

AMENDED IN COMMITTEE  
09/11/2014

FILE NO. 140940

RESOLUTION NO.

[Board Response - Civil Grand Jury Report - Rising Sea Levels...At Our Doorstep]

**Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2013-2014 Civil Grand Jury Report, entitled “Rising Sea Levels...At Our Doorstep;” and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.**

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

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

WHEREAS, The 2013-2014 Civil Grand Jury Report, entitled “Rising Sea Levels...At Our Doorstep” is on file with the Clerk of the Board of Supervisors in File No. 140940, which is hereby declared to be a part of this resolution as if set forth fully herein; and

WHEREAS, The Civil Grand Jury has requested that the Board of Supervisors respond to Finding Nos. 1, 2, 3, 5, 11, and 12, as well as Recommendation Nos. 1a, 1b, 1c, 1d, 2a, 2b, 3, 5, 11a, 11b, 11c, 11d, 12a, and 12b contained in the subject Civil Grand Jury report; and

WHEREAS, Finding No. 1 states: “The City does not have a citywide comprehensive plan that addresses the rising sea level issue;” and

1           WHEREAS, Finding No. 2 states: “The City’s Planning Code has no provisions  
2     addressing the impacts associated with rising sea levels. Without appropriate provisions  
3     within the City’s Planning Code, there are no effective means to insure sustainable  
4     development on land vulnerable to rising sea levels;” and

5           WHEREAS, Finding No. 3 states: “The City’s Building Code and the Port’s Building  
6     Code have no provisions addressing the impacts associated with rising sea levels. Without  
7     appropriate provisions within the city’s Building Code and the Port’s Building Code, there are  
8     no effective means to control construction methods that would insure a project’s resistance to  
9     the impacts of rising sea levels;” and

10          WHEREAS, Finding No. 5 states: “A comprehensive risk assessment of Ocean Beach,  
11     with mitigation recommendations made to the City regarding rising sea levels, was completed  
12     by SPUR, with City, State of California and U.S Corps of Engineers involvement, resulting in  
13     the Ocean Beach Master Plan, dated May, 2012;” and

14          WHEREAS, Finding No. 11 states: “The City has not set aside funds for the cost of  
15     adaptation to sea level rise;” and

16          WHEREAS, Finding No. 12 states: “Rising sea levels is a regional problem. What one  
17     community does to protect its shorelines may have a negative impact on a neighboring  
18     community. This has been successfully accomplished by four counties on the east coast of  
19     Florida, as an example;” and

20          WHEREAS, Recommendation No. 1a states: “The City should prepare and adopt a  
21     risk assessment in preparation for developing its comprehensive plan regarding the rising sea  
22     level issue;” and

23          WHEREAS, Recommendation No. 1b states: “The City should adopt a citywide  
24     comprehensive plan for adaptation to rising sea levels, especially along its shores and its  
25     floodplains. Said plan should include the provision that construction projects’ approval should

1 take into account the anticipated lifespan of each project and the risks faced as outlined in  
2 said plan. Special consideration should be given to those anticipated to survive for more than  
3 30 years. Said plan should include a provision that the plan be reviewed and reassessed  
4 every 5 years;” and

5 WHEREAS, Recommendation No. 1c states: “The City should build infrastructure  
6 systems that are resilient and adaptable to rising sea levels. That the City, through its  
7 planning and building departments, require that any construction project vulnerable to future  
8 shoreline or floodplain flooding be designed to be resilient to sea level rise at the 2050  
9 projection, e.g., 16 inches if the construction is not expected to last longer than 2050. For  
10 construction intended to last longer than 2050, that the City require that the project be  
11 designed to address sea level rise projections for the longer term;” and

12 WHEREAS, Recommendation No. 1d states: “That City departments that would  
13 necessarily be involved in adaptation to rising sea levels, such as Department of Public  
14 Works, Public Utilities Commission, Municipal Transportation Agency, the Port, coordinate  
15 their projects with each other and with utility companies, such as PG&E, Comcast, and AT&T,  
16 to minimize inconvenience to the public, and to businesses, and to further avoid repetition of  
17 efforts and inefficient use of funds, labor, and time;” and

18 WHEREAS, Recommendation No. 2a states: “The Planning Code should be amended  
19 to include maps showing the areas in the City that are most at risk from the impacts of sea  
20 level rise. The Planning Code should be amended to prohibit development in said at-risk  
21 areas unless there is compliance with the provisions of the City’s Building Code and the Port’s  
22 Building Code (if applicable to the project) outlined in Recommendations 3a and 3b. The  
23 Planning Code should include a provision that the amended sections of the Code regarding  
24 the impact of rising sea levels be reviewed and reassessed every 5 years;” and  
25

1 WHEREAS, Recommendation No. 2b states: "The Planning Code should be amended  
2 to discourage permanent development in at risk areas where public safety cannot be  
3 protected;" and

4 WHEREAS, Recommendation No. 3 states: "The City's Building Code and the Port's  
5 Building Code should be amended to include: (1) provisions addressing the impacts  
6 associated with sea level rise, especially when combined with storm surges and king tides; (2)  
7 construction methods that would ensure a project's resistance to and protection from the  
8 impacts of rising sea levels, especially when combined with sudden storm surges and king  
9 tides; (3) amendments written to protect the most vulnerable systems, including but not  
10 necessarily limited to, electrical, telecommunications, and fire protection systems; (4)  
11 provisions relating to rising sea levels be reviewed and reassessed every five years;" and

12 WHEREAS, Recommendation No. 5 states: "The City should consider implementation  
13 of recommendations that are most pertinent to the City, as set forth in the Ocean Beach  
14 Master Plan of May 2012;" and

15 WHEREAS, Recommendation No. 11a states: "The City should start a reserve fund for  
16 adaptation for rising sea levels, a portion of which could be obtained from a surcharge on  
17 development planned for areas vulnerable to said eventuality;" and

18 WHEREAS, Recommendation No. 11b states: "The City should assess costs of both  
19 implementation of adaptation strategies and potential losses from failing to do so;" and

20 WHEREAS, Recommendation No. 11c states: "The City should explore applying for  
21 grants offered by Congress' Pre-Disaster Mitigation Program. Receipt of grants is based upon  
22 risk assessments that indicate that potential savings exceed the cost of implementation. The  
23 City should explore available matching funds from the Army Corps of Engineers and other  
24 federal sources;" and  
25

1 WHEREAS, Recommendation No. 11d states: "The City should request an insurance  
2 premium estimate from FEMA and then compare that estimate with the funding it could  
3 acquire from FEMA for mitigation and adaptation against future flooding;" and

4 WHEREAS, Recommendation No. 12a states: "The City, through its Mayor and Board  
5 of Supervisors, should coordinate its efforts with other cities and organizations in the bay area  
6 by establishing a regional working group to address the impact of rising sea levels;" and

7 WHEREAS, Recommendation No. 12b states: "The City should create a local working  
8 group of community citizens and stakeholders to feed into the regional group;" and

9 WHEREAS, In accordance with California Penal Code, Section 933.05(c), the Board of  
10 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior  
11 Court on Finding Nos. 1, 2, 3, 5, 11, and 12, as well as Recommendation Nos. 1a, 1b, 1c, 1d,  
12 2a, 2b, 3, 5, 11a, 11b, 11c, 11d, 12a, and 12b contained in the subject Civil Grand Jury report;  
13 now, therefore, be it

14 RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the  
15 Superior Court that the Board of Supervisors partially disagrees with Finding No. 1, for  
16 reasons as follows: The City formed in 2013 a Sea Level Rise Committee which addressed  
17 sea level rise. A draft plan was presented to the City Administrator, department heads and the  
18 Capital Planning Committee in May 2014 and is currently going through review by City  
19 agencies; and, be it

20 FURTHER RESOLVED, That the Board of Supervisors reports that the Board of  
21 Supervisors partially disagrees with Finding No. 2, for reasons as follows: While the Planning  
22 Code does not include provisions addressing impacts associated with sea level rise, the  
23 Planning Department evaluates whether proposed projects would expose people or structures  
24 to a significant risk of loss, injury or death due to flooding as a result of future sea level rise as  
25

1 part of the environmental review process required under the California Environmental Quality  
2 Act (CEQA); and, be it

3 FURTHER RESOLVED, That the Board of Supervisors reports that the Board of  
4 Supervisors partially disagrees with Finding No. 3, for reasons as follows: While the Board of  
5 Supervisors does not have jurisdiction, the Board agrees that the City's Building Code and the  
6 Port's Building Code do not include provisions addressing impacts associated with sea level  
7 rise, the Planning Department does evaluate whether proposed projects would expose people  
8 or structures to a significant risk of loss, injury or death due to flooding as a result of future  
9 sea level rise as part of the environmental review process required under CEQA; and, be it

10 FURTHER RESOLVED, That the Board of Supervisors reports that the Board of  
11 Supervisors agrees with Finding No. 5; and, be it

12 FURTHER RESOLVED, That the Board of Supervisors reports that the Board of  
13 Supervisors agrees with Finding No. 11, for the reason as follows: While the Board of  
14 Supervisors have not specifically set aside funds for addressing adaptation to sea level rise, it  
15 is being addressed through the draft comprehensive plan that will be addressed when working  
16 with the Capitol Planning Committee on future budget allocations on an annual basis; and, be  
17 it

18 FURTHER RESOLVED, That the Board of Supervisors reports that the Board of  
19 Supervisors agrees with Finding No. 12; and, be it

20 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
21 No. 1a has not been implemented but will be implemented in September 2014,as follows: The  
22 draft comprehensive plan referenced in Finding No. 1 was presented to the Capital Planning  
23 Committee in May 2014 and will be adopted in September 2014. The draft plan provides a  
24 framework that can be used in assessing risk associated with development along San  
25 Francisco's shoreline and in addressing that risk; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
2 No. 1b has not been implemented but will be implemented in September 2014, as follows:  
3 CEQA provides the Planning Department with the authority to require that projects be  
4 designed to minimize and mitigate potential hazards related to sea level rise and takes into  
5 account the asset life cycle in its evaluation; and, be it

6 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
7 No. 1c will not be implemented, for reasons as follows: While the Board of Supervisors agrees  
8 that the City should build infrastructure that are resilient and adaptable to rising sea levels,  
9 requiring that construction projects should be designed to be resilient to the existing 2050  
10 projection does not take into account other factors that should influence projects, including  
11 exposure to storm surge or wave action, asset lifespan and location, and consequence of  
12 failure for a project; further, the draft comprehensive plan referenced in Finding No. 1 will  
13 address this issue; and, be it

14 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
15 No. 1d has been implemented, as follows: While this recommendation does not directly fall  
16 under the jurisdiction of the Board of Supervisors, City departments currently coordinate  
17 projects with each other and various utility companies according to procedures established  
18 many years ago; and, be it

19 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
20 No. 2a requires further analysis, for reasons as follows: While this recommendation does not  
21 directly fall under the jurisdiction of the Board of Supervisors, the San Francisco Public  
22 Utilities Commission (SFPUC) and Port have published maps depicting areas along San  
23 Francisco's bay and ocean shorelines that are potentially vulnerable to future flooding due to  
24 sea level rise through 2100, and the Planning Department considers these maps in evaluating  
25 the potential flood hazards for projects located in areas vulnerable to sea level rise under

1 CEQA; as such, the recommended Planning Code amendments require further analysis, and  
2 the Board of Supervisors will report back to the Grand Jury no later than six months from the  
3 date of the issuance of the report or by December 25, 2014; and, be it

4 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
5 No. 2b will not be implemented, for reasons as follows: CEQA provides the Planning  
6 Department with the authority to require projects to be designed to minimize and mitigate  
7 potential hazards related to sea level rise; and, be it

8 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
9 No. 3 requires further analysis, for reasons as follows: Future implementation of new Building  
10 Code provisions will require specific, prescriptive changes that account for flexibility. Further  
11 analysis and coordination between the scientific community and affected agencies must be  
12 performed to develop consistent, effective and practical policies, including Building or  
13 Planning Code changes, to address sea level rise. As such, the recommendation requires  
14 further analysis, and the Board of Supervisors will report back to the Grand Jury no later than  
15 six months from the date of the issuance of the report or by December 25, 2014; and, be it

16 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
17 No. 5 has been implemented, as follows: SFPUC, MTA, Department of Public Works (DPW)  
18 and the Planning Department are actively working with SPUR, the California Coastal  
19 Commission, and other state and federal agencies and community stakeholders to implement  
20 the Ocean Beach Master Plan recommendations concerning coastal erosion, and this work is  
21 ongoing; and, be it

22 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
23 No. 11a will not be implemented, for reasons as follows: A reserve fund for sea level rise  
24 adaptation is unnecessary since the Mayor and the Board of Supervisors allocate capital  
25



1 funds on an annual basis, and the City's 10-year Capital Plan can incorporate efforts to  
2 address sea level rise through its annual budgeting process; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
4 No. 11b has been implemented, as follows: The City identified both natural and man hazards  
5 facing the City as part of the 2014 San Francisco Hazard Mitigation Plan; future versions of  
6 the Hazard Mitigation Plan will incorporate the more recent work of the Sea Level Rise  
7 Committee by updating the sea level rise hazard profile and by including a vulnerability  
8 analysis for sea level rise; and, be it

9 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
10 No. 11c has been implemented, as follows: While this recommendation does not fall directly  
11 under the jurisdiction of the Board of Supervisors, the City and its various agencies have  
12 taken the necessary steps to qualify for and receive federal funding. Although some efforts  
13 have yet to find success, City departments will continue to actively pursue these and other  
14 funding options; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
16 No. 11d requires further analysis, for reasons as follows: While this recommendation does not  
17 fall directly under the jurisdiction of the Board of Supervisors, City staff are currently pursuing  
18 all available opportunities to work with the Federal Emergency Management Agency (FEMA)  
19 on sea level rise mitigation measures; as such, the recommendation requires further analysis,  
20 and the Board of Supervisors will report back to the Grand Jury no later than six months from  
21 the date of the issuance of the report or by December 25, 2014; and, be it

22 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
23 No. 12a has been implemented, for reasons as follows: The City's Sea Level Rise Committee  
24 reached out to a number of other jurisdictions to assess sea level rise strategies being  
25 pursued in other locations; and a working group including the Airport, San Mateo County, Bay

1 Conservation and Development Commission, California Coastal Conservancy, and other  
2 stakeholders began meeting in August 2014 to address impacts of sea levels on the peninsula  
3 and will continue to do so; and, be it

4 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
5 No. 12b requires further analysis, for as follows: The Board of Supervisors agrees that  
6 community and stakeholder involvement in the process of adapting to sea level rise is  
7 essential. The exact nature of the outreach and involvement has not yet been determined; as  
8 such, the recommendation requires further analysis, and the Board of Supervisors will report  
9 back to the Grand Jury no later than six months from the date of the issuance of the report or  
10 by December 25, 2014; and, be it

11 FURTHER RESOLVED, That the Board of Supervisors urges the Mayor to cause the  
12 implementation of the accepted findings and recommendations through his/her department  
13 heads and through the development of the annual budget.