

File No. 191102

Committee Item No. 1

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: Nov. 21, 2019

Board of Supervisors Meeting:

Date: _____

Cmte Board

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- Legislative Digest - VERSION 2
- Budget and Legislative Analyst Report
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- Introduction Form
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- Grant Budget
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- Form 126 – Ethics Commission
- Award Letter
- Application
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OTHER

- Referral FYI – September 18, 2019
- _____
- _____
- _____
- _____

Prepared by: John Carroll

Date: Nov. 15, 2019

Prepared by: John Carroll

Date: _____

[Health, Administrative Codes - City-Operated Adult Residential Facility]

Ordinance amending the Health Code to require the Department of Public Health to maintain and operate at full capacity an 55-bed adult residential facility (“ARF”) with no fewer than 41 beds; and amending the Administrative Code to establish the Adult Residential Facility Working Group to advise the Board of Supervisors and the Mayor regarding resident care, training, workplace conditions, and staffing at the ARF located at 887 Potrero Avenue.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in *strikethrough italics Times New Roman font*.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Health Code is hereby amended by adding Article 45, consisting of Sections 4501, 4502, and 4503, to read as follows:

ARTICLE 45: CITY-OPERATED ADULT RESIDENTIAL FACILITY

SEC. 4501. BACKGROUND AND FINDINGS.

(a) Adult residential facilities (“ARFs”) are group care facilities that provide 24-hour nonmedical care to individuals aged 18-59 who need personal services, supervision, or assistance to support their activities of daily living. ARFs provide rooms, meals, housekeeping, supervision, storage and distribution of medications, and personal care assistance with basic activities like hygiene.

1 dressing, eating, and bathing. ARFs are licensed by the Community Care Licensing Division of the
2 State Department of Social Services (“CCL”).

3 (b) ARFs play an important role in a locality’s continuum of care by providing people with
4 mental illness an opportunity to live in community-based housing, rather than in institutional care.

5 (c) A 2018 report by the California Behavioral Health Planning Council observed that due
6 to ARF closures and a lack of new ARFs, many individuals with mental illness are not able to find
7 sustainable community housing options with the appropriate level of care following stays in acute in-
8 patient treatment programs, hospitals, or correctional institutions. The report concludes that the
9 absence of community-based housing options can result in a “revolving door scenario” where people
10 are discharged or released from an institution only to be unable to find appropriate residential care or
11 housing. When another mental health crisis ensues, the absence of community-based housing
12 opportunities can result in a return to high-level crisis programs, facilities, hospitals, jails/prisons, or
13 homelessness.

14 (d) Since 2005, the San Francisco Department of Public Health (“DPH”) has operated an
15 ARF at 887 Potrero Avenue. This ARF has been licensed by CCL to include 55 beds.

16 (e) In recent years, DPH has failed to maintain staffing at a level that was sufficient to
17 operate the ARF at 887 Potrero Avenue at full capacity. In 2018-2019, DPH asked CCL for permission
18 to temporarily suspend from licensure a total of 41 ARF beds at 887 Potrero Avenue so that they could
19 be used instead as emergency shelter beds for people experiencing homelessness. CCL granted DPH’s
20 request, thereby temporarily reducing the total number of beds at this ARF from 55 to 14. CCL’s
21 approval extends through June 30, 2024, although DPH may seek CCL approval to restore the beds
22 for use as ARF beds prior to that date subject to CCL’s finding that DPH can meet the licensing
23 standards required to operate the ARF at full capacity.

24 (f) In October 2018, CCL concluded that on a number of occasions between 2015 and
25 2018, DPH had failed to comply with applicable laws and regulations in its administration of the ARF

1 at 887 Potrero Avenue. To bring the facility into compliance, CCL required that DPH prepare a
2 corrective action plan, which DPH prepared and submitted to CCL on October 15, 2018 (“Corrective
3 Action Plan”). This plan lays out the steps DPH has taken and will continue to take, including training
4 and monitoring, to ensure that the ARF operates in full compliance with all applicable standards.

5
6 **SEC. 4502. MAINTENANCE AND OPERATION OF ADULT RESIDENTIAL FACILITY.**

7 (a) As of the effective date of this Article 45, and until March 31, 2020, DPH shall
8 operate 28 of the beds at the ARF located at 887 Potrero Avenue as emergency shelter beds
9 for people experiencing homelessness.

10 (ab) As of the effective date of this Article 45 By no later than April 1, 2020, and from
11 that date forward, DPH shall maintain and operate at full capacity a licensed ~~55~~ bed adult residential
12 facility with no fewer than 41 beds, and shall take all steps necessary to ensure that all ~~55~~ ARF beds
13 at that facility are occupied by persons who meet the eligibility criteria for residence in an adult
14 residential facility set forth in State law and in the facility’s license.

15 (bc) To ensure compliance with the deadlines established in subsections (a) and (b), DPH
16 shall take immediate action to:

17 (1) Notify CCL of its intent to operate ~~51~~41 ARF beds, and take all steps necessary
18 to ensure licensure of all ~~55~~41 ARF beds;

19 (2) Identify clinically appropriate alternative placements for five ARF
20 residents, and work with those residents to facilitate their voluntary relocation.

21 Patients Residents who are offered clinically appropriate alternative placements shall be given
22 the opportunity to discuss their options with the ombudsman program before being
23 transferred;

24 (23) Hire a sufficient number of qualified City staff to operate the ~~55~~41 ARF beds;

25 and

1 (34) Identify residents who qualify for placement in any available ARF beds on or
2 after April 1, 2020.

3 (ed) Staff from the Department of Human Resources (“DHR”) shall assist DPH to
4 immediately, and with urgency, hire qualified City staff.

5 (e) DPH shall provide trauma-informed care training to all DPH staff who work at
6 DPH’s Behavioral Health Center located at 887 Potrero Ave on the following topics: trauma-
7 informed care, patient safety, evidence-based de-escalation techniques, medication
8 management, risk management, and first aid and cardiopulmonary resuscitation (CPR), and
9 detention for evaluation and treatment under Section 5150 of the California Welfare and
10 Institutions Code. These trainings shall be provided by subject matter experts who do not
11 work at the Behavioral Health Center.

12 (f) DPH shall create a forum in which management and staff of the ARF located at
13 887 Potrero Avenue can discuss issues relating to resident care and workplace conditions,
14 and shall conduct an objective analysis and review of the Behavioral Health Center.

15
16 **SEC. 4503. REPORTING.**

17 Within three months of the effective date of this Article 45 By no later than March 31,
18 2020, DPH and DHR shall jointly submit to the Board of Supervisors a report summarizing the
19 actions it has taken in compliance with this Article 45, and its objective analysis and review of
20 the Behavioral Health Center, as referenced in subsection (f) of Section 4502, report that
21 describes:

22 (a) The number of ARF beds that have been filled and the number that remain
23 vacant;

24 (b) The number of personnel hired to work at the ARF; and
25

1 (c) ~~The steps that DPH has taken to ensure compliance with the Corrective Action~~
2 ~~Plan.~~

3
4 Section 2. Chapter 5 of the Administrative Code is hereby amended by adding Article
5 XLII, consisting of Sections 5.42-1 through 5.42-5, to read as follows:

6
7 **ARTICLE XLII: ADULT RESIDENTIAL FACILITY WORKING GROUP**

8
9 **SEC. 5.42-1. ESTABLISHMENT OF THE ADULT RESIDENTIAL FACILITY**
10 **WORKING GROUP.**

11 The Department of Public Health ("DPH") shall convene the Adult Residential Facility
12 Working Group ("Working Group") to advise the Board of Supervisors and the Mayor on
13 issues relating to resident care, training, workplace conditions, and staffing at the Adult
14 Residential Facility ("ARF") of the Behavioral Health Center ("BHC") located at 887 Potrero
15 Avenue.

16
17 **SEC. 5.42-2. MEMBERSHIP.**

18 (a) The Working Group shall consist of 12 members, as follows:

19 (1) Seats 1, 2, 3, 4, 5, and 6 shall be held by management-level employees
20 of DPH, at least two of whom shall work at the BHC, appointed by the Director of Health;

21 (2) Seats 7, 8, 9, and 10 shall be held by ARF staff representatives from the
22 Service Employees International Union 1021 ("SEIU 1021"), appointed by SEIU 1021;

23 (3) Seats 11 and 12 shall be held by BHC staff representatives from the
24 International Federation of Professional and Technical Engineers, Local 21, AFL-CIO ("Local
25 21"), appointed by Local 21.

1 (b) Appointing authorities shall make appointments to the Working Group within one
2 month of the effective date of this Article XLII.

3 (c) Members may receive their regular salaries for time spent on the Working Group
4 during regularly scheduled work hours. Appointees of SEIU 1021 and Local 21 shall serve on
5 released time subject to the applicable Memorandum of Understanding provisions.

6 (d) Meetings of the Working Group shall be open to the public and subject to the
7 provisions of the Ralph M. Brown Act (Government Code Sections 54950, et seq.) and the
8 Sunshine Ordinance (Chapter 67 of the Administrative Code).

9
10 **SEC. 5.42-3. MEETINGS.**

11 The Working Group shall hold its inaugural meeting not more than 30 days after at
12 least seven members have been appointed. Following the inaugural meeting, the Working
13 Group shall meet at least monthly.

14
15 **SEC. 5.42-4. REPORTING.**

16 The Working Group shall prepare a report every six months on matters within the
17 scope of Section 5.42-1, and shall submit each report to the Mayor and the Board of
18 Supervisors. The first report shall be submitted no later than March 1, 2020, and the final
19 report shall be submitted no later than December 31, 2021.

20
21 **SEC. 5.42-5. EXPIRATION.**

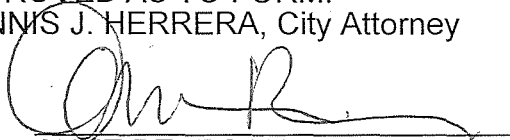
22 This Article XLII, and hence the Working Group, shall expire by operation of law on
23 December 31, 2021. After that date, the City Attorney shall cause this Article XLII to be
24 removed from the Administrative Code.

1 Section 23. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.

5
6 Section 34. Undertaking for the General Welfare. In enacting and implementing this
7 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
8 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
9 is liable in money damages to any person who claims that such breach proximately caused
10 injury.

11
12 APPROVED AS TO FORM:
13 DENNIS J. HERRERA, City Attorney

14 By:


15 ANNE PEARSON
16 Deputy City Attorney

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REVISED LEGISLATIVE DIGEST
(Amended in Committee November 13, 2019)

[Health, Administrative Codes - City-Operated Adult Residential Facility]

Ordinance amending the Health Code to require the Department of Public Health to maintain and operate at full capacity an adult residential facility (“ARF”) with no fewer than 41 beds; and amending the Administrative Code to establish the Adult Residential Facility Working Group to advise the Board of Supervisors and the Mayor regarding resident care, training, workplace conditions, and staffing at the ARF located at 887 Potrero Avenue.

Existing Law

Adult residential facilities (“ARFs”) are group care facilities that provide 24-hour nonmedical care to individuals aged 18-59 who need personal services, supervision, or assistance to support their activities of daily living. Currently, there is no legal requirement that the City and County of San Francisco operate an ARF.

Amendments to Current Law

The proposed ordinance would require the Department of Public Health (“DPH”) to maintain and operate at full capacity a licensed ARF with no fewer than 41 beds, as of April 1, 2020. Until that date, the ordinance would allow DPH to operate 28 beds at the ARF facility located at 887 Potrero Avenue as emergency shelter beds for people experiencing homelessness.

To ensure that DPH meets the April 2020 deadline, the ordinance would require DPH to take all steps necessary to ensure licensure of a 41-bed ARF and hire a sufficient number of City staff to operate the 41 ARF beds, which hiring would be performed with the assistance of the Department of Human Resources. DPH would also be required to identify clinically appropriate alternative placements for five ARF residents, who would be given the opportunity to discuss their options with the ombudsman program before being transferred.

The ordinance would also require DPH to provide training to all staff at the Behavioral Health Center (“BHC”) located at 887 Potrero Avenue and submit a report to the Board of Supervisors describing its actions taken in compliance with the ordinance, and its objective analysis and review of the Behavioral Health Center.

The ordinance would also establish the Adult Residential Facility Working Group (“Working Group”) to advise the Board of Supervisors and the Mayor on issues relating to resident care, training, workplace conditions, and staffing at the ARF. The Working Group would be comprised of 12 members, including both management level employees and staff

representatives of the ARF. The Working Group would meet monthly until it expires by operation of law on December 31, 2021, and would prepare and submit to the Mayor and the Board of Supervisors four reports.

Background Information

This legislative digest reflects amendments made in the General Audit and Oversight Committee on October 17 and on November 13, 2019, and at a meeting of the full Board of Supervisors on October 29, 2019.

ARFs provide rooms, meals, housekeeping, supervision, storage and distribution of medications, and personal care assistance with basic activities like hygiene, dressing, eating, and bathing. ARFs are licensed by the Community Care Licensing Division of the State Department of Social Services (“CCL”).

ARFs play an important role in a locality’s continuum of care by providing people with mental illness an opportunity to live in community-based housing, rather than in institutional care.

A 2018 report by the California Behavioral Health Planning Council observed that due to ARF closures and a lack of new ARFs, many individuals with mental illness are not able to find sustainable community housing options with the appropriate level of care following stays in acute in-patient treatment programs, hospitals, or correctional institutions. The report concludes that the absence of community-based housing options can result in a “revolving door scenario” where people are discharged or released from an institution only to be unable to find appropriate residential care or housing. When another mental health crisis ensues, the absence of community-based housing opportunities can result in a return to high-level crisis programs, facilities, hospitals, jails/prisons, or homelessness.

Since 2005, the San Francisco Department of Public Health (“DPH”) has operated an ARF at 887 Potrero Avenue. This ARF has been licensed by CCL to include 55 beds.

In recent years, DPH has failed to maintain staffing at a level that was sufficient to operate the ARF at 887 Potrero Avenue at full capacity. In 2018- 2019, DPH asked CCL for permission to temporarily suspend from licensure a total of 41 ARF beds at 887 Potrero Avenue so that they could be used instead as emergency shelter beds for people experiencing homelessness. CCL granted DPH’s request, thereby temporarily reducing the total number of beds at this ARF from 55 to 14. CCL’s approval extends through June 30, 2020, although DPH may seek CCL approval to restore the beds for use as ARF beds prior to that date subject to CCL’s finding that DPH can meet the licensing standards required to operate the ARF at full capacity.

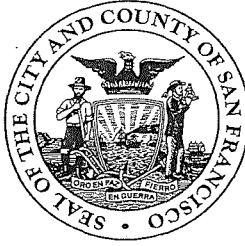
In October 2018, CCL concluded that on a number of occasions between 2015 and 2018, DPH had failed to comply with applicable laws and regulations in its administration of the ARF at 887 Potrero Avenue. To bring the facility into compliance, CCL required that DPH prepare

FILE NO. 191102

a corrective action plan, which DPH prepared and submitted to CCL on October 15, 2018. This plan lays out the steps DPH has taken and will continue to take, including training and monitoring, to ensure that the ARF operates in full compliance with all applicable standards.

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BOARD of SUPERVISORS



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

MEMORANDUM

TO: Dr. Grant Colfax, Director, Department of Public Health
Micki Callahan, Director, Department of Human Resources

FROM: John Carroll, Assistant Clerk, Government Audit and Oversight
Committee, Board of Supervisors

DATE: September 18, 2019

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Supervisor Ronen on September 10, 2019:

File No. 190928

Ordinance amending the Health Code to require the Department of Public Health to maintain and operate at full capacity a 55-bed adult residential facility.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Greg Wagner, Department of Public Health
Dr. Naveena Bobba, Department of Public Health
Sneha Patil, Department of Public Health
Susan Gard, Department of Human Resources

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2019 SEP 10 PM 4:37
Time stamp
or meeting date

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.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):


Ronen, Haney, Walton, Peskin, Mar

Subject:

Ordinance amending the Health Code to require the Department of Public Health to maintain and operate at full capacity a 55-bed adult residential facility.

The text is listed below or attached:

Please see the attached ordinance.
I kindly request that this ordinance be heard at the Government Audit and Oversight Committee.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only: