December 2018

Following Untenable Legislative Track Record …

Mayor Breed Needs to Clean House at DHR

by Patrick Monette-Shaw

Illustration: Patrick Monette-Shaw
Breed Photo: "Styrofoam Monster" campaign ad.

Mayor Breed's Record: Breed's legislative track record illustrates that the Empress (regnant) has no clothes.

London Breed's June 5 election as mayor was essentially for an 18-month period to serve out the balance of Ed Lee's term.

Mayor Breed now faces a mere 10-month period between December 2018 and October 7, 2019 — the first day of early voting, and the date on which vote-by-mail ballots will be placed into U.S. Mail — to create a track record to justify being re-elected mayor for a four-year term in her own right. She needs to step up her game.

Given her dismal legislative track record while a six-year member of the Board of Supervisors, she's got a lot of work to do, and better get cracking! Leading up to the June 5 election, the *San Francisco Examiner* published an article comparing the legislative histories of the three leading mayoral candidates on May 20.

Echoing community concerns regarding Breed's clear lack of accomplishments while serving as a Supervisor and as Board President, Joe Fitzgerald Rodriguez's May 20 article documented Breed's pathetic legislative accomplishments.

> **"Mayor Breed now faces a mere 10-month period to create a track record to justify being re-elected mayor for a four-year term in her own right."**

Legislative Track Record

The meat of legislative job duties for City supervisors includes four main categories: Introducing Resolutions (typically non-binding resolutions or commendations honoring constituents), Ordinances creating actual legislation, calling for and conducting public Hearings, and sponsoring changes to the City Charter. Breed's six-year record as Supervisor was weak, compared to mayoral candidates Jane Kim and Mark Leno. Of the four categories, Breed had a total of 184, of which 112 (60.9%) were Resolutions. That stands in stark contrast to Supervisor Kim's total of 445, including 248 (55.7%) Resolutions.

Breed authored 50 Ordinances, almost half of the 96 Ordinances Kim introduced. Breed called for just 22 hearings, less than one-quarter of Kim's 96 hearings. While Kim sponsored five Charter Amendments, Breed sponsored zero. And of the 50 Ordinances Breed introduced, only eight (16.0%) were for housing and development, compared to Kim's 29 housing and development Ordinances, 31.9% of Kim's total Ordinances. Since the lack of affordable housing is one of the City's most pressing problems, what was Breed thinking?

> **"As Supervisor, Breed authored 50 Ordinances, nearly half of the 96 Ordinances Supervisor Kim introduced. Breed called for just 22 hearings, less than one-quarter of Kim's 96 hearings."**

Joe Fitz reported former Mayor Art Agnos astutely noted Breed was the most powerful member of the Board of Supervisors and "*she had enough votes to pass anything that she wanted*." But she didn't do that. Rodriquez also noted that as law-makers, legislative track records of City supervisors is a crucial — but not the only — metric of their job performance. Agnos, for his part, noted that being Board President is a citywide function, but Breed's legislative record didn't address citywide issues. Rodriguez acknowledged there are other leadership traits than just writing legislation, but that legislation is a vital part of their jobs.

> **"Joe Fitz mistakenly credited Breed for strengthening the City's whistleblower protection ordinance (WPO) for City employees. That's just plain wrong."**

Credit Isn't Due: Amendments to the City's Whistleblower Protection Ordinance

Unfortunately, Joe Fitz mistakenly credited Breed for strengthening the City's whistleblower protection ordinance (WPO) for City employees. That's just plain wrong. If anything, Breed's inaction while Board president caused a two-and-a-half-

year delay, with the whistleblower protection amendments languishing unheard at the Board of Supervisor Rules Committee, where the amendments process expired several times and had to be resurrected.

As the *Westside Observer* has reported since July 2015, the San Francisco Civil Grand Jury issued its report, "*San Francisco's Whistleblower Protection Ordinance Is in Need of Change*" dated May 2015 and posted on-line on June 8, 2015. From there, San Francisco's Ethics Commission held several hearings, adopted proposed amendments to the WPO unanimously on March 28, 2016 and forwarded the amendments to the Board of Supervisors on April 11, 2016.

"Both the Civil Grand Jury and the Ethics Commission recommended expanding WPO amendments to allow reporting disclosures to state and federal agencies."

Of note, both the Grand Jury and the Ethics Commission recommended expanding WPO amendments to allow City employees to file both "in-house" disclosures and complaints, and also allow reporting disclosures "out-of-house" to state and federal agencies. The Grand Jury had indicated disclosures made to the media should also be permitted, as the *Westside Observer* reported in April 2017.

Once Breed got her hands on the proposed amendments from Ethics on April 11, 2016 she choose to slouch towards Bethlehem and didn't formally introduce the amendments to the Board of Supervisors for two months, until June 14, 2016 as the *Westside Observer* reported in September 2018. The amendments Breed introduced retained the provision City employees could file complaints with local, State, or federal government agencies and retain anti-retaliation protections, since retaliation would be prohibited.

While the amendments sat in limbo, the "*Gang of Four*" — the Department of Human Resources (DHR), the City Attorney's Office, the Board of Supervisors, and Ethics Commission staff — went to work, massaging and editing the amendments, and significantly watering down the proposed amendments. DHR held two rounds of meet-and-confer sessions with the City's labor unions, wrongly asserting a bogus claim that some of the amendments might change the terms and conditions of employment for City supervisors after they were hired.

The very first amendment on the cutting room floor that was eliminated was the recommendation from Ethics to allow City employees to file complaints with state and federal agencies. Several Ethics Commissioners are thought to have potentially been "*infuriated*" that provision was eliminated without their knowledge. It's not known whether Ethics Commission staff involved with the Gang of Four's edits ever circled back with the Ethics Commissioners and informed the Commissioners of this major change, without obtaining the Commissioner's prior approval.

"The very first amendment on the cutting room floor that was eliminated was the recommendation from Ethics to allow City employees to file complaints with state and federal agencies."

As the *Westside Observer* reported in February 2018 in "*City's #MeToo Sexual Harassment Scandal*," all lawsuits alleging discrimination by City employees are required to obtain a "right-to-sue" letter from either the California Department of Fair Employment and Housing (DFEH) or from the U.S. Equal Employment Opportunity Commission (EEOC) before they can file lawsuits.

Both DFEH and EEOC are state and local agencies, and if they are not included in the whistleblower protection ordinance, employees who file complaints with them theoretically have no anti-retaliation protections under the WPO since they are external agencies outside the scope of the whistleblower protection ordinance. The WPO only provides anti-retaliation protections for complainants who file complaints "in-house" with City government agencies.

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Fully 33 (13.8%) of the total 240 sexual harassment complaints reported in DHR's annual and quarterly reports between July 1, 2003 and June 30, 2017 were filed "externally" with either the U.S. EEOC or California's DFEH. This represents a significant portion of City employees who will receive no anti-retaliation protections.

The Rules Committee scheduled on its "forward calendar" hearing the WPO amendments during its November 28 meeting, but we'll see if that actually comes to pass and how long it takes the full Board of Supervisors to pass the amendments sometime after, perhaps in December. **Update:** See Postscript.

Breed's Other Legislative Failures

Breed's delay on the WPO amendments wasn't her only failure to marshal legislation through the Board of Supervisors during her tenure as Board president. Consider:

- **File No. 180480 — Ordinance Creating the Office of Sexual Harassment and Assault Response and Prevention (SHARP):** This legislation was first introduced by Supervisor Hillary Ronen on May 8, 2018, and subsequently joined unanimously by the other 10 members of the Board of Supervisors (including then Supervisor Breed) on May 18, 2018, where it languished under Board President Breed. The legislation created a new SHARP office as a sub-department of the Human Rights Commission to improve the City's efforts to combat sexual assault and harassment. The new office was to be staffed by three full-time employees, including a Director and two employees (a senior administrative analyst and a clerk), for a total increased cost of $429,787 in FY 2019–2020 beginning July 1, 2019 and slightly less in the current year, FY 2018–2019.

  "The legislation created an office of Sexual Harassment and Assault Response and Prevention (SHARP) as a sub-department of the Human Rights Commission."

  Leading up to the June 5 election and her swearing in as Mayor on July 12, Breed didn't use the power of her Board presidency to advance the legislation expeditiously in order to secure funding for the program to start and receive funding beginning July 1, 2018. The legislation languished for four months until it was finally passed by full the Board of Supervisors on September 4 in the absence of Breed's "leadership."

  "The SHARP legislation languished for four months until it was finally passed by the full Board of Supervisors on September 4 in the absence of Breed's 'leadership'."

- **File No. 180546 — Harassment Prevention Training for City Employees:** This Ordinance was first introduced by then-Supervisors Cohen, Katy Tang, and Catherine Stefani on May 22, 2018 where it was assigned to the Rules Committee under the Board's 30-day Rule, with a response due back on June 21; the title stated it included a time frame for filing EEOC complaints. As Board president, Breed failed to follow through on the proposed legislation, and no hearings were *scheduled* — or held — during the six months leading up to November 28.

  "As Board president, Breed failed to follow through on the proposed harassment prevention legislation, and no hearings were *scheduled* — or held — during the six months leading up to November 28."

  The first legislation bearing Supervisor Cohen as the lead sponsor asserted the Department of Human Resources shall accept EEO complaints up to one year after the date of the last alleged, *harassment*, *discrimination*, or *retaliation*, apparently increasing the reporting period from six months (180 days) to a full year. Unfortunately, the text of the Ordinance is almost entirely silent about both *discrimination* and *retaliation* complaints.

  The legislation sought to expand the City's former sexual harassment prevention training program to include ***all*** types of harassment, not just sexual harassment. Unfortunately, the legislation doesn't:

  "The legislation sought to expand the City's former sexual harassment prevention training program to include ***all* types of harassment."**

  – Require that ***all*** City employees receive the harassment prevention training. Part-time employees working less than 20 hours a week appear to be non-covered employees (i.e., they aren't required to take the training). That's a loop-hole you could drive a Mack truck through.

  – The legislation proposes harassment prevention training be expanded from requiring only employees who supervise to take the training, to include ***all*** City employees who work more than 20 hours a week. Based on the City Controller's

  "The legislation proposes harassment prevention training be expanded from requiring only supervisory employees take the training to ***all* City employees who work more than 20 hours a week."**

payroll database for FY 2017–2018 that ended on June 30, 2018, of 42,271 employees in the database, 10,234 — nearly one-quarter, or 24.4% — worked *less than* 20 hours per week and will not receive the expanded harassment prevention training.

It's a mistake to ***exclude*** ¼ of all City employees from this training.

– Explicitly require the harassment prevention training include sexual-orientation harassment or racial discrimination and racial harassment, or other forms of already prohibited personnel practices, such as wrongful termination or retaliation.

– Require DHR to stratify in quarterly and annual reports the number of harassment complaints by the type of harassment complaints reported.

– Require the City Attorney's Office to continue submitting monthly reports of lawsuits and ***claims*** filed by female city employees who allege *employment discrimination* to any agency other than to DSOW. Instead, the City Attorney's Office will only be required to submit annual reports on "settlements" of ***harassment*** cases — but perhaps not other types of employment discrimination cases — without specifying whether the harassment cases will be stratified by ***type*** of harassment case, omitting specifying whether "settlements" that do not award monetary damages (but perhaps ***not*** reporting cases where no monetary damages are awarded) will be reported, doesn't specify whether "claims" (as opposed to monetary settlements) will continue to be reported, and doesn't require that City Attorney time and expenses involved in the "settlements" will be reported.

> **"The legislation doesn't require the City Attorney's Office to continue submitting monthly reports of lawsuits and *claims* filed by female city employees who allege *employment discrimination* to any agency other than to DSOW. Instead, the City Attorney's Office will only be required to submit annual reports on 'settlements' of *harassment* cases."**

The latter point is significant, because the *Westside Observer* reported in April 2018 that of the $70 million in settlements awarded for a variety of prohibited personnel practice lawsuits between January 1, 2007 and December 22, 2017 had involved $38.4 million — 54.8% of the $70 million total — just for City Attorney time and expenses fighting the 329 lawsuits.

And the legislation, as written, doesn't require the City Attorney to report the number of *pending*, yet-unsettled harassment cases that are in the pipeline but not yet concluded.

– Require DHR, DSOW, the City Attorney's Office, and the City Controller's Office — which also plays a role in accepting and processing claims against the City — to do any interdepartmental collaboration to report harassment lawsuits and claims.

– Require the City Attorney's Office to report settlements of harassment case awards to the Board of Supervisors; instead the City Attorney will only be required to report the settlements to the Department on the Status of Women.

> **"The legislation doesn't require the City Attorney's Office to report settlements of harassment case awards to the Board of Supervisors; instead the City Attorney will only be required to report the settlements to DSOW."**

The proposed ordinance doesn't relieve DHR of its requirement under City Administrative Code §16.9-25(e) to continue to provide quarterly reports on the number of *sexual harassment* complaints resolved and still pending to DSOW, or to provide annual reports to the Mayor, Board of Supervisors, DSOW, and to the Human Rights Commission. Are the required reports duplicative, and shouldn't the agencies who receive the reports be the same agencies?

On October 2, now-Board president Malia Cohen introduced a substitute Ordinance bearing a new title, ***removing*** the time frame for filing EEOC complaints. Indeed, the October 2 substituted Ordinance replaces the provision that DHR shall accept complaints for up to a year, saying the one-year period is *uncodified* by existing Civil Service rules and DHR's current policy provides the City will accept EEO Complaints for only up to 180 days after the last alleged incident, a current policy DHR promulgated under the authority provided to it by the Civil Service Commission

Now, the Board of Supervisors is merely "urging" or "recommending" that the Civil Service Commission adopt a rule directing DHR to accept EEO complaint for up to one year. Is there any guarantee adopting such a rule will actually come to pass?

Indeed, San Francisco's Department, and Commission, on the Status of Women (DSOW/CSOW) noted in a press release issued on March 1, 2018 that the City should:

> "*Explore expanding the reporting requirement from 180 days from the alleged incident to a year from the date of the last incident (i.e., modeled after the state regulations in the California Department of Fair Employment and Housing).*"

Exploring, and "urging" isn't enough. The Board of Supervisors should direct both DHR and the Civil Service Commission to implement this change legislatively, and actually do it without further debate or urging.

It's not clear why DSOW cites expanding the one-year reporting period based on California's DFEH regulations, and the Board of Supervisors has somehow turned that into citing the EEOC as the basis for this.

Of note, both the May 22 and October 2 versions of the Ordinance expanded the training from only supervisory and managerial employees to ***all*** City employees but ***excluding*** employees who work less than 20 hours per week. Both versions of the legislation expands the training to ***annually***, rather than the current policy of every two years (biennially).

"The legislation expands the training to annually, rather than the current policy of every two years (biennially)."

This legislation was also tentatively scheduled on the Rules Committee "forward calendar" for its November 28 meeting, but when the Rules Committee agenda was posted on-line on Thanksgiving Day, November 22, the legislation wasn't listed on the agenda for consideration on November 28. It's not known why it was removed from the forward calendar or when a hearing will be rescheduled. **Update:** See Postscript.

- **File No. 180630 — Request for Hearing to Consider African-American Workforce Hiring, Retention, and Promotion Opportunities; Workplace Discrimination and Complaints:** A hearing request was introduced on June 5, 2018 by Supervisor Jane Kim and joined by five other City supervisors to hold the subject hearing. It was assigned to the Board's Government Audit and Oversight (GAO) Committee on the same date.

  While serving as Board President until she was sworn in as mayor on July 12, Breed did nothing during the intervening five weeks to expedite scheduling such a hearing. The hearing — by report, a raucous event — was held at GAO on September 19 and tabled to the "*Call of the Chair*" on the same date, where it has languished without assistance from Mayor Breed, despite massive problems with African-American discrimination complaints in the Department of Public Health, the SFMTA, and in other City departments.

  To her credit, during the full Board of Supervisors meeting on November 13 now-lame duck Supervisor Malia Cohen introduced a Motion calling the matter from the GAO's Call of the Chair back for a hearing before the full Board of Supervisors sitting as a Committee of the Whole on November 27, likely to be another raucous hearing. **Update:** See Postscript.

Breed's Anemic Record as Mayor

Breed's efforts to curtail sexual harassment and racial discrimination and beef up whistleblower protections during the five months since she was sworn in as mayor on July 12 have been anemic.

"Breed callously waited for four months to intervene in the sexual harassment and racial discrimination scandal until *after* the harassment prevention training Ordinance was introduced on May 22."

- **Breed's September 18 "Executive Directive"**

  Breed callously waited for at least four months to intervene in the sexual harassment and racial discrimination scandal until after the harassment prevention training Ordinance was introduced on May 22, and until long after Supervisor

Kim introduced a hearing request on June 5 for a hearing on African-American hiring, retention and promotion, and workplace discrimination complaints.

Grandstanding, Mayor Breed issued an "*Executive Directive*" on September 18 in a bald attempt to get ahead of the racial discrimination issue before a Board of Supervisors' Government Audit and Oversight Committee hearing scheduled for the next day on September 19, perhaps hoping to tamp down the raucous hearing. The *San Francisco Chronicle* reported on September 19 that Breed's Executive Directive would create two full-time positions within DHR to focus solely on recruiting diverse employees in each city department. Those two new employees appear to be in addition to the "ombudsman" position Breed created two weeks later for the SFMTA (below).

"Grandstanding, Mayor Breed issued an '*Executive Directive*' on September 18 saying she would create two full-time positions within DHR to focus solely on *recruiting* diverse employees in each city department. Breed's directive is almost meaningless, since the issues involve not just recruitment, but on-going harassment by managers against current and long-time employees."

During the GAO hearing on September 19, the Director of the City's centralized Department of Human Resources, Micki Callahan, asserted Breed's Executive Directive indicated ***all*** City employees would receive the harassment prevention training. Both Breed and Callahan could *not* have ***not*** known that the pending legislation before the Board of Supervisors is carving out an exemption for mandated training for employees who work less than 20 hours weekly. To be blunt, Callahan provided false oral information and potentially a false formal written presentation to Supervisors Jane Kim, Vallie Brown, and Sandra Lee Fewer that ***all*** employees will receive the training.

Breed's directive is almost meaningless, since the issues involve not just *recruitment* of new employees, but on-going harassment by managers against *current* and long-time employees.

Breed's Directive also wrongly claims DHR will expand the City's current sexual harassment prevention training — a web-based, timed, on-line presentation — to all forms of harassment and also to ***all*** City employees on a *biannual* [sic] basis. "Biannual" is defined as twice per year, which is not what's being proposed.

Breed's wrong on at least two points: First, she appears not to understand that the harassment prevention training amendments introduced at the Board of Supervisors on May 22 explicitly seeks to expand the current limited prevention training from *biennial* (every other year) to ***annually***, not biannually (twice each year) as she wrongly stated in her *Executive Directive*. Biennial training would simply maintain the status quo.

"Breed appears not to understand that the harassment prevention training amendments introduced at the Board of Supervisors on May 22 explicitly seeks to expand the current limited prevention training from *biennial* (every other year) to *annually*, not biannually (twice each year) as she wrongly stated in her *Executive Directive*."

And second, although Breed's Directive claims ***all*** City employees must take the training, she also seems to have missed that the prevention training amendments introduced on May 22 clearly indicates that the prevention training will be mandatory for "covered employees," defined as those who work more than 20 hours per week for permanent and exempt positions, and those provisional and temporary employees who are expected to work or at least 960 hours during a fiscal year. That means that up to 10,234 City employees — nearly one-quarter of all employees — who work less than 20 hours per week are not considered to be "covered employees" and who will be exempt from the expanded harassment prevention training.

"There are many inconsistencies between the text in Breed's *Executive Directive* and text in the harassment prevention training amendments introduced at the Board of Supervisors."

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- **October 5 Appointment of MTA Ombudsman**

  On October 5, the *San Francisco Examiner* reported that Mayor Breed had "*hired a new 'high-level manager' who will be uniquely empowered to investigate harassment, discrimination and bullying at all levels of Muni*," which Breed had announced in her October 5 letter to SFMTA employees. Poppycock!

  The *Examiner* reported Breed appointed Dolores Blanding as the first hire to an "independent ombudsperson" position with power to hold any San Francisco Municipal Transportation Agency employee accountable. That's just laughable. Blanding is *not* an independent employee, nor is she a new hire.

  > **"Breed appointed Dolores Blanding as the first hire to an 'independent ombudsperson' position with power to hold any San Francisco Municipal Transportation Agency employee accountable. That's laughable. Blanding isn't an independent employee, nor is she a new hire."**

  Blanding officially retired from City employment in 2007. But since FY 2008–2009, she's worked continually for the Department of Human Resources (DHR) for DHR Director Micki Callahan on a part-time basis as a "Prop. F" employee (retirees who can continue to work for the City for no more than 960 hours annually, while continuing to collect their pension checks). Blanding has been a job classification code 0932, Manager IV as a "Prop. F" employee since FY 2008–2009. She's not at all *independent* from Micki Callahan. Who is Breed trying to fool, and why?

  DHR had 27 senior managers paid a total of $3.15 million in FY 20017–2018. Were those 27 managers unable to, or incapable of, "tracking corrective actions and discipline, and identifying employees with patterns of multiple complaints against them" without needing a new layer of ombudspersons?

  > **"Why hasn't Breed appointed additional ombudspersons in other notorious City departments, like the Department of Public Health?"**

  Why hasn't Breed appointed additional ombudspersons in other notorious City departments, like the Department of Public Health?

- **SFMTA Director's October 25 E-Mail to SFMTA Staff:**

  MTA's director, Ed Reiskin, e-mailed MTA staff on October 25 at 9:15 a.m. using a group e-mail list titled "All_Staff2@sfmta.com" announcing, among other things, that he was starting a "listening" outreach campaign to MTA employees. It's not known if Reiskin's e-mail was actually received by all SFMTA staff, or only by MTA staff who work at MTA's One South Van Ness headquarters, but perhaps not other MTA staff, such as bus drivers and maintenance staff who may or may not have MTA-issued e-mail accounts.

  Although Reiskin finally articulated that "*There is no place in our agency for bullying, discrimination, **harassment, sexual harassment**, or retaliation*," his concern was buried at the end of his two-page e-mail, almost as an afterthought.

  Almost comically, Reiskin concluded saying "*I recognize my role in working with you to ensure **rapid improvement**, and I welcome you to join me*." The problem is, Reiskin should have been aware for a long time that lawsuits filed by MTA employees alleging sexual harassment, racial discrimination, wrongful termination, and retaliation have been going on since at least May 2007, but no improvement — and certainly not *rapid* improvement — has been "ensured," let alone accomplished yet.

  > **"Reiskin should have been aware for a long time that lawsuits filed by MTA employees alleging sexual harassment, racial discrimination, wrongful termination, and retaliation have been going on since at least May 2007, but no improvement has been 'ensured,' or accomplished yet."**

- **"Ombudsman-to-MTA" October 25 E-Mail to SFMTA Staff:**

  Two-and-a-half hours after Reiskin e-mailed MTA staff saying discrimination, harassment, sexual harassment, or retaliation have no place in MTA's agency, Dolores Blanding, appointed by Breed as the Ombudsman to MTA, also e-mailed MTA staff at 11:47 a.m. for the first time, three weeks after she had been appointed by Breed. Blanding's e-

mail also was sent via the "All_Staff2@sfmta.com" group e-mail list, and it's also not known whether just One South Van Ness headquarters building staff received it, or whether it was distributed to bus drivers and other staff who don't have MTA-issued e-mail accounts.

Blanding's e-mail noted "*SFMTA is committed to a work environment free of discrimination, harassment and retaliation*."

Some MTA staff believe Blanding's e-mail and appointment as ombudsperson amounted to just window-dressing, because although Blanding had been assigned an office at One South Van Ness, Blanding hadn't been seen in the MTA's headquarters building in the first three weeks after having been appointed by Breed on October 5.

"Some MTA staff believe Blanding's e-mail and appointment as ombudsperson amounted to just window-dressing."

Blanding noted that she had been consistently hearing people express that the processes for handling concerns in the workplace weren't working, and that there is a need to "*improve communications around these processes both within SFMTA and with DHR's EEO group*." Blanding stated that her goal is "*to review and assess the systems in place, the communications between the functions, and make recommendations on how to improve the processes as transparently as possible*."

But her goal seems to contradict what Mayor Breed had appointed Blanding to do at MTA: To rout out harassment at the agency. Unfortunately, Breed tried to reassure MTA employees in her October 5 letter that Blanding would ensure all MTA *supervisors and managers* receive the anti-harassment training. Shouldn't Blanding be ensuring that ***all*** MTA employees take the harassment prevention training, not just supervisors and managers?

"Unfortunately, Breed tried to reassure MTA employees that Blanding would ensure all MTA *supervisors and managers* receive the anti-harassment training. Shouldn't Blanding be ensuring that ***all* MTA employees take the harassment prevention training, not just supervisors?"**

- **MTA Deputy Director Forced to Retire, October 26:**

The day after Blanding and Reiskin e-mailed MTA staff, suddenly MTA issued a press release announcing that MTA's Director of Transit, John Haley, was forced to retire. Reportedly Haley's assistant, Sabrina Suzuki, claims she had brought complaints about Haley's conduct to SFMTA officials, but her complaints were dismissed. That prompted her to file a lawsuit against Haley and the SFMTA in Superior Court on September 21, 2018 [Case # CGC-18-570023] alleging racial discrimination, sexual discrimination, sexual harassment, and retaliation by Haley.

"The day after Blanding and Reiskin e-mailed MTA staff, suddenly MTA issued a press release announcing MTA's Director of Transit, John Haley, was forced to retire. But that doesn't solve MTA's woes."

Clearly, Suzuki's lawsuit will drag on for at least a year, during which time the City Attorney's Office will likely do everything it can to mitigate any settlement award to her, while running up costs of City Attorney time and expenses trying to defend the MTA. It's thought that Haley being forced to retire about a month after Suzuki's lawsuit was filed against him is highly unusual, and despite his retirement the City will likely have to pay a significant settlement to Ms. Suzuki.

But that doesn't solve MTA's woes. The City settled a sexual harassment lawsuit filed by MTA employee Sherri Anderson for $250,000 in March 2018. The city spent a staggering $265,121 in City Attorney time and expenses fighting Anderson's lawsuit, pushing total costs to $515,121. The man she named as a defendant in her lawsuit, Gerald Williams, remained on MTA's payroll as of June 30, 2018 and is reportedly still employed at MTA. Williams earned $149,180 in that fiscal year as a Safety Officer. Why wasn't Williams terminated between March and June 30, 2018?

"The City settled a sexual harassment lawsuit filed by MTA employee Sherri Anderson for $250,000 in March 2018. The city spent a staggering $265,121 in City Attorney time and expenses fighting Anderson's lawsuit, pushing total costs to $515,121. The man Anderson named as a defendant in her lawsuit, Gerald Williams, remained on MTA's payroll as of June 30, 2018 and is still employed at MTA."

Anderson's lawsuit [Superior Court Case CGC-16-555748] filed on December 12, 2016 alleged Williams had forced her to perform sexual intercourse and oral sex during working hours to avoid jeopardizing her continued employment.

Part of Blanding's duties Mayor Breed described in her letter to MTA employees was that the Ombudsperson would ensure the appropriate level of discipline is administered. Now two months after Blanding's appointment on October 5, is she incapable of getting rid of Mr. Williams? What discipline did he face, if any? Is forcing a subordinate to perform sexual intercourse and oral sex to keep her job ***not*** grounds for immediate termination? What are Mayor Breed and Blanding thinking by ***not*** disciplining Williams via termination?

"Anderson's lawsuit alleged Williams had forced her to perform sexual intercourse and oral sex during working hours to avoid jeopardizing her continued employment. What are Mayor Breed and Ms. Blanding thinking by ***not* disciplining Williams via immediate termination?"**

Breed Must Clean House at DHR

Breed reportedly started out in life as Willie Brown's babysitter. If she's still living in Willie's World, that won't help her create a meaningful track record as mayor in order to win re-election in November 2019. Nor will Breed's answers to the *YIMBY Action* mayoral candidate questionnaire help her, since her answers clearly show she's in lock-step with State Senator Scott Wiener's SB 827 transit-oriented housing bill.

"Director of the Department of Human Resources Micki Callahan and Mayor Breed had to have known the legislation pending before the Board of Supervisors contained a carve-out that approximately one-quarter of City employees won't receive the harassment prevention training."

What might help her out more is to clean house at DHR.

The Albatross Around Breed's Neck: Micki Callahan

"Callahan is an albatross around Breed's neck for multiple reasons. First, there is a direct correlation between Callahan's tenure as DHR Director, and the staggering $70 million in prohibited personnel practices lawsuit costs during her tenure."

First, as noted above, as Director of DHR Callahan misinformed Supervisors Jane Kim, Vallie Brown, and Sandra Lee Fewer on September 19 that ***all*** City employees would be required to take anti-harassment prevention training. Callahan — and Breed, for that matter — had to have known the legislation pending before the Board of Supervisors contained a carve-out that approximately one-quarter of City employees won't receive this training.

Second, as the *Westside Observer* reported as recently as April 2018, the City has racked up over $70 million on 329 prohibited personnel practice lawsuits filed by City employees, between settlement awards and City Attorney time and expenses trying to thwart the lawsuits between January 2007 and December 2017.

Callahan — paid $248,499 in FY 2017–2018 — is an albatross around Breed's neck for multiple, obvious reasons:

- First, Callahan was hired on October 24, 2005 and promoted two years later to being DHR's Director on October 9, 2007. As the *Westside Observer* reported in April 2018, between January 1, 2007 and December 22, 2017 taxpayers shelled out just over $70 *million* between lawsuit settlement awards and cost of City Attorney time and expenses in 329 lawsuits filed by City employees. Clearly there is a direct correlation between Callahan's tenure as Director, and the staggering $70 million in lawsuit costs. Hopefully, Breed can see that direct correlation and time frame overlap.

"Second, Thomas Willis, Jr. an African-American, filed a lawsuit against the City explicitly naming as defendants the City, and both Ms. Callahan, and Theresa Sparks, alleging racial discrimination. He was awarded a $210,000 settlement and total costs of $329,594. How is it that Callahan has kept her job for five years after that settlement?"

- Second, on January 13, 2012 Thomas Willis, Jr. an African-American, heterosexual male serving as a job class code 0931 Manager III in San Francisco's Human Rights Commission (HRC), filed a lawsuit against the City explicitly naming as defendants the City, and both Ms. Callahan and the then-director of HRC, transgender celebrity Theresa Sparks, alleging

racial discrimination against both women and the City [U.S. District Court, Northern District of California Court Case Number CV 112-0231 JSW]. Willis was awarded a $210,000 settlement signed by Micki Callahan in her role as Director of DHR, and others, on March 7, 2013. The City Attorney's Office racked up another $119,594 in time and expenses trying to stop Mr. Willis' lawsuit, for total costs of $329,594.

Given her role as a named defendant in Willis' lawsuit, how is it that Callahan has kept her job for five years after she signed Willis' settlement agreement? Do all named defendants get to keep their jobs?

- Finally, it should easily be within Breed's reach to require an analysis be conducted between how many of the cases involved in the $70 million in prohibited personnel practice lawsuits during Callahan's tenure had first received a determination from Callahan that she had found no merit to, and had denied, their initial EEOC complaints, but went on to prevail in their court lawsuits. Breed can obtain the lawsuit settlements from the City Attorney's Office, and can obtain the EEOC complaint denials from Callahan's EEOC Division staff. Matching the lawsuits to the EEOC complainant names should be easy for Breed's staff to analyze how many employees Callahan may have told their complaints had been found to have "no merit" but who then prevailed in Court.

What might help Breed establish some credibility for re-election is whether she quickly sacks Micki Callahan as the Director of San Francisco's Department of Human Resources, along with forcing the termination of named defendants such as Mr. Williams at the SFMTA. If Breed was able to force John Haley to retire, Breed can force Callahan to retire, too.

"What might help Breed establish some credibility for re-election is whether she quickly sacks Micki Callahan as the Director of San Francisco's Department of Human Resources, along with Mr. Williams."

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Postscript: December 22

After submitting this article to the *Westside Observer* for publication on November 23, additional relevant information became available. Please excuse the delay in posting this postscript follow-up. Here's an update on three major issues.

1. **Whistleblower Protection Ordinance:** The proposed amendments to the Whistleblower Protection Ordinance (WPO) were finally discussed during the Board of Supervisors Rules Committee meeting on November 28, fully two years and seven months after the Ethics Commission's recommended amendments were received at the Board of Supervisors in April 2016.

   I had strongly advocated with the Supervisors during that two-year delay that the amendments didn't go far enough, noting that the amendments needed further work to:

   - Re-instate the recommendation from the Ethics Commission to expand WPO amendments to allow City employees to file both "in-house" disclosures and complaints, and also allow reporting disclosures "out-of-house" to local, state, and federal agencies, including to any City department other than a complainant's own department.

"I strongly advocated the amendments needed to re-instate allowing City employees to report disclosures 'out-of-house' to local, state, and federal agencies; add First Amendment protections; and expand the training to all employees."

   - Add First Amendment protections by replicating the extant language in Sunshine Ordinance §67.22(d) into Campaign and Government Conduct Code §4.115(c) [i.e., into the WPO].

   - Expand the annual training from only supervisory employees to include ***all*** City employees. The plan is to only include additional information about the expanded scope of the WPO in the training orientation packets distributed to new employees, and also provide annual on-line training only to supervisorial employees. But it will take a generation of turn-over of City employees before ***all*** employees receive the training, because of the loop-hole that only new-hires will receive handouts in their new-hire orientation packet; current employees won't receive revised hand-outs. The

City can — and should — do better than this by creating an annual training program for all City employees, not just new-hires.

Three days after submitting this article for publication, I provided written testimony in advance of the Rules Committee's November 28 hearing. During the Rules Committee hearing on November 28, Board President Malia Cohen thanked me by name during her opening remarks for having advocated that the WPO amendments finally be heard after languishing at the Board for over two years. Shockingly, during the Rules Committee hearing, Cohen moved to adopt an additional amendment delaying the start of the WPO training by an additional year, from January 1, 2019 to January 1, 2020.

That was shocking, because after then-Board President London Breed had first introduced the amendments to the full Board of Supervisors in June 2016, three City departments had already collaboratively been working with the Ethics Commission's director, LeeAnn Pelham — but not with the Ethics Commissioners themselves — and by January 17, 2017 had revised the amendments indicating that the training would be implemented beginning January 1, 2018. So, the training implementation date has been pushed back by two full years!

> **"On September 27, 2018 Susan Gard suddenly proposed extending the January 2019 training roll-out by three to six months (to April or July 2019). Two months later Gard brazenly asked that the training be delayed to January 2020. There's no need for it to take another 13 months."**

The delayed training was also shocking, in part because on September 27, 2018 Susan Gard, Chief of Policy at the Department of Human Resources (DHR), suddenly proposed extending the January 2019 training roll-out by three to six months (to April or July 2019). Two months later on November 26, 2018 Gard brazenly asked that the training be delayed from beginning in April 2019 to January 2020. There's no need for it to take now another 13 months for DHR to develop the training materials! Indeed, DHR should have been developing the training materials, long before September 2018.

The Rules Committee voted on November 28 to recommend that the WPO amendments be heard by the full Board of Supervisors on December 4. I presented additional written testimony to the full Board of Supervisors in advance of that December 4 hearing. Unfortunately, it was disturbing listening to the two-minute and two-second reading of the Whistleblower Protection Ordinance amendments during the full Board of supervisors meeting on December 4 because only President Cohen spoke on the amendments during her opening remarks; none of the other ten Supervisors spoke a word for or against the WPO amendments. Cohen claimed:

> **"Cohen claimed on December 4 '*The [WPO amendments] reflects a* delicate compromise *between the Department of Human Resources, the Ethics Commission, and the [City] Controller's Office*'."**

> "*The [WPO amendments] before you today reflects a* **delicate compromise** *between the Department of Human Resources, the Ethics Commission, and the [City] Controller's Office.*"

Cohen went on to say:

> "*I'd like to thank LeeAnn Pelham [Executive Director] and Patrick Ford [a job class 1822 Administrative Analyst] from the Department of Ethics [sic: The Ethics Commission]. I'd also want to recognize leadership within Ben Rosenfield and the office in the Controller's Office; as well as Susan Gard [Chief of Policy at DHR], Micki Callahan [Human Resources Director], and the Department of Human Resources.*"

Neither the Civil Grand Jury nor the Ethics Commission had called for any involvement by DHR in developing the WPO amendments, and DHR should not have played such a significant role in developing language for the WPO amendments. The watered-down amendments were not a "*delicate compromise*" reached between the three departments. Instead, it was deliberate and outright sabotage of the language of the amendments the five-member Ethics

> **"The Civil Grand Jury had not called for any involvement by DHR in developing the WPO amendments. The watered-down amendments were not a '*delicate compromise*'. Instead, it was deliberate and outright sabotage of the language of the amendments."**

Commission approved in March 2016 that was forwarded to then-Supervisor Breed on April 11, 2016. And indeed, it is thought the Ethics Commissioners may never have been told what Ms. Pelham was agreeing to in drastically changing the intent of the language the Ethics Commission had adopted in March 20166.

Ironically, during the Board of Supervisors *Committee of the Whole* hearing on November 27 on African-American recruitment and harassment of City employees, Supervisor Ronen commented "*People may not feel safe, frankly, filing complaints 'in-house'*." (2:03:00 on SFGOV TV videotape.) Ronen continued saying "*People may not trust filing complaints within their own supervisorial chain [of command]*." (2:04:00)

> **"Supervisor Ronen commented '*people may not feel safe, frankly, filing complaints 'in-house'.* Ronen continued saying '*People may not trust filing complaints within their own supervisorial chain [of command]*'.**
>
> **If Black employees don't feel safe filing racial discrimination complaints 'in-house,' why would they feel safe filing whistleblower complaints in-house?"**

But none of the Supervisors, including President Cohen noticed the disconnect in the WPO amendments that requires all whistleblower complaints to be filed only in-house, land perhaps only to their immediate supervisor. If Black employees don't feel safe filing racial discrimination complaints "in-house," why would they feel safe filing whistleblower complaints in-house? And none of the Supervisors lifted a finger to amend the WPO to allow filing complaints *out-of-house*.

The amendments were initially passed by the full Board on First Reading on December 4 and were finally passed on Second Reading on December 11. Once again, only President Cohen spoke on December 11 while the other ten supervisors said not a word during the mere two minutes that Cohen spent again describing the agenda item.

It's sad that now Mayor Breed dragged her feet for two-and-a-half years on her own legislation after she introduced the WPO amendments in June 2016. It's another example of her weak legislative record!

2. **Harassment Prevention Training for City Employees:** Originally scheduled on the Rules Committee's "*forward calendar*" for a hearing on November 28, the legislation was not heard for the first time until the Rules Committee's meeting on December 5.

The legislation contains several glaring problems, as written testimony submitted to the Rules Committee shows. One major problem is that the legislation provides that one-quarter (10,234) of all City employees — those who work less than 20 hours per week — will not be required to take the harassment prevention training, despite Mayor Breed's *Executive Directive* that claims ***all*** City employees will be required to take the harassment prevention training.

> **"One major problem is that the legislation provides that one-quarter (10,234) of all City employees will not be required to take the harassment prevention training, despite Mayor Breed's *Executive Directive* that claims ***all*** City employees will be required to take the training."**

Indeed, Emily Murase, PhD, Director of the Department on the Status of Women, and Debbie Mesloh, President of the Commission on the Status of Women both testified on December 5 that ***all*** City employees will be required to take the harassment prevention training. Not so!

The second problem is that Breed's *Executive Directive* claims the training will be expanded from *biennially* (every other year) to *biannually* (twice per year), but 1) Breed is confusing the two terms, and 2) The legislation specifically says the training will be expanded to *annual* training from the biennially training currently done.

Other problems with the legislation is that the enhanced reporting of data by several City departments does not include any kind of annual reports to the Board of Supervisors.

Following approval at the Rules Committee, the legislation was scheduled for a full Board of Supervisors hearing on December 11 for consideration where it passed on First Reading. Unfortunately, Dr. Murase and Ms. Mesloh appear to have been unable to convince the Board of Supervisors to address the two problems before passing the Ordinance on First Reading.

The Second Reading will not likely be heard until a full Board of Supervisors meeting in early January, since it is believed the December 11 meeting is the last meeting scheduled before the Board recesses for the holidays.

As I testified to the full Board of Supervisors, the sexual harassment, and now expanded harassment, prevention training doesn't go far enough, because it still leaves San Francisco taxpayers on the hook for paying the settlement awards and City Attorney's time and expenses trying to fight and stop the lawsuits.

> **"The now expanded harassment prevention training doesn't go far enough, because it still leaves San Francisco taxpayers on the hook for paying the settlement awards."**

By contrast, U.S. Congresswoman Jackie Spier had introduced a bill in the House earlier this year addressing sexual harassment by members of the House. On December 13, both the U.S. Senate and the House of Representatives passed legislation unanimously in both chambers to reform how sexual harassment is handled on Capitol Hill — including holding lawmakers liable for paying for sexual harassment and retaliation settlements out of their own pockets, rather than the former practice of having U.S. taxpayers foot the bill. The legislation now goes to President Trump for signature. Given the *Access Hollywood* tape and his hush-money payoffs to Karen McDougal and Stormy Daniels, Trump doesn't dare veto the final compromise bi-partisan bill passed unanimously by the Senate and House.

> **"Both the U.S. Senate and the House of Representatives passed legislation unanimously in both chambers holding lawmakers liable for paying for sexual harassment and retaliation settlements out of their own pockets, rather than the former practice of having taxpayers footing the settlement bills."**

That said, President Trump may not realize that if he vetoes the legislation, it only requires a two-thirds vote in the House and Senate to override a presidential veto. It appears they have the votes to unanimously override a veto, given the unanimous votes in both chambers when the legislation was finally passed by both bodies. Trump would be a complete idiot if he attempts to veto the legislation.

On January 3, 2018 California Assemblymember Kevin McCarty (D5–Sacramento) introduced AB 1750, which would require the California State Senate and the California State Assembly to seek reimbursement for any sexual harassment settlements paid by the Legislature when there is clear evidence of wrongdoing by a legislator, rather than taxpayers footing the bills for settlements. It apparently died in the Assembly in late November, but there is some hope that the bill will be re-introduced. In the #MeToo era, such legislation should be passed as a non-brainer.

Our Board of Supervisors have an opportunity to amend the harassment prevention training legislation during its Second Reading in January to adopt a similar requirement that those found to have engaged in sexual harassment or retaliation at the local level will have to pay the legal settlements and City Attorney time and expenses out of their own pockets and relieve taxpayers of the burden to pay the settlements.

> **"Our Board of Supervisors have an opportunity to amend the harassment prevention training legislation to adopt a similar requirement that those found to have engaged in sexual harassment at the local level will have to pay the legal settlements and City Attorney time and expenses out of their own pockets."**

3. **Hearing on African-American Workforce Hiring and Workplace Discrimination and Complaints:** Following an initial hearing at the Government Audit and Oversight (GAO) Committee on September 19 where the issue was tabled to the *Call of the Chair*, the African-American discrimination issue was called from committee for another hearing before the Board of Supervisors sitting as a "*Committee of the Whole*" on November 27.

During the November 27 hearing, Board President Malia Cohen urged Micki Callahan to extend the expanded sexual harassment prevention training to "*every single City employee*." (1:32:54 on SFGOV TV videotape.) One question is: If Cohen really believes the harassment prevention training should be extended to ***all*** City employees, why didn't she advocate on December 5 that the carve-out exempting part-time employees

> **"If Cohen really believes the harassment prevention training should be extended to ***all*** City employees, why didn't she advocate on December 5 that the carve-out exempting part-time employees from the annual harassment prevention training be dropped?"**

from the annual harassment prevention training be dropped and require ***all*** City employees to take the training?

Callahan claimed the Ombudsperson Dolores Blanding had "*been at SFMTA full time*" since Breed had appointed Blanding on October 5. But according to MTA employees who work at One South Van Ness, by the time Blanding first e-mailed MTA staff on October 25, they had not seen any sight of Blanding in the building for the first three weeks. This may be another of Callahan's lies.

After the Department of Public Health (DPH) made its presentation on November 27, Cohen told Ms. Callahan that DHR needs to focus on solving problems of racial discrimination in DPH! (2:35:37 on videotape.)

"During some of those rallies, African-American employees explicitly called for Mayor Breed to fire Micki Callahan, the Director of the City's Department of Human Resources."

African-American city employees held rally's prior to the September 19 GAO hearing, outside of the Department of Human Resources headquarters, and at a City Hall rally on November 27 prior to the "*Committee of the Whole*" hearing. During some of those rallies, African-American employees explicitly called for Mayor Breed to fire Micki Callahan, the Director of the City's Department of Human Resources.

There are credible reports that the Mayor's Office placed calls on November 27 asking that some of the African-American leaders ***not*** repeat during the Board of Supervisors *Committee of the Whole* hearing demands Callahan be sacked.

Phelicia Jones, a Rehabilitation Services Coordinator in the Sheriff's Department for ten years, was invited to be a co-presenter with other African-American leaders in SEIU Local 1021 during their allotted time to present. She testified that of her ten years in the Sheriff's Department, she had been targeted for harassment for eight of the ten years.

"Phelicia Jones directly addressed Micki Callahan on November 27, saying '*It's no use going to you, Micki Callahan …,*' implying Callahan is part of the problem. Board President Cohen rudely interrupted Phelicia saying '*Wait, wait, wait! We're not going to make this hearing personal*.'

Jones shot back, telling Cohen, '*It* <u>is</u> *personal, Madam President. It's* very *personal*'."

At 3:18:23 on the SFGOV TV videotape, Ms. Jones directly addressed Micki Callahan, saying "*It's no use going to you, Micki Callahan …*," implying that Callahan is part of the problem. Board President Malia Cohen rudely interrupted Phelicia at 3:18:28 on video, saying "*Wait, wait, wait*! *We're not going to make this hearing 'personal'*." But at 3:18:36 Jones shot back, telling Cohen, "*It* **is** *personal, Madam President. It's* **very** *personal*." Somewhat struck, Cohen didn't interrupt any other scheduled speaker afterwards, and didn't interrupt any members of the public who spoke during public comment on the agenda item.

It takes a lot of hubris on the part of both the Mayor's Office and Supervisor Cohen to restrict the free speech of City employees during protected union-related activities like rallies, or during their public testimony during a Board of Supervisors hearing. Restricting Free Speech is simply deplorable, as Cohen should have known.

"During the hearing, Supervisor Sandra Lee Fewer suggested that perhaps one solution to the problem of discrimination against African-American city employees might be to create a new City department, perhaps named an '*Office of Racial Equity*'.

This is nonsense, and more bloat and fragmentation in City government. We already have multiple City departments that should have jurisdiction over the discrimination issue."

Sadly, during the November 27 hearing, Supervisor Sandra Lee Fewer suggested that perhaps one solution to the problem of discrimination against African-American city employees might be to create a new City department, perhaps to be named the "*Office of Equity and Inclusion*," — or specifically, an "*Office of* ***Racial*** *Equity*." (1:54:08 on SFGOV TV videotape) This is nonsense, and just more bloat and fragmentation in City government. We already have multiple City departments that should have jurisdiction over the discrimination issue. We don't ***need*** another new City department.

First of all, on September 5 the Board of Supervisors passed legislation creating the *Office of Sexual Harassment and Assault Response and Prevention* (SHARP) as a sub-department of San Francisco's Human Rights Commission. The new SHARP office is to be staffed by three full-time employees, including a Director and two employees. In addition, Mayor Breed's *Executive Directive* indicated she was creating two full-time positions within DHR to focus solely on recruiting diverse employees in each city department.

That's in addition to the "ombudsman" position Breed created two weeks later on October 5 for the SFMTA. So, we're up to at least six new employees to deal with sexual harassment and racial discrimination, before we know how many additional City employees would be added if Fewer's suggestion to create an "*Office of Racial Equity* is fleshed out and ever adopted.

Scant Progress at Solving Racial Discrimination and Sexual Harassment at SFMTA

In response to a records request placed with SFMTA on December 18 for any reports Ombudsperson Dolores Blanding may have issued to MTA Director Ed Reiskin in the three months since Mayor Breed issued her September 18 *Executive Directive*, MTA replied on the same date, December 18, indicating "*the agency does not have any records responsive to your request*."

In response to a related records request to the Mayor's Office seeking any reports or e-mails submitted by DHR employees, Reiskin, or ombudsperson Blanding to Mayor Breed following Breed's September 18 *Executive Directive*, the Mayor's Office invoked a 14-day extension, indicating it would respond by close of business on January 2, 2019. Given that MTA claimed it has no responsive records, it's unlikely the Mayor's Office will have any responsive records, either.

A separate second records request was also submitted on December 18 to SFMTA regarding Mayor Breed's October 5 e-mail to all SFMTA employees in which Breed had indicated Ombudsperson Blanding would "*make recommendations to me [to Breed], SFMTA leadership, and the SFMTA Board on any and all changes that may be required to ensure a safe workplace free of discrimination and harassment at SFMTA.*"

In response to the second records request for any and all "recommendations" Blanding may have submitted to date in the two-month period since October 5 to Mr. Reiskin, SFMTA's Board, and/or to Mayor Breed to ensure MTA's workplace is free of discrimination or harassment, MTA responded two days later on December 20 saying "*the agency does not have any records responsive to your request*," and added "***All communications to date have been verbal***."

This is preposterous. For issues of this magnitude, how can the recommendations be provided only ***verbally*** to Reiskin, separately to MTA's Board, and again verbally to the Mayor? That's not a particularly efficient way of keeping everybody informed about what may be extensive, detailed recommendations to solve complex problems.

"This is preposterous. For issues of this magnitude, how can recommendations be provided only verbally? That's not a particularly efficient way of keeping everybody informed about what may be extensive, detailed recommendations to solve complex problems."

In response to a second records request submitted to the Mayor's Office also on December 18 for any recommendations mandated by Breed's October 5 e-mail to MTA staff, the Mayor's Office again invoked a 14-day extension, indicating it would respond by close of business on January 3, 2019 claiming the request was placed after close of business on December 18.

Sadly, when the Mayor's Office finally responded to both records requests on January 2, it provided just two documents that were not remotely applicable to Breed's September 18 *Executive Directive*. One document provided was a Hotel Council e-mail regarding follow-up to the SFMTA's 6th Street Safety Project, and the other document involved an "apprenticeship" fair held November 14. Neither document addressed the meat of Breed's *Executive Directive* regarding harassment prevention and discrimination or diversity in recruitment of City employees. In response to the second request for any records regarding Breed's October 5 letter to MTA employees involving discrimination and harassment, and recommendations on addressing the problem, Breed's office simply responded "*We have not located any responsive records in the possession of the Mayor's Office*." In other

"In other words, nothing has been done in the four months since September 18, and Breed's 14-day extension was just a smokescreen to hide that nothing meaningful has been accomplished."

words, nothing has been done in the four months since September 18, and Breed's 14-day extension was just a smokescreen to hide that no recommendations have been promulgated and nothing meaningful has been accomplished.

Finally, Director Reiskin e-mailed all MTA Staff on December 18 to provide an update on progress to improve MTA' work environment. His e-mail provides scant new efforts and may be more intended to beguile Mayor Breed into believing progress has advanced significantly. Breed's October 5 e-mail to MTA staff clearly indicated that she was concerned that discrimination, harassment, and bullying have no place in our City workplaces, nor at MTA. But Reiskin's December 18 e-mail to MTA staff mentions nothing about specific new steps to curtail discrimination, harassment, and bullying at MTA. Resikin asserts there are "*no magic bullets to changing a [work place's] culture*," and that it takes "*leadership from the top to set the tone and expectations*."

"Reiskin's December 18 e-mail to MTA staff mentions nothing about specific new steps to curtail discrimination, harassment, and bullying at MTA."

And although Breed had specifically indicated in her October 5 e-mail to MTA staff that 1) All managers and supervisors were to receive anti-harassment training, and 2) That Blanding was to "ensure the appropriate level of discipline is administered," there's no mention in Reiskin's December 18 e-mail indicating whether the anti-harassment training for MTA managers and supervisors is underway, or is being planned, and he mentioned nothing about whether discipline for harassment is being administered. Unfortunately, Gerald Williams is still employed at MTA, suggesting he wasn't adequately disciplined via termination.

"There's no mention in Reiskin's December 18 e-mail indicating whether the anti-harassment training for MTA managers and supervisors is underway, or is being planned, and he mentioned nothing about whether discipline for harassment is being administered."

To be fair, Reiskin indicated MTA will initiate a "*Living Our Values*" culture shift strategy and will develop a "*Respect in the Workplace*" training course to improve skills of managers and supervisors. But there's no real "meat" identified to curtail discrimination, harassment, and bullying at MTA.

As such, Reiskin's e-mail appears to be just more window-dressing, as if slapping lipstick on a pig will make the pig no longer a pig. And it appears Reiskin's dog may have eaten his homework, since he failed to address in his "progress update" any mention of several key issues in Breed's October 5 e-mail to MTA staff.

Breed really needs to clean house at DHR, starting by getting rid of Micki Callahan, before the City has any hope of curtailing discrimination, harassment, and bullying throughout each City department. And the year-plus delay before rolling out the Whistleblower Protection Ordinance training will likely just drive up the costs of settling prohibited personnel practice lawsuits filed by City employees.

"Breed really needs to clean house at DHR, starting by getting rid of Micki Callahan, before the City has any hope of curtailing discrimination, harassment, and bullying throughout each City department."