

San Francisco Bay Conservation and Development Commission

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September 29, 2017

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 September 7, 2017 Commission Meeting

1. **Call to Order.** The meeting was called to order by Chair Wasserman at the Bay Area Metro Center, 375 Beale Street, Board Room, First Floor, San Francisco, California at 1:05 p.m.

2. **Roll Call.** Present were: Chair Wasserman, Vice Chair Halsted, Commissioners Addiego, Butt, Chan (represented by Alternate Gilmore), Cortese (represented by Alternate Scharff), Jahns (represented by Alternate Eckerle), Gibbs, Gioia, Gorin, Lucchesi (represented by Alternate Pemberton), McGrath, Nelson, Peskin, Pine, Ranchod, Sartipi (represented by Alternate McElhinney), Sears, Showalter, Sperring (represented by Alternate Vasquez), Techel, Wagenknecht and Ziegler (represented by Alternate Brush).

Chair Wasserman announced that a quorum was present.

Not present were Commissioners: Department of Finance (Finn), Governor (Randolph, Zwissler) and U.S. Army Corps of Engineers (Hicks).

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

Mr. Peter Grislowe addressed the Commission: I am the general manager at Boulevard Restaurant and a member of the Stewart Street and Embarcadero Hospitality Association.

I would like to thank BCDC for the excellent work that they have done over the years.

I am here today on behalf of the neighborhood in the Embarcadero and Stewart Street area at the foot of Mission. This is in regards to the WETA project which is going on for the ferry expansion.

We are 100 percent behind this and it is going to be outstanding for the entire Bay Area as well as the local merchants down there and all of the visitors that come down.

We have been conversing with WETA on this project trying to get them to facilitate what has been the BCDC goal over the years which has been access.

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State of California | Edmund G. Brown, Jr. — Governor



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We have requested that WETA facilitate a different measure than the current fencing with plastic lining that they have implemented on the project site. This cuts off the view of the Bay and is unattractive. We have been getting stonewalled on this.

We are asking for assistance from BCDC in this regard.

Regulatory Director Brad McCrea spoke: Commissioner, Peter and I spoke this morning and discussed the BCDC permit and the ability to enforce or not; in this case, perhaps we will discuss with WETA the use of these specific materials and the Port staff to see what we could do to remedy the visual blockage that is occurring because of the safety material around the chain-link fence around the construction site.

Commissioner Peskin was recognized: I wanted to thank Brad for responding very quickly. I spoke with our executive director and am happy to work with BCDC staff and the San Francisco Port staff and use the bully pulpit if necessary to effectuate the desired view changes.

Chair Wasserman moved to Approval of the Minutes.

4. **Approval of Minutes of the July 20, 2017 Meeting.** Chair Wasserman asked for a motion and a second to adopt the minutes of July 20, 2017.

MOTION: Commissioner McGrath moved approval of the Minutes, seconded by Commissioner Scharff.

VOTE: The motion carried with a vote of 18-0-3 with Commissioners Addiego, Butt, Gilmore, Scharff, Gioia, Eckerle, Pemberton, McGrath, Nelson, Peskin, Pine, McElhinney, Sears, Showalter, Vasquez, Techel, Wagenknecht, Ziegler, Vice Chair Halsted and Chair Wasserman voting, "YES", no "NO", and Commissioners Peskin, Eckerle and Gorin abstaining.

5. **Report of the Chair.** Chair Wasserman reported on the following:

a. There is no clear connection in the scientific community between Hurricane Harvey or now, Irma, and climate change. There are some speculations and theories that the warming of the seas related to climate change has contributed to the increase of the severity of Harvey.

The critical lesson and message is that we are going to suffer in this country and throughout the world from more water over the next 5, 10, 15, 20, 25 years and nothing we can do will stop the water.

What we need to do is; as actively and aggressively as possible learn how to, and then implement, adaptation.

There are some who would also argue for better urban planning than may have been carried out in Houston. That is an important piece even of adaptation in terms of future urban planning as we deal with on some of our projects.

I hope that we will be able to take reasonable advantage of these disasters to persuade our legislators in California that we need more money for adaptation. We need more resources. We need them as soon as we can get them. Our staff is working very hard with the Legislature.

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It may well be in the coming months and throughout next year that we will need to enlist a number of you up here and your peers in that effort.

Unless we can get more resources for our adaptation planning and implementation we are going to be inundated in ways that we are not prepared for and for which we will suffer very badly.

Our executive director asked our very wise, younger GPS people to look at what happened last January here when we had a seven foot king tide and two days later had a large storm that dropped three inches and caused a 10 inch extreme tide event; what would have happened if that had happened at the same time?

This is looking at parts of Alameda and showing what would have happened if they had happened at the same time. That was 23 inches or would have been 23 inches which is what has recently been projected at one of our workshops for what total water levels will be by 2050.

While it is not quite today, it could be; and it will most certainly be tomorrow. Please do take a look at this when we get it on the website. We are going to use it in dealing with resources and the Legislature.

b. **New Commissioners.** I would like to congratulate Claire Jahns who is now the Commissioner representing the state Resources Agency and welcome Jenn Eckerle as her alternate. Jenn served some years ago on the Commission staff in the Regulatory unit.

c. **Marc Holmes retirement.** I would also like to congratulate Marc Holmes of the Bay Institute—and formerly of Save the Bay Association—on his retirement and thank him for all that he has done over the long term of his career.

d. **Enforcement Committee report.** I would request Commissioner Scharff to briefly report on the Enforcement Committee meeting held this morning.

Commissioner Scharff reported the following: We had two items on the Enforcement Committee where we had a hearing and vote on the recommended enforcement decision. The first item we went ahead and approved the settlement agreement that had been done. On the second item we had a hearing and it was a long hearing and we came to a decision.

We came to an agreement where they worked out what the stipulated enforcement decision would be. There was no real agreement on the penalties. We imposed the maximum penalty but we said that if you actually get it done according to the timeframe that is set forth in the enforcement decision then 50 percent of it will be waved.

We thought that was fair and we are dealing with the homeowners association and we believe that this is a good resolution of that issue.

e. **Oil Companies lawsuit.** Next, I would request Commissioners Pine and Sears to briefly discuss the Marin and San Mateo counties' lawsuit against the oil industry.

Commissioner Pine commented: I'm sure you saw the press reports from the middle of July where the County of San Mateo and the County of Marin and the city of Imperial Beach filed a lawsuit against 20 fossil fuel companies. This is a groundbreaking piece of litigation.

These 20 companies have been responsible for 20 percent of the greenhouse gas emissions between 1965 and 2015.

This 50 year period is important for a couple of reasons. First, it is interesting that 75 percent of the historic greenhouse gases were emitted in this 50 year period starting in 1965. In 1965 Lyndon Johnson convened a scientific advisory committee that reported that unabated CO2 emissions would, by the year 2000, alter the climate.

The other bookmark is 2015, the Paris Agreement. We have asserted a series of common law claims against these fossil fuel companies such as public and private nuisance, strict liability for failure to warn and for design defects and negligence. When you peel away the formal causes of action what is at the base of this is that these companies knew that climate change was occurring. They knew that their products were causing it; they then lied about it. They then paid other people to lie about it and they set back our efforts to reduce carbon emissions by decades.

And their actions have already had impacts and we have started to see those specifically in the form of sea level rise which is of particular interest to Marin and San Mateo because they are particularly vulnerable.

The case is filed and there is a motion by the defendants to move it from state superior court to the federal court.

Commissioner Sears commented: I note that there is a total of 37 defendants. It is 20 companies but when you add in their affiliates it is 37.

It is truly a groundbreaking lawsuit. It is groundbreaking for a couple of reasons. One, the current science really permits us through a cumulative carbon analysis to attribute amounts of greenhouse gases that were created by each of these companies individually through the products that they sold.

This isn't just a generalized assumption or belief that these companies did something that was negative or detrimental to the environment; we really have the scientific basis to show how much each company – how many greenhouse gases they put in the air, what was the impact of those greenhouse gases on our environment.

San Mateo and Marin have the privilege, the honor of being number one and number two in terms of the impact of sea level rise for counties around the Bay Area. For both of our counties thinking about this lawsuit and the reason to do it and the foundation to do it came out of the sea level rise vulnerability assessments that each of our counties have done.

And so we really have a very specific sense of the impact of sea level rise that we are already experiencing and what we anticipate experiencing in the future.

This complaint is 100 pages long and we each have separate lawsuits because of the differences in each of our counties. It is a fascinating read because of the story – both about the science and about climate change but about what these companies knew and when they knew it.

Not surprisingly, all of these companies had very good scientists and experts who were advising them from early on starting in 1965.

I want to give you an example of one of the things that their own experts were telling them. This is in October of 1979. An Exxon internal study found that, quote, “The present trend of fossil fuel consumption will cause dramatic environmental effects before the year 2050.” And quote, “The potential problem is great and urgent.” This is what they knew in 1979.

A number of these companies based on what their own experts were telling them were making revisions to their own facilities so that their own infrastructure was safe from the anticipated impacts of sea level rise.

Now, did they share any of that with any of us, with any regulators, with the public? No. They acted kind of like the tobacco industry and they spent millions and millions of dollars on a public campaign to create doubt and uncertainty about climate change.

And I will give you a couple of examples there of the sort of advertisements that these folks paid for and ran. One of them read, the most serious problem with catastrophic global warming is – it may not be true. And another one read, who told you the Earth was warming – Chicken Little?

Now you compare this campaign to what their experts were telling them and it’s hard not to feel outraged. What our complaint is really looking for is the damages from the impacts of these companies through the products that they manufactured and sold have had on our environment and specifically on our counties.

We hope we can catch your support. We are going to be in for an exciting ride.

Commissioner Pine added: To echo what Commissioner Sears said, I would urge everyone to read the complaint because it is an incredible story and timeline of the fraudulent activities that they engaged in.

It is available on various websites.

Commissioner Sears noted: Our counsel has a website. It is sheredling.com and it has all three of the lawsuits. You can also click through and look at the vulnerability assessments for our counties and why we feel injured.

Commissioner Gorin chimed in: Just from Sonoma County's perspective we share the Bay and the ocean front and we are looking at trying to nudge our county counsel to synthesize this and weigh in. So I am looking for support from us as well.

Chair Wasserman stated: I would like Commissioner Gorin to tell us how climate change was discussed at the recent meeting of the National Association of Counties.

Commissioner Gorin continued: I did attend the NACO annual meeting in Columbus, Ohio. They have been doing some pretty amazing things. I participated with Commissioner Gioia as well.

I have been appointed to the Energy Environment and Land Use Committee and it was my first NACO meeting looking at the broad spectrum of philosophies in talking about going through many resolutions that pass through NACO. Most of them were somewhat non-controversial. The Keystone Pipeline, yay, we still love the Keystone Pipeline apparently.

All that very broad middle; and one county commissioner said, \$60 million of property taxes – yes, we are going to love that. And someone said, yes, if it ever comes to be maybe you will.

We had competing resolutions on climate change and sea level rise. It was an interesting experience to wade through and to try to combine and make the resolutions as non-controversial as possible trying to get support. It was a sharply divided discussion. It really reaffirmed what Chair Wasserman said.

It is challenging to try to get down to the level of helping the counties understand how – you don't even have to talk about climate change, you can just say, changing weather, increased droughts, increased rainfall patterns and it was amazing to me that we broke through some of that by making it as innocuous as possible just encouraging every county to do what they wanted to do. And John could report because he serves on the board and he had a heated discussion about whether or not that was appropriate and how that moved it forward.

Interesting allies – Alaska gets it; Florida, not so much. The northern East Coast – I think they get it. And you look at where the flooding is occurring from Harvey, Irma and Katia coming forward to Mexico and the - - we all dealt with using the GIS map for potential inundation because Sonoma County was totally inundated during the rainfall. I can't even imagine the scale and the scope of what those counties had to deal with from the enormous amount of rainfall that they received from these and the lack of land use planning and the foresight that they had in trying to figure out how they are going to deal with all of this water. It is not even Bay level rise.

Our discussion not only talked about sea level rise but storm surge. And that's where people were totally clueless. They didn't understand the effect of ocean level rise but the effects of the storms. They didn't even want to go there. Again, we had to water it down and make it palatable for the counties.

So, yes, California is going to be bold. We are going to do what we need to do. I love trying to seek support for the lawsuits and we are going to show the way but as each of these natural disasters will demonstrate to the various entities whether it is hurricanes, whether it is rapid snow melt that floods all of the Mississippi and the Missouri Rivers and we've seen that before; whether it is the hurricanes, we have to forge common denominator of emergency planning, land use planning, especially as it related to FEMA and common sense emergency preparedness.

It is really important that we plan for the future. Those of you who are supervisors I would encourage you to join NACO. Go to the NACO meetings and ask to be assigned to the Energy Environment Land Use Committee because I need some more help there. Thank you so much.

Commissioner McGrath commented: In the early 80s I studied coastal engineering at that University of California that is so controversial. Hurricanes are a big deal. I remember Hugo very well. We can now see with graphic images and remote sensing the mechanics and the physics of hurricanes much better than we could.

Each one is kind of a graduate course, a little Masters of continuing education. I tried to figure out what made Harvey so serious. Not everyone knows and not so widely reported is that the water in the near shore in Texas was 2.7 to 7.2 degrees Fahrenheit warmer.

It is the warm water that is the fuel; it's the energy source and the water source. I haven't been able to find similar figures for Irma and she is arising and strengthening in the Atlantic. It also has blown up from a Category 2 to Category 5 faster than any hurricane on record.

These heat events contribute. Hurricanes are normal. Severe hurricanes are increased by the amount of energy that you put into the storm. The physics on that couldn't be clearer.

Chair Wasserman added: The new normal is not necessarily acceptable.

f. **Next BCDC Meeting.** We will not hold a Commission meeting on September 21st. Our next meeting will be October 5th in this building. We expect to:

Hold a public hearing and vote on the Enforcement Committee's recommendation regarding the Heron Bay Homeowners Association enforcement matter.

Hold a public hearing and vote on the Enforcement Committee's recommendation regarding the 558 Bridgeway Real Property LLC enforcement matter.

Hold a public hearing and vote on the East Bay Regional Park District's Albany Beach project.

Hear a briefing by the Bay Planning Coalition on boating and marinas.

g. **Ex-Parte Communications.** That brings us to ex-parte communications. At this time you may report any ex-parte communications you may have had recognizing that you need to put them in writing. (No reports were voiced)

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h. **Executive Director's Report.** Larry Goldzband will now present the Executive Director's report.

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

With regard to staffing I have a lot of news. First, the disappointing stuff. Lindy Lowe, our absolutely outstanding Planning Director, will leave BCDC in a couple weeks to take on a new challenge with the Port of San Francisco where she will be in charge of the Seawall Resilience Project. Lindy took over the Planning Unit after Joe LaClair left, reinvigorated it, reorganized it, and hired some great staff to buttress whom we already had. While we shall miss her, she's promised to come back to help with the transition, including being part of the interview team for her replacement. If we are to make lemonade out of lemons, it will be a boon to BCDC to have Lindy working with one of our strongest collaborators. We'll be posting the vacancy and encouraging people to apply starting this week.

Following Lindy out the door a couple of weeks later will be Miriam Torres, who has been our lead in the area of Environmental Justice for the past couple of years and had been slated to lead the potential Bay Plan amendment process. Miriam is taking a position with the Resources Legacy Fund at which, I am sure, she and the Fund will prosper greatly. We'll miss Miriam's dedication to her job and we already have posted the position.

Finally, Greg Ogata, our super-duper Legal Secretary and all-around utility infielder, has accepted a fantastic job with Genentech in which he'll be assisting in the doctor-research-patient relationship. Greg was key to establishing the protocols for preparing the administrative record and electronic filing for each of the six formal enforcement proceedings that have occurred in the past year and the two more that are anticipated this year, among other accomplishments. We'll miss his thoughtful and anticipatory outlook a great deal and all of Genentech's stakeholders will be the better for his move.

It would be a major oversight for me not to let you know that Lindy, Miriam, and Greg each will be remunerated at their new jobs at a significantly higher level than the State allows us to pay them. Keeping staff on the State payroll will become more and more challenging absent the State approving an increase in pay scales due to geographic disparities. Thankfully, Lindy completed a reorganization of the Planning Unit that included re-classifying many of the positions to better reflect their new duties and – lucky for everybody – those new classifications do have higher pay scales. Brad is now working with his Regulatory team to determine whether and how such a re-organization could assist us there.

So, as we are about to start the fall, which to me always seems like the beginning of the most interesting part of the year, we have some fundamental challenges to overcome. It will be very hard to replace each of these very successful BCDC employees. That's not to say that it will not happen, and happen as quickly as we can make it. Although he originated the quote in far different circumstances, Michael J. Fox is fond of saying, "Nothing is impossible; 'Impossible' just takes a few more phone calls."

Now for the positive news. Because Jhon Arbelaez-Novak of our permitting staff has left us to join Caltrans – that’s not positive, but is a lead-in – we have offered his former position to Rebecca Coates-Maldoon, who previously worked at BCDC in the Planning Unit where she focused on rising sea level and was instrumental in presenting BCDC’s strategy to NOAA. Since then, she has earned an MS in Energy and Resources at UC Berkeley and also was an instructor and researcher. Prior to being a Golden Bear, Rebecca earned her undergraduate degree in Environmental Studies from UC Santa Cruz. Yes, we have another Banana Slug. Unless you have any concerns, Rebecca will start with us on September 25th.

And, despite her departure, Lindy has persuaded two superior staffers to join our Planning Unit. Shannon Fiala has accepted a position as a Coastal Program Manager. Shannon is a Wolverine, (Stood and was recognized) having earned a B.S. in Ecology from the University of Michigan and a Master’s of City Planning and a Master’s of Landscape Architecture from Cal, so she’s a very mixed up mammal. She has most recently worked as an analyst for the Coastal Commission specializing in transportation and, prior to that, at the Urban Land Institute and also for SPUR. Shannon will lead several planning projects and programs, including work on the San Francisco waterfront, the Adapting to Rising Tides program and the Bay Plan amendment on environmental justice and equity.

I’m also pleased to report that Carey Batha has accepted a position (Stood and was recognized) in our planning section as the Senior Environmental Scientist Supervisor. Carey earned her B.S. in Aquatic Biology and a Master’s of Environmental Science and Management from UCSB (go Gauchos!). Carey also has most recently worked for the Coastal Commission, specifically on the implementation of the Coastal Commission’s Sea Level Rise Policy Guidance, coordinating with local governments on Local Coastal Program updates, and has represented the Coastal Commission at a number of conferences. Carey will be leading and managing several planning projects and programs including the ART Bay Area project for BCDC and the Bay Plan amendment related to Bay fill for habitat. And, yes, Carey is a second generation BCDC Batha – Bob Batha is Carey’s uncle. Unless I hear an objection, you’ll begin to see Shannon and Carey this fall.

There is some good news today. As you were adopting your rising sea level policy recommendations last fall and working on the updated strategic plan this spring, leadership of the Bay Area Council and the Silicon Valley Leadership Group began to work with a consultant or two and spoke with a few of us about convening a permit streamlining process designed to ensure that the Bay Area can take advantage of Measure AA’s funding for large-scale habitat restoration in as short a time as possible. BCDC representatives, including yours truly, have been active participants in this process and we’ve asked the sponsors of the initiative to brief you at an upcoming meeting.

Speaking of meetings, I want to let you know that the Design Review Board has a full schedule for this fall and 2018 is also beginning to book up! So, for those of you who like previews at the movie theater, please consider the following list to be a preview for this winter and spring. It includes: Suisun City Waterfront Development; San Francisco’s Mission Rock,

India Basin, Pier 70, Alcatraz Embarkation, Potrero Power Plant, and Mission Bay Ferry Terminal projects; Encinal Terminal, Alameda Landing, Alameda Marina, and Alameda Shipways in Alameda; and San Leandro's Monarch Bay project.

I also want to let you know that BCDC staff has been participating in a year-long learning program with the Government Alliance on Race and Equity (known as GARE). GARE is a project of the Center for Social Inclusion. It includes over 25 California jurisdictions in a structured curriculum to advance conversations about race, develop and implement new policies and organize to achieve racial equity. Three members of our planning team are in the cohort with MTC and Air District staff and are actively involved in developing tools and a framework that will be used by the joint agencies.

Finally, I want to draw your attention to a few things in your packet and that we have sent you already. First is a solid article about how New York City is expanding its ferry system. We have invited WETA to brief us on the Bay Area's progress in this arena later this fall. Second, this is a stupendous article about how Louisiana is attempting to work with the Corps of Engineers. It's a great, if unsatisfying read. It concentrates on the new Chair of the House of Representatives subcommittee who questions the Corps' competence and before whom the Bay Planning Coalition has testified.

Finally, three letters of note that we'd like you to read. First is a letter that we co-wrote with the Coastal Conservancy and the Coastal Commission arguing in favor of retaining the current federal regulatory framework that enables BCDC to perform consistency determinations – you'll remember that President Trump initiated a review of federal regulatory frameworks and this is in response to that review. Second is a letter from our dredging coalition to the Coastal States Organization that collected comments nationally in response to federal legislation directing the Corps of Engineers to actively solicit their stakeholders' thoughts about how best to change its dredged material disposal policies. The letter is short and direct. Finally, we have included a copy of the letter signed by the Governors of California, Oregon, and Washington to the Trump Administration in opposition to including any new proposed oil and gas lease sales off the West Coast.

That concludes my report, Chair Wasserman, and I'm happy to answer any questions.

Chair Wasserman asked: Any questions for Executive Director Goldzband? (No questions were voiced) One item I forgot to add is, next week Resilient by Design will announce the 10 teams that have been selected to compete for the challenge and launch their efforts on choosing and refining the 10 projects throughout the Bay.

There are two critical pieces of that. One is the end result will be 10 projects which can be implemented which will advance adapting our Bay to rising sea level. The second is simply raising awareness of the issue amongst the general public as well as a broader set of elected officials and opinion makers that are represented on this dais.

7. **Consideration of Administrative Matters.** Chair Wasserman stated there were no listings on administrative matters.

8. **Commission Consideration of a Contract with Contra Costa County to Obtain County Staff Support and Expertise in the Development of a Vulnerability Assessment and Adaptation Plan for the Eastern Portion of Contra Costa County.** Chair Wasserman announced: Item 8 is consideration of a contract with Contra Costa County to obtain County staff support and expertise in developing a vulnerability assessment and adaptation plan for eastern Contra Costa County. This will further the ART Program and Adam Fullerton will make the staff recommendation.

Planning Director Lindy Lowe presented the following: Adam is on vacation. Item 8 is a contract with Contra Costa County to provide the County with \$10,000.00 in order to allow County staff to participate more fully in the Adapting to Rising Tides East Contra Costa County Project.

On June 15, 2017 the Commission approved a contract with the Delta Stewardship Council to convene and staff a shoreline adaptation planning project that includes the Contra Costa County shoreline extending from Bay Point to Discovery Bay.

The \$10,000.00 contract will allow Contra Costa County staff to support and participate in five stakeholder meetings as well as review relevant documents.

County staff will also assist BCDC with outreach to cities, special districts, communities and key stakeholders in the eastern portion of Contra Costa County and provide institutional knowledge and history.

This support will be critical to the success of the project. The staff recommends that the Commission authorize the Executive Director to execute a contract with Contra Costa County to provide up to \$10,000.00 for 18 months to the County for its staff costs to support the Commission's vulnerability assessment and adaptation planning effort in east Contra Costa County.

Commissioner Gioia commented: I want to thank you for all of your effort on the ART Project around the Bay Area and also specifically for the effort that was just concluded in much of Contra Costa County.

What is so great about this particular new effort is it is a planning effort that is actually east of the boundary of BCDC's regulatory jurisdiction. BCDC's regulatory jurisdiction ends around the Pittsburg Bay Point area and so BCDC was invited in by those jurisdictions in far-east Contra Costa County to continue the work that started in the ART Project, the adaptation planning process that went from the Contra Costa Alameda County line out to the jurisdiction line.

I know other counties, San Mateo, Marin, Alameda – this has been a county-by-county effort. It has been great and it allows us to complete this shoreline vulnerability analysis throughout the rest of the county even the area not within our jurisdiction.

It shows also how meaningful and impactful our planning work is because most of our work for Adapting to Rising Tides has been under our planning function as opposed to regulatory function and folks should note that.

MOTION: Commissioner Gioia moved approval of the staff recommendation, seconded by Vice Chair Halsted.

VOTE: The motion carried with a vote of 22-0-1 with Commissioners Addiego, Butt, Gilmore, Scharff, Gibbs, Gioia, Gorin, Eckerle, Pemberton, McGrath, Nelson, Peskin, Pine, McElhinney, Ranchod, Sears, Showalter, Vasquez, Techel, Wagenknecht, Vice Chair Halsted and Chair Wasserman voting, "YES", no "NO", votes and Commissioner Brush abstaining.

9. Commission Consideration of a Contract with AECOM to provide Hydrodynamic Analysis and Mapping to Support the Development of a Vulnerability Assessment and Adaptation Plan for the Eastern Portion of Contra Costa County. Chair Wasserman announced: Item 9 is consideration of a contract with AECOM to provide hydrodynamic analysis and mapping to support the project.

Planning Director Lindy Lowe presented the following: Item 9 is a contract for \$75,000.00 with AECOM to provide modelling and mapping support to the ART East Contra Costa County Project. The eastern portions of Solano and Contra Costa County do not currently have modelling and mapping available in order to understand the future risks from sea level rise to the shorelines.

That is a really powerful gap right now. We have no idea what is going to happen in these locations at the detail necessary to develop responses to reduce the risk. This project will be able to fill that gap and allow the eastern parts of those counties to be able to move forward.

As we begin the ART East Contra Costa Project it is critical to fill this gap in the region and doing so will provide for a comprehensive set of maps in the region that can be used to understand shoreline vulnerability.

The contract with AECOM will provide detailed shoreline mapping using the mapping approach developed in the ART Alameda County Project that includes One Map/Many Futures which the Commission has received presentations on in the past, shoreline overtopping and shoreline segments and types that make ART's detailed assessments possible.

The consultant team will adapt the approach they have used in the Bay to address the specific hydrodynamic environment of the Sacramento/San Joaquin Delta in east Contra Costa County including the challenge of combined coastal and fluvial flooding.

The products developed by AECOM will be essential for the ART East Contra Costa County Project and will inform ongoing regional efforts including the ART Bay Area Project being conducted in partnership with MTC, Caltrans and the Bay Area Regional Collaborative which will inform and update the Sustainable Communities Strategy otherwise known as Plan Bay Area in 2021 and the ART/Bay Area Sea Level Rise Analysis and Mapping Project.

Staff recommends that the Commission authorize the Executive Director to execute a contract with AECOM to provide up to \$75,000.00 over the next 12 months for consulting services in this planning effort.

Thank you for your consideration.

MOTION: Commissioner Gioia moved approval of the staff recommendation, seconded by Commissioner Showalter.

VOTE: The motion carried with a vote of 22-0-1 with Commissioners Addiego, Butt, Gilmore, Scharff, Gibbs, Gioia, Gorin, Eckerle, Pemberton, McGrath, Nelson, Peskin, Pine, McElhinney, Ranchod, Sears, Showalter, Vasquez, Techel, Wagenknecht, Vice Chair Halsted and Chair Wasserman voting, "YES", no "NO", votes and Commissioner Brush abstaining.

10. Commission Consideration of Strategic Plan Update Work Plan Contract. Chair Wasserman announced: Item 10 is consideration of a contract to prepare a work plan to implement the Strategic Plan which we have adopted. Executive Director Goldzband will make the presentation.

Executive Director Goldzband addressed the Commission: You will remember that on June 1st BCDC approved a Strategic Plan update for the next three years and as part of that adoption directed staff to ensure that a detailed work plan accompany that Strategic Plan update so that we could provide regular updates to the Commission.

In July staff issued a Request for Proposal to seek bidders for that contract. Five organizations submitted proposals. Three members of senior staff independently graded those proposals and the firm selected for the contract in a relatively close evaluation was Kearns & West which also provided the facilitation services for the Strategic Plan update.

Should the Commission approve this request for authorization which is for an amount not to exceed \$20,000.00 during the six month period to create, with staff, a work plan. Senior staff and the staff's drafting team will meet with Kearns & West within the next couple of weeks to create a timeline and framework that we will then present to you.

I should let you know that based upon your recommendation a couple of months ago the recommendation also is that the Commission authorize the Executive Director to amend the contract as necessary by revising the amount upward by no more than \$2,000.00 and/or extending the duration of the agreement by no more than two months so long as the amendment does not involve substantial changes in the services provided.

Chair Wasserman noted: In many respects this work plan and staff's carrying it out and staff's and our monitoring of it is more important than the plan itself.

MOTION: Commissioner McGrath moved approval of the staff recommendation, seconded by Commissioner Techel.

VOTE: The motion carried with a vote of 22-0-1 with Commissioners Addiego, Butt, Gilmore, Scharff, Gibbs, Gioia, Gorin, Eckerle, Pemberton, McGrath, Nelson, Peskin, Pine, McElhinney, Ranchod, Sears, Showalter, Vasquez, Techel, Wagenknecht, Vice Chair Halsted and Chair Wasserman voting, "YES", no "NO", votes and Commissioner Brush abstaining.

11. Public Hearing and Possible Vote on an Application by Hercules Development Partners, LP, for the Hercules Bayfront Creekside Apartments Project, in the City of Hercules, Contra Costa County; BCDC Permit Application No. 2017.002.00. Chair Wasserman announced: Item 11 is a public hearing and vote on an application by Hercules Development Partners for the Hercules Bayfront Creekside Apartments in Contra Costa County. Ethan Lavine will make the presentation.

Principal Permit Analyst Ethan Lavine presented the following: On August 25th you were mailed a summary of an application to construct the Hercules Creekside Apartments located in the city of Hercules, Contra Costa County within the city's waterfront district on a lot bound by Bayfront Boulevard, John Muir Parkway and the tidally influenced Refugio Creek.

The proposed project involves construction of a mixed-use development a portion of which is located within the Commission's 100-foot shoreline band jurisdiction with 172 residential units, 6200 square feet of commercial and retail space and associated public access amenities.

The project would create approximately 19,400 square feet of public access areas located primarily within the shoreline band.

The project before you today is the first phase of the larger Hercules Bayfront Project which a 42 acre master plan community that is anticipated to provide approximately 1400 residential units, 90,000 square feet of retail, 115,000 square feet of office and 134,000 square feet of residential/retail flex space.

That project involves its own larger open-space network much of which is going to fall outside of BCDC's jurisdiction.

The project is adjacent to the Refugio Creek. In 2016 the Executive Director acting on the Commission's behalf issued BCDC Permit No. 2012.024.00 to the city of Hercules to undertake restoration work at Refugio Creek, which had been channelized beginning in the early 1900s.

As part of the work the city removed a culvert which resulted in the reintroduction of tidal action farther up the Creek and it widened the Creek's flood plain restoring a more natural serpentine shape to the Creek.

As a result the Commission's jurisdiction which had previously ended at that culvert that was removed was expanded upstream and it was widened. The proposed project is located within this new area of Commission jurisdiction.

Also as part of the restoration project the city constructed a 14-foot wide Creekside Trail which runs parallel to the Creek adjacent to the project site on its southern boundary.

As proposed, this project would create approximately 19,400 square feet of public access areas and associated improvements which include approximately 45 percent of the project area within the 100-foot shoreline band.

This consists of approximately 11,400 square feet of hardscape areas including plazas and walkways and approximately 8,000 square feet of landscaped areas.

The project would provide the following main public access improvements: The existing 14-wide Creekside Trail would be widened by one foot to 15 feet wide, the project also provides a secondary six foot wide public walkway which would be constructed at the elevation of the mixed-use development, a few feet inland and several feet higher than the existing Creekside Trail.

Other public access amenities would include four public plaza areas, trail seating areas as well as other seating elements in the plazas, a public-accessible restroom, trash receptacles, bike racks, interpretive signage and a water fountain.

Much of this public access that is being proposed for the project is sited at an elevation where it is not anticipated that it would be subject to flooding, even during extreme storm events at the end of the century given projected sea level rise.

The lower-lying public access areas provided by the project are anticipated to be resilient to occasional overtopping. And in extreme events if the Creekside Trail does flood, the elevated trail would continue to function for the public.

In the future, should sea level rise require adaptation of the public access areas at the site, the applicant has identified two feasible strategies for adaptation; either through coordination with the city to raise the grade of the existing Creekside Trail or by extending the width of the elevated trail from six to ten feet so that it can accommodate a greater number of people.

However, by the end-of-century flooding risks at the project site is actually anticipated to decrease because the city of Hercules expects to undertake a project at Refugio Creek that would eliminate flooding that is being exacerbated by stormwater flows from upstream.

Issues raised by the project include: Whether the public access proposed as part of the project is the maximum feasible consistent with the project and if it is otherwise consistent with Bay Plan policies on public access including those related to sea level rise and appearance, design and scenic views.

Mr. Pat Peterson addressed the Commission: I do represent the owner and the applicant. We are here today to discuss Creekside Apartments which is the first phase of a larger and broader development.

This is a process that has been greatly enhanced by staff and I want to send out a congratulatory, thank you, to them for their assistance and helping us develop a plan that we believe meets a lot of criteria and creates a lot of very important and significant space for the public.

I would like to introduce the rest of our team members starting with the City Manager of Hercules, David Biggs.

Mr. Biggs spoke: We are excited to see this first phase move forward. On behalf of the mayor, the city council and the community we look forward to this final approval step in what has been a long-held vision for the community of Hercules.

Hercules has had a unique history in the Bay Area as a company town founded by the California Powder Works in the late 1800s to manufacture dynamite because they did not want happening in San Francisco anymore.

For a long time the only people who lived in town were 200 employees of the Powder Works. This was a historic site devoted to heavy industrial, needed to be remediated and divided the community from the Bay. The Bayfront Master Plan which was supported by our community developed the community basis many years ago before my time and qualified as an initiative and ultimately was adopted by the city council. It is finally coming to a reality with some public improvements that we have done together with this new developer who is moving forward with a mixed-use project which is also a California Catalyst Community and a priority development area.

We are looking forward to reconnecting to the Bay. Ultimately over time in addition to having a transportation hub here that will help Caltrain service and future ferry service and bus service also will eventually be re-accessing Hercules Point and that will become a recreational area for the community.

Part of this is networking with existing trails as part of our efforts here we have completed a large segment of the Bay Trail which will ultimately connect to the Bay Area Ridge Trails through our network in Hercules. We are interested in awarding a contract next week for what we call the Bay Trail West segment which will connect this site to Pinole to the south and then this project will ultimately complete that final Bay Trail through Hercules.

The level of support for this project has been very high in the community. Many areas in Hercules have been waiting for 10 to 12 years for this to materialize and reconnect the waterfront and access for transportation options.

We are very excited to be able to move the project forward. We hope the Commission will be able to support the application so we can start construction later this year.

We also look forward to future phases moving forward many of which will not be in the jurisdiction of BCDC but we are excited to play a part and restore Refugio Creek and improve our network of public trails and public access in the area.

Commissioner Vasquez had a question for the Hercules City Manager: Do you think that the use of the form-based code development really helped in coming forward and having the community buy into this whole thing?

Mr. Biggs replied: Definitely. Any community participation in the process to make sure that it conformed to what was that community-based development of the code was useful. The main focus during our design review was to make sure that we got very good quality in implementing that form-based code.

Mr. Jim Anderson addressed the Commission: I am going to expand a little bit on the plan itself. This is a drawing that was conceived about eight years ago. I have been working on this since 2004. This particular plan was also shown to your previous Chair Will Travis who after a long presentation congratulated us and said that this ought to be a poster child for the type of development that occurs in the Bay Area.

The images you see here are in the form-based code and they are indicative of the intent. It is a very traditional design and this was very important to the community.

Sustainable developments and practices have been the subject of numerous public meetings and they are actually codified in what we are working with.

Hercules Point was zoned as industrial when we first started and it is now zoned as park land.

When we started we had 90 acres of private property and some of it was underwater but that was dedicated for the proposed ferry. We have ended up with 20 acres of land that can be developed to create the density in order to make this intermodal transit center truly successful.

We have been spending a lot of time with BCDC staff in order to improve the access to the creeks and allow the BCDC goals to be accomplished.

This plan is all within the rising sea level guidelines.

Mr. John Gibbs addressed the Commission: I am with WRT Planning and Design. I have been a part of the waterfront vision for a number of years and pleased to be here to talk to you specifically about this block; the Creekside Apartments the first phase to move forward with more detailed design and construction. I want to talk us through the facts and the things on the ground and what is proposed.

You can see in this slide some of the characteristics and design elements of this apartment complex.

I want to compliment staff for working well with us in developing and designing the improved and expanded public access of this particular block of the project.

The publicly-available restrooms became a key part of the proposal to support the retail activities as well as amenities for visitors and Bay Trail users.

Vice Chair Halsted commented: One of the key elements of this whole vision is the intermodal transit, the connection to ACE, the station that is nearby and to the ferry terminal. It makes this whole project really wonderful.

Commissioner Gioia commented: I am very familiar with this project and with the invitation of the city manager I visited the site to see a number of issues. It is interesting that we are seeing projects come before us that are designed and developed to address resiliency and adaptation. I wanted to acknowledge the work of BCDC staff working with the city of Hercules and the developer to go through the different iterations of the public access to really make this project resilient.

This project is unique because it is not on the Bay but is along the creek that has tidal action in this inland area and our jurisdiction here is sort of unique.

We are seeing more and more of these infill projects which are great. It has mixed-use qualities and it is where we want development to be but it is respectful of the environment.

It is good to see this move forward and to see the consideration of resiliency in all of these projects. I will be supporting it and it is great.

Commissioner Brush inquired about wetlands: Refugio Creek notwithstanding, I am wondering about the status of delineating any wetlands on the site and whether there have been federal wetlands delineated and is there a 404 process in the mix?

Mr. Gibbs replied: The city of Hercules has been very actively engaged in wetlands delineations. As we've gone through various iterations of the project we have the delineated wetlands in the public, opens space areas; the Creek and adjacent areas.

The city of Hercules has a well-functioning network of bioremediation areas which are wetlands and we are restoring tidal influence from Pinole Creek into an area called the Chelsea Wetlands with Ducks Unlimited. One of the nice things about Hercules is the connected network of delineated wetlands and open spaces that function as an environmental remediation system.

Commissioner Nelson had questions of staff: Most of this project site is outside of our jurisdiction. When you look at the overall developable area are there other areas that will be within our jurisdiction as they are developed? And if so, should we be thinking about this public access programmatically?

Mr. Lavine answered: Yes. I think the most significant area is the block most directly to the north, which will include a Creekside Park. It is one of the envisioned public spaces in the Bayfront Plan. It continues the Creekside Trail up closer to the Bay.

Commissioner Nelson continued: I am not exactly sure what the solution is there. I am certainly not suggesting that we delay a vote. I am suggesting that we find a way to make sure we are looking at all of this public access in context. I do think that as we are looking at a site as large as this one it makes sense for us to make sure that we are looking at this public access in context and that we see how the pieces fit together and how they complement each other and if there is some way in which they don't that we see that larger context.

Mr. Lavine replied: I would make two points. One is that the BCDC staff has seen the project at a larger level when it reviewed the environmental documents and we provided comments to the city of Hercules as part of that process. Secondly, the remaining pieces that will be in BCDC jurisdiction will be subject to permits and will have to come back before you.

Commissioner Nelson had additional questions: This is an interesting complex site. There is the Creek, an existing trail and it is part of a much larger development. I am wondering if you could walk us through the staff's thinking about how this site compares with other comparable sites?

Mr. Lavine replied: That was a big focus of our review. The staff is considering the totality of the development. This is the first phase but we expect far more people living here and working here.

As part of that we did look at comparable projects. The unique condition about this project is that it has a narrow amount of public space in the shoreline band; a relatively small area.

One of the reasons is that the existing Creekside Trail is already built and this contributes to this space. The acreage is low and there are other projects that we considered that had a similar percentage of the total project area devoted to open space particularly in the shoreline band.

We also looked to some projects that had very constrained sites for one reason or another. With constrained areas the main improvements that the Commission looked to were the quality or the extra benefit of the improvements that were provided such as a finger pier or a particularly important public access amenity that is something that the Commission may not see in any other proposal.

In this project the applicant did work a lot with the staff and the Design Review Board to try to ensure the highest quality of public spaces in that relatively constrained site. Staff thinks one of the more significant elements is the public restroom which is a rare amenity.

Commissioner McGrath commented: I like the public access here. I ride through Hercules several times a year out to the Crockett and then along the shoreline trail up through Martinez and back. The prospect of having a completed Bay Trail loop that takes you out closer to the Bay is really an attractive idea.

What I would like the staff to do is to think about way finding and listing eventually so that cyclists are going to go where they are going to go and they are not necessarily going to go further unless it's a lot prettier. Once this is done in a way so you can complete the loop a way finding signage or information through the Bay Trail system will be an upgrade.

Commissioner Scharff agreed: I agree that this is a nice looking project. It seems to be an upgrade. It is really low on the percentage of total project area. What you seem to be saying is that in exchange here we get a public restroom. And that really is the big public access to offset the fact that we really have dedicated a small portion of land. Is that correct?

Mr. Lavine replied: We see the public restroom as particularly significant as a public benefit because it is an amenity that is often difficult for staff to successfully suggest to applicants that they include as part of the project because of the ongoing costs associated with it.

There are other elements that specifically came up during the review process that staff and the applicant had and resulted in the additions of most of the public plazas.

Other elements like the public's ability to access the elevated walkway and have different views and a more contemplative experience around the Creek than you might have on the more active trail. Those were all considerations as well.

Commissioner Scharff continued: I do agree that the restroom is a great amenity. How are we going to make sure that the restroom is maintained? Are there provisions that this happens? What are we thinking about in this regard?

Mr. Lavine answered: The restroom is a requirement of the project. One concern that came up was that it is going to be built as part of a retail establishment. The question was, what happens if the retail establishment goes out of business and the area is unoccupied for a certain period of time?

In that case it is the responsibility of the permittee, the owners of the site, to properly maintain that. Proper maintenance is a requirement within this permit as it is in most BCDC permits. Commissioner Scharff asked for further detail: So could you explain the ownership then? Is the apartment ownership going to be different from the retail ownership?

Mr. Lavine explained: The master owner of the site would be responsible absent a retail tenant to take care of the restroom.

Commissioner Scharff ascertained definitions: Just so I understand when you say, "the master owner of the site." Who is that? I mean, you have the apartment owner and that is separate from - -

Mr. Lavine explained: The applicant is the – it's all common ownership.

Commissioner Scharff reiterated: So it's all common ownership. The apartments are going to be owned by the same people that own the retail or not? Okay. I just wanted to make sure because I have seen the situations where we have a home builder turn it over to the HOA and then there is no follow up on the BCDC side. I wanted to make sure that there is someone that is actually going to be accountable.

I was not comfortable with a small retail tenant being the one accountable.

Mr. Lavine added: Any future changes in ownership in that portion of the ownership would require the permit to be assigned to the new owners as well. That responsibility will stay with whoever holds the permit.

Commissioner Peskin had a question: Does that mean that the applicant is not mapping the residential portions? They are all one parcel?

Applicant responded: There is no contemplation currently to map it. The contemplation is just one single ownership of 172 apartments plus related retail.

Commissioner Gilmore was recognized: In the event of a sale of the property how do we make sure that the prospective owner is aware of the BCDC conditions because we just ran into this?

Mr. Lavine explained: The requirements of the BCDC permit will be recorded on the deed. That is the main way in which they will be notified. It is the responsibility of the existing permittee to assign the permit to the new owners alerting BCDC staff that there is a change of ownership and allowing us to continue to work with the new owners.

Commissioner Nelson had a follow-up question: I have a follow-up question about public access and how it fits into the larger context. I noticed something while we were going through this discussion. When I look at Table 2 on page 14 of the staff summary I noticed something that on second glance that I had not on the first. And that is, if you look at the fourth column that shows public access as a percentage of the total project area there are two projects that have significantly more access than this one and the others listed in those columns.

I noticed that both of those projects are older projects; one from 2003 and one from 1987. The other projects that have less access are newer projects.

I just want to make sure that we are not finding ourselves on a slippery slope where over time we are slowly requiring less access. I suspect that the answer to that to a certain extent relates to my previous question about the larger context – there is a contemplated park, there is the Creek and the existing public access area; so, I would urge the staff to think about, at some point, bringing this back to us in a way that allows us to see all this access in a larger context.

Mr. Lavine replied: And we can do that, yes.

Chair Wasserman commented: I am going to make a comment, a question and request. I don't think maximum feasible public access is measured purely in square footage or even percentages. One of the problems in the past is that we have had some large spaces with nothing to attract the public there and they remain empty.

Here, it appears to me, the proof is in the implementation that you've got a very attractive public space and, with the retail recognizing it is small, some motivation to utilize that.

I think this in the drawing is terrific. When is construction on Phase 1 due to be completed?

The applicant replied: That in part depends upon our permitting process. (Laughter) If all goes well, we hope to be breaking ground sometime late fall, early winter and it would be an 18 month construction process; so let's say, roughly two years from today.

Chair Wasserman continued: So one of my requests which is related to Commissioner Nelson's is that staff calendar, recognizing it's a ways away, not in the two years to construct or a little bit more, but, some period after that, at least six months but maybe not much more than that; to come back to give us a report on how it is working.

So it is not simply what the other elements are which we do want to see but it's how this is working; partly, as a double check – is it working? And partly as a model that we can see that then becomes a benchmark for other areas.

The public hearing is now open. (Laughter) We have no speakers so I would entertain a motion to close the public hearing.

MOTION: Commissioner Peskin moved to close the public hearing, seconded by Commissioner Vasquez.

Chair Wasserman asked: Any additional questions? (No questions were voiced)

Mr. Lavine presented the staff recommendation to the Commission: On September 1st you were mailed a copy of the staff report recommending the Commission authorize the proposed project as conditioned. As conditioned the staff believes the project is consistent with your law and Bay Plan policies regarding public access.

And with that we recommend that you adopt the recommendation.

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

VOTE: The motion carried with a vote of 22-0-0 with Commissioners Addiego, Butt, Gilmore, Scharff, Gibbs, Gioia, Gorin, Eckerle, Pemberton, McGrath, Nelson, Peskin, Pine, McElhinney, Ranchod, Sears, Showalter, Vasquez, Techel, Wagenknecht, Vice Chair Halsted and Chair Wasserman voting, "YES", no "NO", votes and abstentions.

12. Public Hearing and Possible Vote on an Application by California Department of Fish and Wildlife and Solano County for Tidal Restoration of Hill Slough Wildlife Area Managed Wetlands Located along Grizzly Island Road, in the Primary Management Area of the Suisun Marsh, Solano County; BCDC Permit Application No. 2017.003.00md. Chair Wasserman announced: Item 12 is a hearing and possible vote on an application by the California Department of Fish and Wildlife and Solano County for tidal restoration of Hill Slough Wildlife Area Managed Wetlands in the Suisun Marsh, Solano County.

Pascale Soumoy will make the recommendation.

Sediment Program Analyst Soumoy presented the following: I am here to introduce to you the Hill Slough Wildlife Area Restoration Project and its proponents the California Department of Fish and Wildlife and Solano County Resource Management Department.

On August 25th you were mailed a summary of an application to restore Hill Slough Wildlife Area Managed Wetlands into tidal wetland and transitional habitat.

Hill Slough Wildlife area is located in the northwest region of the Suisun Marsh. It is bordered by Suisun Slough, Hill Slough and McCoy Creek all of which are within the Suisun Marsh Primary Management Area.

The project proposes to restore 850 acres of managed wetlands to tidal marsh by breaching and lowering levees to reconnect the adjacent sloughs and the creek. The project's main goal is to restore 640 acres of the site to tidal marsh, create and enhance 192 acres of transitional habitat for listed species, minimize mosquito breeding habitat, provide new public access to the Hill Slough Wildlife Area and protect and improve a section of Grizzly Island Road.

This project raises the following primary issues: Whether the project is consistent with the McAteer-Petris Act, Suisun Marsh Preservation Act, the S.F. Bay Plan and Suisun Marsh Protection Plan's, policies on fill and managed wetlands, the natural resource policies such as those regarding the tidal marshes and flats, fish and wildlife and water quality, the climate change policies and if the project provided maximum feasible public access.

The restoration project would impact the eight managed wetland ponds that make up the project site and approximately one mile of Grizzly Island Road as it bisects the site as it would be subject to waters on both sides after the project is complete.

The project's public access includes a nearly two-mile long levee trail around a pond in the eastern side of the site which also connects to an existing regional trail to the north of the site and two dedicated Class II bike lanes along the new one-mile section of Grizzly Island Road.

The project has been designed to be resilient to sea level rise to mid-century. Grizzly Island Road and an internal levee with a public access trail would both be raised in order to protect the road, the trails and the two ponds being maintained as managed wetlands and listed-species habitat.

The public access features have been designed and will be built to withstand periodic overtopping that may occur in storm events or king tides.

Once the project is complete Solano County will be responsible for the management and maintenance of Grizzly Island Road and California Department of Fish and Wildlife will continue to manage and maintain the Hill Slough Wildlife Area as a tidal wetland and transitional upland habitat and also maintain the public access and utility berms.

Here to present the details for the project are Ms. Sarah Estrella, environmental scientist and Mr. Greg Martinelli, Wildlife Land and the Project Manager both for the California Department of Fish and Wildlife and Mr. Nathan Newell, the senior engineer with the Solano County Resources Management Department.

Ms. Estrella addressed the Commission: My name is Sarah Estrella I am a wildlife biologist with the state Department of Fish and Wildlife and I am also the project manager. This project has been in the works for a couple of decades. We started planning it in the 90s and it is at our Hill Slough Wildlife Area that the Department owns.

The purposes of this project are to restore a natural Hydrologic processes and recover listed plants and animals, increase Suisun Marsh's ability to adapt to sea level rise, provide public access adjacent to the city of Suisun City, enhance managed wetland habitats, restore connectivity between habitats and it has been designated by Governor Brown as a project to offset drought impacts and provide listed fish habitat.

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The project is on the very northern edge of Suisun Marsh. It is just south of Suisun City. Right now the entire project site is surrounded by tidal marsh. This is managed marsh consisting of eight ponds and it comprises about the western half of the Hill Slough Wildlife Area.

To the east is the eastern half of the approximately 1700 acre wildlife area that is already tidal.

To the south is a little more tidal marsh and then Rush Ranch which is owned by Solano Land Trust is also south of there.

And then to the west, just south of the older part of Suisun City is Peytonia Slough Ecological Reserve also owned by the state Fish and Wildlife and is also a tidal marsh.

What really stands out about this project site is it kind of disconnects all of those tidal marshes from one another and there are so many imperiled species there that live in these tidal marshes because so many marshes around the Bay have been lost.

It ends up fragmenting those marshes and we have four federally endangered species in the marshes surrounding the project site. We have many more sensitive species that inhabit those tidal marshes in the area. So this would connect that whole area.

So the basic project design involves a number of elements. First, since Grizzly Island Road runs down directly bisecting the project site; that would first need to be raised because it has some low-lying areas that now flood during storms and other high-water events.

We are proposing to add two miles of public access trails. The northern most point would connect up with a trail that is owned by Suisun City and that trail also runs along Highway 12.

We are proposing to breach all the levees on six out of eight of the ponds but we will preserve the levees on Ponds 4 and 4A.

Another item is that there are three PG&E towers and transmission lines that run through Pond 2. We spent about a year working out a good design that PG&E is happy with. That is to create a berm that is drivable and goes out to the middle tower for access. There is also going to be a little short berm beyond that just to prevent any possible boats from accessing or going under the lines where the lines are a little bit lower.

We would breach levees on six of the ponds and some of those levees would also be lowered at the same time. And then we would raise up the levees that prevent the tidal flow from getting into where Ponds 4 and 4A are.

We will do a little bit of habitat work, some contouring of the land to take advantage of some of the topography out there.

We would expect to preserve and enhance the 192 acres of mixed wetland complex that is in Pond 4 and 4A. It would be enhanced by doing a little bit of grading through the habitat and then also the water-control structures that are there also need to be replaced.

We are expecting to create about 640 acres of tidal marsh and we are going to struggle because we are already losing sediment and losing marshes in chunks of the Bay and the Estuary. The fact that this is an area that has high sedimentation rates, the potential for bioaccumulation as we rebuild our ground elevation with growing marsh plants makes these kinds of projects around the Bay important over time as we inevitably lose some of our existing habitats so this is a really important kind of project for us to look for.

Commissioner McGrath had a funding question: I noticed that you have a pretty robust monitoring plan. This is a big site with a lot of changes in hydrology. How do you get the money for any corrective actions that you might need to take?

Mr. Greg Martinelli replied: It is all based on our funding at the Department of Fish and Wildlife. We do have some funding available for the site for management. If it needs a huge change then that is money that we would have to find; possibly bond money or other money. We would have to go looking for it. There is no pot of money set aside for management of the site or monitoring of the site.

There is some management money based on what we currently have but there is no specific pot of money that we get for monitoring or management later on.

Commissioner McGrath noted: I think it is pretty low risk but no restoration project that I've been involved with came out exactly as anticipated.

Mr. Martinelli agreed: They never do but they usually correct themselves without us helping them a lot of times. They usually correct themselves. Realistically, if we don't do anything that road will be flooded most of the time.

Commissioner Showalter commented: I am really pleased to see this project come forward. It is amazingly well thought out. One of the things that I wanted to talk about was the mercury issue.

You bring up the problems of mercury which are really widespread in the Bay. In the South Bay it is of particular issue. One of the things that we have learned is that the best thing we can do to improve the mercury methylation situation is to make sure that the water keeps moving so the dissolved oxygen is kept low because when it goes anaerobic that is when it gets really bad. So making it tidal is the best thing you can do.

The other thing that falls into the category of the best things we can do are getting the natural sediment to come in to cover the historical contaminated sediments and cap them naturally. The sooner you can get that water flowing in and out and get those sedimentation rates going up the better off we will all be. Thanks for bringing this to us.

Chair Wasserman announced: We will now open the public hearing on this matter. We have no cards for speakers.

MOTION: Commissioner Scharff moved to close the public hearing, seconded by Commissioner McGrath.

Ms. Soumoy presented the staff recommendation: The staff recommends that the Commission approve BCDC Permit No. 2017.003.00md to authorize the proposed project. The staff recommendation contains special conditions that require the permittee to implement a variety of measures to

-0-1 with Commissioners Addiego, Butt, Gilmore, Scharff, Gibbs, Gioia, Gorin, Eckerle, McGrath, Nelson, Peskin, Pine, McElhinney, Ranchod, Sears, Showalter, Vasquez, Vice Chair Halsted and Chair Wasserman voting, "YES", no "NO", votes and Commissioner Brush abstaining.

13. Public Hearing and Possible Vote on an Application by the Port of San Francisco for Construction Crane Cove Park at Pier 70, in the City and County of San Francisco; BCDC Permit Application No. 2016.006.00. Chair Wasserman announced: Item 13 is a public hearing on an application by the City and County of San Francisco to construct Crane Cove Park at Pier 70. Erik Buehmann will introduce the project.

Principal Permit Analyst Buehmann addressed the Commission: On August 25th you were mailed a summary on an application for the Port of San Francisco to construct Crane Cove Park at Pier 70 in the City and County of San Francisco.

This item was originally agendized for a hearing and possible vote but the Port has requested we postpone a vote on the project until October so that the Port and Commission staff have more time to collaborate on the language of the recommendation.

The proposed project involves the development of an eight-acre public park at a former industrial site, the Port of San Francisco within the Commission's jurisdiction and the 100-foot shoreline band. The park would occupy approximately 2.5 acres.

The approximately 800-foot long shoreline at the project site is comprised mainly of debris, deteriorated seawalls, discarded concrete, metal, asphalt and a majority of the site is not accessible to the public.

The Port would reconstruct the existing shoreline excavating debris and placing fill primarily to construct a sandy beach. The beach would provide access to the public for hand-launched boats, wading and sun bathing.

The beach would be supported by rip-rap on the north and south ends to protect it from erosion and to stabilize the shoreline.

Security buoys would be placed near the adjacent dry dock to protect the public while they use the beach.

A study commissioned by the Port and approved by the Water Board determined the contaminants were located in the mud at the Bay bottom derived from the site's historic use as an industrial facility. This makes contact with the hazardous for the public who would use the beach.

To ensure safe use of the beach the Port proposes to install a contamination cap comprised of rock and gravel at the Bay bottom.

In the Bay the Port would remove approximately 4,500 cubic yards of solid fill consisting of debris over an 8,500 square foot area.

The Port would place approximately 4,450 cubic yards of fill over an approximately 22,515 square foot area to create a sandy beach, rip-rap and contamination cap. The volume of fill placed would be less than the volume of fill removed from the Bay by about 45 cubic yards.

The fill would be spread over an area at the bottom of the Bay to create a beach and contamination cap. The shoreline would be pulled back in the shoreline band and the water surface area of the Bay would be expanded by 7,398 square feet.

The fill to remediate contaminants at the bottom of the Bay would provide habitat benefits. The existing Bay muds are contaminated and according to NOAA Fisheries and the Water Board the contamination affects the benthic species that are consumed by fish.

Once the contamination cap is put in place benthic species will re-establish and will not be subject to contamination.

In the shoreline band the proposed project would result in the creation of a new public park at the site including a new 15 to 18-foot wide Bay Trail segment, a public access beach, an open public lawn and public plazas.

Industrial facilities such as Slipway 4 and a 115-foot tall crane would be repurposed for public access.

Within defined public access areas located in the Bay and in the 100-foot shoreline band throughout the proposed Crane Cove Park the Port would also conduct limited special events, i.e. free public events, ticketed public events and private events during specific days and times throughout the calendar year.

The park is designed to be resilient to a projection of 22 inches of sea level rise making it resilient to approximately 2065.

After 2065 as sea levels rise and storms occur additional maintenance and access restrictions would be necessary along the shoreline. As proposed the park would experience some flooding during a 100 year storm event today.

As sea levels rise storm events would flood greater and greater areas of the park.

Relevant to the project, Climate Change Policy 7 states, that until a regional sea level rise strategy is completed that the Commission should evaluate each project proposed in vulnerable areas on a case-by-case basis to determine the project's public benefits, resilience to flooding and capacity to adapt.

The Policy lists several types of projects including a public park that should be encouraged if the regional benefits of the project and the advancement of regional goals by the project outweigh the risk of flooding.

The staff summary lists the issues raised by the project and in particular whether the proposed fill for the project is consistent with the McAteer-Petris Act and Bay Plan policies on fill and natural resources and whether the project provides maximum feasible public access consistent with the project.

I want to make one clarification on the summary. On page 4, Item 6 of the project description, the Port is proposing public events and public ticketed events in specific areas in the shoreline band but it is also proposing private events. Those are the events that generally are not open to the public like a wedding.

Here to present the project is David Beaupre. Senior Waterfront Planner Beaupre addressed the Commission: I am with the Port of San Francisco and I am joined here today by Diane Oshima, Deputy Director of Planning and Environment and Carol Bach, Assistant Deputy Director of Planning and Environment.

We are pleased to be here today to present the proposed Crane Cove Park. It is one of the largest investments the Port has made in a public open space in our history and we believe we have developed a design that will benefit the Bay, the community and all user groups.

The site is located in the City's central waterfront generally located east of Illinois Street bounded by Mariposa Street on the north or just behind the Ramp Restaurant and 19th Street and the new 19th Street extension that will go to the east and the Bay and the ship repair facilities on the east.

Crane Cove Park is the eight acres on the north side of the park, north side of the site. We also have three other active projects going on including the Pier 70 Special Use District. We have Orton Development partnering with us on the historic core. We have the ship repair operations at Pier 70 which is the longest continually operating civilian shipyard in the U.S.

Each of these projects are being coordinated and Crane Cove Park is the capstone project to help bring activity to the site.

Crane Cove Park is also part of the Port and the City's Blue/Greenway Project which is to complete the Bay Trail and Bay Area water trails from Mission Creek to the county line. The port has taken a leadership role in developing the Blue/Greenway plan. Crane Cove Park will be its biggest investment but other recent investments include improvements to Bayview Gateway, a cycle track and Cargo Way. Other improvements include expansion of the Mission Rock Project, Bayfront Park and Mission Bay.

We looked at all of the future and existing opens spaces and looked at their programs of uses and in the design and programming of Crane Cove Park wanted to make certain that we complemented the existing uses, filled gaps of programs of uses that weren't being met by the community and integrated the programming along with the other various open spaces along the waterfront.

Some of the shoreline conditions are where it is engineered fill to support ship repair, non-engineered fill that was industrial dump and then some small areas of concrete fill that were used to support small craft construction.

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The slipway is being adaptively reused as a part of the park program. Crane 30 will be a part of the pathway and a part of the plaza.

The concrete structure behind the Ramp Restaurant will be removed to create a pocket beach for human-powered boating and public access to the beach.

We have done outreach with stakeholders since 2012. We have had over 90 public meetings to get to the point where we are at of constructing the park. We have had five review sessions with the DRB and the Waterfront Design Advisory Committee.

Illinois Street as it moves south elevates away from the south so we're bringing the park site up to Illinois Street so the public can access it easier. This also helps us deal with the remediation issues and sea level rise.

We have Building 49 programmed for public restrooms and an aquatic center for human-powered boats and a café. The northern lawn area includes a playground.

A lot of the materials we are using are recycled artifacts from the shipbuilding including the retaining walls.

We have artifacts that we have collected that will help the story of Pier 70 and the story of shipbuilding and how the facility operated.

We have a design life of the park of 2065 where the park design will accommodate sea level rise at that point. We recognize that under severe storm situations just beyond 2065 the park may need some extra maintenance and TLC but the design of the park takes into accommodation the need for capping the site, bringing the site up to Illinois Street and providing flat and direct access for people wanting to visit the site from the land side.

Our total budget for the project is approximately \$32.3 million, which is a combination of Port capital, City general obligation bonds, grants and other funding sources we have been able to cobble together.

The delivery of this open space is coming with no associated development. It is a project that we think is the best thing for the community and the Port. We would like to pursue entering into some form of MOU to receive a bank of public access mitigation bank so that future projects that come along that may not have appropriate places or locations for public access can use that bank to fulfill the requirement and also we think that it might help with utilizing staff resources.

The other issue is the ability to do special events and to have that authorized in the permit into perpetuity with the acknowledgement that we would review it and in five years if there was a need to amend the permit to address any concerns about maximum feasible access we could do that but not have it sunset after five years and have to renegotiate.

I wanted to thank all the BCDC staff that has assisted us in this endeavor. I am available for questions, thank you.

Chair Wasserman announced: I am going to open the public hearing on this matter. We have three speakers.

Mr. Beau Barns addressed the Commission: I am the co-founder and board member of Bay Access. We did this about 15 years ago and we wrote the legislation for the San Francisco Bay Water Trail and we handed it off to BCDC. And BCDC gave it to Coastal Conservancy and then ABAG took it over; yay for that.

I am also the president of Kayaks Unlimited a totally volunteer kayak club. We wanted to be the model for the Bay Water Trail.

I am also a co-founder of California's biggest kayak club, BASK, Bay Area Sea Kayakers. There are about 500 of those guys.

I went to a whole bunch of meetings that the Port put out for community input for this project. It moved in really nice ways. The kayakers have always wanted this because it is very protected and you can paddle out of there any time of the year.

This is a very safe place to do boating and we are fully supportive of that. Thank you.

Mr. Larry Beard was recognized: I am also a member of Kayaks Unlimited and I participated in the planning of this park particularly the access for human-powered boaters.

San Francisco is pursuing a transit-first policy. Unfortunately MUNI does not provide racks for kayaks on their buses and so the ability to store boats at this location, a very safe place to paddle, is a real boon to the paddling community in the area.

The Port has put an enormous amount of time, energy and effort into this plan. I have been paddling in this area for 30 years now and it is a great recreational resource.

I would urge you to approve this plan. Thank you.

Mr. Ben Bodkin spoke: I am the planner for the San Francisco Bay Area Water Trail as well as the planner for the Bay Trail here at the Bay Area Metro, our new agency name.

I want to thank BCDC for your support for the Water Trail as well as for general public access and to express support from the Bay Trail and the Water Trail for this project and for this design. This has been a long, ongoing process with lots of opportunities for comments and we are really pleased with how this turned out for the small boating community as well as for the Bay Trail.

The location of the project as well as the many amenities offered will be advantageous for the San Francisco community and for the many visitors to the area. This will be a gem in the entire Bay Area Water Trail system.

The Bay Trail is very supportive of the project and we have been looking forward to this for many years. Thank you.

Commissioner Peskin commented: The notion of an after-the-fact mitigation credit, public access mitigation bank whatever Mr. Beaupre called it, that is new to me, I did not see that in the staff report. It is a creative idea. I don't know how in the heck it would work or what the Port is aiming at.

Mr. McCrea spoke: It is mentioned in a footnote. One of the reasons that the vote for this is not today is for the two staffs to have more conversations about what that mitigation might look like. Any input or guidance that you can provide or your thoughts on public access banking are welcomed.

Mr. Buehmann stated the footnote was that the bottom of page 20.

Commissioner Peskin continued: I see. Could be recognized in a future Waterfront Special Area Plan amendment. I don't mind having a discussion in the future. I don't really see how we can have it as part of this project. It is a huge discussion. I don't know what the universe of potential mitigations that we are looking at is. We would need to know that.

I am a huge proponent of the project but that little wrinkle is a little concerning.

The other thing, and you called it out and highlighted it but it is set on page 19, is the issue of special events programs. And the one that really jumped out – and I am fully cognizant of the fact that this is not tied to a development and it is \$32 million of investment and I think I have been party to getting some of those tens of millions of dollars. A 2008 General Obligation bond was the first time that the Port had any general obligation bond money and I think I put it in that General Obligation bond specifically with this in mind. But the 12 days on the beach is really concerning. I feel like whether you are doing it out of the goodness of your heart without it being connected to a development; it just seems like the beach is sacrosanct and you never close that off. That is my gut feeling on that aspect.

Mr. Buehmann spoke: Originally the Port came to us and requested that we maybe try to do a bank through the permit. And we had a couple of meetings with them and explained that there really wasn't a structure in our permitting process or policies in the Bay Plan that provided us with the ability to do that. How do you say that something is maximum feasible public access consistent with the project that you don't know about yet?

We said we should have discussions about the need to do an MOU or doing it through the San Francisco Waterfront Special Area Plan. Because there are some efficiencies, for example where there is a maritime project where public access that could happen and maybe we could work out a structure that could quantify the types of projects that could ply that without necessarily binding ourselves to anything or binding you to anything through this permit. That is why we included it in the issues raised here. We have just begun discussion on that earlier this year and it really hasn't gone very far to date.

Commissioner Peskin replied: I have no problem with a place holder for a conversation.

Chief of Permit's Jaime Michaels commented: I just want to add one clarification that it would be approved through an amendment to the Special Area Plan that there is no mechanism for us to move forward with this in the Special Area Plan currently.

Mr. David Beaupre was recognized: On the credit idea we understand that it could not be a part of this permit but we just wanted some recognition that we are having these conversations with staff and it is something we would like to move forward with. Whether it be through a future Special Area Plan amendment or an MOU we just wanted to bring it to the Commission's recognition that we are considering it.

As it relates to special events on the beach you will notice that those special events are only for water-dependent uses. It is for free events that are water-dependent and we would never utilize more than 50 percent of the beach area and we would never preclude access to the Bay. It is designed to facilitate water-oriented activities that are free and open to the public.

Vice Chair Halsted had a question: Would you not be charging a high fee for it?

Mr. Beaupre answered: Revenue is not the primary purpose although it would help for any event that happens on the waterfront. We typically do charge fees and they cover the costs of what it takes to operate it. We know that there are these water-dependent activities that we would want the ability to facilitate those activities.

Vice Chair Halsted continued: Given the instability of sand I wonder how you contemplate maintaining the beach?

Mr. Beaupre explained: Part of our planning and engineering team was two coastal engineers who did significant analysis of how to create this beach in a way that did not require it to be re-nourished often and managed often.

We also wanted to understand what impacts it might have on the sedimentation of the Central Basin which supports the ship repair operations or other areas. We had two different coastal engineers look at it and come up with the same solution. We also had to make sure that the sediment cap that we are proposing stays in place. And each of those coastal engineers are confident that the beach will stay in place. It will need some re-nourishment eventually but it should be a sound place for this type of facility.

Commissioner McGrath commented: This is home court for me. I do serve on the board of Bay Access with Beau Barns. I have been kayak touring with Beau half a dozen or more times. He has trained probably half of the people that kayak.

This is an extraordinarily generous public access facility. There is no beach there now. There is contaminated sediment there. Cleaning up that sediment and getting our arms around capping and then covering it with something that is recreational access is something that I really strongly support.

While I was at the Port of Oakland much of the shoreline was closed to public access. We never figured out a way to open these areas to public access. Staff is correct in asserting that if you can do public access up front it is maximum feasible public access. But we need to think about what category of maintenance projects where access already exists where you really want to streamline the process for modernization at those sites without putting them through an elaborate set of negotiations.

I would urge the staff to see what you can do about creating a bank because you get access sooner. I share some concerns about closing the beach. You never want to displace the users you have but you do want to add new users. As long as they can meet that and do things that truly promote the sport then it is a good thing.

Commissioner Scharff commented: I support all the comments made by Commissioner McGrath. I also would support staff looking at the bank on those kinds of access issues.

In terms of the beach, I appreciate the fact that the beach won't be closed for private events. I actually think that ticketed public events really do bring people down to the shoreline that otherwise would not get to do it.

Those ticketed public events are an important part of access and bring new users and we should be supportive of them. Thanks.

Commissioner Nelson commented: I understand that when we vote on this motion we are not voting on the public access mitigation bank idea. That does leave me a little bit puzzled about why we are delaying the vote if those two things are separated. I just want to make sure that those two things are truly separate. There is a whole host of issues that we would get into on that.

There is a real shortage of places where the beginning public can safely access the Bay and paddle in places that are safe and protected from wind-driven waves. The fact that there is such a remarkable public access facility here combined with historic maritime uses is a really remarkable project and I congratulate the Port on that.

Mr. Buehmann addressed the public access bank issue: When we come back for this project we are going to have a recommendation. What we are working on with the Port right now are certain special conditions mostly related to the special event use and we won't come back with an MOU or a recommended amendment to the Special Area Plan. We are in the beginning of discussions about that right now.

Whatever form this bank takes would come back to you probably more than once.

Chief of Permits Jaime Michaels added: The vote has been delayed partly to discuss that further with the Port but also right now the staff would like to put a five year limit on the special event provision in a permit that we might issue. The Port would like to have it in perpetuity. And so that is another piece we will be discussing with them over the next few weeks.

Vice Chair Halsted gave kudos: I just want to commend the Port and our staff for moving ahead over such a long period on such an important project. I hope we can come to a good approval in due course.

Commissioner Gorin commented: I love the project and I think it is fabulous. It is a great reuse of industrial areas. I want to echo your suggestion that you bring the event issue back after a couple of years because they are tricky. From winery and event land just a word of caution.

Commissioner Pine commented: I am really eager to visit this project. This is really terrific.

Mr. McCrea was recognized: There is an element of this project that has been mentioned and that is the remediation cap but there hasn't been a lot of information presented. We will have some information in the proposed permit that comes before you in the recommendation next time.

The staff is doing some innovative things in regard to filling the Bay and covering up the contamination so it can be used for recreational purposes. I would like to invite the Port staff to spend a couple of elements on that fill element of this project.

Ms. Carol Bach addressed the Commission: I am an environmental manager at the Port of San Francisco and I have been working on the environmental remediation aspect of this project since its inception.

We are balancing the fill that we need to place to build the contaminant cap with the cut that we are doing to build Crane Cove Park shoreline. This slide shows quite readily how we are achieving the no-net fill in the Bay. We are really cutting off a lot of undesirable fill.

On the east side of Slip Way 4 we are also removing some fill that remains from the former shipyard operations. It is remnants, concrete structures, metal and concrete debris that remains on the shoreline there. It is not aesthetically pleasing and it is not providing any habitat and it is not serving any sort of stabilization function.

The contaminant cap is primarily carbon amended sand. It is granular-activated carbon mixed with sand. The granular-activated carbon will bind with the contaminants and then that DAC-amended sand will be placed underneath either the gravel and sand beach in the recreational area or at the foot of the slip way where it would be subject to more wind-driven waves and stronger currents. Our coastal engineers determined that in that area the DAC cap will have to be underneath armor stone. It is a complicated combination of many different layers that have been designed to achieve the contaminant remediation and the physical stabilization of the cap.

Commissioner Showalter commented: it says in the staff report that in the future you expect to have some benthic organisms establish themselves sort of off the edge. I was wondering how you expect that to happen. Is that going to be passive or are you working with some of the organizations that are --

Ms. Bach interjected: That is going to passive. This construction is going to disturb the benthic environment a great deal. We expect that over time those organisms will naturally re-colonize and those benthic communities will re-establish. In some places they will be different because we are converting a soft sediment or muddy habitat to either sand or a hard rocky substrate where we have armor stone.

Those are different habitats but they will still support benthic organisms.

Chair Wasserman continued: Since we are not voting we are done. That concludes this item and I would entertain a motion to adjourn.

14. **Adjournment.** Upon motion by Commissioner Gibbs, seconded by Commissioner Peskin, the Commission meeting was adjourned at 3:58 p.m.