

AMENDED IN COMMITTEE
10/06/2022

FILE NO. 220721

RESOLUTION NO. 437-22

1 [Board Response - Civil Grand Jury Report - Buried Problems and a Buried Process: The
2 Hunters Point Naval Shipyard in a Time of Climate Change]

3 **Resolution responding to the Presiding Judge of the Superior Court on the findings**
4 **and recommendations contained in the 2021-2022 Civil Grand Jury Report, entitled**
5 **“Buried Problems and a Buried Process: The Hunters Point Naval Shipyard in a Time of**
6 **Climate Change;” and urging the Mayor to cause the implementation of accepted**
7 **findings and recommendations through her department heads and through the**
8 **development of the annual budget.**

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10 WHEREAS, Under California Penal Code, Section 933 et seq., the Board of
11 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior
12 Court on the findings and recommendations contained in Civil Grand Jury Reports; and

13 WHEREAS, In accordance with California Penal Code, Section 933.05(c), if a finding or
14 recommendation of the Civil Grand Jury addresses budgetary or personnel matters of a
15 county agency or a department headed by an elected officer, the agency or department head
16 and the Board of Supervisors shall respond if requested by the Civil Grand Jury, but the
17 response of the Board of Supervisors shall address only budgetary or personnel matters over
18 which it has some decision making authority; and

19 WHEREAS, Under San Francisco Administrative Code, Section 2.10(a), the Board of
20 Supervisors must conduct a public hearing by a committee to consider a final report of the
21 findings and recommendations submitted, and notify the current foreperson and immediate
22 past foreperson of the Civil Grand Jury when such hearing is scheduled; and

23 WHEREAS, In accordance with San Francisco Administrative Code, Section 2.10(b),
24 the Controller must report to the Board of Supervisors on the implementation of
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1 recommendations that pertain to fiscal matters that were considered at a public hearing held
2 by a Board of Supervisors Committee; and

3 WHEREAS, The 2021-2022 Civil Grand Jury Report, entitled “Buried Problems and a
4 Buried Process: The Hunters Point Naval Shipyard in a Time of Climate Change” (“Report”) is
5 on file with the Clerk of the Board of Supervisors in File No. 220722, which is hereby declared
6 to be a part of this Resolution as if set forth fully herein; and

7 WHEREAS, The Civil Grand Jury has requested that the Board of Supervisors respond
8 to Finding Nos. F4, F5, and F6, as well as Recommendation Nos. R2, R3, and R7, contained
9 in the subject Report; and

10 WHEREAS, Finding No. F4 states: “Despite the enormous stakes of the process
11 governing the Shipyard cleanup, there is little understanding of the process throughout the
12 City, or even that the City can influence this process;” and

13 WHEREAS, Finding No. F5 states: “The City and County of San Francisco is poorly
14 prepared to discover new information pertinent to the Shipyard cleanup, to proactively look for
15 risks and problems overlooked or under-prioritized by the Federal Facility Agreement
16 signatories, or to develop responses to new information or problems;” and

17 WHEREAS, Finding No. F6 states: “No proactive mechanism exists for the City and
18 County of San Francisco to articulate its interests and concerns about the cleanup for the
19 Federal Facility Agreement signatories, nor does a mechanism exist for the City to monitor
20 progress towards obtaining satisfactory responses to such interests and concerns from the
21 signatories;” and

22 WHEREAS, Recommendation No. R2 states: “The Mayor and the Board of
23 Supervisors should collaborate to provide funding for the study recommended in R1, in the
24 Fiscal Year 22-23 budget, or by October 1st, 2022;” and

1 WHEREAS, Recommendation No. R3 states: “By October 1st, 2022, the Board of
2 Supervisors should pass an ordinance to create a permanent Hunters Point Shipyard Cleanup
3 Oversight Committee that includes the Controller or their designee, relevant technical experts
4 from the Public Utilities Commission and the Department of Public Works, and representatives
5 from other relevant City departments, to perform due diligence on behalf of the City and
6 County of San Francisco into the Federal Facility Agreement signatories’ decision-making,
7 and to prepare an agenda of questions and requests to be communicated to the signatories
8 by the Department of Public Health in advance of major cleanup document releases;” and

9 WHEREAS, Recommendation No. R7 states: “By March 1st, 2023, the Hunters Point
10 Shipyard Cleanup Oversight Committee should prepare a report on its recommended
11 requests for the Federal Facility Agreement signatories based on the groundwater study
12 recommended in R1, and deliver that report to the Board of Supervisors, the Mayor, and the
13 Department of Public Health;” and

14 WHEREAS, In accordance with California Penal Code, Section 933.05(c), the Board of
15 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior
16 Court on Finding Nos. F4, F5, and F6, as well as Recommendation Nos. R2, R3, and R7
17 contained in the subject Report; now, therefore, be it

18 RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the
19 Superior Court that they agree with Finding No. F4 for reason as follows: The report clearly
20 indicates confusion around the Navy’s cleanup process and timelines on the Shipyard and the
21 need for more transparency from the Navy; in addition, we find the City and County of San
22 Francisco has very little opportunity to influence the process set forth by the Navy for the
23 Shipyard cleanup as the Navy is federal entity; however, the Office of Community Investment
24 and Infrastructure (OCII), the successor agency to the former San Francisco Redevelopment
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1 Agency, can determine whether or not a transfer of land from the federal government to the
2 City would take place; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors reports to the Presiding Judge
4 of the Superior Court that they agree with Finding No. F5 for reason as follows: the City and
5 County of San Francisco can most certainly work to increase staffing to adequately address
6 issues and problems that arose on the Shipyard that have been missed by the Federal Facility
7 Agreement signatories; seemingly, a deeper commitment from the City and County of San
8 Francisco to identify additional issues in order to provide responses to new information or new
9 problems is needed; and, be it

10 FURTHER RESOLVED, That the Board of Supervisors reports to the Presiding Judge
11 of the Superior Court that they partially agree with Finding No. F6 for reason as follows: The
12 Board of Supervisors believes that the establishment of the Bayview Hunters Point Shipyard
13 Citizens Advisory Committee (CAC), along with the consistent meetings with the Navy and
14 Environmental Protection Agency (EPA), demonstrates that a proactive mechanism does exist
15 for the City and County of San Francisco to articulate its interests and concerns about the
16 cleanup for the Federal Facility Agreement signatories; furthermore, the CAC's existence also
17 demonstrates that the City and County of San Francisco understands the importance of
18 community representation, feedback, and participation in ensuring the Shipyard is clean and
19 safe; there is, however, more to be desired in the area of monitoring progress towards
20 satisfactory responses to such interests and concerns from the signatories; and, more effort is
21 required to obtain timely and transparent responses from the Navy and all Federal Facility
22 Agreement signatories; and, be it

23 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
24 No. R2 will be implemented to secure an independent commission and third-party study of the
25 Hunters Point *Shipyard* to predict the future shallow groundwater surface, groundwater flows

1 and potential interactions of groundwater with hazardous materials and planned modifications
2 to the site under multiple sea level rise scenarios is necessary and we will work to secure the
3 resources for the independent commission and third party study; in addition, the City needs to
4 ensure that the appropriate City employees are attentive and prepared to respond to the
5 issues presented in the report around groundwater and sea level rise, and it may be beneficial
6 for the San Francisco Department of Public Health to assign additional staff to conduct this
7 study and to urge the California Department of Public Health and the federal regulators like
8 the Environmental Protection Agency and the California State Water Resources Control Board
9 do the same; we were not asked by the Civil Grand Jury to respond to recommendation R1,
10 but do agree an independent third-party study is necessary; and, be it

11 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
12 No. R3 will not be implemented because in lieu of creating a permanent oversight committee,
13 the Board of Supervisors will create a short-term oversight committee or task force to develop
14 recommendations to address the findings in the Report; and that understanding the science is
15 on groundwater and sea level rise is important in keeping people safe, as the City is
16 committed to doing; and, be it

17 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
18 No. R7 will not be implemented, however, the Board of Supervisors intends to create a short-
19 term task force within 18 months to develop recommendations to address the findings in the
20 Report and as an independent third-party entity that conducts the study to prepare a report on
21 its recommended request for the Federal Facility Agreement signatories based on its findings
22 and deliver that report to the Board of Supervisors, the Mayor and Department of Public
23 Health; and, be it

24 FURTHER RESOLVED, That the San Francisco Department of Public Health will be
25 monitoring the indefinite five-year review from the Navy to evaluate the protectiveness of past

1 remedies, to ensure that their ongoing clean up and solutions remains protective—this
2 process began in 2018; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors urges the Mayor to cause the
4 implementation of the accepted findings and recommendations through her department heads
5 and through the development of the annual budget.

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City and County of San Francisco

Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 220721

Date Passed: October 18, 2022

Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2021-2022 Civil Grand Jury Report, entitled "Buried Problems and a Buried Process: The Hunters Point Naval Shipyard in a Time of Climate Change;" and urging the Mayor to cause the implementation of accepted findings and recommendations through her department heads and through the development of the annual budget.

September 15, 2022 Government Audit and Oversight Committee - CONTINUED

September 29, 2022 Government Audit and Oversight Committee - CONTINUED

October 06, 2022 Government Audit and Oversight Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

October 06, 2022 Government Audit and Oversight Committee - RECOMMENDED AS AMENDED

October 18, 2022 Board of Supervisors - ADOPTED

Ayes: 11 - Chan, Dorsey, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 220721

I hereby certify that the foregoing
Resolution was ADOPTED on 10/18/2022 by
the Board of Supervisors of the City and
County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

10/28/22

Date Approved