

File No. 240940

Committee Item No. 4

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date: October 7, 2024

Board of Supervisors Meeting:

Date: _____

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
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- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER

- Chair's Committee Report Request Memo – October 2, 2024
- Transfer Memo – October 1, 2024
- FYI Referral – September 30, 2024
- _____
- _____
- _____
- _____
- _____
- _____

Prepared by: John Carroll

Date: October 4, 2024

Prepared by: John Carroll

Date: _____

Prepared by: _____

Date: _____

1 [Urging to Resolve a San Francisco Public Utilities Commission Lawsuit with the United
2 States Environmental Protection Agency]

3 **Resolution urging the City Attorney and the San Francisco Public Utilities Commission**
4 **to immediately resolve its lawsuit regarding the Clean Water Act with the United States**
5 **Environmental Protection Agency.**

6
7 WHEREAS, The Clean Water Act exists to “restore and maintain the chemical,
8 physical, and biological integrity of the Nation’s waters;” and

9 WHEREAS, The Clean Water Act prohibits the “discharge of any pollutant by any
10 person;” and

11 WHEREAS, This prohibition does not apply if a permit issued under the National
12 Pollutant Discharge Elimination System program authorizes the discharge; and

13 WHEREAS, The City and County of San Francisco challenged the Environmental
14 Protection Agency’s (EPA) authority under the Clean Water Act in the Ninth Circuit Court of
15 Appeals in connection with certain wastewater facilities; and

16 WHEREAS, The challenge focused on the inclusion of general narrative prohibitions in
17 the National Pollutant Discharge Elimination System (NPDES) permit, which governs San
18 Francisco's combined sewer system and wastewater treatment facility; and

19 WHEREAS, The City and County of San Francisco argued that the EPA’s permit
20 conditions were overly broad, particularly as they imposed general prohibitions without
21 establishing specific numeric limits for discharges; and

22 WHEREAS, The Ninth Circuit ruled against San Francisco, determining that the EPA
23 acted within its legal authority by enforcing general prohibitions in the permit to ensure
24 compliance with water quality standards; and

25

1 WHEREAS, The court held that such prohibitions are permissible even in the absence
2 of specific numeric limits, as they are necessary to protect water quality; and

3 WHEREAS, Narrative permits such as those at issue in the litigation are extremely
4 common across the country, such that a ruling that invalidates or undermines them could
5 greatly harm water quality nationwide - and provide new grounds for polluters to challenge
6 water quality standards; and

7 WHEREAS, Particularly since the advent of a 6-3 conservative Supermajority on the
8 Supreme Court, the Court has reduced the regulatory and enforcement powers of the EPA,
9 include decisions blocking critically important climate protections; overturning longstanding
10 precedents supporting environmental regulatory authority, and overturned fundamental Clean
11 Water Act protections that have been in place for decades, thereby potentially stripping over
12 half of the wetlands in the entire country without federal protection; and

13 WHEREAS, These actions have already gravely harmed the EPA's ability to enforce
14 environmental laws and protect public health; and

15 WHEREAS, The lawsuit has the potential to seriously destabilize Clean Water Act
16 protections at a time when environmental protections are already under serious threat; and

17 WHEREAS, The litigation has placed San Francisco in the position of championing the
18 views and interests of the National Mining Association, American Gas Association, American
19 Petroleum Institute, American Chemistry Council (all of whom have filed briefs supporting the
20 City) and other representatives of the nation's biggest polluters; and

21 WHEREAS, The City and County of San Francisco is being represented in the
22 Supreme Court by private counsel from a corporate law firm that regularly represents
23 companies that seek less stringent regulation of their discharges into waters of the United
24 States, and that is currently urging the Court to block EPA regulations limiting emissions and
25 mercury and other toxic air pollutants emitted by coal-burning power plants; and

1 WHEREAS, The State of California, the State of Washington, the Commonwealth of
2 Massachusetts, along with the states of Connecticut, Illinois, Maine, Maryland, Michigan,
3 Minnesota, New Jersey, Oregon, Wisconsin, the Commonwealth of Pennsylvania, and the
4 District of Columbia have filed amicus curiae briefs of the Environmental Protection Agency;
5 now, therefore, be it

6 RESOLVED, That the San Francisco Board of Supervisors of the City and County of
7 San Francisco urges the General Manager of the San Francisco Public Utilities Commission,
8 the Commission of the San Francisco Public Utilities Commission, and the City Attorney's
9 Office of the City and County of San Francisco to resolve the litigation promptly without
10 provoking a decision from the Supreme Court.

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MYRNA MELGAR

DATE: October 2, 2024

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

RE: Land Use and Transportation Committee
COMMITTEE REPORTS

mm

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matters are of an urgent nature and request them be considered by the full Board on Tuesday, October 8, 2024.

- | | |
|------------------------|---|
| File No. 240843 | Administrative Code - Entertainment Zones
Sponsors: Mayor; Dorsey |
| File No. 240845 | Building Code - Gas Infrastructure for EPCA Appliances in New Construction
Sponsor: Mandelman |
| File No. 240940 | Urging to Resolve a San Francisco Public Utilities Commission Lawsuit with the United States Environmental Protection Agency
Sponsors: Melgar; Peskin |

These matters will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, October 7, 2024.

President, District 3
BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. 554-7450
Fax No. 554-7454
TDD/TTY No. 544-6546

Aaron Peskin

PRESIDENTIAL ACTION

Date: 9/30/24

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. _____
(Primary Sponsor)

Title.

Transferring (Board Rule No 3.3)

File No. 240940 Melgar
(Primary Sponsor)

Title. Urging to Resolve a San Francisco Public Utilities Commission Lawsuit
with the United States Environmental Protection Agency

From: Government Audit & Oversight Committee

To: Land Use & Transportation Committee

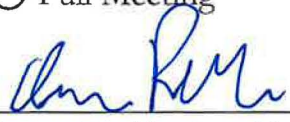
Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor: _____ Replacing Supervisor: _____

For: _____ Meeting
(Date) (Committee)

Start Time: _____ End Time: _____

Temporary Assignment: Partial Full Meeting



Aaron Peskin, President
Board of Supervisors

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: Brad Russi, Deputy City Attorney, Office of the City Attorney
Dennis Herrera, General Manager, Public Utilities Commission
Donna Hood, Commission Secretary, Public Utilities Commission

FROM: Monique Crayton, Assistant Clerk, Government Audit and Oversight
Committee, Board of Supervisors

DATE: September 30, 2024

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Supervisor Myrna Melgar on September 24, 2024:

File No. 240940

Resolution urging the City Attorney and the San Francisco Public Utilities Commission to immediately resolve its lawsuit regarding the Clean Water Act with the United States Environmental Protection agency.

If you have any additional comments or reports to be included with the file, please forward them to Monique Crayton at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at monique.crayton@sfgov.org.

cc:
Office of Chair Preston
Office of Supervisor Melgar
Masood Ordikhani, Public Utilities Commission
Jeremy Spitz, Public Utilities Commission

From: [regina.sneed](#)
To: [Carroll, John \(BOS\)](#)
Cc: [Peskin, Aaron \(BOS\)](#); [Preston, Dean \(BOS\)](#); [MelgarStaff \(BOS\)](#); [StefaniStaff \(BOS\)](#)
Subject: BOS file number 240940: Resolution concerning SFPUC Vs, EPA lawsuit: support passage.
Date: Friday, October 4, 2024 7:44:04 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors:

I am unable to attend the Land Use Committee to testify in person due to health reasons. I support the resolution to resolve this lawsuit without an appeal to the U.S. Supreme Court for the many reasons offered by the coalition of environmental and community organizations.

Does San Francisco want to risk the strong possibility that an appeal could weaken water quality standards for the nation. Our State Attorney General has filed an amicus brief in support of preserving the clean water laws. This is what our city should be doing in alignment with our values.

I have lived in San Francisco since 1971. This issue is not new. I served on the Board of San Francisco Tomorrow. We urged the city to address this problem for years.

I worked to establish the San Francisco Commission on the Environment and served on the Commission after it was formed. We adopted a set of precautionary principles that say we should do no harm. This appeal to the Supreme Court will do harm.

I urge the Board to adopt this resolution at its October 8, 2024 meeting.

Thank you.

Regina Sneed
District Two resident
Sent from my iPad

From: [Carroll, John \(BOS\)](#)
To: anna.riek22@gmail.com
Cc: [Crayton, Monique \(BOS\)](#); [Melgar, Myrna \(BOS\)](#); [Low, Jen \(BOS\)](#); [Preston, Dean \(BOS\)](#); [Kilgore, Preston \(BOS\)](#); [Peskin, Aaron \(BOS\)](#); [Horrell, Nate \(BOS\)](#)
Subject: RE: REPEAL Breed and Chiu's Lawsuit against the EPA - BOS File No. 240940
Date: Wednesday, October 2, 2024 10:30:00 AM
Attachments: [image001.png](#)

Thank you for your comment letter.

I am forwarding your comments to the members of the LUT committee, and I will include your comments in the file for this resolution matter.

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

- [Board of Supervisors File No. 240940](#)

John Carroll

Assistant Clerk

Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation and archived matters since August 1998.

***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.*

From: Crayton, Monique (BOS) <monique.crayton@sfgov.org>
Sent: Wednesday, October 2, 2024 9:37 AM
To: Carroll, John (BOS) <john.carroll@sfgov.org>
Subject: FW: REPEAL Breed and Chiu's Lawsuit against the EPA

Monique C. Crayton (she/her)

Assistant Clerk

Board of Supervisors - Clerk's Office

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco, CA 94102

(415) 554-7750 | Fax: (415) 554-5163

monique.crayton@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

From: Anna Riek <anna.riek22@gmail.com>

Sent: Friday, September 27, 2024 11:31 AM

To: Crayton, Monique (BOS) <monique.crayton@sfgov.org>

Subject: REPEAL Breed and Chiu's Lawsuit against the EPA

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hi Monique,

My name is Anna Riek, and I am a resident of San Francisco Supervisorial District 1. I am writing to you to express my discontent with the lawsuit against the EPA over sewage and stormwater treatment. This lawsuit undermines our fundamental rights under the Clean Water Act.

Please pass on to the Board of Supervisors that I strongly condemn releasing sewage into the ocean and siding with polluters to sue the EPA to continue polluting our waters. I don't support this lawsuit and our city shouldn't either.

The Board of Supervisors is supposed to represent us and should be protecting our families from pollution on our beaches and in our water. Please stop the lawsuit and clean up its mess.

Thank you.

Anna Riek

--

Anna Riek

(she/her)

(406) 599-6822 | Seattle, WA | [LinkedIn](#)

Washington University in St. Louis | Olin Business School
B.S.B.A. in Org. and Strat. Mgmt., German | Class of 2023

Introduction Form

(by a Member of the Board of Supervisors or the Mayor)



I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor [] inquires..."
- 5. City Attorney Request
- 6. Call File No. [] from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the Board on []

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Supervisors Melgar,

Subject:

[San Francisco Public Utilities Commission lawsuit with the United States Environmental Protection Agency]

Long Title or text listed:

Resolution urging the City Attorney and the San Francisco Public Utilities Commission to immediately resolve its lawsuit with the United States Environmental Protection Agency

Signature of Sponsoring Supervisor: /s/Myrna Melgar