



SAN FRANCISCO PLANNING DEPARTMENT

August 14, 2014

Honorable Cynthia Ming-mei Lee
Presiding Judge
Civil Grand Jury
400 McAllister Street, Dept. 205
San Francisco, CA 94102

Re: Response to Civil Grand Jury Report Regarding The Port of San Francisco

Honorable Judge Cynthia Ming-mei Lee:

The San Francisco Planning Department is in receipt of the Civil Grand Jury's report in June entitled "The Port of San Francisco, Caught Between Public Trust and Private Dollars." The Planning Department has reviewed the report and provides this response to the report's findings and recommendations as required. The Planning Department appreciates the time and effort that went into the production of this report and respectfully requests that the Grand Jury accept this letter in response.

In reviewing the Grand Jury Report, the Planning Department has been asked to respond to three findings and four recommendations. Attached to this letter is an item-by-item response to the specific findings and recommendations of the Civil Grand Jury Report that were directed at the Planning Department.

Sincerely,

A handwritten signature in black ink, appearing to read "John S. Rahaim", written over a horizontal line.

John S. Rahaim,
Director of Planning

Cc: San Francisco Planning Commission

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**CITY AND COUNTY OF SAN FRANCISCO
PLANNING DEPARTMENT**

**RESPONSES TO CIVIL GRAND JURY REPORT FINDINGS AND
RECOMMENDATIONS**

FINDING

FINDING 3. The waterfront is one of the most desirable areas in the City. Proposed projects receive only limited public input by Citizen Advisory Committees (CAC) whose members are selected by the Port. The Planning Department and Mayor's Office have a great deal of authority to influence the selection of development projects. Citizens at large are made aware of these projects only after the Port has published an RFP. The public is not made aware of possible alternate uses that may have been considered during the early stages of project planning.

DEPARTMENT RESPONSE: We disagree in part with Finding #3. We agree that the waterfront is of critical importance to the City of San Francisco. We disagree that public input is limited and only includes members of the CAC. The Port provides public notification and the CAC's meetings follow all requirements, including the Brown Act, for public meetings.

Opportunities for early public input are provided through venues beyond the CAC, including during the Planning Department's CEQA review process. During CEQA, facts and data are gathered to improve understanding of a project's potential impacts on land, water, air, noise, historic resources, living creatures, aesthetics, and resources both cultural and natural. It is during this review that multiple iterations of the project are explored and vetted for public consideration through highly prescriptive and process-oriented regulations such that every public comment is considered and given a written response.

RECOMMENDATION

RECOMMENDATION 3: Proposed variances from the Plan should receive increased public scrutiny prior to the issuance of an RFP.

DEPARTMENT RESPONSE: We agree that public scrutiny is critical to the review process and that adherence to the Plan and the City's zoning laws are achieved through the ultimate project. While variances should be limited to those which are determined to be necessary for a project that better meets public needs, variances are typically minor exceptions to existing law. As such, the need for these variances would not be known at issuance of the RFP and would likely only be identified after the project has been developed in more detailed renderings.

FINDING

FINDING 4. The priority of the Port for development is to create an income stream for capital improvements rather than a determination of how best to enhance the quality of life for the residents of the City. Port revitalization has been enhanced in the past by adherence to the Waterfront Land Use Plan. Developments have provided local business opportunities, mixed housing where appropriate, stronger public transit options, maintenance of height and bulk limits, and preservation of view corridors. Some uses, however, both current and proposed, of Port land do not conform to the Waterfront Land Use Plan. Zoning and height limits have been changed by the Planning Department and the Mayor's Office. There is a lack of transparency in development proposals, particularly in regard to input from the Mayor's Office and active involvement of former Mayoral staff advocating on behalf of developers, giving rise to concerns that an agreement had been reached prior to public input.

DEPARTMENT RESPONSE: We disagree that zoning and height limits are changed by the Planning Department and the Mayor's Office. Current law requires that a zoning and height changes be subject to neighborhood notification and public hearings at the Planning Commission, Board Land Use Committee, and full Board of Supervisors, with additional hearings required in certain circumstances at the Historic Preservation, Port Commission, Waterfront Design Advisory Committee and other bodies. Ultimately, the Board of Supervisors and the Mayor give approval to any zoning changes including height limits. These hearings and resultant decisions are preceded by substantial technical and policy analyses by City staff, tested by public scrutiny.

RECOMMENDATION

RECOMMENDATION 4b. The Port should ensure that changes or variances to the existing Waterfront Land Use Plan or the City's General Plan should have extensive public input before implementation.

DEPARTMENT RESPONSE: This recommendation is already implemented. The current planning construct incorporates careful professional staff and other review of many issues to balance multiple public benefit and policy objectives, including land use density and compatibility, historic preservation, transportation, public open space, urban form and architectural design. This multi-layered review grew in response to articulated public values and the City's changing economic needs and design goals over the years and is tailored to the issues and needs raised by a particular project. The multiple public hearings provide ample opportunity for public input to shape development projects.

Any change to the City's General Plan fall under the responsibility of the Planning Commission. Under existing law and practice the Commission demands that professional planning feed data and analysis to the Commission in a transparent and public process that provides holistic assessment of the proposed change and

its potential effect on the City. Beginning with CEQA review, facts and data are gathered to improve understanding of a project's potential impacts on land, water, air, noise, historic resources, living creatures, aesthetics, and resources both cultural and natural. Next, the Planning Department provides an interpretation of the data; evaluating the project against the City's adopted policies. This professional analysis provides additional information for members of the public to respond to and evaluate for themselves whether the project meets planning goals and ensures that decisions are rooted both in adopted policies and contemporary best practices. Finally, local law requires multiple hearings with associated public noticing before public boards, commissions, and committees to make transparent the professional analysis so that the public may test both the underlying data and the conclusions. At each hearing, the general public and advocates can directly address decision-makers with their concerns and opinions. Fully-informed decision makers then can seek to mold the project that not only meets City laws and policies but also leverages public benefits to best meet the adopted vision for the waterfront.

FINDING

FINDING 9. The Port does not have an official policy governing the process for proposed development projects. Many projects are moved ahead with minimal community input, often in the form of a quick review by the CAC and Planning Department then forwarded to the Board of Supervisors for final approval. The Pier 70 Master Plan was developed with significant community outreach to both the general public and affected neighborhood associations. The Plan represents a balance of community needs and the requirement of the developer to obtain a reasonable return on investment.

DEPARTMENT RESPONSE: We agree with part of this finding. We agree that the Pier 70 Master Plan was developed with significant community outreach. We disagree with the statement that many projects move ahead with minimal community input, often in the form of a quick review by the CAC and Planning Department then forwarded to the Board of Supervisors for final approval. The Planning Commission takes its responsibilities seriously. The Commission can and does disprove and substantially amend proposals in response to input, as does the Board of Supervisors.

FINDING 10. Although the development of Pier 48 and Seawall Lot 337, also known as Mission Rock, began in 2007, there has been insufficient information and involvement for community groups, neighborhood and merchants' associations, and residents potentially affected by this project.

DEPARTMENT RESPONSE: Again, we disagree with the statement that many projects move ahead with minimal community input. The Planning Department agrees with the Port's statement that all development projects undergo a robust public review and vetting process.

RECOMMENDATIONS

RECOMMENDATION 9a. The Port should ensure ongoing community input be maintained until an acceptable compromise is reached on the final plans.

DEPARTMENT RESPONSE: This recommendation should be implemented in that ongoing community input should be maintained. This recommendation should not be implemented in that it is the responsibility of the various duly appointed and elected decision makers to determine the project that best meets public needs.

RECOMMENDATION 9b. The Jury neither supports nor opposes the development of Pier 70 but we strongly endorse the extensive public outreach and community input as part of the design and development process of the Pier 70 Master Plan. We recommend that the Port follow this model as a template for all major developments on Port lands.

DEPARTMENT RESPONSE: This recommendation will not be implemented for all projects. This three-year process was appropriate for the large, 68 acre site of Pier 70 but may be excessive for most projects.

RECOMMENDATION 10 The Jury recommends increased publicity and outreach so that an acceptable compromise can be reached on the scope of this development.

DEPARTMENT RESPONSE: Agree. This recommendation will be implemented. The Planning Department would like to reinforce the Port's stated commitment to a continuing, robust public outreach program. This project is not complete and the public can expect further outreach to community groups, neighborhood and merchants' associations, and residents potentially affected by this project. Required public hearings (as described earlier in our response) will also occur for this project as will our complete CEQA review. Each of these steps includes public review and comment as well as responses from the appropriate staff and final action by decision makers.