

San Francisco Bay Conservation and Development Commission

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March 13, 2015

TO: All Commissioners and Alternates

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)

Sharon Louie, Director, Administrative & Technology Services (415/352-3638; sharon.louie@bcdc.ca.gov)

SUBJECT: Draft Minutes of February 5, 2015 Commission Meeting

1. **Call to Order.** The meeting was called to order by Acting Chair Halsted at the Ferry Building, Port of San Francisco Board Room, Second Floor, San Francisco, California at 1:08 p.m.

2. **Roll Call.** Present were: Chair Wasserman, Vice Chair Halsted, Commissioners Addiego, Bates, Chan (represented by Gilmore), Cortese (represented by Scharff), Gorin, Lucchesi (represented by Alternate Pemberton), Nelson, Pine, Randolph, Sartipi, Sears, Spering (represented by Alternate Vasquez), Techel, Wagenknecht, Ziegler, Zwissler and Hicks.

Acting Chair Halsted announced that a quorum was present.

Not present were: Department of Finance (Finn), Speaker of the Assembly (Gibbs), Contra Costa County (Gioia), Regional Water Quality Control Board (McGrath), Secretary for Resources (Vierra), Governor's Appointee (Vacant), City and County of San Francisco (Vacant) and Association of Bay Area Governments (Vacant).

Acting Chair Halsted announced: I want to welcome our newest ex officio member of the Commission, Assembly Member Phil Ting. In addition, the Speaker of the Assembly has confirmed that Mr. Michael Sweet will be Assembly Member Ting's Alternate. (Assembly Member Ting was not present)

3. **Public Comment Period.** Acting Chair Halsted called for public comment on subjects that were not on the agenda.

Mr. Fred Naranjo of Scarborough Insurance addressed the Commission: I am here on behalf of Sinbad's Restaurant. I have insured them for approximately 25 years.

I understand that their lease is up and they have been on a month-to-month basis. I wanted to make sure if this Board would give them an opportunity to extend their lease, and that they would move when you need that particular facility.

I am an immigrant and I came here illegally. I remember my father working in a restaurant, M&M Café. I also remember when he lost his job and how devastated it was for my family. Thank God that I was earning money and in the position, to help my family. But the key, it's heartfelt for me when I talk to these employees and the fear that they have in losing their jobs.

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I am here to tell you that they have the resources, and I have looked into this, to help get a new location for their employees. But they need time. They need time in order to find the new location, also to do the build-out so there could be a smooth transition for their employees.

I would not be here because it's my integrity and my credibility and I happen to know some of you members here. I would not be here asking if there is a way that's possible to allow them to stay there until they get the new facility built so their employees can have a smooth transition.

And also it is my understanding that the Port does not have an issue with this if BCDC would agree.

And that's the crux of this. And again, I would not be here unless I knew that they are going to build a new facility for those employees and have a smooth transition. Thank you so much for allowing me to speak.

Mr. Thomas Stinson of Sinbad's Restaurant was recognized: Good afternoon, Commissioners. My name is Tom Stinson with Sinbad's Restaurant. I am hopeful you have received and reviewed our earlier communication. The purpose is to outline our cause and circumstances.

Two years back we were granted by this Commission to remain in lieu of the America's Cup, which did not require our location in the end, nor WETA, which was not expected to be needing the site as well at that particular time. Recent information we have now lets us know and invites us into a month-to-month presence with a 30-day cause-to-vacate due to WETA's earliest need would be the spring of 2016, or so we have been informed.

My understanding is the Port is unopposed to this temporary stay as well. No harm, no foul would embarrass this Commission. In so doing your cooperation will embrace continuing employment for many long-term employees whose families are very much dependent. Provide public amenities; we do this to visitors and commuters alike. It is very convenient, particularly in bad weather conditions.

Revenues for the City will be sustained. Your decision would be a minor change and sincerely appreciated. I wish to thank you very much.

Mr. Duane Stinson of Sinbad's commented: Thank you, Commissioners, for giving me the opportunity to speak here. My name is Duane Stinson and I represent Sinbad's.

Sinbad's is asking for your help for a cause which is humanitarian and in the best interests of all concerned. There is no need to close a 40-year ongoing restaurant before the WETA project is necessary to start. Why let useful land lay idle instead of being productive and useful, especially to our hardworking employees whose livelihood is dependent on Sinbad's. Please help our employees keep their jobs and not put them in an unnecessary hardship.

It is our understanding that if BCDC is not opposed to this the Port is for us staying until the WETA project commences. Sinbad's is agreeable and very cooperative to vacate when the Port tells us with a 30 day notice. The short additional time will give us time to find a new location to keep these employees' jobs.

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We are fully cooperative. Thank you. Please help Sinbad's and our employees' jobs. Thank you very much.

Mr. Jack Yip of Sinbad's spoke before the Commission: Dear Commissioners. I am Jack Yip, a cook at Sinbad's for 38 years. I am here speaking on behalf of 40 employees at Sinbad's. I am over 60 years old, and like me, many of the employees at Sinbad's are old and it would be difficult for us to find jobs because of our age.

Many employees still have dependent children who are in school, some are paying for their homes. It would be really difficult for us to support families. Two of my co-employees have health issues; they are dependent on Sinbad's health plan. If Sinbad's leaves we will be terminated. What will happen to us? We are helpless. Please extend Sinbad's lease, even for a short time until Sinbad's finds a new location and then none of us at Sinbad's will be displaced or be in hardship.

I spoke during the Port Commission hearing last month. The Commissioners were kind and supportive. Now I am seeking the kindness and compassion of BCDC Commissioners. I was informed a plan needs to be changed. I don't know what is it. I am just asking if that is the solution, please change the plan so we can keep our jobs. Please have mercy on us. I and my co-employees would be forever grateful to you. Thank you very much.

Acting Chair Halsted asked Executive Director Goldzband if he wished to address the matter.

Executive Director Goldzband commented: This is not an agenda item, which means the Commission cannot discuss it. I will let you know that the Port is having a meeting. At its regularly scheduled meeting the Port of San Francisco on February 10th in this room will be discussing the Sinbad's matter. The Port staff recognizes that Sinbad's lease is on a month-to-month basis and that to change the current status of that lease and to allow Sinbad's to remain would require an amendment to the Special Area Plan governing the San Francisco waterfront as well as an amendment to the America's Cup permit. I would be more than happy to let you know after the February 10th meeting what the Port has decided to do.

Acting Chair Halsted moved to Approval of the Minutes.

4. Approval of Minutes of the January 15, 2015 Meeting. Acting Chair Halsted asked for a motion and a second to adopt the minutes of January 15, 2015.

MOTION: Commissioner Wagenknecht moved, seconded by Commissioner Pine, to approve the January 15, 2015 Minutes. The minutes were adopted with no Commissioners objecting or abstaining.

5. Report of the Chair. Acting Chair Halsted reported on the following:

a. **New Business.** Does anyone have any new business to propose? (No comments were received)

In addition to Assembly Member Ting and Mr. Sweet, BCDC has a new Alternate representing Marin County. County Supervisor Damon Connolly has been appointed as alternate to Commissioner Sears.

Also, I want to let you know that the Commission Working Group on Rising Sea Level met this morning to discuss a variety of issues. Kate Sears was present and active at that meeting. Commissioner Sears reported: Some of us are old enough to remember the viewers that used to be at the Golden Gate Bridge. As part of some of our earlier conversations on the Sea Level Rise Working Group we had an opportunity to meet representatives from a new company called, Owl Allies that has taken that view and given it a new look. Working together with AutoDesk, the viewer can be programmed with software so that when you look through it you see the impact of sea level rise in the area that you are looking at. Marin County was fortunate enough to get a grant from FEMA to put in two of these Owls in on the Mill Valley Sausalito Bike Path at a location quite close to Tam High. We are currently wrestling with exactly what different levels of sea level rise we want people to be able to look through and see. It's going to be a fantastic public education opportunity. The device can also be interactive so people looking through it can respond to questions. They can also get linked to a website that has additional information about sea level rise. We are also working with a Stanford professor Susanne Moser who is going to be doing a study of how people interact with this device. We are hoping that the Owls will be in place in May. We have them for a 12 week test period. If all goes well and we find additional funding we hope to get a larger flock of Owls throughout Marin County.

Acting Chair Halsted announced: Our Chair has arrived.

b. **Next BCDC Meeting.** Chair Wasserman continued: We are at the point of reviewing our next BCDC meeting will be held February 19th at the Metro Center in Oakland. At that meeting we expect to take up the following matters:

- (1) We expect to vote on the Golden Gate Highway and Transportation District proposal to renovate a ferry terminal in Sausalito, Marin County.
- (2) We will vote on a request for consistency concurrence by the U.S. Army for reconstructing a pier at the Military Ocean Terminal Concord, in Contra Costa County.
- (3) We will have a briefing by Caltrans regarding the Bay Bridge.

I did have Larry send to you an article from the New York Times that I hope you have had a chance to look at. The focus of the article is the *Risky Business Report* from the Mid-west, and they talk about working on one for California and we are investigating that to see how we can play a role in that. I thought some of the discussion in that article about the balance and the increasing recognition of the balance and compatibility between mitigation efforts and adaptation efforts is important. We focus primarily on adaptation while being absolutely sensitive to mitigation efforts. Some of the debates in larger policies have not been as balanced. I took this as a good sign. I also took it as a good sign that the business community is becoming increasingly aware of the issues on both sides. We will look forward to what the Risky Business Project has to predict for California.

c. **Ex-Parte Communications.** If you have not put any ex-parte communications you may have received in writing, either through the email portal or otherwise, you need to do that. You can ask for a report here. I suspect all of us have some reports to make about email contacts regarding the Sausalito Ferry Terminal. I will report that I had a conversation about three weeks ago about Scott's which is a potential enforcement proceeding and issues of public access. We will now have Larry do his Executive Director's Report.

6. **Report of the Executive Director.** Executive Director Goldzband reported:

We all have internal clocks that help us adjust to various times of the year. When February begins, two things always happen in my world: I anticipate the return of pitchers and catchers and the start of spring training, and I hunker down for the long stretch of late winter and spring work that always seems to come fast and furious. You'll notice that our agendas for the next couple of months are full of exciting and complex issues. I hope that you are looking forward to our meetings.

BUDGET and STAFFING:

There is no news, thankfully. However, we do know that BCDC and the other state coastal zone management agencies will testify on the Governor's budget proposals in April before the Senate Budget Committee.

I told you last month that Action Planning based on the Strategic Plan would start soon. In front of you is a small version of a much larger poster on one of our walls at BCDC. These describe the seven issues that our staff will concentrate on (in addition to our regular work to further our strategies and plans). People are signing up and we will get the meetings and the various parties together in the next few weeks and start the process.

POLICY:

Last Friday, the White House announced a new Executive Order that establishes a federal flood risk management standard and you will have this in your packets. It also includes a process to solicit stakeholder input in the regulatory process as new guidelines are developed. You have in front of you a copy of the Executive Order and a couple articles from the Times and the Post about the EO. Be assured that we, along with our cousins in the State's Natural Resources Agency, will seek to represent California's interests as the process moves forward.

One of the familiar signs that we have entered February is that it is time for each of our Commissioners and Alternates to complete his or her Annual Statement of Economic Interests, Form 700. They are due on April 1, 2015. Please make a note of that. Each of you has received in the old fashioned way via the post office and in an e-mail, a memo authored by John Bowers, our staff counsel providing you direction. If you have any questions, feel free to contact Reggie Abad of our staff, or me, and we look forward to receiving yours early!

There is one more thing that is in your packet that I want to make you aware of. The California State Coastal Conservancy recently released its draft grant program guidelines for funding available through Proposition 1 which was the water bond of last year. You will note that public agencies as well as all sorts of different organizations are eligible to apply for the funding. I

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encourage you to take these back to your respective jurisdictions, disseminate them widely to your friends, neighbors, whomever, and I would really love if you are representing a jurisdiction that does plan to apply for funding, to contact BCDC to see if we can be of help to you as you plan your grant proposal.

Today will be the third installment of BCDC history. We have today with us an attorney whose reputation is beyond compare when it comes to the Bay Area and natural resources law in the state of California, Clem Shute.

Clem worked for the Attorney General's for many, many years and then in the early 1980s, left to form the very respected firm, Shute, Mihaly & Weinberger.

The first time I ever met anyone from Shute, Mihaly was about two months after I became Executive Director. Shute, Mihaly represented the Port of San Francisco in the negotiations over the Arena to be constructed on Piers 30/32 to be used by the Warriors. I told Clem after our first meeting that I really appreciated how incredibly professional Shute, Mihaly's attorneys were. Many of you have also had the pleasure of working with Clem.

Mr. Clem Shute presented the following: I was the Deputy Attorney General assigned to represent BCDC and advise it from its state of inception in 1965 to 1980 when I left state service and formed the law firm: Shute, Mihaly & Weinberger.

I held the same position that Chris holds now and there has been a long line of folks who have done great service for this agency from the Attorney General's office.

My strong interest in environmental protection was triggered by my service here at BCDC. That interest stayed with me through my legal career and continues on to the present time where I am a member of the governing board of the Tahoe Regional Planning Agency appointed by Governor Brown. There are a lot of similarities between this agency and the TRPA.

Today I want to talk about two proposals by the City of San Francisco and its related developers to extend the Bay, extend office buildings in downtown into the Bay.

Some of the most powerful political figures of the time between 1969 and 1971 were behind it. Joseph Alioto was the mayor, a very colorful, charismatic person. Casper Weinberger who later became Secretary of Defense. Cyril Magnan who some think ran the City of San Francisco at the time. Senator Feinstein at that time was a member of the San Francisco Board of Supervisors.

In 1969 there was a frenzy of high rise construction in San Francisco. It caught the attention of the Washington Post and the 1969 article refers to the controversy in the City about high rise office buildings. It was referring to a lot of the buildings that are now constructed. What I will be talking about is part of the pattern of building high rises in San Francisco.

San Francisco had acquired the Port from the state in 1968; prior to that time it had been run as a state agency. The City determined that it wanted to extend downtown San Francisco into the Bay in the tide and submerged lands along this waterfront.

The first proposal launched in 1969 was called, Ferry Port Plaza. It was north of the Ferry Building and it was an office complex. It would have been on a massive amount of Bay fill.

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BCDC had just come off of a major fight in the Legislature in 1969. The agency was originally created as an interim agency and would expire in 1969. There was legislation to make the agency permanent and to incorporate the Bay Plan into state law.

There were a lot of people in opposition, particularly major developers. It was an unprecedented battle in the Legislature from the Bay Area's point of view.

For example, the Ford Foundation was one of the investors in Ferry Port Plaza Project and one of the opponents of BCDC. The Rockefeller family had plans to build thousands of homes on fill in the South Bay. There was some pretty major opposition.

Also, there were cities in southern California who opposed BCDC in Sacramento because they thought, well, if that kind of regionalism comes to the Bay Area, guess who is next? They thought they had to fight it off.

They got the Coastal Commission anyway but not from the Legislature.

After epic hearings and massive public support in the Bay Area, the McAteer Act was made permanent and the Bay Plan was put into state law.

In 1965 Senator McAteer carried the original legislation to create the law. We all think that roll call votes are good and part of democracy. At that time there were no roll call votes. It was up to the Chair.

There was a hearing in 1965 in the Governmental Organization Committee in which Senator McAteer was the Chair. And there was a hearing where everybody stood up and the major developer interest and government interests opposed this legislation. It was supported by Save the Bay and a handful of fledgling environmental groups. It came time to vote and the Chairman, Senator McAteer said, all in favor say, aye. He said, aye and maybe one other Senator, all opposed, no; a thunder of no from the Committee, the ayes have it. The bill is out. (laughter)

That is one of the reasons you're sitting here today.

While BCDC prevailed in Sacramento in the McAteer Act, it still had major opposition from some of the local governments in the Bay Area as well as development interests who resented the idea that this agency would have land use power over what it had thought was its sovereign authority to make land use decisions without some oversight by a regional agency.

These proposed office buildings were a big test for BCDC. Ferry Port Plaza applied to the Commission in 1970. San Francisco was a co-applicant. San Francisco was aware that BCDC was only allowed to approve fills that were for water-oriented purposes.

They came up with this rule of equivalencies which I will explain. That caused Chairman Lane, who was then Chair of BCDC, to ask the Attorney General for a formal opinion on this rule of equivalencies. The question was, does the Commission have the power to approve fill for non-water oriented purposes as long as an equivalent amount of fill is taken out somewhere else in the Bay?

The idea was to remove some of these old piers which are still problems in return for being able to fill for office buildings which generally were considered non-water oriented.

This was a draft regulation that was put before this agency for adoption. It carried out the same idea, that fill could be approved if for non-water oriented purposes if there was an equivalent amount of fill taken out someplace else.

The Attorney General's conclusion was that there was nothing in the McAteer Act which allowed an exception for this rule of equivalencies. The law refers to fill being placed in the Bay and doesn't talk about, well, you can offset that by removing fill from someplace else.

There was another aspect to it, which is that the law, the McAteer Act, is an exercise of the public trust of the state of California. And the Burton Act which gave the land to the Port of San Francisco was a tideland grant also from the state. The Courts had interpreted, and it's still important, that BCDC's actions and plans are an exercise of the public trust and tideland grantees have to abide by those decisions. That was another basis for BCDC's ability to say, you can't approve fill for non-water oriented purposes.

On December 3, 1970 this Commission held a hearing; Mayor Alioto spoke eloquently and referred to the Attorney General's opinion as just one opinion by one lawyer and that there were other opinions by other lawyers and shouldn't we all just stand back. The Commission listened to all of that and after hours of hearing voted 22-1 to deny the permit.

That was a pretty major action. While this was going on the City of San Francisco was thinking, well, maybe part of the problem is height. They are allowing 550 feet in height. Maybe that's too much. The news articles talk about reducing the height limit to 84 feet, maybe 175 feet in some places, but feeling like this was too much height on the waterfront, that's a whole big part of the controversy.

The important part of these news articles and of the discussion at that time were comments made by Bob Mendelson who was a member of the San Francisco Board of Supervisors at the time. He said, this is all an exercise in futility. BCDC will never allow fill for non-water oriented purposes. We should just stop this discussion.

Miriam Wolfe who was the Director of the Port and had been previously Director of the Port when it belonged to the state said the same thing.

U.S. Steel read the handwriting on the wall and in February of 1971 dropped its proposal. It never came to BCDC. There was never an application. It just went away.

But not so with Ferry Port Plaza. The City sued BCDC in an attempt to require the agency to approve this rule of equivalencies and make the Ferry Port Plaza approvable.

The Attorney General on behalf of BCDC filed the equivalent of a motion to dismiss. Your case doesn't state a claim. It should be dismissed.

The case was heard by Judge Ira Brown, Jr. He was the smartest guy in the room. There was no fooling around in his courtroom, no jokes. After the case had been under submission for 30 days or so I got a call from Allen Lipmann who was the attorney for the Port.

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Allen Lipmann was a partner in the firm for Pillsbury, Madison and Sutro. One of his partners was George Sears who was Commissioner Sear's father.

Alan said, that we should go see the judge and tell him to hurry up the decision. He was taking too much time and it was costing my clients a lot of money. I said, well, I'm going to go with you but I'm sure not going to join that pitch.

We went to see the judge and the judge listened. And Allen said, it's costing my client money. I said, you know, Your Honor, it's a complex matter. You should take as much time as you need. It's an important matter. There is a rule here for lawyers. Don't ever ask judges to hurry up their decisions. Because the next thing that came out, the next day, less than 24 hours after meeting with the judge, was this ruling which the upshot was that BCDC prevailed. The Court ruled in our favor and upheld the agency's action and gave the Port limited opportunity to challenge it. Be careful what you ask for.

The City must have realized that it had a weak case because it didn't pursue it. The ruling became final. These two building projects went away. It never happened.

I think this whole episode in 1969, 1971 did a lot to establish the gravitas of BCDC as the protector of San Francisco Bay. The agency withstood the political pressure from the leaders of San Francisco. These powerful figures in the City really weren't used to being told what to do by anybody. For them to have suffered the denial of BCDC made other people aware that it could happen to them as well.

People knew that what BCDC had done here it could do elsewhere. Had this gone the other way there could have been residences and office buildings all over this Bay.

I am very happy to have been a part of this chapter in BCDC's history. There is nothing a lawyer likes more than telling a good war story. (laughter) Does anybody have any questions?

Chair Wasserman recognized Commissioner Nelson: I want to thank Clem for his fascinating thoughts here and thank the staff for having this series of speakers. The Commission is now wrestling with some big challenges that are very different from the ones that we were wrestling with 50 years ago. It's important for us to reflect back on the accomplishments of the Commission in addressing what were very, very challenging problems 50 years ago. We are facing a very different set of problems today that are no less daunting. It's nice to see the Commission's track record.

Clem was also my attorney when I was the Executive Director of Save the Bay. Just to give you an example of how universally talented and diplomatic Clem is as an attorney, he was universally successful in every case he ever brought on behalf of my organization except for the time when we asked him to sue the Commission. (laughter)

Chair Wasserman continued: Any other questions or comments?

Commissioner Bates commented: I also had the pleasure of working with Clem on the East Bay Shoreline Park. If it wasn't for Clem's great negotiating skills we probably would have never been able to pull that off. I owe a great deal of gratitude for Clem and his work.

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Chair Wasserman acknowledged the presenter: Clem, thank you very much for your time and service. (applause)

Executive Director Goldzband stated: That completes my report Mr. Chairman.

Chair Wasserman continued: Just a brief further report on the status of our 50th Anniversary planning, we are going ahead with the formation of the non-profit that we have discussed with you, Friends of BCDC, which will have a very limited role raising some funds for this party and then ongoing as a recipient for grant funds that can't be made to a government agency but are in support of the activities of this agency.

We are in the process of negotiating one or two contracts with planners for what we think will be a significant combination of educational presentations about our 50th Anniversary mostly looking to the future although we'll certainly have memorabilia and other things about our past as well as a party. We will keep you abreast of that. That brings us to Consideration of Administrative Matters.

7. **Consideration of Administrative Matters.** We have received a report on pending administrative approvals. Bob Batha is here if there are any questions. There were none. That brings us to Item 8.

8. **Public Hearing and Possible Vote on Amendment No. Four to BCDC Permit No. 2012.002-Port of San Francisco for the James R. Herman Cruise Terminal Project at Piers 27-29, along the Embarcadero in the City and County of San Francisco.** Chair Wasserman announced: Item 8 is a public hearing and possible vote on the Port of San Francisco's proposed amendment to the Cruise Terminal Permit regarding Piers 27 and 29, the James R. Herman Cruise Terminal. Ming Yeung will introduce the project.

Permit Analyst Ming Yeung presented the following: The project before you today is a material amendment to the Piers 27 and 29 Cruise Ship Terminal Permit. The permit was originally approved by the Commission in March 2012. In just a moment Dan Hodapp, a representative for the Port of San Francisco, will provide an update on the project and the Port's requested amendment.

In short, the amendment would authorize three changes to the permit. It would clarify areas available on the Pier 27 apron for public access to accommodate maritime equipment and fencing. The amendment would also allow commercial parking within the Ground Transportation Area between Piers 27 and 29 when not used for cruise terminal or special event needs. This is estimated to be approximately 180 to 200 days a year. Finally, the amendment would authorize the construction of public restrooms within the historic Beltline Building by the end of this year.

As outlined in the staff summary, the staff believes the proposed amendment raises two issues: whether the project is consistent with the sections of the San Francisco Waterfront Special Area Plan and whether the project is consistent with the Commission's Public Access and Scenic View policies.

The Commission staff has proposed conditions to address and meet these policies. At this time I would like to introduce Dan Hodapp from the Port of San Francisco who will provide an update on the project and more details on the proposed amendment.

Mr. Hodapp addressed the Commission: Dan Hodapp with the Port of San Francisco. I also want to point out that I am here to talk to you about the Port's largest water-dependent use project in the last 100 years and I am going to give you a little update on that.

One, it is about the Pier 27 Cruise Terminal from approval through opening; and there is an amendment request so I want to go through that a little bit here and we will just take a few minutes.

I was in front of the Commission three years ago next month for approval of the Pier 27 Cruise Terminal. This is the site, Pier 27; it is that large pier you see on the northern waterfront. It has an apron on the north side that is a quarter-mile long, about 1400 feet. That is the shed that was here before we built the cruise terminal; it is about 15 acres, give or take, all together. Because of its size it does very well for things like large cruise ships. It also takes advantage of the scouring action of our tidal movements of the Bay so it is a natural deep water port to a great extent and it was a mix of uses.

When we started out it had a very different appearance. It was not altogether welcoming. It was a mix of industrial uses that were on the pier to occupy the site. Its public access was very limited and not very inviting. It presented kind of a mean frontage to the Embarcadero promenade.

Inside the shed we had industrial uses, we had parking uses. Altogether on the site there are about 525 parking spaces. There was Teatro ZinZanni for a while, there was a soccer field, there was Bauer Limousine Service, a variety of things that were taking place on the pier.

Yet it has a very close relationship to the base of the Telegraph Hill neighborhood. In this image you can see the residential development that is about a block or so off of it and, of course, you can see Coit Tower. So it really does connect to the City, it really is part of the City.

This is a planned view of the proposed project. On the top of it you see the cruise terminal structure that was built. In the right hand side you see the Cruise Terminal Plaza. The location of the Cruise Terminal Building and the Plaza stem from the Port and BCDC's agreement on the 2000 BCDC Special Area Plan that called for a major public open space at this location that opened up views to the Bay and some views to the Bay Bridge. So the major site moves came from this Commission 15 years ago and were carried through on this project. The center of the project is the Ground Transportation Area, affectionately known as the GTA. And on the far end is the provisioning area, where the trucks come to drop off goods to feed cruise ships; and that's a part-time public access area, part-time provisioning area.

Pier 27 was opened in earnest in September of 2014 when cruise ships first started coming in. And when they come in they really come into the City and that was another part of it. The come towards the Embarcadero.

You do not have to be on a cruise ship to enjoy a cruise ship. You can enjoy its presence, its enormous scale, what it is and it is a very fun thing to watch. And the plaza is set up to do that and also set up to enjoy great views of the Bay on non-cruise ship days. It makes our terminal look a little bit small when a ship comes in, just the enormity of the ships, and it is very fun, it is very interesting.

Prior to finishing off as a cruise terminal, two years ago the Port provided a core and shell of the building for the 34th America's Cup, and that occurred through a partnership with BCDC to make that happen. Extensive permit processing occurred; extensive planning and outreach; and coming up with the right combination of events to make that happen. Tens of thousands of people gathered on Pier 27, of course, as the headquarters of this. It showed how a facility like this can be used for a variety of different types of events, dependent on the water and the people's appreciation of the Bay. The Port is very proud of what happened out there, I think it turned out to be a great success. I am sure that you are all very familiar with it so I will not go into that.

Here is an image of the Giants' World Series party inside the cruise terminal this fall and you can see they are all having a good time. And you can see why this is a popular place for events. It is a fantastic site. The views of the Bay Bridge, the Bay light show, the views back to the City, a 50 foot width apron that is open for public access when cruise ships are not there combined with the interior spaces. You can see what that is.

The Cruise Terminal Plaza, the public park and open space adjacent to it. It is a forecourt for the cruise terminal but it is also a great public space on an everyday use setup. It has a large, almost an acre sized lawn. Another very democratic space open for whatever type of use you want to do on it, a relatively flat space.

Why are we doing more lawns? Well, we have thousands of people that live within walking distance and not one of those has a lawn. So it is actually a good environmental use that promotes density in the adjacent neighborhood by being able to provide this. And this is what the community wanted. They enjoy the park; they enjoy the other amenities to it.

I think there's a total of 56 benches in there. This is a look at the planter that divides Cruise Terminal Plaza from the Ground Transportation Area.

So we are up and going with this and very proud of this latest addition and the quality that has been done on it at the Port.

The terminal has a number of other amenities. This is one of the two shore side power connections. I am sure you all figured that shore side power allows the ships to essentially turn their engines off when they come in to port. And that is a big piece of equipment; I want to talk a little more about this in just a moment.

Here is an improvement that has occurred since the Port opened the terminal. Way down at the far right is the new facilities operation building. The original permit three years ago had the facilities and operation functions in the Pier 29 shed on the left hand side of this image. This created problems for the operations terminal, and equally as important, problems with conflicts with public access. Public access can occur on all days, ship in or not, and it flows between these two buildings out there and out to the tip. When a ship was in, forklifts were going back and forth to this building. It was creating a safety concern; it also crossed other ship operations traffic.

The Port just spent \$2 million to build the facility operation building in the back, prioritized funds for this. It was done partly because BCDC encouraged the Port to seek funding for this through a permit condition of the original approval. So we are happy to say we are in the final punch list on that and I think maybe even this week we are starting to move into the building. Not this week, next week, so we are very close on that.

That was the fun part, now we are down to business here. I want to talk about the requested amendments and there are three I am going to go through here. One discusses public access on the Pier 27 apron, the next one talks about parking in the Ground Transportation Area and the third one talks about the schedule for providing restrooms in the Cruise Terminal Plaza.

When a ship is in the Pier 27 apron - the ship is on the right, the terminal on the left – the Pier 27 apron's 50 foot width is a busy place. You can see the \$3 million gangway in that area and it is, of course, able to meet all the ADA considerations and go up and down. No two cruise ships are designed the same so it has to have great flexibility.

This is a view down the apron of the gangway. The gangway was designed so you can have public access right through it on the days that the apron is open. There is a 12 foot passage. It also happens to fit fire trucks, so there was a dual purpose to that opening you see in the center of the gangway, and then the gangway slides up and down the pier.

The issue that we came up with once the gangway arrived and we set it up is it has a lot of stuff exposed to it. You see a little bit of the shore side power connection and the gangway and all the wiring which is live a lot of the time for various purposes, sit out there exposed in a public place and the mechanical equipment. So I am here today to propose a solution for it.

And one is, when we do open it up for public access we do a series of lightweight fencing around each of the six wheel assemblies of the gangway and around the two shore side power connections. It narrows the public access way by about a foot so it brings it down to about 11 feet through, plus you can get around to the sides of it so I think the public access still works very well. It takes 54 sections of fencing to be set up each time we do this, so what we have said is that when it is open for five days or more we will set these up so it creates a labor cost for this.

We looked at the cruise terminal schedule for 2015. There are about 80 ships expected, which is not far from where this terminal maxes out based on how the schedule can work in San Francisco. And the apron would be open for public access a little over 200 days a year with this and providing this amenity. So that is where that sits and I will be glad to handle questions on that upon completion of this.

The second item is the Ground Transportation Area in the middle of the site here. I will give you just a little bit of a description on how that works. The circulation setup here, the Ground Transportation Area provides the transportation function for the terminal a little bit like an airport except a cruise terminal is an airport that turns on and off as far as its transportation options. When a ship comes in it all comes to life.

The night before, trucks come in. They come from the Embarcadero and they go out to the end of the pier through the provisioning area, they do not stop at the terminal itself, and on a big enough ship it can be as many as 500 pallets that service the ship. Busses come in and unload passengers in the center of the Ground Transportation Area, which is a little bit depressed from the other areas due to the structure of the pier, and private autos and taxis come up right adjacent to that.

We took the intersection off of the Lombard Street where it was signal-controlled in the past. But when it was signal-controlled, when the light turned green all the traffic coming in or out of the terminal didn't pay attention to pedestrians and cyclists on the Embarcadero and essentially created a stop for those users. When we moved it down and did a right-turn-in and a right-turn-out only it shifted the priority of movement to pedestrians and cyclists, saying who really uses the waterfront and creates a safer condition. We also designed it not as a roadway going in but as a driveway apron and you have to mount over it. So a lot of it is the design and the details to add priority to the pedestrian movement into it. So that is how it functions.

When it was approved what was allowed in the Ground Transportation Area are the functions of the Cruise Terminal I just described and parking in the Ground Transportation Area for events held within the Cruise Terminal. The other days when those two functions were not there were not addressed. What we have is an area that is large and unmonitored and nothing is going on in the middle and that has some safety and operational concerns for us and our operator and we are here to discuss a little bit about that.

This is a picture of the driveway and you can see that vehicles do have to come up and over this and that's people on the promenade right there.

This is the taxi and vehicle drop-off adjacent to the terminal.

And here you see a little more of the ground transportation area where the busses drop off.

The way the terminal functions in the Ground Transportation Area, we did this dual striping so it can accommodate buses on an everyday manner and the slightly darker line does that. And the width for the bus and its passenger drop-off is about the same width as you need for two vehicles. So we did a dual striping plan to handle these special events within the terminal that would also be used for parking, for waterfront visitor parking. It is 125 striped spaces. As a comparison, Pier 3 is 150 striped spaces and then it has valet that runs it up to about 200. And I have some other numbers that Ming can help me with but they are escaping me at the moment.

Also as part of this the Port is saying we would price it to encourage it for waterfront visitor uses and discourage commuter parking. And we do that by setting a higher hourly so that you don't get the all-day discount of this. And this keeps us truer to our public trust requirement. The waterfront uses that are within walkable distance of this facility are the Exploratorium, the Alcatraz Landing point of embarkation, which is 1.5 million visitors a year, Pier 39 is really within walking as are many of the Fisherman's Wharf destinations.

Another view of the driveway. We are also putting in place a number of measures to protect pedestrian-bicycle movement and safety overall. When our vehicles stop as they exit the driveway they do not have right-of-way crossing the promenade. It has got a vertical stop sign; it is painted on the ground. Also looking at having monitors at the driveway to direct and control traffic when necessary.

Two years ago we built the Jefferson Street project with the Department of Public Works in the City, changing that from a traffic-moving one-way street into a two-way street that shifted the street priority to be a complete street, narrowed the traffic lanes. That caused a lot of worry about congestion in the area.

We did the traffic studies there. We found that the peak points where it could be of issue occur between about July 4th and Labor Day on Saturday and Sunday afternoons. Taking that information we are applying it here and saying we will put a traffic monitor out at that driveway from June 15th to Labor Day on Saturday and Sunday afternoons, and I think it is from 12:00 to 5:00 or 1:00 to 5:00, one of those two, and for special events such as Fleet Week, 4th of July, times when traffic really does knot up on the Embarcadero.

Now I would like to shift. This is still the driveway but it is also the Beltline Building. The Beltline Building is right next door and this is where we are proposing to do public restrooms.

The current permit requires the Port to construct public restrooms in the Cruise Terminal Plaza within 11 years of its opening. The Port would receive some revenue increase from parking in the GTA area and we would use that to assist in paying off a very substantial debt service for building the Cruise Terminal. I was not kidding when I was saying the Cruise Terminal is the biggest water-dependent use project the Port has done in the last 100 years. The Port also could use funds from that for doing various public improvements along the waterfront, including these restrooms in the back of the Beltline Building.

A little plan view of that. It would be in the non-historic end of it. You would enter from the plaza side. There would be four stalls for the women, three stalls for the men, which has made half the world happy.

The Beltline is a very small building at 1700 square feet divided up into very tight spaces inside and we feel that in order to do a successful café we will be doing a patio on it. We think that that is going to help with activating the plaza and the terminal. With the patio we have pieces of public art that we anticipate coming in in this area and the restrooms; a number of measures that we think are going to make this public space even better than it is today. I look forward to your comments and action.

Chair Wasserman asked for a motion to open the public hearing.

MOTION: Commissioner Nelson moved to open the public hearing, seconded by Commissioner Scharff. The motion carried by a voice vote with no abstentions or objection.

There being no public speakers, Chair Wasserman asked for a motion to close the public hearing.

MOTION: Vice Chair Halsted moved to close the public hearing, seconded by Commissioner Pemberton. The motion carried by a voice vote with no abstentions or objections.

Commissioner Zwissler queried: Historically, what was the intention, what was the plan for all that space when it was not in use?

Mr. Hodapp answered: The Port always anticipated this would be used for parking and for other special events, a combination of things. Due to the schedule of getting the cruise terminal implemented in time to get a permit to be build it, to be ready for America's Cup, there were a couple of loose ends that did not get resolved, this might be one of them. However, it is not just for parking, it is also for other events, both in the Plaza and in the Ground Transportation Area, and we are working with the operator to look at some of those, whether it's markets or fairs.

It does not enjoy a regular schedule. It is dependent on when cruise ships call, so you couldn't do a every Friday night beer garden like they do at Fort Mason or a regular Saturday other type of market, this would be more one-off type special events. But that is part of the thinking of it, how can you do this? It enjoys pretty good enclosure between Pier 29 and the Cruise Terminal. So it's a combination of making the best use of the space and providing an amenity to the City.

Vice Chair Halsted asked: In Pier 29 do we have any idea of when something might be happening there?

Mr. Hodapp replied: No.

Vice Chair Halsted continued: I know when the cruise terminal first opened there was a bit of a problem with backup on the Embarcadero and I think that the traffic people learned to manage it. How is that being thought of in this project?

Mr. Hodapp replied: It is true when we opened it there was some backup occurring and we are still learning how the terminal operates and working it through with our operator and how they manage the facility. We do not feel we have it perfect yet, we feel it has improved greatly and it will continue to improve. And we are relying on the community to provide input on this, whether it is for special events where we had a meeting on January 8th to talk about how our good neighbor policies for special events work, but it also opens up issues as how is the traffic monitor working. Every once in a while a bus stops out front on the Embarcadero to drop off visitors for an event when they could be and should be pulling into the Ground Transportation Area, which not only has the place for them to drop off but has queueing space inside. The whole system is developed so all that stacking can occur in there. So we have got some issues and management issues and we welcome everyone's input in helping us improve this.

Vice Chair Halsted asked another detail question: Who is supervising the traffic management and the maintenance of the restrooms?

Mr. Hodapp responded: The Port would be responsible for the restrooms at this point. They would also be designed to service the use that would occupy at least the ground floor of the Beltline Building so there might be a relationship established with a future tenant there. The advantage of that is they are always on site more so than the Port. But at the moment the Port is responsible for these because we anticipate that the restrooms are going to be in place before we get any tenant going there.

Vice Chair Halsted: As you know, San Francisco Recreation and Parks Department (SFRPD) has challenges with its restrooms so I am sure that you can look to their experience.

Mr. Hodapp: And who is in charge of the traffic? The Port is ultimately responsible and we are working with Metro, our cruise terminal operator. But out on the roadway, the backups that have occurred, to the limited extent they have, the Port is the ultimate one. But we are working with Metro, who we charge with operations of that and staffing the intersection and handling it.

Chair Wasserman asked about programming: Who is in charge of programming the space? I hear you loud and clear that programming is a bit of a challenge because of the cruise ship schedules. But in terms of figuring out what might be put on there to attract people, who is in charge of that?

Mr. Hodapp stated: The cruise terminal site has a little bit of a divided responsibility depending on where you are talking about. The Port takes responsibility for programming Cruise Terminal Plaza, the park out front, the green space, and its associated plaza spaces. The BCDC permit and the public's will is we do not do any ticketed events on that. They are free and open to the public for that and we are hoping to entertain the San Francisco Symphony there this year. We are looking at it and we will see if it comes to fruition or not.

The Ground Transportation Area, we have charged Metro with operating that and scheduling of events. We work with them towards attracting that but that responsibility we have pushed over onto their contract.

Chair Wasserman commented: If the sole purpose of putting parking in the GTA were revenue I would appreciate that but be reluctant to approve it. I do not think that is so, I think that is an important piece of it. I think having parking there short-term, in an area where parking is very difficult, is a critical part of effectively attracting people to use the public access, so I applaud you for that.

I do think that encouraging Metro to think creatively about how to enliven that space, recognizing you cannot have every first Friday or something like that, but certainly there are occasions when you can have food truck events or other events, and recognizing that flash mobs seem to be a very effective way in certain circumstances of attracting people. I encourage them to do that.

I have a request related to that as to whether we could have as a part of the permit, some periodic reporting to us, formally, on the use of that space. I am not so concerned about how the parking works, that is sort of the normal monitoring, but as part of encouraging and livening the use of it, activating it. I would leave it up to staff and the Port and Metro on what makes sense but I think it would be useful to hear periodically about that.

Mr. Hodapp responded: You think like your staff does. It, in fact, is included as a permit condition that the Port encourages other events to occur within here and reports back to the Commission on progress of such actions.

Commissioner Scharff voiced some concerns: I also had some concerns about the parking. And what I read in the staff report was that you were basically doing the parking for the revenue, that's sort of the sense I got from the staff report. So if we were not to allow you to do the parking what other uses would you use? Parking seems like such a boring use and there is too much parking out on those piers. I think it is not the intent of a maritime use to put parking out on the piers. I find it difficult to wrap my head around, frankly, that we go that direction. So what else would you do with the pier? What was the original thought before parking that that was going to be used for? It's to you and also staff a little bit, what was the original intention here before we started talking about parking?

Mr. Hodapp replied: The Ground Transportation Area, its primary purpose is to service the cruise terminal industry. We needed that large of a space so that we could pull all the vehicles off of the Embarcadero and not create backups there. Provide queueing, stacking space, adequate space so that no vehicles are backed up out there. The right-turn-in, right-turn-out helps us with that. How you do that was reviewed through the Design Review Board. So its primary purpose it is there is to service the cruise terminal and the events that take place inside, that is its number one use.

Those events don't occur every day and on the days they don't we have a big open space. And the driveway is open and we are concerned with security and monitoring of that space when it is left vacant. So far it is a shiny new facility and we have had great public respect and we thank the public for that, we have not had problems.

So parking and revenue generation is a part of this but it is not the only one. It is concern about security and operations of the space and making use of this facility when we can and providing accessibility to the Port's other waterfront visitor attractions.

Commissioner Scharff had an additional question: And then the other question I had is you talked about the fence around the gangway plank. What is that going to look like? Is it going to be attractive or is it just going to be a chain link fence that seems unattractive? What's the aesthetics going to be?

Mt. Hodapp replied: Our criteria in doing this, it would be an eight-foot tall fence and our criteria is to make it as invisible as possible. The first thing we do is we don't do black, we do gray because gray kind recedes into the surrounding Bay environment much better. Think of Navy gray.

We are also doing a very open design. Chain link is one of those options for doing that but there are some other products on the market we are looking at. There is a very attractive fence enclosure system being used on the Giants parking lot site that they are currently setting up, that is an option. So we have not specified an exact product.

We also want the public to be able to see the workings of the equipment. I showed an image of all those electrical wires and connections and buttons and we are scared to death that somebody is going to touch those. But they are fascinating too, the wheel assembly, so we want it to be transparent. We don't really want the focus to be around that. We want it to be eight feet high. It is not a high level of security we are asking for. We are a little concerned about how we are going to join 54 sections together each time we open it up, it's a detail we don't have resolved yet. In one case a gray chain link is one option but we are looking at some other options as well.

Commissioner Scharff continued his inquiry: BCDC staff, will they be involved in making sure the fence is attractive or will this be left up to the applicant?

Ms. Yeung responded: There's a plan review condition so we would probably take a look at the plans when the final design is determined.

Chair Wasserman asked for the staff recommendation.

Ms. Yeung presented staff recommendations: On January 30th you were mailed a copy of the staff recommendation, which recommends that the Commission approve the major permit amendment for the Cruise Ship Terminal Project.

The staff recommendation includes a number of conditions designed to assure that the project is consistent with the San Francisco Waterfront Special Area Plan and the Commission's Bay Plan. These include conditions requiring public access signage and the posting of the cruise call schedule so that the public is aware when the Pier 27 apron is available for public access.

To address commercial parking, Special Condition II-G has been amended to include a number of monitoring and reporting requirements. The condition also requires several physical improvements at the site to minimize possible conflicts between vehicles and other users. If vehicle-pedestrian conflicts are observed the condition allows the Commission staff to require that additional measures be adopted to address these concerns.

Finally, the permit requires the public restrooms in the Beltline Building to be ADA accessible.

As conditioned, the staff believes that the project is consistent with the Commission's law and Bay Plan policies and recommend approval of the staff recommendation. If there are any further questions I am here as well.

Commissioner Nelson inquired about public access: A question about public access. Not so much about the use of the pier for parking, a couple of people have talked about that, but the potential conflicts between commercial use of the pier for parking and public access along the Embarcadero. If I am remembering the numbers in here right, this permit would potentially increase by about a factor of two the number of days a year that this facility is used for parking. So it's a big increase in the number of days in which there would be vehicles going in and out of this.

The Port talked about some of the design features that are designed to prioritize pedestrian use but this triples the number of days there would be parking going in and out of this facility. So could you just tell us a little more about the conditions that the staff is proposing that would make sure that we are avoiding and responding to any conflicts between the existing public access and this expansion and parking on the pier?

Ms. Yeung replied: So firstly, I think the Port is making sure that the parking is for short-term parking so a lot of the cars entering and exiting would probably be coming at various times of the day and not necessarily one big push or crush in the morning or in the afternoon that would occur for commuter parking. For special events, like the July 4th or Fleet Week events, we would require the Port to have a traffic monitor at the site to monitor the cars entering and exiting the GTA area. Those are some of the conditions.

Some of the physical improvements that were placed were bollards. Dan mentioned the raised sidewalk, the stop sign that was placed at the exit so that cars exiting the GTA would need to stop at the Embarcadero before crossing the Embarcadero. So those are some of the conditions that were placed.

As well we included a requirement for the Port to report back to BCDC on how the vehicle-pedestrian interface is working and to check in with us so that if we do observe additional vehicle-pedestrian conflicts that we could come up with some other measures that might be necessary to address those.

Chair Wasserman asked for input from the applicant: Has the applicant reviewed the recommendations and do you have any comments on it?

Mr. Hodapp replied: We have reviewed the staff recommendations and we are comfortable with those and willing to fulfill the condition requirements.

Chair Wasserman asked for a motion to approve the staff recommendation.

MOTION: Commissioner Wagenknecht moved approval of the staff recommendation, seconded by Commissioner Vasquez.

VOTE: The motion carried with a roll call vote of 17-0-0 with Commissioners Addiego, Bates, Gilmore, Scharff, Gorin, Pemberton, Nelson, Pine, Randolph, Sartipi, Sears, Vasquez, Techel, Wagenknecht, Zwissler, Vice Chair Halsted and Chair Wasserman voting, "YES", no "NO", votes and no abstentions.

Chair Wasserman announced: Thank you. The application is approved. Thank you for your good work.

9. Public Hearing on Amendment No. Five to BCDC Consistency Determination No. C2003.003-Department of the Army for Modernizing, Rebuilding and Maintenance Dredging, at Military Ocean Terminal Concord Pier 2. Chair Wasserman continued: That brings us to Item 9, a hearing on the proposed Consistency Determination for the Department of Army modernization of Pier 2 of the Military Ocean Terminal Concord, in Contra Costa County. Rosa Schneider will introduce the project.

Permit Analyst Rosa Schneider presented the following: On January 23rd we mailed a Summary of a Consistency Determination from the Department of the Army on the modernization and replacement of Pier 2 at the Military Ocean Terminal Concord, also known as MOTCO.

Please note that the vote for this project has been moved to February 19th as the Army has granted the Commission a 15 day extension to evaluate the Consistency Determination.

In the Bay this project would include demolishing and reconstructing Pier 2's main platform, west trestle and forklift trestle, strengthening the pier's east trestle, installing crane rails and adding container cranes, demolishing and reconstructing a pier operations building, installing a treatment device for runoff, upgrading mooring hardware, bull rails, water pipelines, sanitary sewer, fire response and lightning protection, removing underwater explosives from the 1944 Port Chicago Disaster, maintenance dredging and restoring .08 of an acre of wetlands. On land the project includes repairing and raising sections of a road, placing surcharge fill and constructing revetments for the trestle abutments, repairing an approximately 115 linear foot section of riprap, demolishing a building, expanding a paved area for shipping containers and upgrading utilities.

Because the proposed Pier 2 platform and approach trestles would be smaller than the existing facility the project would result in an overall reduction in existing coverage of the Bay by approximately 35,000 square feet. The new piles would be approximately 3700 fewer in number and would represent at least 307 cubic yards less solid fill and cover at least 876 square feet less of the Bay floor compared to the current piles.

Although the Army has characterized the project as a repair and modernization, under circumstances where a structure in the Bay that predates the Commission is being demolished and reconstructed the Commission has been advised by the Attorney General that such projects should be evaluated as new fill in the Bay.

The Army's proposal does not include a public access component.

The Army is on a tight schedule for this project and intends to commence work in 2016. As a result, the Army did not provide all of the information typically provided to staff to assess project consistency with the full set of Commission laws and policies.

At the time the staff summary was mailed, the Army had not provided staff with the Regional Board's Water Quality Certification, the results of a sediment analysis through the DMMO or a biological opinion from the U.S. Fish and Wildlife Service.

As stated in the staff summary, the proposed project has not been reviewed by your Engineering Criteria Review Board, which typically assesses safety criteria of such projects prior to your consideration.

However, on January 20th the Army provided staff with information regarding sea level rise and project design. On February 4th the Army provided staff with information on engineering and seismic stability. This morning the Army provided staff with the U.S. Fish and Wildlife Service biological opinion, which was issued yesterday. The staff is analyzing this information and today the Army will discuss this information in its presentation.

In reviewing the project the staff summary asks you to consider consistency of the project with your law and policies, specifically: (1) whether the fill would be consistent with your law regarding fill and relevant Bay Plan policies on fish, other aquatic organisms and wildlife, subtidal areas, tidal marshes and tidal flats, water quality, and safety of fills; (2) whether the project would be consistent with Bay Plan policies on climate change; (3) whether the project would be consistent with policies on Protection of the Shoreline; (4) whether the project would be consistent with policies on dredging; (5) whether the project would be consistent with law and policies on public access; and (6) whether the project would be consistent with the relevant Bay Plan Map and the policies in the San Francisco Bay Area Seaport Plan.

And with that I would like to introduce Lieutenant Colonel Tim Zetterwall, MOTCO Commander.

Lt. Col. Zetterwall addressed the Commission: My name is Lieutenant Colonel Tim Zetterwall and I am the Commander of Military Ocean Terminal Concord that is known by its acronym as MOTCO. MOTCO is one of two strategic ammunition seaports located on the west coast and with the other one located on the east coast.

As the west coast ammunition seaport, MOTCO is our nation's gateway to the Pacific. Without a west coast seaport the Department of Defense's ammunition movement capabilities would be severely limited and our nation would be totally dependent on one Army ammunition seaport to safely support our airmen, marines, sailors and soldiers throughout the world.

Since World War II, shipping ammunition through MOTCO has provided a geographic barrier and safety standoff distance from the public. Shipping ammunition through commercial seaports, like Oakland, is not a viable option, as it places the public at great risk and violates numerous explosive safety regulations.

MOTCO's mission of supporting our nation's military forces in the Pacific is as critical today as it was during World War II, the Korean War, the Vietnam Conflict and Operation Desert Storm. It is an integral part of DOD's power projection strategy to protect our national interests in peace, war or in any contingency.

To preserve this capability on the west coast the Army must rebuild Pier 2 at MOTCO. MOTCO's piers are comprised primarily of timber piles; 85 percent of which date back to 1944. The waterfront timber structures have a typical life expectancy of 25 to 50 years. Ladies and gentlemen, this year our piles are celebrating their 71st birthday.

The Pier 2 project is about modernizing the ammunition terminal to remain our nation's gateway to the Pacific. While doing so the Army is committed to working together with all regulatory agencies to follow environmental regulations and protocols and ensure future generations will be able to enjoy the beauty of the Bay Area.

At this time I would now like to introduce the Pier 2 Army Corps of Engineers Senior Project Manager, Mr. Pete Broderick as well as Mike Onines, who is the Design Architectural Engineer and Mr. Rich Dornhelm, who is the Marine Engineer; they make up the architectural, engineering and design team. And now we will walk you through a presentation that addresses the Commissions six questions about this project. Thank you.

Mr. Dornhelm presented the following: My name is Richard Dornhelm and I am an engineer with Moffat & Nichol Engineers. I would like to begin by showing some of the features of the project and focusing now on the waterfront area of MOTCO. The Pier 2 and the other center is currently non-operational due to piling conditions that were recently disclosed in a condition assessment. On the right side of the figure is Pier 3, which is undergoing repair pursuant to a recent Consistency Determination that was approved by the Commission amendment and it will function at least until the Pier 2 comes back online.

The staff report very nicely details the project in all of its aspects and I thought I would just try to highlight with some graphics so you could better visualize what we are planning to do and then to go into the six issues that were identified in the staff report as of concern to BCDC.

So in the work, in the Bay, the initial effort is to clear the site of any munitions or explosives that remain, remnants of the World War II Port Chicago Naval Magazine explosion.

We proceed with the demolition of the timber portions of Pier 2 and only the concrete East trestle and approach will remain.

With the demolition complete we will reconstruct Pier 2 out of concrete as a modernized, containerized operation facility along with a new West trestle and a forklift trestle.

And we will then upgrade and repair the East trestle to continue its function.

On land we will remove some non-functioning buildings and we will take out the existing fill approaches to the pier.

We will raise White Road, which has subsided over time due to the weak soils.

We will construct new approach ramps for the upgraded Pier 2.

There are a considerable amount of utility upgrades in order to facilitate the fire and power and water requirements of the new pier.

Zooming in on Pier 2 you can see the portion that will remain. Largely a 1960s vintage concrete structure still functional and it will be repaired and continue to function until it is time for replacement. But to the west, the demolition will remove the main platform and various timber approaches to the pier.

This is the proposed plan for the new Pier 2. Essentially there is a main platform which will be rotated at the westerly end to the north a sufficient distance, about 60 feet, in order to align with the water depths and current stream lines to correct a perennial maintenance dredging problem. Hopefully this will result in reduced or no maintenance going forward.

You can also see the west trestle. And we have identified the Port Chicago National Memorial, which is the remnants of the Pier 1 trestle. You can also picture there the east trestle, which is going to have some strengthening and repairs made in order that it continues to function. And on the land side, which is on the lowest part of the figure, you can see White Road is labeled and we will soon see the reasoning for the necessary upgrades and repair on White Road.

We have a section of the new pier which illustrates the 100 year flood level and the top of the deck, which is approximately five feet above that flood level at 13.5 feet. It is designed with modernized container handling operations in mind. It is worth noting that the gauge of the container crane is 80 feet, which is non-standard. Typically cranes are 100 foot gauge. But by managing the gauge narrower we are able to reduce the amount of fill that is required in the Bay to accommodate this specialized use. Bomb carts, so called, are used to transfer the containers from the pier onto the cranes, back to the staging areas on land.

This shows the Pier 2 and the potential flood area due to the 100 year flood. And as you can see, a portion of the flooded area in blue crosses over White Road, which because of the weak soils in the area and the long history, has subsided two to three feet. Our intention is to simply restore the original grades and bring the road in a stable form back to function and protect the staging areas for the pier onshore.

This is a shortened summary of some of the features of the project that illustrates our intention to minimize the impacts on the Bay. In summary, the deck area of the existing timber deck compared with the proposed concrete deck is reduced, at least at this 35 percent stage of design, by at least 17,000 square feet.

Also the number of pilings is reduced by approximately 3800 piles, with a commensurate reduction in the volume of Bay fill and cover of the Bay bottom.

The key words for modernization here is to change the operation from the former break bulk for which the pier was designed to containerized operation.

We are going to make the pier fully seismically compliant. We are going to comply with the sea level rise projections, and we have instituted a storm water runoff collection system that is an essential part of our modernization plan.

So now to BCDC concerns that were identified by Rosa in her report:

It is a water-dependent port use and every bit of that use is necessary to be on or over the water. We are not storing containers on fill as some ports do, this is exclusively for the reload of the containers, aboard and off ship.

We have diligently tried to reduce the amount of fill, actually, so that we are enlarging the Bay and we continue to work through value engineering analysis to see if we can make the pier coverage even less of a footprint than you see here now.

We are intent on minimizing the harmful effects to Bay water quality, fish and wildlife. This is where I have to be very careful, I am just an engineer, I don't want to get out of my lane, but we have a very competent environmental team. Kimberly Garber is the leader of the environmental team and I take orders from her, frankly, in terms of making sure that the project will accomplish that very important goal of BCDC.

I can just read the bullets if it will facilitate your understanding of how much effort has gone on in a very short time frame to present.

We have an Environmental Impact Statement underway and it should be finalized and released to the public not later than February 27.

The EIS process included quite a number of public participation meetings and federal agency consultations.

The Army truly has committed itself to best management practices and specific mitigation and compensation measures to minimize those impacts.

I know the Biological Opinion was issued for the National Marine Fisheries Service; we are building this into the design.

The U.S. Fish and Wildlife Service apparently has one in preparation or it has just been issued. As soon as we get a copy we are going to make sure that the design properly reflects all those requirements.

The California Department of Fish and Wildlife. I know you are concerned that there are listed species. The intention is to follow with the MOTCO Integrated Natural Resources Plan, which was approved by the Resources Agency, including the California department, and we are following those guidelines to be sure that the state is considered as well.

We are proceeding with water quality certification with the California Regional Board.

We have received a Conditional Concurrence because of the proximity to the Port Chicago National Memorial, from the California SHPO office about our consistency with their requirements.

And ultimately we have to go back to the Corps of Engineers to get a permit for the project under Sections 404 and 10.

Closer to my heart now in terms of engineering are Bay fill and sound safety standards.

Seismic stability is number one. We used the approach used for marine oil terminals that are issued in the MOTEMS standards that reflect generally more dangerous cargoes.

We have a two level seismic criteria and for a 50 year project we have the level to 10 percent probability will result in only minor, repairable damage.

In addition to the MOTEMS requirements for seismic stability we have the ASCE requirements, including the recently issued Seismic Design of Piers and Wharves as well as the Department of Defense Uniform Facilities Criteria. And Moffat & Nichol as a firm has participated, because of our specialization in marine facilities design, in the evolution of many of these standards. We feel comfortable we are ready to speak to the engineering criteria necessary. The project is one in which we have taken great pains to be sure those criteria are satisfied.

Soil stability. Regarding soil failure potential, we have just completed a geotechnical investigation involving nearly a dozen borings around the pier location. Slope failure will be addressed. Subsidence is being addressed by modern means to stabilize the weak soils in the area and erosion controls as necessary.

And importantly, flood protection from the 100 year flood and storm event. A risk analysis has been performed and we have identified the applicable water level.

For sea level rise we really are prepared to work with the range in the recommendations of BCDC of 17 to 35 inches, which is basically the 50 year project life, interpolated between the mid-century and the end of century values.

And then icing on the cake: To include a 2 foot freeboard allowance to reflect the kind of flood security measure that FEMA often wants to see in their flood insurance program.

Addressing climate change: As you can see we have taken our analysis of flooding risk to 8.5 feet and we have added the 2070 sea level rise, which would give us a total water level of 9.9 to 11.5 feet. We have set the pier deck elevation at 13.5 feet, a full 2 feet above the higher projected sea level rise recommendation.

Now there are crane issues and there are mooring issues. We have adjusted the sea level rise criteria always into the midrange or above for some of the other less at-risk aspects of the design. We can't lift the pier but we can adjust the crane lift height more readily. But for the pier itself we are using the high estimate.

In terms of the lower face or soffit of the pier deck, which would be at approximately the high sea level projected storm combined event, we have designed the pier deck to withstand any wetting and wave forces that it might potentially see.

Finally with respect to landside inundation: You saw the correction is simply to buy time and get the issue on White Road addressed at this time.

In terms of shoreline protection: Our revetment is designed in accordance with latest principles for proper rock size, quality and placement and only about 115 feet of revetment will be required for the new abutments. At the same time, removing the old fills and old abutments will give us a net tidal marsh increase of roughly 3600 square feet when we are done re-grading.

Dredging: At this point we measured 35 feet at the face of the pier. The contingency is to do some bed leveling dredging, if necessary, at some future time when the pier comes back online and we will conform with all regulatory agency requirements.

Public access is restricted due to national security and safety concerns.

But MOTCO will continue to allow public access to the Port Chicago National Memorial, coordinating with the Park Service and allowing maximum public use consistent with the MOTCO mission requirements.

Finally, mapping: I think we don't have to say much more than it conforms with the Seaport Plan requirements for port priority use; and the site is owned and operated by the Army.

Chair Wasserman asked for a motion to open the public hearing.

MOTION: Commissioner Nelson moved to open the public hearing, seconded by Commissioner Zwissler. The motion carried by a voice vote with no abstentions or objections.

There being no public speakers, Chair Wasserman asked for a motion to close the public hearing.

MOTION: Vice Chair Halsted moved to close the public hearing, seconded by Commissioner Nelson.

Commissioner Bates interjected with a question: Since this is going to be continued is it appropriate to close the public hearing? It is going to be continued for a vote next meeting.

Chair Wasserman replied: Obviously questions from the Commissioners on the vote, but the hearing itself is closed.

Yes, the hearing can be closed. That's a Commission decision but it is legally appropriate to close the hearing.

Commissioner Bates added: I was just wondering if there was other evidence or other things that we wanted to bring forward at that time, how you'd handle it if it was closed?

Chair Wasserman stated: The question raised was, given that we are not voting whether we wanted to close the public hearing or not, given that there may be additional information. The information can be submitted to the Commission, even if the hearing is closed and can be considered. I am saying this and Christine will correct me if I am wrong, she is not shy. The Commission can consider additional information and ask questions about it, even though the hearing is closed. And we could move to reopen the hearing.

The motion to close the public hearing carried by a voice vote with no abstentions or objections, subject to a motion to reopen at the next meeting.

We will now entertain questions from the Commission.

Commissioner Randolph had a couple of questions: Going back to the beginning of your presentation. I see there are three trestles. Presumably they all deliver access. Could you say something more about the functioning of the three trestles?

Also there was a statement early on that this new design would reduce the need for maintenance dredging. Could you say something more about that as well?

Mr. Onines responded: Mike Onines, I am the technical lead for the Army Corps of Engineers on this project.

So the three trestles: The East trestle and the West trestle allow one-way traffic when loading and unloading munitions. That's the heavy lift trestles. The bomb carts will be traversing those on and off. The third trestle, the center trestle, is a forklift and pedestrian access trestle. It also provides an opportunity to bring utilities directly across instead of routing them all the way around the wide trestles on the east and the west ends.

Commissioner Randolph repeated one of his questions: How the new design will reduce the need for maintenance dredging?

Mr. Onines replied: As we pushed the west end of the main platform into the existing scoured channel, that is naturally scoured by current, so it is currently and it will stay at essentially a 35 foot depth due to channel action and would reduce the amount of maintenance dredging required. It could still require some but it should reduce the amount needed.

Commissioner Nelson inquired about outstanding items: First is at the beginning of the staff's presentation they went through a list of items that were originally outstanding when this Consistency Determination was originally filed. Now some of those documents have arrived. I may not have this list quite right but I believe the Regional Board certification is still outstanding and the DMMO documents are still outstanding. So the first thing I just wanted to understand is to make sure we know what documents are currently outstanding and when you anticipate the Commission receiving those documents?

Ms. Schneider replied: That's correct about which documents are outstanding.

Commissioner Nelson continued: And does either staff or the applicant, do you have a sense of when those documents would arrive?

Lt. Col. Zetterwall answered: Commissioners, I am asking Kim Garber, who is our environmental compliance lead on this, to talk about that exact question.

Ms. Garber addressed the Commission: I am actually the Community Planner for USACE Headquarters and I am the Project Manager for the EIS, so I guess that makes me the environmental person today.

As far as the documents that are outstanding, you are correct about the DMMO. The dredging, if we need to do it, won't be happening until 2019, so we would be looking at probably applying for the permit in 2018.

Commissioner Nelson asked for clarification: Separate from this application, this determination?

Ms. Garber replied: Yes. And the second thing outstanding?

Commissioner Nelson asked: It was the Regional Board water quality certification.

Ms. Garber continued: Correct. It will need to be done when we are a little farther along with the design, right now we are only at 35 percent.

Commissioner Nelson inquired further: Normally, I believe, we get those certifications before the Commission acts so do you know how far down the road that's likely to be?

Ms. Garber replied: In this case we would submit it perhaps along with the other designs through the Engineering Criteria Review Board. We will submit the water quality certification when it is completed as a condition of the Consistency Determination if that is okay.

Commissioner Nelson continued: And you are proposing that you would go to the Engineering Criteria Review Board but after the Determination is issued?

Ms. Garber replied: Well that is certainly an option if that is what the Commission would like us to do.

Commissioner Nelson had an additional question: The next question, and Lieutenant Colonel this might be for you, is to ask if you can help us understand the urgency in this case. Normally some of these documents would be filed before the Commission acts, so can you help us understand the urgency here?

Ms. Garber stated: I can answer and then perhaps he can add to it. In this case the Army viewed the Consistency Determination as if it were a consultation, in a sense like a Section 7 and a Section 106 consultation. So we were advised that we had to have the consistency determination completed in order to complete the NEPA process. So that was the urgency.

Commissioner Nelson had a final question: And the last question, if I could, is about public access. I completely understand the need to exclude the public from the immediate project site but the Port Chicago National Monument is immediately adjacent to this site. So again, for staff and the applicants, I am just trying to understand whether there was any opportunity to provide offsite but immediately adjacent offsite? I don't recall if you still own that National Monument site or if that piece has transferred.

Ms. Garber replied: We do still own it but it is under the operation of the National Park Service.

Commissioner Nelson continued: So did you look at opportunities to provide improved public access? It has been some time since I have been out there, on that site.

Ms. Garber addressed the access issue: The way it works now is when the National Park Service has a request for access to the memorial they coordinate that access with us, basically. So we know when people are coming and who is coming. He would like to answer this one.

Lt. Col. Zetterwall spoke: Absolutely right because this is an active munitions terminal. When we have vessels at the berth of Pier 3 right now, which is our current pier and is currently in the status right and that's where that first project that we talked about is bridging the gap so we do not have any gaps and seams in supporting our war fighters and getting them the munitions that they need in the Pacific. So this is kind of overall strategic urgency of the project as well.

And with the Parks Department, we closely work with Superintendent Letterman and his deputy Sue Fritsche and open and close the memorial with our active vessels. So when we have a munitions arc or that explosive distance over, we do not allow the Parks Department and those public visitors. And then as soon as we are clear as a trans-load facility we immediately open that up to the Parks Department and they publish that on their website and work with the rangers and the public and bring the public on a bus with an actual ranger from the Parks Department.

Commissioner Nelson queried the Colonel about public access: I recognize the Consistency Determination process is different from the normal application process, but most of our applicants come to us and look creatively for opportunities to improve public access with their projects. Is this something that you had looked at with this project? I don't know exactly what those improvements might be.

Lt. Col. Zetterwall replied: No. At this time it is really working with the National Park Service for the access to the memorial itself. How it would stay pretty much within its consistent parameters that we have now when there is not an active mission or munitions on the terminal.

For the future when we look at this, we are an actual DOD facility, and as a DOD facility in terms of ensuring that we have the safety of maintaining from the public and any other types of acts those piers and safeguarding the piers and those assets and to ensure that they are readily available to support our war fighters and our nation's interests in the Pacific or around the world.

Commissioner Zwissler commented on the pier: I was struck by the intent of the life of the pier. With all best intentions 50 years and now, in fact, go 70; I think there's probably a number of examples of that around the country of military and other facilities.

So with that in mind and with the rising sea level issue, that I am pleased to see was addressed, I am curious whether the Department of Defense has a perspective on that or is there a policy? Or are you just addressing that based on our requirements or is this consistent with your own policies and have you thought about this issue? How does the Department of Defense address sea level rise? Because we are trying to figure out how to do it here.

Mr. Onines fielded this question: The Army Corps of Engineers has issued a set of documents that are called Unified Facilities Criteria. It's basically tri-service, Army, Navy and Air Force all agree to a set of criteria, and they include equations to calculate sea level rise. We are expected to anticipate that sea level rise when it applies to one of our installations and include that in our design considerations. So it's a similar process.

Commissioner Zwissler asked: How does it compare to what you are agreeing to here?

Mr. Onines answered: Our calculations, based on the present set of formulas, was lower; it said 24 inches would be adequate. But with the elevation that we selected it also provides to meet your criteria. If we go any higher than that we start losing operational capability because there are roll-on and roll-off ships that could be used in the port now that if we raised the deck any higher we couldn't use them until the sea level rises. (laughter) So you are trading off future ability for current capability.

Chair Wasserman commented: I, probably like I suspect a number of other Commissioners, have a whole range of questions we potentially could ask and you got some flavor of them. But I think we also very much appreciate the presentation you made and the reality underlying that.

I leave it to staff on the issue of our Engineering Review Board, but I would express the hope and the belief that if the Department of Defense thinks this is secure because of all places that should be secure, we should be able to rely on that.

If there are no other questions we have no other action at this time. We are continuing the vote until our next meeting.

Thank you very, very much for your presentation.

12. Adjournment. Upon motion by Commissioner Nelson, seconded by Commissioner Techel, the Commission meeting was adjourned at 3:06 p.m.

Respectfully submitted,

LAWRENCE J. GOLDZBAND
Executive Director

Approved, with no corrections, at the
San Francisco Bay Conservation and
Development Commission Meeting
of March 19, 2015.

R. ZACHARY WASSERMAN, Chair