUS				
		Pending	Settled	Insufficient Evidence	Sustained	Not Investigated
Administrative Services	1	1				
Business, Economic Development	1			1		
Department of Technology	2			2		
District Attorney	1					1
Fine Arts Museum	1					1
Human Services Agency	1	1				
Police	4	1				3
Port	1				1	
Public Utilities Commission	1	1				
Public Works	2	2				
Rent Arbitration	1					1
Sheriff	3			1		2
<b>TOTAL COMPLAINTS</b>	<b>19</b>	<b>6</b>	<b>0</b>	<b>4</b>	<b>1</b>	<b>8</b>

Definitions:

- "Settled": complaint was resolved;
- "Insufficient Evidence": complaint was investigated and there was insufficient evidence to establish sexual harassment;
- "Sustained": complaint investigated and there was sufficient evidence that sexual harassment occurred; and
- "Not Investigated": complaint was not investigated because: (1) there was no EEO jurisdiction, (2) it was withdrawn, or (3) it was untimely.

<sup>1</sup> Complaints filed with individual Departments and the Department of Human Resources, Equal Employment Opportunity Division (DHR EEO).

**ANNUAL REPORT ON SEXUAL HARASSMENT COMPLAINTS:  
EXTERNAL COMPLAINTS<sup>2</sup>**

Fiscal Year 2008/2009 (July 1, 2008 through June 30, 2009)

DEPARTMENT	TOTAL FILED	STATUS				
		Pending	Settled	Insufficient Evidence	Sustained	Not Investigated
Airport	1					1
Human Services Agency	1	1				
Public Health	2	1				1
Public Works	2	2				
<b>TOTAL COMPLAINTS</b>	<b>6</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>

Definitions:

- "Settled": complaint was resolved;
- "Insufficient Evidence": complaint was investigated and there was insufficient evidence to establish sexual harassment;
- "Sustained": complaint investigated and there was sufficient evidence that sexual harassment occurred; and
- "Not Investigated": complaint was not investigated because the EEOC or the DFEH: (1) determined investigation was not warranted or (2) issued notice of request to sue.

---

<sup>2</sup> Complaints filed externally with the Department of Fair Employment and Housing (DFEH) or the U.S. Equal Employment Opportunity Commission (EEOC).

City and County of San Francisco



Gavin Newsom, Mayor

BOS-11, COB, cpage  
Human Services Agency

Department of Human Services  
Department of Aging and Adult Services

Trent Rhorer, Executive Director

MEMORANDUM

October 23, 2009

TO: Angela Calvillo, Clerk of the San Francisco Board of Supervisors  
Ben Rosenfield, Controller of the City and County of San Francisco

THROUGH: Human Services Commission

FROM: Trent Rhorer, Executive Director  
Phil Arnold, Deputy Director for Administration

SUBJECT: **Human Services Care Fund: FY09-10 1<sup>st</sup> Quarter Update**

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2009 OCT 23 PM 2:55  
BY RC

4

This memo is intended to notify the Board of Supervisors and the Office of the Controller that pursuant to Administrative Code Section 10.100-7(e), the Human Services Commission has approved the Human Services Agency's revised FY09-10 savings projections for the Human Services Care Fund.

The FY09-10 savings in homeless CAAP aid payments resulting from the implementation of *Care Not Cash* is now projected at \$13,673,573, which is roughly sixteen thousand less than previously projected. However, the projected savings for this fiscal year are approximately seven thousand dollars more than the FY09-10 budgeted amount.

*(memo continued on next page)*

4

The table below shows the detailed monthly projections made last quarter and compares them to the actual figures for the first quarter of FY09-10 and the updated projections for the rest of the fiscal year.

Month	Previous Quarterly Update (Q4 FY08-09)	Current Quarterly Update (Q1 FY09-10)	Difference
Jul-09	\$1,140,632	\$1,140,115	(\$517)
Aug-09	\$1,140,664	\$1,142,228	\$1,564
Sep-09	\$1,140,696	\$1,139,010	(\$1,686)
Oct-09	\$1,140,727	\$1,139,035	(\$1,692)
Nov-09	\$1,140,759	\$1,139,060	(\$1,699)
Dec-09	\$1,140,790	\$1,139,085	(\$1,705)
Jan-10	\$1,140,822	\$1,139,110	(\$1,711)
Feb-10	\$1,140,853	\$1,139,136	(\$1,718)
Mar-10	\$1,140,885	\$1,139,161	(\$1,724)
Apr-10	\$1,140,916	\$1,139,186	(\$1,730)
May-10	\$1,140,947	\$1,139,211	(\$1,736)
Jun-10	\$1,140,978	\$1,139,236	(\$1,743)
<b>Total FY09-10</b>	<b>\$13,689,670</b>	<b>\$13,673,573</b>	<b>(\$16,098)</b>

NOTE: Shaded figures are actuals (versus projections).

The FY09-10 budgeted amount for the Human Services Care Fund is \$13,666,382. As shown in the table below, the current savings projection for FY09-10 is \$7,191 greater than this budgeted amount.

**FY09-10 Human Services Care Fund Savings  
Budget Comparison**

FY08-09 Budget	\$13,666,382
FY08-09 Projected Savings	\$13,673,573
Amount Under-Funded	\$7,191

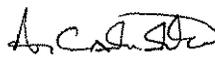
BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 544-5227

Date: October 23, 2009

To: Members of the Board of Supervisors

From: Angela Calvillo, Clerk of the Board 

Subject: Form 700 A.

This is to inform you that the following individual has submitted a Form 700 Statement of Economic Interests to my office.

Alexa Delwiche, Office of Legislative Analyst, (leaving)  
Nilka Julio, COB, (leaving)

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5



# Capital Planning Committee

Edwin M. Lee, City Administrator, Chair

## MEMORANDUM

October 26, 2009

**To:** Supervisor David Chiu, Board President  
**From:** Edwin Lee, City Administrator & Capital Planning Committee Chair *EL*  
**Copy:** Members of the Board of Supervisors  
Angela Calvillo, Clerk of the Board  
Capital Planning Committee

**Regarding:** Recommendations on the Port of San Francisco's (1) resolution authorizing the issuance of revenue bonds for various capital improvements and (2) supplemental appropriation request for various capital improvements

In accordance with Section 3.21 of the Administrative Code, on October 19, 2009, the Capital Planning Committee (CPC) reviewed materials from the Port of San Francisco. The CPC's recommendations are set forth below.

**1. Board File Number TBD:** **Resolution authorizing the issuance of up to \$45,000,000 in revenue bonds for the purpose of financing various capital improvements at the Port of San Francisco.**

**Recommendation:** Support adoption of the resolution, with a recommendation that the Port of San Francisco consider including funding for the Rate Stabilization Fund in the supplemental appropriation in addition to appropriating the funding in the annual budget.

**Comments:** The CPC recommends approval of this item by a vote of 10-0.

Committee members or representatives in favor include: Amy Brown, Deputy City Administrator; Phil Ginsburg, Recreation and Parks Department; Frank Markowitz, Municipal Transportation Agency; Tina Olson, Port of San Francisco; Ed Reiskin, Department of Public Works; Todd Rydstrom, SFPUC; David Noyola, Board President's Office; Nadia Sesay, Controller's Office; Greg Wagner, Mayor's Budget Director; and Jackson Wong, San Francisco International Airport.

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**2. Board File Number TBD:**

**Supplemental appropriation of Port revenue bond funds for various capital improvement projects and associated bond issuance costs totaling \$33,328,779.**

Recommendation:

Support adoption of the supplemental appropriation request.

Comments:

The CPC recommends approval of this item by a vote of 10-0.

Committee members or representatives in favor include: Amy Brown, Deputy City Administrator; Phil Ginsburg, Recreation and Parks Department; Frank Markowitz, Municipal Transportation Agency; Tina Olson, Port of San Francisco; Ed Reiskin, Department of Public Works; Todd Rydstrom, SFPUC; David Noyola, Board President's Office; Nadia Sesay, Controller's Office; Greg Wagner, Mayor's Budget Director; and Jackson Wong, San Francisco International Airport.

City and County of San Francisco  
Office of the Controller  
Monthly Economic Barometer - July/August 2009



	Most Recent Month/Quarter	Value	Month-to-Month Change	Year-to-Year Change	Five-Year Position	Trend
<b>Economy- Wide</b>						
San Francisco Unemployment Rate <sup>1</sup>	August-09	10.1%	0.1%	4.2%	Weak	Negative
Number of Unemployed, San Francisco County <sup>1</sup>	August-09	45,600	400	19,100	Weak	Negative
County Adult Assistance Program (CAAP) Caseload <sup>2</sup>	August-09	7,648	0.4%	13.3%	Neutral	Negative
Total Employment, San Francisco MD <sup>1</sup>	August-09	946,200	-0.3%	-5.0%	Weak	Negative
Temporary employment, San Francisco MD <sup>1</sup>	August-09	13,300	3.1%	-12.5%	Weak	Negative
<b>Real Estate</b>						
Median Home Sales Price <sup>3</sup>	August-09	\$635,000	-1.2%	-17.5%	Weak	Neutral
Average 1BR Asking Rent <sup>4</sup>	August-09	\$1,919	0.2%	-13.9%	Neutral	Neutral
Commercial Vacancy Rate <sup>5</sup>	July-Sept.09	15.4%	0.2%	4.9%	Neutral	Neutral
Commercial Average Asking Lease Rate <sup>5</sup>	July-Sept.09	\$31.53	-3.5%	-32.9%	Weak	Negative
<b>Tourism</b>						
Domestic Air Passengers <sup>6</sup>	August-09	2,811,064	-0.1%	3.1%	Strong	Positive
International Air Passengers <sup>6</sup>	August-09	830,893	0.7%	-4.3%	Strong	Negative
Hotel Average Daily Rate <sup>6</sup>	July-09	\$152.84	5.0%	-18.8%	Weak	Negative
Hotel Occupancy Rate <sup>6</sup>	July-09	84.2%	3.0%	-4.6%	Neutral	Neutral
<b>Retail</b>						
Average Daily Parking Garage Customers <sup>7</sup>	August-09	10,526	-2.3%	-12.5%	Neutral	Negative
Powell St. BART Average Saturday Exits <sup>8</sup>	August-09	23,957	9.0%	-11.5%	Neutral	Negative

Month-to-month change is the percentage change to the most recent month or quarter from the prior one.

Temporary employment refers to employment in the "Employment Services" industry.

Year-to-Year change is the percentage change from a given month or quarter to the same one last year.

Five-year position is a relative measure of how strong or weak the indicator is compared to the average over the last five years.

Unemployment and hotel occupancy rate changes are shown as a percentage point difference, not a percentage change.

Parking garages include Union Square, Fifth-Mission, Sutter-Stockton, and Ellis-O'Farrell.

7

2

## Discussion

San Francisco's unemployment rose to 10.1% in August. This is the highest level of the recession, as well as the highest total recorded by the state Employment Development Department since it started releasing monthly data in 1990. However, the city's unemployment has been relatively stable, at about 10%, since June. This may indicate that we are reaching a peak in unemployment, although there is no sign yet of any local job recovery. The 3-county San Francisco Metro Division is still shedding jobs at a 5.1% annual rate, and a key leading indicator of employment growth--temporary employment--is declining faster than that.

In real estate, July and August brought continuing signs of stability in residential real estate, as median prices have stayed within 5% of each other since March. Asking rents have also increased for the third consecutive month, reversing a downward trend seen in the first half of the year. In commercial real estate, average rents declined another 3.5% in the third quarter, and are off nearly a third in the past year. However, the rate of decline in both rents and occupancy is less than what we have seen in previous quarters, possibly suggesting a bottom in the next quarter or two.

San Francisco international airport traffic continues to be a bright spot, with August showing a growth international passengers from July, and nearly the same number of domestic passengers. Domestic air passengers at SFO have grown since last summer, although Oakland and San Jose airports have both shown declines. However, higher airport passenger counts have not yet translated into healthier numbers for San Francisco's hotel industry. Through July, average daily room rates were down 18.8% from the previous July.

### Sources:

- [1] - California Employment Development Department. MD refers to the San Francisco Metropolitan Division: San Francisco, Marin, and San Mateo counties.
- [2] - San Francisco Human Services Agency
- [3] - DataQuick
- [4] - Craigslist
- [5] - Grubb & Ellis
- [6] - San Francisco International Airport
- [7] - San Francisco Municipal Transportation Agency
- [8] - Bay Area Rapid Transit

For more information contact Ted Egan, Chief Economist at 415-554-5268, or Kurt Fuchs, Senior Economist, at 415-554-5369.

If you would like to receive this report every month, please e-mail your request to Debbie Toy in the Controller's Office: [debbie.toy@sfgov.org](mailto:debbie.toy@sfgov.org)



**MEMORANDUM**

8

**DATE:** October 9, 2009

**TO:** Supervisor John Avalos, Chair, Budget and Finance Committee  
Budget and Finance Committee  
Gail Johnson, Clerk, Budget and Finance Committee

**FROM:** Vivian L. Day, C.B.O., Director - Department of Building Inspection  
John Rahaim, Director - San Francisco Planning Department

**SUBJECT:** Project Progress Report - Permit & Project Tracking System

*Vivian L. Day*

At the November 19, 2008 hearing (Item# 081369), the Budget and Finance Committee released reserve funding for the Building Inspection and Planning departments to develop the Integrated Permit Tracking System, aka Permit and Project Tracking System. The integrated system will allow each department to operate independently to carry out their respective missions, but integrated to operate as one fully coordinated system.

The release of reserves followed a Memorandum of Understanding signed between the department directors in October 2008. In compliance with the reporting requirement as delineated in the Memorandum of Understanding, the departments are providing the Board of Supervisors a project status every six (6) months beginning March 2009. The report requirement shall end upon the successful implementation of the system. This is the second project status report submitted to the Board of Supervisors.

Since March 2009, the project completed an extensive "request for proposals" process, and selected a vendor of choice in June 2009.

March - September 2009

- Completed vendor demonstrations - Week of 5/4/09
- Selected preferred vendor - Week of 6/5/09
- Began contract negotiation - Week of 7/23/09
- Drafted MOU Amendment (contract, project execution, post go-live governance) - Week of 9/25/09

**OFFICE OF THE DIRECTOR**  
1660 Mission Street - San Francisco CA 94103  
Office (415) 558-6131 - FAX (415) 558-6225  
Email: Vivian.Day@sfgov.org

8

Project Progress Report – Permit & Project Tracking System  
October 9, 2009  
Page 2

Projected Dates

- Contract signed - December 2009
- Project kick-off - January 2010

Project implementation is expected to begin in January 2010, with an initial focus on data conversion and project mapping. Full project implementation is anticipated by December 2011.

Please do not hesitate to contact us for additional information.

cc: Supervisor Ross Mirkarimi, Vice Chair  
Supervisor Carmen Chu  
Angela Calvillo, Clerk of the Board of Supervisors

Orig: GAO Clerk  
C: COB, Cpage  
091159

October 20, 2009

Dennis Herrera, City Attorney  
& Julia M.C. Friedlander  
Deputy C.A. & General Counsel:  
Municipal Transportation Agency  
1390 Market Street, 6<sup>th</sup> Floor  
San Francisco, CA 94102-5408

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RC  
9

Ms. Angela Calvillo  
Clerk of the Board of Supervisors  
One Carleton Goodlett Place  
Room 244, City Hall  
San Francisco, CA 94122

Honorable James J. McBride,  
Presiding Judge, Superior Court  
Civil Grand Jury, public report  
Pensions beyond Our Ability to Pay  
400 McAllister, Room 008  
San Francisco, CA 94122

**Re: The City Response to the Civil Grand Jury Investigating City & County Pension Liabilities and possible Fraud, which was due October 13, 2009.**

City Attorney, Board President, City & County Grand Jury:

As a resident of the City and County for the past forty years, a resident that exited the United States Navy in this City, a US veteran that completed his AA, BA & MBA in San Francisco, a man that has two daughters which were born and raised in this County, I am now taking an interest into how certain elected officials and City Appointment Commissions have sent the City and County of San Francisco into bankruptcy. I have read the Grand Jury report on the massive pension liabilities that this City and County has created. I would like to know exactly what your report to the Civil Grand Jury states? I would like to know if you intend to make this reply available to the public at large. I am seeking to have the Civil Grand Jury audit the Municipal Transportation Agency and all of its members and unions.

Sincerely,



Emil Lawrence MBA

San Francisco, CA 94128

9

*c-pages*

# SANGER SACRAMENTO STREET, LLC

JOHN M. SANGER, MANAGER  
576 SACRAMENTO STREET, 7<sup>TH</sup> FLOOR  
SAN FRANCISCO, CALIFORNIA 94111-3023  
TEL. 415.693.9300 FAX 415.693.9322

10

October 20, 2009

## FACSIMILE TRANSMITTAL TO:

Name	Firm	Telephone	Fax Number
Supervisor David Chiu	SAN FRANCISCO BOARD OF SUPERVISORS		(415) 554-5163

**From:** Hunter Landerholm, on behalf of John M. Sanger

**Re:** Letter from John M. Sanger re: 576 Sacramento Street Flooding

**# of Pages:** 4 (including this cover sheet)

**C/M #:** 0095/JMS

**Message:** Please see the attached letter. Thank you.

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**THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS CONFIDENTIAL AND MAY BE LEGALLY PROTECTED BY THE ATTORNEY/CLIENT PRIVILEGE OR THE ATTORNEY WORK PRODUCT DOCTRINE. IT IS INTENDED ONLY FOR THE USE OF THE RECIPIENT(S) NAMED ABOVE IN THIS FACSIMILE. IF THE PERSON ACTUALLY RECEIVING THIS FACSIMILE OR ANY OTHER READER IS NOT THE PERSON TO WHOM IT IS ADDRESSED OR NOT RESPONSIBLE TO DELIVER IT TO THE NAMED RECIPIENT(S), ITS USE OR COMMUNICATION IS STRICTLY PROHIBITED. IF YOU RECEIVE THIS MESSAGE IN ERROR, PLEASE CALL US COLLECT IMMEDIATELY AND RETURN THE ORIGINAL MESSAGE BY MAIL TO US. THANK YOU.**

10

**JOHN M. SANGER**

576 SACRAMENTO STREET SEVENTH FLOOR  
SAN FRANCISCO, CALIFORNIA 94111-3023  
TEL. 415.693.9300 FAX 415.693.9322  
sanger@sanger-olson.com

John M. Sanger, Esq.  
sanger@sanger-olson.com

October 20, 2009

**VIA U.S. MAIL AND FACSIMILE (415-554-5163)**

Supervisor David Chiu  
City and County of San Francisco Board of Supervisors  
City Hall  
1 Dr. Carlton P. Goodlett Pl.  
San Francisco, CA 94102-4605

**Re: 576 Sacramento Street Flooding from Sewer Overflow**

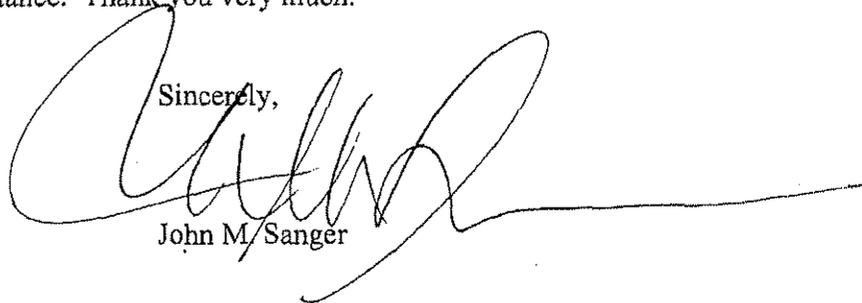
Dear Supervisor:

It was a pleasure and coincidence to meet you last week after hearing so much about you from Aaron and others.

I own a building at 576 Sacramento Street where I have my law offices. It floods every time there are heavy rains by reason of the overflow of the Sacramento Street sewer line into our building and the impossibility of flows outward, as explained in the enclosed copy of a letter to SFPUC. I have sought relief for three years without success and I am now turning to you for some assistance.

I have done everything recommended by the city and by plumbers and it is to no avail by reason of the fact that the city sewer line flows into my building instead of vice-versa and cannot accommodate flows outward during heavy rains. This is obviously a situation that needs to be corrected. I trust you can provide assistance. Thank you very much.

Sincerely,



John M. Sanger

JMS: hhl  
Enclosure

**SANGER SACRAMENTO STREET LLC**

JOHN M. SANGER, MANAGER  
576 SACRAMENTO STREET  
SEVENTH FLOOR  
SAN FRANCISCO, CALIFORNIA 94111-3023  
TEL. 415.693.9300 FAX 415.693.9322

John M. Sanger, Esq.  
sanger@sanger-olson.com

October 20, 2009

**VIA U.S. MAIL AND FACSIMILE (415-695-9166 and 415-641-2352)**

Mr. Roberto McLean, Chef Engineer  
SFPUC Sewer Operations  
160 Napoleon Street  
San Francisco, CA 94124  
Fax: (415) 695-9166

Mr. Mike Plant, Superintendent  
SFPUC Sewer Operations  
160 Napoleon Street  
San Francisco, CA 94124  
Fax: (415) 641-2352

Mr. George Dugan, Sewer Repair Supervisor  
SFPUC Sewer Operations  
160 Napoleon Street  
San Francisco, CA 94124  
Fax: (415) 641-2352

**Re: Flooding in the Basement of 576 Sacramento Street Due to Inadequately Sized and Located Side Sewer and Inadequately Sized Sacramento Street Sewer Line**

Gentlemen:

For every year that I have owned the building at 576 Sacramento Street (now coming on four years), and according to some for the prior owners as well, the basement has flooded by reason of the inadequacy of the Sacramento Street sewer line adjacent to our building. The basement has flooded both times during the most recent rains as it did last year. I have installed two backflow prevention valves as recommended by SFPUC and one sump pump and we are still unable to accommodate flows out of our building by reason of the inability of flows to go out into the street when the Sacramento Street line is full coming down from Nob Hill and by reason of flows into the building.

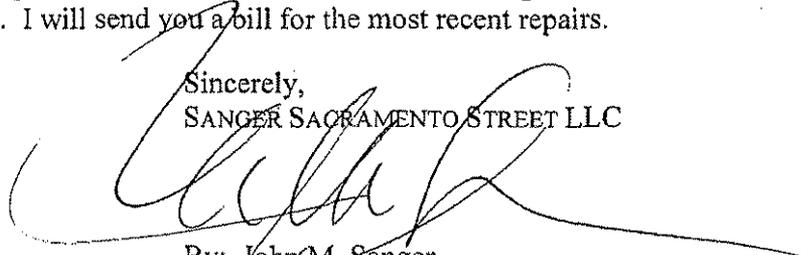
I am prepared to install a lift pump at my own expense, but the lift pump will do no good unless the side sewer is raised so that it can flow into the Sacramento Street sewer line which is only ten feet below grade. At the moment, the main line backs up into the side sewer and into the building, overwhelming the backflow protection, so that it is impossible for us to prevent

Mr. Roberto McLean  
Mr. Mike Plant  
Mr. George Dugan  
October 20, 2009  
Page 2

flows into the building from the Sacramento Street sewer line and impossible for any flows to go out of our building into the sewer for extended periods of time. This obviously creates a public health hazard as well as enormous expense and inconvenience to me and my tenants. Twice this year, the elevator has been out three or four days at a time, necessitating substantial expense for repairs and replacement of parts. The installation of further pumps will do no good if there is nowhere for the water to go and that is the present situation.

Every effort I have made to obtain SFPUC's assistance in resolving this problem has been met with a disclaimer of any responsibility. Having sat on the PUC for eight years, I know this not to be true. Clearly, I cannot replace the side sewer myself, and it appears clear that the side sewer is too low with respect to the main sewer line to cause flows to be able to exit our building during heavy rain flows filling the Sacramento Street sewer. Something must be done. I look forward to your rapid response. I will send you a bill for the most recent repairs.

Sincerely,  
SANGER SACRAMENTO STREET LLC



By: John M. Sanger  
Its Manager

JMS: hhl

cc: Supervisor David Chiu

# City and County of San Francisco

Office of the Controller – City Services Auditor

orig: COB  
c: GAO Clerk  
BTP clerk, c page

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2009 OCT 21 PM 12:27  
*[Signature]*

## SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY:

Audit of City of San Francisco  
Portsmouth Plaza Parking  
Corporation



October 21, 2009

11



**CITY AND COUNTY OF SAN FRANCISCO**  
**OFFICE OF THE CONTROLLER**

**Ben Rosenfield**  
**Controller**

**Monique Zmuda**  
Deputy Controller

October 21, 2009

Municipal Transportation Agency Board  
1 South Van Ness Avenue, 7th Floor  
San Francisco, CA 94103

Chairman and Members:

The Controller's Office, City Services Auditor, presents its report concerning the audit of City of San Francisco Portsmouth Plaza Parking Corporation (Portsmouth). Portsmouth has a 50-year agreement, which ends March 28, 2010, with the Recreation and Park Commission of the City and County of San Francisco (City) to operate Portsmouth Square Parking Garage. As established in Administrative Code Section 17.8, the San Francisco Municipal Transportation Agency (MTA) has jurisdiction and control over all parking facilities.

**Reporting Period:** May 1, 2006, through April 30, 2008

**Net Parking Revenues:** \$3,033,883

**Fees Paid:** \$2,578,800

**Results:**

- Portsmouth undercharged transient parkers by \$152,482 from May 2007 through April 2008 due to an inappropriately implemented 7-minute grace period policy, not approved by MTA.
- Missing transient parking tickets identified through the daily reconciliation process are not further reviewed, reconciled, or investigated by Portsmouth.
- For monthly parking, Portsmouth does not:
  - Maintain an accurate monthly parker log
  - Ensure that monthly parkers are paying for the correct type of access
  - Maintain an inventory listing of monthly access cards
  - Collect late fees
  - Deposit checks promptly
- Reported expenses are not supported by Portsmouth's audited financial statements.
- Validation stamp log and inventory are not regularly reviewed and reconciled. Further, discounted parking was provided to the Chinatown Neighborhood Association without written approval from MTA.

- Portsmouth does not have a written free parking policy for employees and vendors, including employees from the Recreation and Park department.
- Delay in processing the storage space rental agreement led to revenue loss.
- Portsmouth made minor errors in reporting revenues.

The responses from MTA and Portsmouth are attached to this report. The Controller's Office, City Services Auditor, will work with MTA to follow up on the status of the recommendations made in this report.

Respectfully submitted,



Tonia Lediju  
Director of Audits

cc: Mayor  
Board of Supervisors  
Budget Analyst  
Civil Grand Jury  
Public Library

# INTRODUCTION

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## **Audit Authority**

The Office of the Controller (Controller) has authority under the San Francisco Administrative Code, Chapter 10, Article 1, Section 10.6-2 to audit, at regular intervals, all leases of City-owned real property where rent of \$100,000 or more a year is to be paid to the City. In addition, the City Charter provides the Controller, City Services Auditor (CSA), with broad authority to conduct audits. The audit team conducted this audit under that authority and pursuant to an audit plan agreed to by the Controller and the San Francisco Municipal Transportation Agency (MTA).

## **Background**

The City and County of San Francisco (City) has a 50-year lease agreement, which commenced on March 29, 1960, and will expire on March 28, 2010. The lease is between City of San Francisco Portsmouth Plaza Parking Corporation (Portsmouth) and the City's Recreation and Park Commission (commission) because the garage was built underground and beneath a park. Portsmouth is administered through MTA, as required by Administrative Code Section 17.8, which states that MTA has jurisdiction and control over all parking facilities.

Portsmouth, a corporation in which all issued and outstanding shares of stock are beneficially owned by the City, received a \$3 million bond on October 1, 1959, to construct the Portsmouth Square Parking garage. Portsmouth currently operates the garage and does not profit by means of any management fee for operation of the garage. Portsmouth pays the City 85 percent of gross receipts less parking taxes and operating expenses ("surplus payments"), and retains 15 percent in its surplus revenue funds for capital improvement needs. All operating expenditures (i.e. salaries, utilities, etc.) for the garage are paid by Portsmouth, after receiving approval from MTA. Portsmouth offsets these expenditures from gross revenues.

## **Scope**

The purpose of this audit was to determine whether Portsmouth:

- Complied with the reporting and payment provisions of its lease agreement with the commission.

- Reported and correctly remitted all revenues collected from the operation of the Portsmouth Square garage to the MTA.
- Reported correctly all proprietary or operating expenses.

Our audit covered the period May 1, 2006, through April 30, 2008.

## **Methodology**

To conduct the audit, the audit team:

- Reviewed the applicable terms of the lease agreement.
- Assessed Portsmouth's internal controls and procedures over collecting, recording, summarizing and reporting gross revenues and expenditures.
- Determined whether Portsmouth submitted complete and accurate monthly statements to report accurate gross revenues, remitted all revenues collected according to the terms of the lease agreement, and correctly submitted proprietary and operating expenditure reports.
- Reviewed whether Portsmouth complied with other management agreement provisions.

This performance audit was conducted in accordance with generally accepted government auditing standards. These standards require planning and performing the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for findings and conclusions based on the audit objectives.

# AUDIT RESULTS

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## **Portsmouth Undercharged Some Transient Parkers**

The City of San Francisco Portsmouth Plaza Parking Corporation (Portsmouth) undercharged transient parkers<sup>1</sup> by \$152,482 from May 2007 through April 2008.

Portsmouth customers are appropriately allowed 7 minutes to exit the garage after paying for parking. This grace period is permitted by MTA. However, Portsmouth also allowed a 7-minute grace period between incremental parking rates, which MTA does not permit.

Portsmouth allowed a 7-minute grace period after each hour increment before the next parking rate is charged. For example, if a transient parker enters the garage at 1 p.m. and pays for the ticket at 2:05 p.m., the parker has parked for 1 hour and 5 minutes, thus the 1-2 hours parking rate of \$5 should be charged. However, with Portsmouth's 7-minute grace period, the parker is only charged at the 0-1 hour rate, or \$2.50.

Based upon data extracted from Portsmouth's electronic revenue control (revenue control) system, the total amount Portsmouth undercharged from May 2007 through April 2008 was \$152,482. Portsmouth's new revenue control system was not implemented until May 2007; as a result, earlier data was not available to determine the amount undercharged in the prior fiscal year. According to Portsmouth's manager, this 7-minute grace period was implemented before he was hired to help alleviate customer complaints. According to MTA's Director of Off-Street Parking, this 7-minute grace period is not approved or allowed by MTA.

## **Recommendation**

MTA should:

1. Require Portsmouth to direct its revenue control system provider to ensure that the system charges the MTA-approved parking rates.

## **Portsmouth Lacks Review of Missing Transient Tickets**

Portsmouth performs a daily reconciliation of transient tickets issued to the tickets received to identify the variance or number of missing tickets. Portsmouth does not conduct

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<sup>1</sup> Transient parkers are individuals who pay hourly rates for parking on a day-to-day basis (as compared to individuals who pay for monthly parking passes).

a further review, reconciliation, or investigation of the missing tickets to determine why tickets are not returned and accounted for. For the 12 audit sample days, the ranges of missing tickets were between 2 to 32 tickets.

According to Portsmouth's garage manager, these variances are usually minimal and could be due to a number of reasons, such as overnight parkers or lost tickets, so these variances do not necessarily represent missing tickets. The garage manager further states that, while it is not impossible to research these missing tickets by using the revenue control system to compare vehicle entrance pictures to ticket numbers and overnight logs, the process is time consuming to perform on a daily basis. The garage manager maintains that Portsmouth simply does not have the staff to perform such investigations. Without a reconciliation procedure, there is an increased risk of potential fraud due to missing tickets that are not accounted for.

## **Recommendations**

In order to prevent significant missing tickets being overlooked and ensure the number of missing tickets is reasonable, the audit team recommends that:

2. Portsmouth produce a monthly revenue control system report that shows all the tickets issued and whether the ticket was returned in order to identify missing tickets.

By doing the above, Portsmouth could easily:

- Identify and reconcile these missing tickets.
  - Monitor and track significant variances in the number of missing tickets that would warrant further investigation.
3. The Recreation and Park Commission includes language in its contract with Portsmouth to require a review of missing tickets and that these reviews be forwarded to MTA as part of its monthly reporting.

## **Portsmouth Cannot Ensure That Monthly Parkers Pay Correct Rates for the Type of Access Permitted**

Portsmouth has four different types of monthly parker categories: regular 7 days, regular 5 days (Monday – Friday), overnight, and carpool. Each monthly parking type has a different rate. The first three categories use an access card to enter and exit the garage. The access card is controlled by the revenue control system. For parkers

who contract on a monthly basis, Portsmouth personnel collects a fee and enters the appropriate monthly parking category into the revenue control system. However, Portsmouth doesn't have a review or verification process to ensure that the initial account set-up was correct and that appropriate fees are being collected from the parker. For example, a customer signs up for overnight parking at \$75 per month, but Portsmouth personnel might code the access card as a regular 7-day category, which costs \$370. Potentially, parkers could be allowed greater access to the garage than the rate paid entitles them to.

**Recommendation**

MTA should:

4. Require that Portsmouth implement internal controls to ensure that payment for monthly parking is consistent with the access granted into the garage.

**Portsmouth Cannot  
Verify That it Collects All  
Monthly Parking  
Payments Due**

Portsmouth does not maintain an adequate monthly parker log using the revenue control system. Currently, there is no easy way to determine the total number of active monthly parkers for a particular month and the total monthly revenues for that month. Portsmouth maintains an internal monthly parker log in MS Excel to record monthly payments. However, the identification numbers on the log are not the numbers recognized by the revenue control system. Instead, Portsmouth uses a different numbering system for recording the cards on the parker log. In addition, this Excel log does not record the amount paid by the customer.

To properly ensure a system of adequate internal controls a monthly parking log must be maintained using the revenue control system to show all the monthly parkers, by access card numbers that are recognized by the revenue control system, and monthly parking payment information.

**Recommendation**

MTA should:

5. Require that Portsmouth establish and produce a monthly parker log from the revenue control system showing each active access card and its payment information. This monthly report should be reviewed and reconciled to the monthly summary report and deposit slips for monthly parking revenues. Further, this monthly report should also be reconciled to an inventory

listing for all access cards in order to determine whether there are any missing access cards.

**No Inventory Listing of Monthly Access Cards is Maintained by Portsmouth**

Portsmouth does not maintain a complete inventory listing of all access cards. To minimize the risk from misuse of access cards, an inventory of all access cards issued, by access card number, that are recognized by the revenue control system, whether active or inactive. Without such an inventory, it is impossible to determine whether all access cards are accounted for. To minimize the risk of lost or misuse of access cards, an inventory of all access cards purchase must be maintained to determine the completeness of inventory.

**Recommendation**

MTA should:

6. Require Portsmouth to develop and maintain an inventory listing of all access cards, whether active or inactive. This listing should contain the access card number that is recognized by the revenue control system, the card surface number, customer information (if active), and any other pertinent information regarding the access card. Someone external to this function should:
  - o Review the access card inventory for completeness.
  - o Confirm that cards that are inactive are all present in the card inventory.

**Portsmouth Has Not Been Collecting Late Fees**

No late fees were charged or collected from monthly parkers who paid their parking fees after the first of the month. Based upon the parking rates issued and approved by MTA, a \$25 late fee should be assessed monthly parkers who pay after the first of the month. For four sample months, the audit team found 65 instances in which parkers paid their parking fees after the first of the month. Therefore, Portsmouth forfeited collecting \$1,625 in late fees. The lease agreement between Portsmouth and the Recreation and Park Commission (commission) does not have specific language in the contract requiring Portsmouth to collect late fees. According to Portsmouth's garage manager, Portsmouth did not collect late fees in order to maintain good customer service, and many times payments are received after the first of the month, not by fault of the customer, but due to slow postal service.

**Recommendation**

MTA should:

7. Require Portsmouth to immediately begin collecting late fees from all monthly parkers who pay after the first of the month and ensure the commission includes language in the contract which specifically requires Portsmouth to collect late fees.

**Checks for Monthly Parking Not Deposited Promptly**

Portsmouth does not deposit monthly parking revenue checks promptly. Retaining customer payments at the garage increases the risk that checks may be lost. From a sample of 10 monthly parkers, the audit team found that nine monthly parker checks were deposited 2 to 14 business days after receipt of the checks. Proper internal controls require that checks are deposited promptly, usually by the next business day. Portsmouth's bookkeeper stated that checks must be deposited in the month that the revenue is reported, and not the month in which it is received. However, Portsmouth is not on a cash accounting basis, and therefore may deposit checks when received without accounting consequences.

**Recommendation**

MTA should:

8. Require Portsmouth to deposit revenue checks promptly, by the next business day, to reduce the risk of loss of revenues.

**Reported Expenses Are Not Supported by Portsmouth's Audited Financial Statements**

Portsmouth reports to MTA monthly and year-to-date expenses on a monthly summary report. For the audit period, the total expenses reported to MTA were not supported by Portsmouth's audited financial statements. For fiscal year 2006-07, Portsmouth's reported expenses totaled \$1,879,171, while the audited financial statements showed \$1,906,282,<sup>2</sup> a difference of \$27,111 more than the amount that Portsmouth reported to MTA. For fiscal year 2007-08, reported expenses totaled \$2,014,236 and the audited financial statements showed expenses of \$1,928,958, a difference of \$85,311 less than the amount that Portsmouth reported to MTA. According to Portsmouth's manager, these noted discrepancies may be due to timing differences in capital expenditures, which are initiated over the years but due to budget issues, the capital

<sup>2</sup> CPA report expenses shown net of depreciation and merchant discounts, which are not allowable expenses on the monthly summary report to MTA.

projects are on hold and not completed.

**Recommendation**

MTA should:

9. Instruct Portsmouth to submit a reconciliation of each fiscal year's actual year-to-date expenses per the monthly summary report submitted to MTA to that year's audited expenses.

**Portsmouth Made Some Minor Reporting Errors**

From May 1, 2006, through April 30, 2008, Portsmouth substantially correctly reported its revenues of \$6,928,563, expenditures of \$3,894,680, and surplus payment of \$2,578,800 to the department. The exhibit below summarizes Portsmouth's reported revenues, expenditures, and surplus payments.

**EXHIBIT 1 Portsmouth Parking Plaza Corporation Reported Revenues, Expenditures and Surplus Payment  
May 1, 2006, through April 30, 2008**

Reporting Period	Revenues	Expenditures	Net Profit	Surplus Payment (85%)
May 1, 2006, through April 30, 2007	\$3,436,082	\$1,874,172	\$1,561,910	\$1,327,624
May 1, 2007, through April 30, 2008	\$3,492,481	\$2,020,508	\$1,471,973	\$1,251,177
<b>Total</b>	<b>\$6,928,563</b>	<b>\$3,894,680</b>	<b>\$3,033,883</b>	<b>\$2,578,800</b>

Source: MTA - Monthly Summary Reports

Portsmouth made some minor errors when reporting revenues to the department:

- In January 2008, Portsmouth did not include \$30 of miscellaneous other revenues and therefore underpaid the surplus payment by \$26.
- In 2006, Portsmouth did not consistently include overages and shortages in transient revenues and therefore over reported \$67 in revenues and over paid \$57 in surplus payments.
- In August 2006, Portsmouth reported a new card charge twice and therefore over reported revenues by \$250 and over paid \$213 in surplus payment.

- There were several instances in which Portsmouth did not report lost card charges, which are \$25 per card, totaling \$125 and a late charge of \$25 and therefore underpaid \$106 and \$21 in surplus payment.
- Finally, Portsmouth made numerous errors in reporting interest income resulting in an over reporting of \$11,219 in interest revenue and an over payment of \$9,536 in surplus payment. Exhibit 2 below summarizes these minor errors.

**EXHIBIT 2** Minor Errors in Reporting Revenues  
May 1, 2006, through April 30, 2008

Finding	Over / (Under) Reported	Over / (Under) Surplus Payment
Calculation Error	\$ (30)	\$ (26)
Unreported Overages & Shortages	67	57
Double Reported of a New Card Charge	250	213
Unreported Lost Card Charges	(125)	(106)
Unreported Late Card Charges	(25)	(21)
Incorrect Reporting of Interest Income	11,219	9,536
<b>Total</b>	<b>\$ 11,356</b>	<b>\$ 9,653</b>

Sources: Portsmouth – Monthly Summary Reports and Monthly Master Sheets.

**Recommendations**

MTA should:

10. Credit Portsmouth \$9,653 for net surplus overpayments for the audit period.
11. Remind Portsmouth to be more diligent when reporting monthly revenues to ensure accurate reporting.

**Portsmouth Made Errors in Reporting Interest Income in the Proper Period**

Portsmouth did not always report interest income in the proper period. During the audit period, Portsmouth had seven interest bearing accounts, consisting of certificates of deposit (CD) and money market accounts, which it reports as miscellaneous revenues to MTA. When revenues were compared to Portsmouth's CPA's financial report, the audit team found differences in the amount of interest income. These differences were due to errors Portsmouth made in reporting the interest earned in the proper period. Exhibit 3 details the errors in reporting interest earned for Bank of the Orient and Cathay Bank accounts.

**EXHIBIT 3**    **Errors in Reporting Interest Income in the Proper Period**  
**May 1, 2006, through April 30, 2008**

<b>Bank Account</b>	<b>Interest Amount</b>	<b>Month Interest Earned</b>	<b>Month Interest Reported</b>
Bank of the Orient	\$ 1,019	Apr-2006	Jul-2006
Bank of the Orient	911	Oct-2007	Sept-2007 & Nov-2007
Bank of the Orient	916	Apr-2008	Mar-2008
Cathay Bank	477	Jan-2008	Dec-2007
<b>Total</b>	<b>\$3,323</b>		

Sources: Portsmouth – Bank of the Orient and Cathay Bank Statements.

Portsmouth did not consistently report interest earned in the proper period for a 30-day CD account with Far East National Bank, which is renewed monthly. Portsmouth receives several statements from the bank each month. However, only the "Maturity Notice" statement shows the interest amount earned and the period earned. At times, Portsmouth reported the interest according to the maturity notice date. Other times, interest was reported based on when the interest became available. This inconsistency led to numerous inaccuracies in recording interest and at times no interest was reported. Since the errors are so numerous, they are not detailed in this report. However, Portsmouth has been provided with the information so that they understand the specific errors made. The audit team advises that Portsmouth take more care in consistently reporting interest income from Far East National Bank based on the availability of the interest earned.

**Recommendation**

MTA should:

12. Remind Portsmouth to be more diligent in reporting interest income and ensure that interest is reported in the period in which the interest is earned and available.

**Parking Validation Stamps Are Not Carefully Controlled**

The validation stamp log and stamp inventory are not regularly reviewed and reconciled for completeness and accuracy. Portsmouth offers a validation parking program to local businesses as a marketing tool. This program allows local businesses to purchase validation stamps at a 50 percent discount which provides free validated parking to their customers with a minimum purchase. In comparing the validation stamp log to the stamp inventory for sample months, the audit team found that 150 validation stamps sold were not recorded on the validation stamp log. Strong

controls over validation stamps include a regular review and reconciliation process to provide assurance that all validation stamps are properly recorded when purchased, and accurately accounted for when sold, reducing the risk of misuse or loss of validation stamps.

**Recommendations**

MTA should:

13. Require Portsmouth to be vigilant in maintaining the completeness of the validation stamp log.
14. Require Portsmouth to begin regular procedures for reviewing and reconciling validation stamps sold and stamp inventory. A log maintained on an electronic spreadsheet would be easier to review than the current manual system. This review process should be documented and performed by someone separate from the person maintaining the validation stamp log and inventory.

**Validation Discount to the Chinatown Neighborhood Association**

Over a period of three years, from 2003 through 2006, Portsmouth allowed the Chinatown Neighborhood Association's Night Market vendors to park at the garage at a discounted rate of \$0.50 per hour, for a maximum of 2 hours per validation ticket. The overall cumulative loss of revenue or discount amount is difficult to determine because the night markets were held on periodic Saturdays, and depending on the amount of time each vendor parked at the garage, the discount would differ as the parking rates are different for each hour increment. According to Portsmouth's garage manager, this was a verbal directive from the prior Parking Authority director.<sup>3</sup> This special discount arrangement was not approved in writing by either the City of San Francisco Portsmouth Plaza Parking Corporation Board of Directors or MTA.

**Recommendation**

MTA should:

15. Ensure that Portsmouth does not engage in future validation discount arrangements without prior written approval by the Board and MTA.

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<sup>3</sup> An amendment to Administrative Code section 17.8 transferred oversight of City-owned parking garages to MTA from the Parking Authority.

## **Free Parking Policy**

Portsmouth allows free parking to employees, vendors, and contractors working at the garage. However, Portsmouth does not have a formal written free parking policy and procedures. Moreover, the contract agreement between Portsmouth and the commission does not provide for free parking.

Portsmouth has a yearly work order agreement with the Recreation and Park Department (Rec & Park) for custodial and gardening staff at the garage. Rec & Park staff are allowed free parking privileges while working at the garage. While Portsmouth adequately documents the free parking in validation log sheets, it does not have adequate controls over the free parking privileges granted to Rec & Park employees. Portsmouth does not obtain a listing of the Rec & Park employees and their work schedules to determine whether the employee is receiving free parking for the times in which they are assigned to work at the garage.

According to Portsmouth's garage manager, at one point employees of Portsmouth were allowed free parking at the garage using access cards. In February 2007, employees were instructed to return their access cards and start pulling transient tickets to enter and exit the garage during work hours. The audit team found that while employees did indeed return their access cards, five of these access cards were never de-activated in the revenue control system. This increases the risk that the cards could allow free parking by unauthorized persons.

## **Recommendation**

MTA should:

16. Work with Portsmouth to develop a formal written free parking policy. Portsmouth should obtain on a regular basis from Rec & Park a listing of employees and their work schedules at the Portsmouth garage, in order to determine that employees are granted free parking privileges correctly. Portsmouth should immediately deactivate all access cards that were collected from employees and are no longer in use.

## **Storage Space Rental Agreement Processed Slowly**

MTA had a lease agreement with the Chinatown Neighborhood Association to allow free storage space at Portsmouth for a period of five years terminating in June 2007. On June 12, 2007, MTA approved a 60-day extension of the agreement, to terminate on August 13,

2007. According to Portsmouth's garage manager, there were subsequent discussions between MTA, Portsmouth and Chinatown Neighborhood Association to determine the new lease agreement and appropriate rent payments. In January 2008, an agreement was established with Chinatown Neighborhood Association that requires payment of rent to Portsmouth of \$221 on a month-to-month basis. The actual lease agreement was not signed by Rec & Park until September 2008. Due to the slow lease agreement process, the Chinatown Neighborhood Association was essentially allowed an additional four and half months of free storage space rental. If calculated using the agreed upon monthly rent of \$221, the Chinatown Neighborhood Association received free rent in the value of \$995.

**Recommendation**

MTA should:

17. Ensure that any storage rental agreements are completed prior to granting usage of the garage.

**Portsmouth Does Not Adjust Monthly Reports for Outstanding Checks**

Portsmouth does not adjust the monthly summary reports submitted to MTA for outstanding checks that have been voided. The audit team noted one instance in which a \$25 security deposit refund check was never cashed by the customer, although Portsmouth had claimed the expense on its requisition at the time the check was written. When the check was voided, Portsmouth did not make the appropriate adjustment to the monthly report, and therefore, Portsmouth over reported \$25 of expenditures or under paid \$21 of revenues to MTA.

**Recommendation**

MTA should:

18. Require Portsmouth review all their past outstanding checks and make adjustments to expenses for any outstanding checks that have been voided.

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# ATTACHMENT A: MTA'S RESPONSE

**SFMTA** | Municipal Transportation Agency

Galvin Newsom | Mayor  
Tom Nolan | Chairman  
Rev. Dr. James McCray Jr. | Vice-Chairman  
Cameron Beach | Director  
Shirley Breyer Black | Director  
Malcolm Heinicke | Director  
Jerry Lee | Director  
Bruce Oka | Director  
Nathaniel P. Ford Sr. | Executive Director/CEO

September 10, 2009

Tonia Lediju, Audits Director  
City Hall, Room 477  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

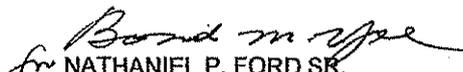
Dear Ms. Lediju:

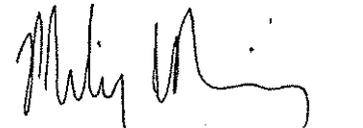
We appreciate the opportunity to review the draft audit report concerning the City of San Francisco Portsmouth Square Plaza Parking Corporation and its operation of the Portsmouth Square Parking Garage, and concur with the audit recommendations.

Attached is the completed *Audit Recommendation and Response Form* which is the basis of our written response for inclusion in the audit report to the Portsmouth Plaza Parking Corporation.

If you have questions or need additional information regarding the attachment, please contact Amit Kothari at 415.701.4462 or by email at [amit.kothari@sfmta.com](mailto:amit.kothari@sfmta.com).

Sincerely,

  
for NATHANIEL P. FORD SR.  
Executive Director/CEO  
Municipal Transportation Agency

  
PHILIP GINSBURG  
General Manager  
Recreation and Park Department

Attachment (1)

C: SFMTA Board of Directors  
Recreation & Park Commissioners  
Amit M. Kothari, Director of Off-Street Parking Division - MTA  
Katie Petrucione, Director of Administration and Finance - Recreation and Park

San Francisco Municipal Transportation Agency  
San Francisco Municipal Railway | Department of Parking & Traffic  
One South Van Ness Avenue, Seventh Fl. San Francisco, CA 94103 | Tel: 415.701.4500 | Fax: 415.701.4430 | [www.sfmta.com](http://www.sfmta.com)

Recommendation	Responsible Agency	Response
The Municipal Transportation Agency should:		
1. Request Portsmouth to direct its revenue control system provider to ensure that the system charges the MTA-approved parking rates.	Rec & Park/ MTA	Concur with recommendation. On June 26, 2009 MTA directed Portsmouth Square Corporation Manager and the revenue control system provider that all programming requests must be authorized by MTA. Portsmouth must forward all programming requests to MTA and not directly to the revenue control system provider. This action ensures that the system charges MTA-approved parking rates.
2. Request Portsmouth produce a monthly revenue control system report that shows all the tickets issued and whether the ticket was returned in order to identify missing tickets.	Rec & Park/ MTA	Concur with recommendation. Within 10 business days from the release of the Final Audit Report, MTA staff will meet with the Portsmouth Square Garage Manager regarding implementation of the action plan to produce standard monthly revenue control system report.
3. Ensure Recreation and Parks Department include language in its contract with Portsmouth to require a review of missing tickets and that those reviews be forwarded to MTA as part of its monthly reporting.	Rec & Park/ MTA	Concur with recommendation. The review of missing tickets and oversight by MTA are addressed in the recently developed "Parking Facility Operation and Management Regulations" which will be applied to all parking facilities. In its new lease agreement with the Portsmouth Plaza Corporation, Recreation and Parks Department will require that the garage complies with these regulations and any future amendments.
4. Request Portsmouth implement internal controls to ensure that payment for monthly parking is consistent with the access granted into the garage.	Rec & Park/ MTA	Concur with recommendation. MTA staff has reviewed a copy of the Portsmouth Square standard operating procedures (SOP) manual that is comprised primarily of memos to employees. There is a memo dated April 16, 2001 directing cashier staff how to handle monthly customers without valid access cards, but no procedure addressing reconciliation of monthly parking payments to active access cards. Within 10 business days from the release of the Final Audit Report, MTA staff will meet with the Portsmouth Square Corporation Manager regarding implementation of this recommendation.

Recommendation	Responsible Agency	Response
<p>5. Request Portsmouth establish and produce a monthly parker log from the revenue control system showing each active access card and its payment information. This monthly report should be reviewed and reconciled to the monthly summary report and deposit slips for monthly parking revenues. Further, this monthly report should also be reconciled to an inventory listing for all access cards in order to determine whether there are any missing access cards.</p>	<p>Rec &amp; Park/ MTA</p>	<p>Concur with recommendation. Within 10 business days from the release of the Final Audit Report, MTA staff will meet with the Portsmouth Square Corporation Manager regarding implementation of this recommendation.</p>
<p>6. Request Portsmouth to develop and maintain an inventory listing of all access cards, whether active or inactive. This listing should contain the access card number that is recognized by the revenue control system, the card surface number, customer information (if active), and any other pertinent information regarding the access card. Someone outside the function should:</p> <ul style="list-style-type: none"> <li>• Review the access card inventory for completeness, and</li> <li>• Confirm that cards that are inactive are all present in the card inventory.</li> </ul>	<p>Rec &amp; Park/ MTA</p>	<p>Concur with recommendation. Within 10 business days from the release of the Final Audit Report, MTA staff will meet with the Portsmouth Square Corporation Manager regarding implementation of this recommendation.</p>

Recommendation	Responsible Agency	Response
7. Request Portsmouth to immediately begin collecting late fees of all monthly parkers who pay after the first of the month and ensure the commission includes language in the contract which specifically requires Portsmouth to collect late fees.	Rec & Park/ MTA	Concur with recommendation. Within 10 business days from the release of the Final Audit Report, MTA staff will meet with the Portsmouth Square Corporation Manager regarding implementation of an action plan to collect late fees of all monthly parkers.
8. Request Portsmouth to deposit revenue checks promptly, within the next business day to reduce the risk of loss of revenues.	Rec & Park/ MTA	Concur with recommendation. Recreation and Parks Department will include language in its lease agreement with Portsmouth requiring them to comply with "Parking Facility Operation and Management Regulations" which includes the matter of depositing checks in a timely manner.
9. Instruct Portsmouth submit a reconciliation of each audit years' actual year-to-date expenses per monthly summary report to the audited expenses.	Rec & Park/ MTA	Concur with recommendation. Within 10 business days from the release of the Final Audit Report, MTA staff will meet with the Portsmouth Square Corporation Manager regarding this recommendation.
10. Credit Portsmouth \$9,653 for net surplus overpayment for the audit period.	Rec & Park/ MTA	Do <u>not</u> concur with recommendation. Item 10 is related to Items 11 and 12. Any net surplus revenue belongs to the Recreation and Park Department. This action was completed as part of the year-end close out for corresponding fiscal year.
11. Remind Portsmouth to be more diligent when reporting monthly revenues to ensure accurate reporting.	Rec & Park/ MTA	Concur with recommendation. Within 10 business days from release of the Final Audit Report, MTA staff will meet with Portsmouth Square Corporation Manager regarding importance of diligent proofreading of monthly revenue reports and implement action plan to ensure accuracy of revenue reports.

<b>Recommendation</b>	<b>Responsible Agency</b>	<b>Response</b>
12. Remind Portsmouth to be more diligent in reporting interest income and ensure that interest is reported in the period in which the interest is earned and available.	Rec & Park/ MTA	Concur with recommendation. Within 10 business days from the release of the Final Audit Report, MTA staff will meet with the Portsmouth Square Corporation Manager and discuss the importance of reporting interest income in correct manner.
13. Request Portsmouth to be vigilant in maintaining the completeness of the validation stamp log.	Rec & Park/ MTA	Concur with recommendation. Within 10 business days from the release of the Final Audit Report, MTA staff will meet with Portsmouth Square Corporation Manager to establish and maintain a validation stamp log that will also be incorporated into the Standard Operating Procedures Manual.
14. Request Portsmouth to begin regular procedures for reviewing and reconciling validation stamps sold and inventory. A log maintained on an electronic spreadsheet would be easier to review than the current manual system. This review process should be documented and performed by someone separate from the person maintaining the validation stamp log and inventory.	Rec & Park/ MTA	Concur with recommendation. Within 10 business days from the release of the Final Audit Report, MTA staff will meet with the Portsmouth Square Corporation Manager to develop procedure for reviewing and reconciling inventory and sale of validation stamps, which will also be incorporated into the Standard Operating Procedures Manual.
15. Ensure that Portsmouth does not engage in future validation discount arrangements without the prior written approval by the Board and MTA.	Rec & Park/ MTA	Concur with recommendation. Within 10 business days from the release of the Final Audit Report, MTA staff will meet with the Portsmouth Square Corporation Manager and outline the authorization process before any additional validation discount arrangements can be implemented.

Recommendation	Responsible Agency	Response
<p>16. Work with Portsmouth to develop a formal written free parking policy. Portsmouth should obtain on a regular basis from Recreation and Parks Department a listing of employees and their work schedules at the Portsmouth garage in order to determine that employees are granted free parking privileges correctly. Further, Portsmouth should immediately de-active all access cards that were collected from employees and no longer in use.</p>	<p>Rec &amp; Park/ MTA</p>	<p>Concur with recommendation. Within 10 business days from the release of the Final Audit Report, MTA staff will meet with the Portsmouth Square Corporation Manager to initiate the development of a formal written free parking policy.</p>
<p>17. Ensure that any storage rental agreements are made and negotiated more timely.</p>	<p>Rec &amp; Park/ MTA</p>	<p>Concur with recommendation. Recreation and Parks Department will include specific language in its lease agreement with Portsmouth regarding garage storage rental agreements.</p>
<p>18. Request Portsmouth review all their past outstanding checks and make adjustments to expenses for any outstanding checks that have been voided.</p>	<p>Rec &amp; Park/ MTA</p>	<p>Concur with recommendation. Within 10 business days from the release of the Final Audit Report, MTA staff will meet with the Portsmouth Square Corporation Manager regarding analysis of outstanding checks and make adjustments to expenses in the same month that the check was voided. This process will also be incorporated into the Standard Operating Procedures Manual.</p>

# **ATTACHMENT B: PORTSMOUTH'S RESPONSE**

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**City of San Francisco**  
**Portsmouth Plaza Parking Corporation**  
773 Kearny Street • San Francisco CA 94108 • (415)982-6353

September 29, 2009

Tonia Lediju, Director of Audits  
City Hall, Room 477  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

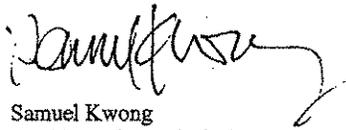
Subject: Controller Draft Audit Report for Portsmouth Plaza Parking Corp.,

Dear Ms. Lediju:

The Board of Directors of Portsmouth Plaza Parking Corporation would like to thank you for the opportunity to respond to your draft audit. The Executive Committee of the Portsmouth Board of Directors has carefully reviewed the draft report and the following attachment is our responses and clarification to the audit findings.

Please feel free to contact me if you should have any questions.

Sincerely,



Samuel Kwong  
President of Board of Directors  
Portsmouth Plaza Parking Corporation

cc: Helen Vo, Auditor( via e-mail)  
Amit Kothari, Director, Off-Site Parking Division, MTA  
Nita Rabe-Uyeno, Parking Operations Manager, Off-Street Parking Division, MTA

RESPONSE TO 9/14/09 DRAFT AUDIT REPORT FROM THE CONTROLLER FOR  
PORTSMOUTH PLAZA PARKING CORPORATION

After careful review of the draft audit report, dated September 14, 2009, the Executive Committee of the Portsmouth Board of Directors would like to submit the following comments in response to the audit findings.

**Introduction-Background**

The auditor's statement on page 1 paragraph 3 is inaccurate. Portsmouth Parking Corporation was formed by private individuals (founding members) and was not formed by the City. Furthermore, the Corporation borrowed \$3 million from Security Pacific Bank for the design and construction of the garage.

**Finding #1:** Portsmouth undercharged some transient parkers

**Response:** Portsmouth agrees to direct its revenue control system provider to ensure that the system charges the MTA-approved parking rates. It is the Garage Manager's understanding that the 7-minute grace period is an industry-wide standard commonly used by other City garages. The MTA may choose to adopt and establish a grace-period standard for all garages.

**Finding #2 & #3:** Portsmouth lacks review of missing transient tickets

**Response:** The following internal policies have been adopted since December 2008 regarding the tracking of missing tickets:

- i. A report that identifies missing tickets is generated on a daily basis.
- ii. The missing tickets are reviewed and reconciled by staff.
- iii. These reports will be forwarded to MTA in the future as part of Portsmouth's monthly reporting.

The draft audit report (P.4) stated that for 12 audit sample days, the range of missing tickets were between 2 to 32 tickets. Our staff explained that those so called missing tickets were in reality mostly for over-night parkers who paid their tickets on the next reporting date. In some cases, customers also paid the \$25 missing ticket fee. In other words, those missing tickets were not accounted for only temporarily and were reconciled the next day.

**Finding #4:** Portsmouth cannot ensure that monthly parkers pay correct rates for the type of access permitted

**Response:** Portsmouth agrees to implement internal controls to ensure that payment for monthly parking is consistent with the access granted into the garage. The Parking Revenue Control System (PRCS) is currently capable of recognizing the different types of monthly parkers. For example, if a customer is a "regular 5 days" parker, he/she will be denied access if he/she attempts to park on Saturday or Sunday.

RESPONSE TO 9/14/09 DRAFT AUDIT REPORT FROM THE CONTROLLER FOR  
PORTSMOUTH PLAZA PARKING CORPORATION

**Finding #5:** Portsmouth cannot verify that it collects all monthly parking payments due

**Response:** A monthly parker log does exist and can be produced from the PRCS as part of the monthly report to MTA on the monthly parking records. Garage Manager will review the log to ensure that it shows each active access card and its payment information.

**Finding #6:** No inventory listing of monthly access cards is maintained by Portsmouth

**Response:** Portsmouth will develop an inventory listing of all access cards, both active and inactive. The listing will contain the access card number that is recognized by the revenue control system, the card surface number, customer information (if active), and any other pertinent information regarding the access card.

**Finding #7:** Portsmouth has not been collecting late fees

**Response:** Portsmouth does have a procedure that addresses the late fees issue. When advance monthly payment is not received by the last business day of the month, the monthly customer's access card is automatically de-activated for the succeeding month. The customer is required to take a regular transient ticket upon entry and pay the regular posted parking fee. In order to reinstate the access card and to keep the account current, the customer must pay the monthly payment in full plus an additional \$25 for the late fee. As a courtesy, the late fee is waived if the customer pays the monthly payment in full and also pays the regular transient fee for the day (currently \$27 for 8 hours plus). The late fee is sometimes waived due to a legitimate reason and is subject to the Manager's discretion.

Portsmouth intends to address the issue of late fees by issuing a memo to all monthly parkers to remind them about the late fee policy and that a notice will also be posted next to the payment drop box.

**Finding #8:** Checks for monthly parking not deposited promptly

**Response:** Portsmouth wants to clarify that the checks not deposited promptly as identified by the auditor were checks to be applied for the following month's parking fee. For accounting purposes, it has been the past policy for the garage management to deposit pre-paid checks in the month the check are written. We can change our policy to deposit all checks on the next business day.

**Finding #9:** Reported expenses are not supported by Portsmouth audited financial statements

**Response:** The noted discrepancies of over-reporting expenses of \$27,111 in one year versus under-reporting expenses of \$85,311 in another year are mainly due to timing differences. Portsmouth's internal staff report their expenses on a cash basis versus the auditor's report of expenses on an accrual basis. For example, the Recreation and Park landscape personnel maintains the park area above the garage. The department submits a bill for services rendered after the fiscal year ends. The auditor accrues this expense, but the bill is normally paid after the fiscal year ends. The amount of this bill is typically well in excess of \$100,000.

RESPONSE TO 9/14/09 DRAFT AUDIT REPORT FROM THE CONTROLLER FOR  
PORTSMOUTH PLAZA PARKING CORPORATION

Portsmouth intends to comply with the recommendation to submit a reconciliation of each fiscal year's actual year-to-date expenses per the monthly summary report submitted to MTA to that year's audited expenses.

**Finding #10:** Credit Portsmouth \$9,653 for net surplus overpayments for the audit period  
**Response:** Portsmouth agrees with the surplus overpayment.

**Finding #11:** Remind Portsmouth to be more diligent when reporting monthly revenues to ensure accurate reporting  
**Response:** Portsmouth agrees to be more diligent when reporting monthly revenues to ensure accurate reporting.

**Finding #12:** Portsmouth made errors in reporting interest income in the proper period  
**Response:** Portsmouth agrees to be more vigilant in reporting interest income and will report interest in the period in which the interest is earned and available.

**Finding #13 and #14:** Parking validation stamps are not carefully controlled  
**Response:** Portsmouth agrees to be more vigilant in maintaining the completeness of the validation stamp log. The Garage Manager acknowledged the failure to record the sale of 150 validation stamps on the validation stamp log and has since added a new data recording process in addition to the current manual system.

**Finding #15:** Validation discount to the Chinatown Neighborhood Association  
**Response:** The garage staff have been instructed not to engage in any future discount parking arrangements without written approval by the MTA and the Board of Directors of Portsmouth Plaza Parking Corporation.

**Finding #16:** Free parking policy  
**Response:** Portsmouth agrees to develop a formal written free parking policy. Portsmouth has been implementing a parking policy for employees of the garage, employees of the Recreation and Park Department, and vendors since 1961. As recent as March 2007, members of the Portsmouth Board met to reaffirm the free parking policy. Please see attached meeting minutes of March 1, 2007. Garage manager will work with Recreation and Park Department to obtain a listing of employees and their work schedules at the Portsmouth Garage in order to determine that employees are granted free parking privileges correctly.

In regards to the 5 employee access cards that were returned but not de-activated, Portsmouth has already de-activated these cards. A review of the transaction records from the PRCS for these five access cards indicates that there have been no transactions on these cards since February 2007 (when they were returned by the employees).

Sept. 29<sup>th</sup> 2009

Page 3 of 4

RESPONSE TO 9/14/09 DRAFT AUDIT REPORT FROM THE CONTROLLER FOR  
PORTSMOUTH PLAZA PARKING CORPORATION

**Finding #17:** Storage space rental agreement processed slowly

**Response:** Approval for the change from a free lease to a market rate lease for the Chinatown Neighborhood Association involved approvals from multiple agencies such as the MTA, the City Real Estate Division and the Recreation and Park Department. When Portsmouth received written acceptance of the lease amount from the Recreation and Park Department in December 2007, we started collecting rent in January 2008 even though the Recreation and Park Department did not return the signed lease until September 2008. In other words, the City did not loose out on any rent. Portsmouth will try to expedite the sublease process by working more closely with the MTA and other City Departments in the future.

**Finding #18:** Portsmouth does not adjust monthly reports for outstanding checks

**Response:** Portsmouth agrees to review all past outstanding checks and make adjustments to expenses for any outstanding checks that have been voided.

\* \* \*

encl: Copy of Meeting Minutes of 3/1/07

Exhibit A

A meeting was held at 11:30 AM on March 1, 2007 at Sam Kwong's office to affirm the free parking policies of the Portsmouth Square Garage.

Attending: Sam Kwong, Frank Han, Herb Gee, Nancy Lim-Yee and Peter Lee

Items Discussed:

1. Herb Gee affirmed that each member of the Board of Directors has had free monthly parking since the garage started operation. This policy will remain since the Board members serve without compensation.
2. The General Manager has free parking.
3. Parking for staff is free 30 minutes before their shift begins and 30 minutes after their shift ends.
4. Vendors doing work at the garage will have to get a ticket, but the supervisor will log in their time and sign them out without having to pay.
5. MTA, DPT and other city officials conducting business at the garage will park for free.
6. Park and Recreation's janitor and gardener can park for free and be signed out after logging their work by supervisor.

Respectfully submitted by,

Sam Kwong



**Michael CY Tsang**

10/22/2009 07:18 PM

Please respond to

To David Chiu <david.chiu@sfgov.org>

cc board.of.supervisors@sfgov.org, c\_olague@yahoo.com

bcc

Subject 555 Washington

12

Dear Supervisor:

I urge you to support expanding Redwood Park and the 555 Washington proposal. This is good for the neighborhood and bring us a larger park. I like the increased open space instead of a wall of squat highrises , since a 400 foot building less than half the size of the pyramid makes sense here.

Michael Tsang  
SF Resident

12

*Tim Lawson*

*San Francisco, Ca. 94109*

September 23, 2009

**President David Chiu**  
San Francisco Board of Supervisors  
1 Carlton B. Goodlett Place  
San Francisco, California  
94102

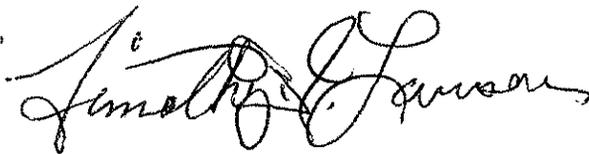
Dear President Chu and Supervisors:

I support housing projects that bring tax revenue into San Francisco, that provide millions of dollars for affordable housing, that revitalize and improve parks, and that help make parts of the Financial District also a residential neighborhood.

What is proposed for 555 Washington and Redwood Park, behind the TransAmerica pyramid, is just such a project. In addition, I like the increased sunlight from the expanded park.

I urge it be approved.

Sincerely,



Cc: San Francisco Planning Commission  
Members, San Francisco Board of Supervisors

BY \_\_\_\_\_

2009 OCT 20 AM 11:20

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO



**Robin Courtney/HSS/SFGOV**

10/23/2009 10:45 PM

To Board of Supervisors/BOS/SFGOV@SFGOV

cc Michela Alioto-Pier/BOS/SFGOV@SFGOV, Catherine  
Dodd/HSS/SFGOV@SFGOV

bcc

Subject Board of Supervisors Inquiry - Reference 20090922-01

History: This message has been forwarded.

Dear Board of Supervisors:

On behalf of Catherine Dodd, Interim Director of the Health Service System, attached please find a memo addressing your request that the Health Service System provide data on denials of City and County members who belong to Blue Shield HMO, plus system policies on assisting members who face denials.



HSS\_BS Denials\_Reference 20090922-001.doc

Thank you,

---

Robin Courtney  
Vendor Contracts & Performance Manager  
Health Service System  
1145 Market Street, Suite 200  
San Francisco, CA 94103  
415-554-1702 (phone)  
415-554-1752 (fax)  
Robin.Courtney@sfgov.org  
www.myhss.org

13

13



## Health Service System

CITY & COUNTY OF SAN FRANCISCO

BOS-11

MYHSS.ORG

---

**Date:** October 23, 2009  
**To:** Board of Supervisors  
**Cc:** Supervisor Alioto-Pier  
**From:** Catherine Dodd, Interim Director, HSS  
**Subject:** Blue Shield Denials and  
System Policies on Assisting Denied Members  
Reference 20090922-001

Health Service System members enrolled in the Blue Shield HMO are protected by three separate grievance processes. These processes are administered independently by Blue Shield, the Health Service System and the California Department of Managed Health Care. A member grievance must first be made to the HMO. If Blue Shield returns a grievance decision that is unsatisfactory to the member, that member can then ask HSS and/or the State to review the grievance. Each of these three entities allows for a grievance to be expedited in certain situations, such as when a member's health is in grave danger. These multiple avenues for grievance review ensure that the initial decision of the HMO can be contested and, when necessary, overturned by the Health Service System or Health Service System Board or the State. Health Service System members are informed about their right to file a grievance with their HMO. This information about the grievance process is included in printed enrollment materials and available online. In addition, HSS members can contact HSS Member Services by telephone for information about the grievance processes.

For this report, Health Service System reviewed member grievances filed against the Blue Shield HMO from August 2008 to August 2009. Grievances were submitted for appeals of clinical and nonclinical denials, complaints or potential quality issues. Appeals, which are denials for coverage, go through the grievance process and are the subject of this report. However, members also make complaints to Blue Shield when they experience communication issues, excessive wait times or when they perceive that the care they received from their provider was poor or inadequate.

The appeals data indicates:

- the level of member appeals filed against Blue Shield by HSS members, at 7.2 per one thousand members, is in line with Blue Shield's entire HMO business, at 7.7 per thousand members;
- more appeals were filed for non-clinical denials, at 61%, than for clinical denials, at 39%;

- 73% of the appeals for clinical denials were for procedures deemed medically unnecessary by a physician or medical group;
- the overturn rate of appeals, at 37%, is lower than the overturn rate for Blue Shield's entire HMO and PPO business, reflecting the proportionally larger number of non-clinical appeals filed by HSS members;
- HSS members who received an unfavorable decision from the HMO on their appeal can take advantage of HSS and State processes for contesting those decisions.

### DATA ON BLUE SHIELD DENIALS

From August 2008 to August 2009, an average 45,349 HSS members were enrolled in the Blue Shield HMO. (The exact number of enrollments varies from month to month over the course of a year; we took the 12 month average for the purpose of this data analysis.) During those 12 months, 326 Blue Shield appeals for denial of coverage were filed by HSS members, or 7.2 per thousand members, which is in line with the appeals filed against Blue Shield's entire HMO member population, at 7.7 per thousand members.

Out of the 326 appeals filed, 128 were clinical appeals and 198 were non-clinical appeals. Clinical appeals may be filed when a member is denied a medical service or has been denied payment for a medical service. Non-clinical appeals are filed when a member is contesting other administrative or contractual issues related to their benefits. Most of the clinical appeals, or 105 out of the 128, were for procedures denied because they were deemed medically unnecessary by a doctor or medical group. The 198 non-clinical appeals filed during the period had to do with disputes about contracted benefits, the HMO service network and the pre-authorization process.

Appeal	No. of Filings
CLINICAL	
Benefit Interpretation	9
Emergency Services	14
Medically Unnecessary	<u>105</u>
	128
NON-CLINICAL	
Benefit Interpretation	85
Use of Network	53
Pre-Authorizations	43
Other	<u>17</u>
	198
TOTAL APPEALS	326

Ten of the 326 appeals were withdrawn by HSS members, while 119 of the appeals, or 37%, were overturned, and 197 were upheld. The relatively low overturn rate is reflective of the large number of non-clinical appeals overall that were filed during the period.

## **GRIEVANCE PROCESSES AVAILABLE TO HSS MEMBERS**

HSS members who have a grievance may seek assistance through three separate grievance processes, the Blue Shield Grievance Process, the Health Service System Grievance Process, and the California State of Managed Health Care Grievance Process.

### ***Blue Shield Grievance Process***

HSS members who have been denied coverage or have other issues must first notify Blue Shield of their grievance within 180 days of the incident or action and request an initial determination concerning the claim or services that brought the dissatisfaction. If Blue Shield does not resolve the issue to the member's satisfaction, the member may submit a formal grievance to Blue Shield who will acknowledge receipt of a grievance to the grievant within 5 calendar days with resolution within 30 days.

When the routine grievance process may seriously jeopardize the life or health of a member or when the member is experiencing severe pain, they may go through the Blue Shield's "Expedited" grievance process. In this case, Blue Shield will make a decision and notify the member and Physician as soon as possible but no later than 72 hours following the request.

### ***The HSS Grievance Process***

Members have the right to appeal a Blue Shield decision on their grievance with the Health Service System by submitting the facts in writing to the Health Service System within 60 days of the Blue Shield decision. The Health Service System reviews each appeal carefully and where appropriate will work with the vendor on the members' behalf to resolve the issue. Once made, Health Service System notifies the member of its decision.

If the member is dissatisfied with the Health Service System's decision they have the additional right to appeal in writing to the Health Service Board. Members must appeal to the Health Service Board within 10 days and specifically state the basis for disagreement with the decision of the Health Service System. An extension of time may be granted upon the showing of good cause. The Health Service Board will hear all appeals in closed session unless the member requests that it be held in open session. The Health Service Board will grant or deny all appeals submitted. The action taken by the Health Service Board is final.

The Health Service System provides continuous oversight of our contracted vendors, including Blue Shield, through the application of performance guarantees, annual vendor reports, and the member grievance process. This has contributed to the low rate of appeals. To enhance this oversight, beginning with the next fiscal year, Health Service System will be incorporating a requirement for quarterly reporting on grievances, including denials, which we will review with our vendors on a regular basis.

### ***The California Department of Managed Health Care Grievance Process***

The California Department of Managed Health Care is responsible for regulating health care service plans. Members may request that this agency review cases where coverage was denied because the service was Medically Necessary or Experimental/Investigational. Members may also contact the Department of Managed Health Care when they need help with a grievance involving an emergency, a grievance that has not been satisfactorily resolved by Blue Shield, or a grievance that has remained unresolved for more than 30 days.

If a member has a grievance against Blue Shield, and is unsatisfied with the result of the Blue Shield grievance process, they can contact the Department of Managed Health Care to request a Review. If the member is eligible they will receive an impartial review of medical decisions made by Blue Shield related to the Medical Necessity of a proposed service or treatment, coverage decisions for treatments that are experimental or investigational in nature and payment disputes for emergency or urgent medical services. The member may submit additional records to the review agency to include in the review. Once an opinion has been made the member and his/her physician will receive copies of the opinion. The decision resulting from the State review is binding on Blue Shield. If found to be Medically Necessary, Blue Shield will promptly arrange for the service to be provided. If the claim involves a financial dispute, reviews that are decided in the member's favor must promptly be paid by the HMO.

### **CONCLUSION**

The Health Service System is dedicated to serving as an advocate for our members as they navigate the healthcare system. An important aspect of that is the department's commitment to making Health Service System members aware of all the avenues available to them for contesting the decisions of our contracted medical plan vendors.



Marta Lindsey

10/20/2009 11:53 AM

To MTABoard@SFMTA.com

cc gavin.newsom@sfgov.org, boardofsupervisors@sfgov.org

bcc

Subject Please extend meter hours and keep transit strong!

14

Dear Mr. Nolan, Chair of the MTA Board:

I am writing to urge you to support the extension of meter hours.

As a MUNI rider, car owner, and someone who wants us to truly be a "transit first" city, we have got to find smart ways to raise needed funds for a world-class system and stop the fare hikes and service cuts.

Extending meter hours in key areas is an excellent solution.

Thank you,

Marta Lindsey

San Francisco 94122

14



**Manish Champsee**

10/20/2009 12:39 PM

To mtaboard@sfmta.com

cc Nathaniel Ford <Nathaniel.Ford@sfmta.com>,  
boardofsupervisors@sfgov.org, gavin.newsom@sfgov.org

bcc

Subject Extended Parking Hours

Chairman Nolan:

Please find attached a copy of Walk San Francisco's letter in support of extended parking meter hours. Kudos to your staff for producing a thorough analysis of parking demand across the city. As parking expert, Dr. Donald Shoup of UCLA has stated, the study is "pathbreaking". We look forward to your agency implementing its recommendations.

Regards,

Manish Champsee  
President  
Walk San Francisco



Microsoft Word - Extended Hours Parking.doc.pdf



"mn"

10/21/2009 12:46 AM

To board.of.supervisors@sfgov.org

cc

bcc

Subject OPPOSE Parking Meter Hours/Fees Increase

15

Please do not increase parking meter hours or fees. The price gouging at the meters in San Francisco is outrageous and now the talks of keeping the meters running anywhere from 9 pm to midnight, or including Sundays are not acceptable. Try to find some other way to tackle the budget.

---

Weight Loss Program

Best Weight Loss Program - Click Here!

[Click Here For More Information](#)

15



"Joseph L. Mah"

10/20/2009 11:01 PM

To <MTABoard@SFMTA.com>, <David.Chiu@sfgov.org>

cc <board.of.supervisors@sfgov.org>

bcc

Subject From a concerned voter re the Parking Meter Hours  
Expansion

The idea of expanding the hours of parking meters is totally absurd. If this plan is implemented it will be a huge mistake. Parking is already hard enough for San Francisco's residents without this terrible plan. It will seriously hurt local businesses and run up the costs of the DPT; it will further degrade the quality of life in our city, etc. I live in Russian Hill and have seen the lack of parking in this neighborhood have very hurtful effects on businesses. Please give us good and sound service and governance instead of these sorts of shortsighted ideas and schemes.

San Francisco Muni should enforce fare payment for all riders - this is something they should have done for years now. Instead, thousands of fare dodgers are allowed to ride our buses each day. Anyone who rides Muni through the major traffic corridors know this to be true (Stockton Street in Chinatown for example). Should not Muni clean up its own business before asking the citizens for yet more money?

Joseph L. Mah

San Francisco, CA 94109

BOS-11 - cpaej. COB

**OFFICE OF HISTORIC PRESERVATION  
DEPARTMENT OF PARKS AND RECREATION**

P.O. BOX 942896  
SACRAMENTO, CA 94296-0001  
(916) 653-6624 Fax: (916) 653-9824  
calshpo@ohp.parks.ca.gov



16

October 23, 2009

City and County of San Francisco  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
San Francisco, California 94102-4689

RE: Roos House Listing on the  
National Register of Historic Places

Dear Board of Supervisors:

I am pleased to notify you that on October 8, 2009, the above-named property was placed on the National Register of Historic Places (National Register). As a result of being placed on the National Register, this property has also been listed in the California Register of Historical Resources, pursuant to Section 4851(a)(2) of the Public Resources Code.

Placement on the National Register affords a property the honor of inclusion in the nation's official list of cultural resources worthy of preservation and provides a degree of protection from adverse affects resulting from federally funded or licensed projects. Registration provides a number of incentives for preservation of historic properties, including special building codes to facilitate the restoration of historic structures, and certain tax advantages.

There are no restrictions placed upon a private property owner with regard to normal use, maintenance, or sale of a property listed in the National Register. However, a project that may cause substantial adverse changes in the significance of a registered property may require compliance with local ordinances or the California Environmental Quality Act. In addition, registered properties damaged due to a natural disaster may be subject to the provisions of Section 5028 of the Public Resources Code regarding demolition or significant alterations, if imminent threat to life safety does not exist.

If you have any questions or require further information, please contact the Register Unit at (916) 653-6624.

Sincerely,

Milford Wayne Donaldson, FAIA  
State Historic Preservation Officer

BY W

2009 OCT 26 AM 11:18

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

Enclosure: National Register Notification of Listing

16

October 16, 2009

The Director of the National Park Service is pleased to send you the following announcements and actions on properties for the National Register of Historic Places. For further information contact Edson Beall via voice (202) 354-2255, or E-mail: <Edson\_Beall@nps.gov> This and past Weekly Lists are also available here: <http://www.nps.gov/history/nr/nrlist.htm>

Our physical location address is:

National Park Service 2280, 8th floor  
National Register of Historic Places  
1201 "I" (Eye) Street, NW,  
Washington D.C. 20005

WEEKLY LIST OF ACTIONS TAKEN ON PROPERTIES: 10/05/09 THROUGH  
10/09/09

KEY: State, County, Property Name, Address/Boundary, City, Vicinity, Reference  
Number, NHL, Action, Date, Multiple Name

CALIFORNIA, NEVADA COUNTY,  
Commercial Row--Brickelltown Historic District, Roughly the N. side of Donner Pass Rd.  
from Bridge St. westwards approx. 1,700 ft., Truckee, 09000803, LISTED, 10/08/09

CALIFORNIA, SAN BERNARDINO COUNTY,  
Shady Point,  
778 Shelter Cove Dr.,  
Lake Arrowhead, 09000804,  
LISTED, 10/05/09

CALIFORNIA, SAN FRANCISCO COUNTY,  
Roos House,  
3500 Jackson St.,  
San Francisco, 09000805,  
LISTED, 10/08/09

CALIFORNIA, SAN FRANCISCO COUNTY,  
Tobin House,  
1969 California St.,  
San Francisco, 09000806,  
LISTED, 10/05/09

CALIFORNIA, TUOLUMNE COUNTY,  
Sonora Youth Center,  
732 S. Barretta St.,  
Sonora, 09000807,  
LISTED, 10/08/09

File 09/2/11  
C: BDS-11, CONS CLERK  
cpage



"Dan Conlan"

>

10/21/2009 03:21 PM

To <board.of.supervisors@sfgov.org>

cc

bcc

Subject Street Garbage

17

Dear Board of Supervisors,

The recent Ross Mirkarimi legislation for plastic and now paper bags is interesting, yet there is so much more to do.

Street litter in San Francisco is worse than ever. Free Examiner news papers and door flyers are continually blown all over our fair streets. Home and business owners will do their best to recover and throw out these unwanted and solicitous materials. I personally walk my street collecting this same garbage at least once a week. Apartments and multi-unit buildings collect all kinds of these papers and flyers. Because the unsolicited materials are deposited as a mass marketing tool, the tenants could care less and are truly not responsible for the eventual clean-up. This soon to be trash sits for days and inevitably gets blown around in the afternoon winds. Please adopt some new legislation to outlaw the distribution of unsolicited or undirected print material. Please include: -Free Newspapers (not requested), -Flyers, -Take out menus, -Printed solicitations

The impact of this effort would: -Save raw material resources, -Reduce city street cleaning costs, -Reduce urban blight, -Improve the quality of life in San Francisco

Thank you,  
Dan Conlan  
(District 3 Resident)

17

**Board of  
Supervisors/BOS/SFGOV**

10/22/2009 04:29 PM

To BOS Constituent Mail Distribution,

cc Victor Young/BOS/SFGOV,

bcc

Subject Fw: Question about Ban on Plastic Bags-File 091211

Complete a Board of Supervisors Customer Satisfaction form by clicking the link below.

[http://www.sfgov.org/site/bdsupvrs\\_form.asp?id=18548](http://www.sfgov.org/site/bdsupvrs_form.asp?id=18548)

----- Forwarded by Board of Supervisors/BOS/SFGOV on 10/22/2009 04:30 PM -----



**"Robert Crandall"**

10/22/2009 10:38 AM

To <[board.of.supervisors@sfgov.org](mailto:board.of.supervisors@sfgov.org)>

Subject Question about Ban on Plastic Bags

I noticed that you are banning plastic bags and then looking to ban paper bags at grocery stores. Apparently, the goal is to make people bring their own bags for groceries.

My question is: How will you ensure that public health standards will be met when people are allowed to bring into the store any bag that they wish? People will bring in all kinds of bags with no knowledge by the store where and how the bags have been stored. These bags will be put in areas which have the potential to cross contaminate other people's food and other grocery products. These bags may spread disease (particularly during epidemics) or carry residues of chemicals or other substances.

Will the Board of Supervisors be liable for any public health issues created by allowing people to bring in their own bags? Or will you expect that the stores will be solely legally responsible? Who will bear liability in the event of worker compensation public health issues related to this? Does the State have a right to go after the City if it causes any increase in worker comp claims?

Finally, does the allowance of people to bring in their own bags increase the potential for a terrorist or criminal action? Will the bags provide tools for terrorists or criminals to sneak in weapons or dangerous chemical or biological agents. Again, if this happens, who bears the liability?

You may think that that you have come up with a wonderful idea only to find that the unintended consequences are worse. You should really think this through more thoroughly.

I strongly prefer that stores provide their own bags (paper or plastic - or perhaps some new, innovative product in the future). I personally recycle my bags at least once and always make sure that they are disposed of properly. It's silly to worry about paper bags. They are made from lower grade paper from trees that are easily renewable, and the bags can be made from recycled paper if desired. And we are very close to being able to produce biodegradable plastic bags so that the plastic problems will go away.

It seems that the City is is going backwards rather than progressing. I'm actually amazed by your lack of imagination and creativity to come up with better ideas, and I believe that overall you are acting irresponsibly.

Sincerely,

Robert Crandall



rersf <  
10/21/2009 09:07 AM

To board.of.supervisors@sfgov.org  
cc  
bcc

Subject A Message To All The Members Of The SF Board of  
Supervisors

10/21/09

TO THE ENTIRE BOARD:

I can't believe how ridiculous this Board is. Now it's Mirkarimi and his paper bags he wants outlawed (paper, a renewable resource). How about the tuff stuff - like MUNI, the world's worst public transit system that never improves no matter who runs it or how much they're paid; our filthy streets (Pacific Heights and Sea Cliff excluded); crime; and on and on. No matter who we elect to this disgraceful cast of characters called the Board of Stupidvisors, the business of the City keeps getting more bizarre and irrelevant and San Francisco government continues to be the laughing stock of the country. Now, we have Duffy and his crappy exterior decorating scheme (witness 17th ST/Castro) that he rams down our throats on the cheap and calls "beautiful" and "popular" - hardly neither. The fear now is that he'll be elected mayor and have even more power to redesign the City. I heard the owners of Don Ramon's restaurant greet him recently as "Mr. Mayor" and upon hearing that I nearly upchucked my dinner. At any rate, I hope this business about ridding our City of paper bags goes the way extended parking meter hours needs to go - to the trash bin, fast. This Board continues to be a laughing stock for its incompetence, failure to address issues that matter to taxpayers, and an obvious mix of characters best suited to inhabit the City zoo.

Richard Rhodes  
San Francisco, CA



"Mary Armentrout"

10/22/2009 01:43 PM

To <board.of.supervisors@sfgov.org>

cc

bcc

Subject FOCUS ON THE IMPORTANT ISSUES

OK Guys & Gals,

Stop wasting your time with crap like a paper bag ban and spend some time working on the quality of life and safety issues which face this city. I've lived here for 30 years and it has never been this bad. Some of you are wasting your time on very low level issues (bags). ENOUGH!!!

Below are some comments I pulled from the SFGATE story about Ross and his paper bag ban. I couldn't have said it better myself:

A city full of mentally ill homeless people roaming the streets without care, gang-infested neighborhoods in the Mission, Bayview, and the Western Addition, an environmental disaster area in Hunters Point, millions of dollars of un-funded infrastructure projects, a water system in need of seismic upgrades, a sewer system from the Victorian Age...and this is the Board's priority

---

BoS, these are your priorities:

1. Public Safety/Emergency systems
  2. Transportation/Traffic
  3. Schools, Parks, Libraries, Health
  4. Planning
  5. Other social services
  6. THEN your pet projects and cause
- 

San Francisco is turning into a crime infested dump and he wants to tackle paperbags?

Russ: Forget to take your meds? If you want to do something for the environment, large parts of the city needs a good washing down. Soap and a high pressure hose on the doorways downtown used as toilets by the homeless. This legislation is fiddling while Rome burns.  
Sort of like peeing in your pants. Feels nice and warm but really stinks.

---

You can't walk down Market St. without a baseball bat and a knife to protect you, you can't hang around Union Square without being panhandled to death and you can't go near city hall without some bum demanding money from you (and I'm not just talking about the Board of Supes members either) and Mirkarimi's number one concern is making it harder to carry your groceries home? Seriously people, someone needs to reexamine the the city's priorities and perhaps boot out the lot of these BOS do nothing clowns.

---

The City is a toilet, roads are bad, crime is a problem, taxes are outrageous and PAPER BAGS are all they can find fault with?

---

Why don't they try a ban on crime?

---

Did you solve the problem with the rash of car break-ins we had over the summer all over the Haight? How about the serious and also less serious "quality of life" crimes that still plague this part of town daily (public urination, panhandling, and so on - it's not just the 'loin and the Mission that get this kind of

stuff). The City needs leaders who are interested in actually working on the real problems, and you haven't done a thing with your time in office.

---

Meanwhile the crime and grunge continue along Market and the Tenderloin. Oh, and MUNI is a complete disaster.

---

Lessee: Folsom Street flooded; gangs in several neighborhoods, including Chinatown, the Sunset and the Richmond; lost tourism, pollution at Hunter's Point; empty storefronts on Market, office buildings with empty floors; MUNI collisions every week; pedestrians being mowed down; police dept with morale issues and citizen complaints; corruption in govt'; too many employees on our city payroll; BART ageing; infrastructure issues with plumbing; wires, roads, etc; schools lacking funds and lunches (due to poor management); problems with homelessness; streets used as toilets, drug addicts all over Market and Polk Streets; club violence, MUNI violence against children!; sky-high rents, sky-high supermarkets and no supermarkets in areas like Hunter's Point; filth on Mission ; double parking; excessive parking fees; gov't spending too much \$\$, Zoo issues; elderly needing transport!

Give me a plastic bag so I can tie it around my neck...to hang myself.

---

**STOP WASTING YOUR TIME AND MY MONEY ON THESE MEANINGLESS PROPOSALS. FOCUS ON THE IMPORTANT THINGS...AS LISTED ABOVE.**

Mary Armentrout



Steve Jones

10/21/2009 10:12 AM

Please respond to  
Steve Jones

To board.of.supervisors@sfgov.org

cc

bcc

Subject Sanctuary law change

18

I wish to express my utter dismay at the most recent incomprehensible move by the Board. Your change to the sanctuary law is at odds with federal law, and as such, you should not be shocked that the mayor has no intention of defying the federal government to satisfy the illegal whims of your little cabal.

I have seen many decisions that I consider absurd from this Board, from such inanities as banning plastic bags to forced composting. I always thought I would be happy to see you all take up more important issues, but I see that my hopes were sadly short-sighted.

I urge the Board to reconsider coddling individuals who are, by definition, already breaking the law. I realize that I am spitting into the wind, but as one of your constituents, I feel that I must say something.

Thank you for your attention,

- Steve Jones

18



AEvansf

10/20/2009 05:48 PM

To board.of.supervisors@sfgov.org

cc

bcc

Subject Supes Pass David Campos' Immigration Bill

Dear Friends and Neighbors,

On Tuesday (Oct. 20), the supes passed David Campos' controversial immigration bill by a veto-proof majority, eight to two. Dissenting were Carmen Chu and Sean Elsbernd. Michela Alioto-Pier was absent.

The measure forbids city authorities to report to federal authorities youthful illegal immigrants who are accused of felonies. A similar sanctuary policy was once in place here, but Mayor Gavin Newsom reversed it after the murder of three members of the Bologna family.

The suspect in the Bologna murders turned out to be a youthful illegal immigrant who had been shielded by the city from federal authorities, even though suspected of felonies. Campos' measure largely restores the old policy reversed by the mayor after the Bologna murders.

Speaking on behalf of the measure, Campos said it was needed to protect "the due process rights of youth." He characterized critics as espousing "anti-immigrant sentiments." The bill was in the spirit of Harvey Milk, said Campos, which is "to give people hope."

Chris Daly criticized the Bologna family for filing suit against the city after the press revealed the facts about the alleged murderer. The Bologna suit, said Daly, "misses the real tragedy."

Bevan Dufty, who has already announced his candidacy for the mayoral race of 2011, strongly supported the measure. "This is not a difficult vote," he said.

He recounted what he claimed were his own youthful hardships as the son of a mother who had immigrated to this country from Czechoslovakia, as it was then called.

Dufty said he stays awake at night thinking of the hardships of immigrants. For some reason, while watching his performance, I thought of the scene in the flick

*All About Eve* where Anne Baxter tearfully tells Betty Davis of the alleged hardships of her youth.

Today, however, there was no Thelma Ritter to retort to Dufty: "What a story. Everything but the bloodhounds yapping at her rear end."

The only supe to speak against the measure was Carmen Chu. She said the measure's adjudication process for youthful accused felons could allow culprits to slip through the cracks, causing a threat to public safety.

Campos and his allies have proven that the way the feds handle immigration cases is often harsh and inhumane, and needs reform. However, his measure is not the answer.

It falsely claims that young illegal immigrants who are accused of felonies are deprived of the due process of law. In fact, however, such charges must be proven in court, as in the case of anyone else. And his measure opens the door to more tragedies such as struck the Bologna family.

Yours for rationality in government,

Arthur Evans

\* \* \* \* \*



**Katrina Broomall**

10/21/2009 06:46 AM

To . board.of.supervisors@sfgov.org

cc

bcc

Subject recent legislation

As a San Francisco voter who lives in a gang infested neighborhood just a block and a half from where Tony  
recent legislation allowing arrested undocumented juveniles to not be reported to the proper authorities unless  
your salaries. It is unbelievable that you would support this  
legislation.

Katrina Broomall

**Board of  
Supervisors/BOS/SFGOV**

10/22/2009 04:29 PM

To David Campos/BOS/SFGOV, Linnette Peralta  
Haynes/BOS/SFGOV,

cc

bcc

Subject Fw: Your position on illegal immigrants



**davez:**

10/22/2009 11:38 AM

To david.campos@sfgov.org

cc board.of.supervisors@sfgov.org

Subject Your position on illegal immigrants

To The Board of Supervisors,

You are behaving in the same defiantly ignorant manner as the rest of the pandering politicians in your party...

When you write that these young people are not criminals, you intentionally leave out the FACT that they are here ILLEGALLY - which makes them criminals... and yet you refuse to acknowledge that simple FACT. Your article lauds the immigrant status and history of many of the citizens of this country, and yet fails to acknowledge that they struggled to get here LEGALLY.

My grandmother was a LEGAL immigrant, who emmigrated to this country from Europe in the 1920's with her sister as teenagers. She had to go through due process, and she assimilated herself proudly into the community in which she lived. You do her, and millions of other LEGAL immigrants a huge disservice by aligning these ILLEGAL immigrants with them.

I (and many other legal citizens of this country) are sick and tired of your political shennanigans. All we ask is that you respect and enforce the existing laws of this country.

Regards,

Dave M (Los Gatos, CA)

**Board of  
Supervisors/BOS/SFGOV**

10/27/2009 10:43 AM

To BOS Constituent Mail Distribution,

cc

bcc

Subject Fw: Do not let off on illegal immigrants



**Angus Hsu**

10/26/2009 09:47 AM

To board.of.supervisors@sfgov.org

cc

Subject Do not let off on illegal immigrants

Hello,

Please continue to impound the cars of unlicensed and illegal immigrants. This is dangerous to all citizens.  
Safety first!

-Angus

(18)



**andrea nelson**

10/22/2009 01:19 PM

To board.of.supervisors@sfgov.org

cc

bcc

Subject

History:

✉ This message has been forwarded.

I saw an interesting sight at Market and Van Ness streets recently.

It was a man with a fully grown pitbull on a chain (but without a muzzle) waiting for a muni bus. Now that you politicians have pandered to the vocal minority and allowed dogs to be taken everywhere I can expect the bite-related lawsuits to start flying pretty soon.

Of course, the rights of people who are afraid of dogs don't matter.

19

19

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cc: BOS-11  
File 090782 ✓  
090920 ✓

October 22, 2009

Government Audit and Oversight Committee  
Honorable Ross Mirkarimi, Chair  
Honorable Eric Mar, Vice Chair  
Honorable Sophie Maxwell, Member

C/o Ms. Alisa Somera, Committee Clerk

San Francisco Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2009 OCT 22 PM 4:36  
BY 

Re: Agenda Item #4 - 090782 (2008-2009 Civil Grand Jury Report – Use it or Lose it)

Agenda Item #6 – 090920 (Civil Grand Jury Report – Truants Can Be “Joyful Learners,” Too: Unless Racism, Classism and/or Systematic Ineffectiveness Prevent Future Progress)

Proposal to initiate a Public-Private Partnership to build a Basketball Education and Career Pathway Arena, and SFUSD Sports Management & Public Service Pathways.

Dear Supervisors Mirkarimi, Mar and Maxwell,

Thank you for responding to the Grand Jury Reports, regarding the San Francisco Unified School District’s surplus property and student truancy issues.

I respectfully ask that this Government Audit and Oversight Committee include within your evaluations and recommendations in response to the Grand Jury Report, the “Basketball Education and Career Pathway Arena” proposal I have submitted to the San Francisco Board of Supervisors, Mayor Newsom, San Francisco Unified School District Superintendent Carlos Garcia and the San Francisco Board of Education.

As seed money from SFUSD, I believe one of the district’s surplus properties can be used to contribute in the creation of a public-private partnership and Foundation, worthy of gaining matching-fund support from local, state and federal agencies, non-profit foundations, and private sector leaders, including the San Francisco Chamber of Commerce.

20

In these challenging times, as the SFUSD and City and County of San Francisco envisions far-sighted, effective and inspiring educational facilities and business opportunities for all our San Francisco students, I believe the creation of practical, relevant High School Pathways can assist in our mutual responsibilities to provide productive and innovative leadership programs all year-round. By providing equal access for our public high school students and initiating new school-to-career Academies, this educational Basketball facility will offer a year-round, comprehensive resource for the benefit of our youth, as well as all members of our entire San Francisco public and private sector communities.

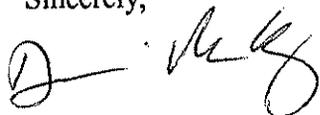
I trust that a central location can offer efficient public transportation for our youth, families and visitors, and also serve the needs of our high school students. The currently proposed Seawall Lot 337 mixed-use development project is one potential location within the Port of San Francisco waterfront and Mission Bay neighborhood, that can offer a model Basketball Education and Career Pathway Arena, along with integrated Sports Management and Public Service Pathways.

Please review the enclosed copy of the proposal letter I submitted on April 23, 2009 to the City and School District Select Committee requesting support from City and County of San Francisco public and private sector leaders, as well as San Francisco Unified School District officials.

I look forward to working with all parties concerned, and thank you very much for your dedicated work on these diverse, and critical community challenges.

Thank you for your time, consideration, and support.

Sincerely,



Dennis G. MacKenzie

CC:

Honorable Gavin Newsom, Mayor; City and County of San Francisco  
Honorable David Chiu, President, and Members; San Francisco Board of Supervisors  
C/o Ms. Angela Calvillo, Clerk of the Board  
Mr. Carlos Garcia, Superintendent; San Francisco Unified School District  
Ms. Kim-Shree Maufas, President, and Members; San Francisco Board of Education  
C/o Ms. Esther V. Casco, Executive Assistant to the Board of Education  
Mr. Dennis Kelly, President; United Educators of San Francisco

091039



Vetdoc  
10/23/2009 11:11 AM

To Michela.Alioto-Pier@sfgov.org, Bevan.Dufty@sfgov.org,  
Sean.Elsbernd@sfgov.org, board.of.supervisors@sfgov.org  
cc  
bcc

Subject Feline Declaw Proposal

21

My name is Rob Arrick D.V.M., a lifelong San Francisco resident and native, and sole owner of the Park Animal Hospital at 9th and Lincoln since its inception in 1984.

I would like to go on record as opposing any city ordinance governing Feline declawing. I support the California Veterinary Medical Association's position on this issue.

I am one of the few Veterinarians who, following close scrutinization of each case, and counseling of each client, is willing to perform declaw surgery. Because of this, I am sought out by people interested in this procedure. But because of our rigorous screening procedures, we have performed zero declaws this year, and only one in 2008. To give some perspective, my practice sees 10,000 patients per year. As you can see, very few declaw surgeries are performed by San Francisco Veterinarians any more, therefore, in my opinion, it doesn't seem to be a sizable enough issue to warrant valuable Board of Supervisors' time.

If you have any questions regarding this issue I would be happy to discuss it with you in more detail. Thank you for all the great work that you do.

Sincerely,  
Rob Arrick D.V.M.  
Park Animal Hospital  
1207 9th Avenue  
San Francisco, Ca. 94122  
415-753-8485

21



**Maureen Zogg**

10/26/2009 11:52 AM

To board.of.supervisors@sfgov.org

cc

bcc

Subject Cat declawing ban: File #091039

Dear Supervisors,

As a long time San Francisco resident who also has fostered and adopted out many homeless cats and kittens, I have seen first-hand the damage that declawing does to a cat.

Often, these cats end up at shelters and in danger of euthanasia due to behavioral problems that can be directly attributed to the fact that they were declawed. This

barbaric practice does not solve problems, it exacerbates them and is completely unnecessary cruelty to animals that should be banned in our enlightened city.

Thank you, Supervisors, for bravely supporting this legislation, which you have rightly realized is not a ridiculous waste of time!

Sincerely,  
Maureen Zogg

21

091216

**Board of Supervisors/BOS/SFGOV**

10/26/2009 09:42 AM

To BOS Constituent Mail Distribution,

cc

bcc

Subject Fw: Support Res 091216

22

Complete a Board of Supervisors Customer Satisfaction form by clicking the link below.  
[http://www.sfgov.org/site/bdsupvrs\\_form.asp?id=18548](http://www.sfgov.org/site/bdsupvrs_form.asp?id=18548)

----- Forwarded by Board of Supervisors/BOS/SFGOV on 10/26/2009 09:42 AM -----



**William McGowan**

10/24/2009 09:29 AM

To board.of.supervisors@sfgov.org

cc

Subject Support Res 091216

Members of the Board:

I am writing to express my support for the Res. 091216 which would indicate the support of the Board for the unpartitioning of Ireland. Many Irish Americans have died fighting to defend our country's freedom-while our ancestral homeland still is divided and the northern 6 counties are the last remnants of British Colonialism.

It's time to give Ireland back to the Irish! Thank You,

William McGowan

Imperial Beach Ca

*One Island, One Flag, One Ireland!*

22



**Ryan Van Lenning**

>  
10/23/2009 07:56 AM

To <eric.l.mar@sfgov.org>, <marstaff@sfgov.org>,  
<cassandra.costello@sfgov.org>,  
<ross.mirkarimi@sfgov.org>, <rick.galbreath@sfgov.org>,

cc

bcc

Subject Local Clean Energy Mandates in RFP

23

Dear Supervisors,

Please adopt a Clean Power SF (Community Choice) RFP with strong local renewable energy and efficiency mandates that conform to the original project Implementation Plan passed in July 2007. Please do not pass a Clean Power SF RFP until both the Local Agency Formation Commission and clean energy consultants Local Power have stated that they are comfortable that it is strong enough.

Sincerely,

Oakland, CA 94609

**Ryan Van Lenning**

Windows 7: Simplify your PC. [Learn more.](#)

23

**COMMISSIONERS**  
**Jim Kellogg, President**  
Concord  
**Richard Rogers, Vice President**  
Carpinteria  
**Michael Sutton, Member**  
Monterey  
**Daniel W. Richards, Member**  
Upland  
**Don Benninghoven, Member**  
Santa Barbara

**ARNOLD SCHWARZENEGGER**



**JOHN CARLSON, JR.**  
**EXECUTIVE DIRECTOR**  
1416 Ninth Street  
Box 944209  
Sacramento, CA 94244-2090  
(916) 653-4899  
(916) 653-5040 Fax  
fgc@fgc.ca.gov

24

STATE OF CALIFORNIA  
**Fish and Game Commission**

October 22, 2009

TO ALL AFFECTED AND INTERESTED PARTIES:

This is to provide you with a Notice of Findings regarding the American pika (*Ochotona princeps*) which will be published in the California Regulatory Notice Register on October 23, 2009.

Sincerely,

  
Sheri Tiemann  
Staff Services Analyst

Attachment

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2009 OCT 26 AM 11:20a  
BY [initials]

24

## CALIFORNIA FISH AND GAME COMMISSION NOTICE OF FINDINGS

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Fish and Game Code Section 2074.2, the California Fish and Game Commission, at its June 24, 2009, meeting in Woodland, California, set aside its June 27, 2008, written findings in support of its decision to reject the petition filed by the Center for Biological Diversity to list the American pika (*Ochotona princeps*) as a threatened species. The Commission reconsidered the petition and rejected it based on a finding that the petition did not provide sufficient information to indicate that the petitioned action may be warranted. At this meeting, the Commission also announced its intention to ratify its findings.

NOTICE IS ALSO GIVEN that, at its October 1, 2009, meeting in Woodland, California, the Commission adopted the following findings outlining the reasons for its rejection of the petition.

### I BACKGROUND

**August 22, 2007.** The Commission office received a petition from the Center for Biological Diversity (CBD) to list the American pika as threatened under the California Endangered Species Act (CESA).

**August 30, 2007.** The Commission office referred the petition to the Department of Fish and Game (Department) for review and analysis pursuant to Fish and Game Code Section 2073.5.

**September 10, 2007.** The Commission submitted a notice of receipt of the petition, for publication in the California Regulatory Notice Register, as well as for mailing to interested and affected parties.

**September 13, 2007.** The Department submitted a written request for a 30-day extension to evaluate the petition.

**October 12, 2007.** The Commission approved the Department's request for a 30-day extension to evaluate the petition.

**December 21, 2007.** The Department submitted its written evaluation of the petition.

**February 7, 2008.** The Commission announced receipt of the Department's evaluation of the petition to list the American pika as threatened and indicated its intent to consider the petition, the Department's evaluation, and public comments at the March 6-7, 2008 meeting.

**March 4, 2008.** The Commission office received a 25-page letter from CBD in rebuttal to the Department's evaluation. Six additional exhibits were appended to this letter.

**March 7, 2008.** The Department discussed its evaluation of the petition at the Commission meeting. The Commission took comments on the petition and the Department's evaluation. Because of the additional information submitted by CBD, the Commission continued its consideration of the petition to the April 10-11 meeting in Bodega Bay.

**April 8, 2008.** The Commission office received an e-mail message from Mr. Brian Nowicki of CBD, with four attachments pertaining to the American pika.

**April 10, 2008.** The Commission considered the petition and took additional comments related to it and the Department's evaluation. At this meeting the Commission rejected the petition, finding that it did not contain sufficient information to indicate the petitioned action may be warranted. Staff was directed to prepare a draft statement of Commission findings pursuant to Fish and Game Code Section 2074.2.

**August 19, 2008.** CBD filed a Petition for Writ of Mandate in San Francisco Superior Court challenging the Commission's decision to reject the petition.

**May 11, 2009.** San Francisco Superior Court Judge Peter Busch issued a writ of mandate directing the Commission to set aside its June 27, 2008 findings rejecting the petition to list the American pika and reconsider its action in light of the court's judgment.

**May 19, 2009.** The Commission office received a 17-page letter from CBD requesting that the Commission take into account the information in the letter when reconsidering the petition.

**June 24, 2009.** The Commission considered the petition and took additional comments related to it. At this meeting, the Commission set aside its June 27, 2008 written findings in support of its decision to reject the petition. At this meeting, the Commission also reconsidered and rejected the petition, finding that it did not contain sufficient information to indicate the petitioned action may be warranted. Staff was directed to prepare a draft statement of Commission findings pursuant to Fish and Game Code Section 2074.2.

## II STATUTORY REQUIREMENTS

A species is endangered under CESA (Fish and Game Code § 2050 et seq.) if it "is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, over exploitation, predation, competition, or disease." (Fish & G. Code, § 2062.) A species is threatened under CESA if it is "not presently threatened with extinction [but] is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by [CESA]...." (Fish & G. Code, § 2067.) Responsibility for deciding whether a species should be listed as endangered or threatened rests with the Commission. (Fish & G. Code, § 2070.)

California law does not define what constitutes a "serious danger" to a species, nor does it describe what constitutes a "significant portion" of a species' range. The Commission makes the determination as to whether a species currently faces a serious danger of extinction throughout a significant portion of its range (or, for a listing as threatened, whether such a future threat is likely) on a case-by-case basis after evaluating and weighing all the biological and management information before it.

Non-emergency listings involve a two-step process. First, the Commission "accepts" a petition to list the species, which immediately triggers regulatory protections by establishing the species as a candidate for listing and triggers up to a twelve-month study by the Department of the species' status. (Fish & G. Code, §§ 2074.2, 2074.6.) Second, the Commission considers the Department's status report and information provided by other parties and makes a final decision to formally list the species as endangered or threatened. (Fish & G. Code, § 2075.5.)

To be accepted by the Commission, a petition to list a species under CESA must include sufficient scientific information that the listing may be warranted. (Fish & G. Code, § 2072.3; Cal. Code Regs., tit. 14, § 670.1, subds. (d) and (e).) The petition must include information regarding the species' population trend, range, distribution, abundance and life history; factors affecting the species' ability to survive and reproduce; the degree and immediacy of the threat to the species; the impact of existing management efforts; suggestions for future management of the species; the availability and sources of information about the species; information about the kind of habitat necessary for survival of the species; and a detailed distribution map. (Fish & G. Code, § 2072.3; Cal. Code Regs., tit. 14, § 670.1, subd. (d)(1).)

Within ten days of receipt by the Commission, a petition is forwarded to the Department for analysis. (Fish & G. Code, § 2073.) Within 90 days of receipt, the Department submits to the Commission an evaluation report of the petition and other available information (Fish & G. Code, § 2073.5), including a recommendation on whether the petitioned action may be warranted. The Department may request and be granted a time extension of up to 30 additional days to submit the evaluation report. After public release of the Department's evaluation report (Fish & G. Code, § 2074), the Commission will schedule the petition for consideration. In deciding whether it has sufficient information to indicate the listing may be warranted, the Commission is required to consider the petition itself, the Department's written evaluation report, and other comments received about the petitioned action. (Fish & G. Code, § 2074.2.)

The standard of proof to be used by the Commission in deciding whether listing may be warranted (i.e., whether to accept or reject a petition) was described in *Natural Resources Defense Council v. Fish and Game Commission* (1994) 28 Cal. App.4<sup>th</sup> 1104 (NRDC case). In the NRDC case, the court determined that "the Section 2074.2 phrase 'petition provides sufficient information to indicate that the petitioned action may be warranted' means that amount of information, when considered in light of the Department's written report and the comments received, that would lead a reasonable person to conclude there is a substantial possibility the requested listing could occur...." (*Id.*, at p. 1125.) This "substantial possibility" standard is more demanding than the "reasonable possibility" or "fair argument" standard found in the California Environmental Quality Act, but is lower than the legal standard for a preliminary injunction, which would require the Commission to determine that a listing is "more likely than not" to occur. (*Ibid.*)

The NRDC court noted that this "substantial possibility" standard involves an exercise of the Commission's discretion and a weighing of evidence for and against listing, in contrast to the fair argument standard that examines evidence on only one side of the issue. (*Id.*, at p. 1125.) As the Court concluded, the decision-making process involves:

... a taking of evidence for and against listing in a public quasi-adjudicatory setting, a weighing of that evidence, and a Commission discretion to determine essentially a question of fact based on that evidence. This process, in other words, contemplates a meaningful opportunity to present evidence contrary to the petition and a meaningful consideration of that evidence.

(*Id.*, at p. 1126.) Therefore, in determining whether listing "may be warranted," the Commission must consider not only the petition and the report prepared on the petition by the Department, but other evidence introduced in the proceedings. The Commission must decide this question in light of the entire record.

In *Center for Biological Diversity v. California Fish and Game Commission* (2008) 166 Cal.App.4<sup>th</sup> 597, the court acknowledged that "the Commission is the finder of fact in the first

instance in evaluating the information in the record.” (*Id.*, at p. 611, citing *NRDC, supra*, 28 Cal.App.4th at p. 1125.) The court explained:

[T]he standard, at this threshold in the listing process, requires only that a substantial possibility of listing could be found by an objective, reasonable person. The Commission is not free to choose between conflicting inferences on subordinate issues and thereafter rely upon those choices in assessing how a reasonable person would view the listing decision. Its decision turns not on rationally based doubt about listing, but on the absence of any substantial possibility that the species could be listed after the requisite review of the status of the species by the Department[.]

(*Ibid.*) Thus, without choosing between conflicting inferences, the Commission must objectively evaluate and weigh the information both for and against the listing action and determine whether there is a substantial possibility that the listing could occur. (*Id.*, at p. 612.)

### III REASONS FOR FINDING

This statement of reasons for the finding sets forth an explanation of the basis for the Commission's finding and its rejection of the petition to list the American pika as a threatened species. It is not a comprehensive review of all information considered by the Commission and for the most part does not address evidence that, while relevant to the proposed listing, was not at issue in the Commission's decision. However, all written and oral comments presented to the Commission regarding the petition are considered part of the record.

In order to accept this petition, the Commission is required to determine that it has sufficient information to persuade a reasonable person that there is a substantial possibility that listing of the American pika could occur. Guided by the *NRDC* and *Center for Biological Diversity* cases, the Commission must objectively weigh and evaluate all evidence.

Fish and Game Code Section 2072.3 lists several informational categories to be evaluated in determining whether a petition should be accepted. The petition and record as a whole were insufficient to demonstrate that the listing action could occur.

The informational deficiencies and categories of information described in Section 2072.3 most relevant to this finding are:

- (1) Population trend;
- (2) Population abundance; and
- (3) Degree and immediacy of threat.

1. **Population Trend:**
2. **Population Abundance:**

The petition contains minimal information on population abundance, density or trends. The petition reports that "... pika populations have been lost from multiple low-elevation sites in Yosemite National Park during the past 90 years." Otherwise, it reports no information regarding population numbers, except for the White Mountains (*O. p. sheltoni*) subspecies. While it appears that near-annual surveys have occurred within or near Bodie State Historic Park (Nichols, personal communication to Gustafson, 2007; provided by petitioner and written by

Dr. Nichols (dated April 2009 regarding survey work in 2008)), these surveys are not sufficient to conclude that listing of this subspecies may be warranted. Among its deficiencies, the survey results are not reported in the Population Status portion of the petition, the methodology and survey site selection is not adequately described, the information presented has not been independently verified, confirmed or peer-reviewed, and the scope and context of the surveys in relation to the entire Bodie Hills area is unclear, particularly since Dr. Nichols still observed pikas in Bodie State Historic Park.

The petition does not describe the overall geographic range of the pika in California or the geographic range of any of the five subspecies found in the State. The petition provides no information on the distribution of the pika within its California geographic range, other than to say that elevations of historic populations [in California] ranged from 1370 [meters] to 3700 [meters]. The petition provides no information or description on any overall trend in the size or distribution of populations of the pika in California or of populations of four of the five sub-species occurring in the State.

The Commission finds that the population status of the American pika in California is largely unstudied and unknown. There have been no systematic, comprehensive, rangewide studies of pikas in California, and the petition does not contain sufficient information about the American pika throughout all or a significant portion of its range in California. Parameters to describe abundance, density, recruitment and population trends are unknown or unavailable. Further, the petition's statement that populations were lost from multiple low-elevation sites in Yosemite was not justified, according to a key researcher in the Yosemite National Park pika study, who stated that pika populations appeared healthy (Patton, personal communication).

Petitioner asserts that because of the lack of monitoring information, a rationale for listing should not depend on showing that population status is declining in California. Instead, petitioner argues that global warming poses a threat to the long-term survival of pikas in California and listing is justified because:

1. the pika is a unique mammal and extremely vulnerable to high temperatures;
2. upper elevation habitat for California pikas has experienced significant temperature increases, making it less suitable;
3. pika range in California is contracting upslope;
4. a recent study (Beever et al., 2003) reported pika population extirpations at six Oregon and Nevada locations within the Great Basin ecoregion and attributed extirpations to thermal stress from climate change; and
5. pikas in California are threatened by continued habitat alteration due to climate change.

Petitioner described potential broad scale effects of climate change on wildlife and plant communities of the Sierra Nevada ecoregion, and has cited sources to establish the vulnerability of pikas to high temperatures. However, the petition does not discuss the potential for behavioral adaptations in pikas as a method of mitigating at least some anticipated effects of global warming. This is especially relevant because pika populations at lower elevations (such as Bodie State Historical Park) apparently reduce mid-day activity as a means of avoiding the heat.

The petition also asserts that upper elevation habitat for California pikas has experienced significant temperature increases and is now less suitable because pika range in California is contracting upslope. However, the petition's evaluation of microhabitat

conditions at upper elevation habitat is inadequate, especially subalpine microclimate conditions related to temperature. The petition does not adequately demonstrate that pika distribution in California has contracted (or is contracting) upslope. Moreover, the petition does not show that upslope habitat in California is significantly limited in its availability or quality, to the extent that an upslope shift in distribution would be expected to constitute a threat to pika populations statewide.

Most important, the petition apparently attempts to use habitat conditions and population trends in the Great Basin ecoregion as proxies to predict the demise of pikas in the Sierra Nevada ecoregion of California. It does so without adequately comparing or contrasting these ecoregions, and without providing sufficient information about this ecoregion in California. It is erroneous to assume that because they are adjacent to one another, these ecoregions are similar in terms of pika habitat suitability. Because of the availability of suitable, continuous high-elevation habitat, distribution of pikas along the Sierra Nevadas may be much more continuous than within the Great Basin. The petition fails to acknowledge or discuss this, and the Commission does not believe that the decline of some pika populations in the Great Basin constitutes sufficient information to create a substantial possibility that listing pikas within the Sierra Nevada ecoregion in California may be warranted.

Fish and Game Code Section 2072.3 clearly states that the petition must provide information about species' abundance and population trend. This information must be about the species in California. Although some may suggest that pikas are difficult to survey, it is worth noting that, in addition to the population trend data available from the Great Basin, abundance and population trend information is available for other subspecies of pika in Alaska and China. This petition is clearly deficient in that it fails to provide sufficient scientific information on both population trend and abundance.

**3. Degree and immediacy of threat:**

The lack of population abundance and trend information in the petition also impacts the discussion of purported threats to the American pika. Without a reliable population estimate, realistic assessment of the scope of the threat to the species is impossible. Most listings of other species by the Commission were clearly documented by utilizing population size to show dramatic and measurable declines caused by the lack of protections. Some listings of species looked to small population size initially to show the need for immediate protection.

The petition lacks empirical data to describe population trend and abundance. Instead, petitioner implicitly assumes that extirpations of pika populations in the Great Basin are predictive of similar occurrences within the Sierra Nevada ecoregion. It is not reasonable to accept such an assumption without empirical data and a comparison of the Sierra Nevada and Great Basin ecoregions. Thus, in discussing purported threats to the American pika as a result of climate change, the petition is speculative and does not provide sufficient information for the Commission to determine that there is a substantial possibility that the listing of pikas could occur.

Fish and Game Code Section 2072.3 explicitly requires the presentation of sufficient credible information on the questions of degree and immediacy of threat and the impact of existing management efforts. Section 2072.3 provides that "Petitions shall include information regarding...the degree and immediacy of threat, the impact of existing

management efforts...." The petition lacks sufficient information on the degree and immediacy of threat component of the statute under current conditions.

IV  
FINAL DETERMINATION BY COMMISSION

The Commission has weighed and evaluated all information and inferences for and against accepting the petition, including the scientific and general evidence in the petition, the Department's written report, and written and oral comments received from members of the public. Based upon the record, the Commission has determined that the petition and overall record provides insufficient evidence to persuade an objective, reasonable person that the petitioned action may be warranted. (Fish & G. Code § 2074.2.) In making this determination the Commission finds that the petition does not provide sufficient information in the categories of population trend, abundance, and degree and immediacy of threat to find that the petitioned action may be warranted. The Commission also finds that the petition provided insufficient information range-wide regarding population trends and abundance and degree and immediacy of threat for the Commission to adequately assess the threat and find that an objective, reasonable person would conclude there was a substantial possibility that listing the species could occur.

Fish and Game Commission

*John K. Fischer for*

Dated: October 1, 2009

John Carlson Jr.,  
Executive Director

BOS 11

October 19, 2009 *cpag*  
TO: STATE, COUNTY AND CITY  
OFFICIALS

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

2009 OCT 26 AM 11:17

BY \_\_\_\_\_

**NOTIFICATION OF APPLICATION FILING OF  
PACIFIC GAS AND ELECTRIC COMPANY (PG&E): FOR  
EXPEDITED AUTHORIZATION TO CHANGE RESIDENTIAL ELECTRIC RATES  
EFFECTIVE JANUARY 1, 2010, AS PERMITTED BY NEWLY ENACTED PUBLIC  
UTILITIES CODE SECTION 739.9**

25

**DETAILED INFORMATION ABOUT THIS APPLICATION**

On October 14, 2009, PG&E filed an Application for expedited Commission authorization to change residential electric rates effective January 1, 2010. The requested rate change is permitted by newly enacted Public Utilities Code Section 739.9, which allows the Commission to approve increases in rates for residential Tiers 1 and 2 (low monthly usage) in accordance with specific formulas. Specifically, PG&E proposes to increase Tier 1 and Tier 2 rates on rate schedule E-1 by 5.0 percent and to decrease Tier 3, 4, and 5 rates commensurately. PG&E proposes no change in rates for customers in the California Alternate Rates for Energy (CARE) program. The relief PG&E requests in this Application will not change PG&E's authorized overall electric revenue requirement or the revenue assigned to the residential class. To implement this rate change on January 1, 2010, PG&E is proposing an expedited procedural schedule.

**Will rates increase?**

Non-CARE residential electric rates on schedule E-1 will increase by 5.0 percent for Tiers 1 and 2 and will decrease commensurately for Tiers 3, 4, and 5. Whether a residential customer's bill will increase or decrease will depend on the customer's electricity usage. Other rates will not be affected.

If the Commission approves the Application, rate changes are limited to the residential class. Charges for bundled residential customers will change. The change to charges for direct access residential customers (those who purchase their electricity from non-PG&E suppliers) is minimal.

A typical bundled residential customer (a customer who receives electric generation as well as transmission and distribution services from PG&E) using 550 kilowatt-hours per month will see the average monthly bill change from \$74.13 to \$76.63, an increase of \$2.50 per month or 3.4 percent. A bundled residential customer using 850 kilowatt-hours per month, which is about twice the baseline allowance, will see the average monthly bill change from \$164.15 to \$163.46, a decrease of \$0.69 per month or 0.4 percent. A bundled residential customer using 1500 kilowatt-hours per month will see the average monthly bill change from \$434.98 to \$419.66, a decrease of \$15.32 or 3.5 percent. Individual bills may differ.

**THE CPUC PROCESS**

The CPUC's Division of Ratepayer Advocates (DRA) will review this Application. DRA is an independent arm of the CPUC, created by the Legislature to represent the interests of all utility customers throughout the state and obtain the lowest possible rate for service consistent with reliable and safe service levels. DRA has a multi-disciplinary staff with expertise in economics, finance, accounting and engineering. DRA's views do not necessarily reflect those of the CPUC. Other parties of record will also participate.

The CPUC may hold evidentiary hearings where parties of record present their proposals in testimony and are subject to cross-examination before an Administrative Law Judge (ALJ). These hearings are open to the public, but only those who are parties of record can present evidence or cross-examine witnesses during evidentiary hearings. Members of the public may attend these hearings, but are not allowed to participate.

After considering all proposals and evidence presented during the hearing process, the ALJ will issue a draft decision. When the CPUC acts on this application, it may adopt all or part of PG&E's request, amend or modify it or deny the application. The CPUC's final decision may be different from PG&E's proposed application filing.

**FOR FURTHER INFORMATION**

For more details call PG&E at 1-800-PGE-5000  
Para más detalles llame al 1-800-660-6789  
詳情請致電 1-800-893-9555  
For TDD/TTY (speech-hearing impaired) call 1-800-652-4712

You may request a copy of the application and exhibits by writing to:  
Pacific Gas and Electric Company  
Residential Electric Rates Change Application  
P.O. Box 7442, San Francisco, CA 94120.

You may contact the CPUC's Public Advisor with comments or questions as follows:  
Public Advisor's Office  
505 Van Ness Avenue, Room 2103  
San Francisco, CA 94102

1-415-703-2074 or 1-866-849-8390 (toll free)  
TTY 1-415-703-5282, TTY 1-866-836-7825 (toll free)  
E-mail to [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov)

If you are writing a letter to the Public Advisor's Office, please include the name of the application to which you are referring. All comments will be circulated to the Commissioners, the assigned Administrative Law Judge and the Energy Division staff.

25



Lawrence Kim

>

10/25/2009 03:34 PM

To o'connellk@ci.pacifica.ca.us,  
recpark.commission@sfgov.org,  
board.of.supervisors@sfgov.org

cc

bcc

Subject Restore Sharp Park

26

Dear Friends,

As a resident of Pacifica I am writing to encourage your support of to restore Sharp Park into a new national Park all Californians.

Thank you,  
Lawrence Kim

Pacifica, CA 94044

26



"Brown, Greg"

g>

10/22/2009 12:57 PM

To "Recpark.commission@sfgov.org"  
<Recpark.commission@sfgov.org>,  
"gavin.newsom@sfgov.org" <gavin.newsom@sfgov.org>,  
cc "info@spublicgolf.com" <info@spublicgolf.com>

bcc

Subject Save Sharp Park Golf Course

Dear Mayor Newsom, Mayor Lancelle, Honorable Supervisors and Commissioners,  
I am a Pacifica resident, and formerly long time SF resident, writing to urge you to  
preserve the historic 18-hole Sharp Park Golf Course.

The public courses were set up long ago so working taxpaying older citizens could  
have an affordable place to play golf. One of the few sports we are physically  
able to play beyond 40 years old. We pay fees in addition to taxes for that privilege.

Those courses are constantly 'under fire' by developers, private concerns  
(salivating over the prospect of a free golf course,) and so called environmentalists  
(I consider myself a 'green guy') that each want them for their own purposes.

The courses are vulnerable to these and other interests because the golfers  
cannot muster the political capital necessary to be considered unassailable.

Once the courses are gone each can never be replaced.

Please support us.

Yours truly,

Gregory D. Brown, MPA

---

Pacifica, CA 94044



**Richard Deutman**

10/26/2009 11:18 AM

To Board.of.Supervisors@sfgov.org

cc

bcc

Subject entertainment commission After Hours Permits

27

Dear Board:

I urge you to deny extending or granting any more tools to the Entertainment Commission. Since the commission was created

it has not denied a single application.

The application process is arbitrary. The process lacks a common link of minimum qualification needed for permit approval.

The commission has failed to provide a step by step procedure to guide applicants and to qualify applicants before the permits are issued.

The commission does a great job on noise abatement issues. The commission has done a terrible job on community involvement and outreach

for permits where older zoning laws allow after hours entertainment, some of these neighborhoods have changed dramatically and now have a substantial resident population.

Also consider that at present the commission is short two (2) members. Bay Area newspapers have been reporting that commission members may have biased and self interested business relationship with many of the organizations seeking permits.

At this time the Entertainment Commission needs to step back learn to work the Police, with Neighborhoods, and establish a clear set of guidelines for organizations seeking After Hours permits.

Please deny granting greater powers to the commission, until the commission gets its own house in order and proves it can manage its present level of responsibility to the residents and businesses of San Francisco.

--

Richard Deutman

27

Board of  
Supervisors/BOS/SFGOV

10/27/2009 10:29 AM

To BOS Constituent Mail Distribution,

cc

bcc

Subject Fw: 24-hour Nightclub Legislation



ccgandrt:

10/25/2009 04:20 PM

To francis.tsang@sfgov.org, francis.tsang@sfgov.org,

board.of.supervisors@sfgov.org, gavin.newsom@sfgov.org

cc

Subject 24-hour Nightclub Legislation

Ladies and Gentlemen,

I am writing you to urge you NOT to let District 3 turn into an all-night area with noise, crime and undesirable people it brings in with it.

The little revenue for San Francisco or in your pockets *today* hurts the San Francisco of *tomorrow*. You know exactly what I mean.

Please do all you can to stop any legislation from being passed that favors turning my neighborhood into one like the South of Market!

Corinne de Ciofalo Guell

San Francisco, CA 94109-6076

C-Pages

080323  
080324



Richard Deutman

10/26/2009 11:18 AM

To Board.of.Supervisors@sfgov.org

cc

bcc

Subject entertainment commission After Hours Permits

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Please deny granting greater powers to the commission, until the commission gets its own house in order and proves it can manage its present level of responsibility to the residents and businesses of San Francisco.

--

Richard Deutman



pat missud

10/25/2009 06:21 PM

To cityattorney@sfgov.org, john@avalos08.com,  
board.of.supervisors@sfgov.org

bcc

Subject Alemany/San Juan Intersection

28

To all concerned,

The neighbors unanimously agree that the intersection's safety has been much improved. Thank you, Mr. Fleck, and the Filipino Center for the efforts and changes.

Drivers traveling in the second lane though are sometimes not aware of pedestrians on their way from the first. However, at least the local pedestrians are wary enough not to proceed without checking the second lane for (non)yielding drivers. Non local pedestrians unaware of the nature of this intersection may not fare as well in the future.

Not being a traffic engineer, I still recommend reducing the speed limit along the length of the Alemany corridor to 30 or below for additional safety throughout the community.

Keep up the very good work,

Patrick Missud

28



North Beach Copy

10/26/2009 09:37 AM

To board.of.supervisors@sfgov.org

cc

bcc

Subject North Beach Streets

29

Since you people decided to create a nightclub zone out of North Beach the very least you could do is clean up the streets and sidewalks.

The business I own has people urinating, having sex leaving behind used condoms and vomiting on it from Thurs-Sunday.

Today walking one half block to Columbus and Green the entire place smells like vomit and urine.

I don't see how daytime business are expected to do retail business when it reeks as it does now. Maybe you really don't want us here anyway.

Rebecca Sarinelli  
North Beach Copy

San Francisco, CA

29

Board of  
Supervisors/BOS/SFGOV

10/27/2009 10:40 AM

To BOS Constituent Mail Distribution,

cc

bcc

Subject Fw: Motorcycle and boom car noise

30



John Morrison

10/26/2009 12:50 AM

To board.of.supervisors@sfgov.org

cc editor@sfbg.com

Subject Motorcycle and boom car noise

Thank you all--and particularly my own Supervisor Avalos-- for making it clear that you haven't got the guts to tackle a daily illegality completely ignored and unenforced: illegal motorcycle mufflers and thug boom cars. It will make my choices much more clear when each of you comes up for election. Not even one of you even sent a conformation of getting my snail mail letter with enclosures (attached here in case your aides trashed it).

Congratulations for following the pack,

John Morrison

San Francisco, CA 94112

--

"If we could read the secret history of our enemies we should find in each man's life sorrow and suffering enough to disarm all hostility."

--Henry Wadsworth Longfellow



Motorcycle letter flyer.motorcycle.pdf Boom Car Legal Considerations.doc Muffler Legal Considerations.doc

30



Daniel Omran

10/26/2009 11:48 AM

To <board.of.supervisors@sfgov.org>

cc

bcc

Subject Mandatory Composting

31

Dear Board of Supervisors,

While I agree with the general idea of being green and minimizing our collective carbon footprint, I think that **mandatory** composting is overdoing it. The idea of there being some kind of garbage police handing out tickets is anathema to me.

Quite simply, we barely have enough room out front for the garbage and recycling bins, let alone a compost one.

I think if there was available a compost bin half the size of the regular trash cans then it would be more feasible

for certain neighbors to participate. I think for the elderly that have to go up and down stairs just to take out the trash,

it is an undue burden and possibly even dangerous. So please, consider an education campaign to show people how to

compost in their own backyard as an alternative to the garbage Gestapo.

Sincerely Danny Tamayo,  
Native San Franciscan

31