

San Francisco Bay Conservation and Development Commission

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January 12, 2018

TO: All Commissioners and Alternates

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653) larry.goldzband@bcdc.ca.gov
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SUBJECT: Draft Minutes of January 4, 2018 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 1:07 p.m.

2. **Roll Call.** Present were: Chair Wasserman, Vice Chair Halsted, Commissioners Addiego, Bottoms, Butt, Gioia, Gorin, Jahns (represented by Alternate Eckerle), Lucchesi (reported by Alternate Pemberton), McGrath, Nelson, Peskin (departed at 3:15 p.m.), Pine (arrived at 1:12 p.m.), Randolph, Sartipi (represented by Alternate McElhinney), Sears, Showalter, Spering (represented by Alternate Vasquez), Techel (departed at 3:50 p.m.), Ziegler (represented by Alternate Brush) and Zwissler.

Chair Wasserman announced that a quorum was present.

Not present were Commissioners: Alameda County (Chan), Santa Clara County (Cortese), Department of Finance (Finn), Speaker of the Assembly (Gibbs), Governor (Ranchod), Napa County (Wagenknecht).

3. **Public Comment Period.**

Chair Wasserman called for public comment on subjects that were not on the agenda.

There were no public speakers present to comment.

Chair Wasserman moved to Approval of the Minutes.

4. **Approval of Minutes of the October 19, 2017 Meeting.** Chair Wasserman asked for a motion and a second to adopt the minutes of October 19, 2017.

MOTION: Vice Chair Halsted moved approval of the Minutes, seconded by Commissioner Nelson.

VOTE: The motion carried with a vote of 15-0-0 with Commissioners Addiego, Butt, Gioia, Pemberton, McGrath, Nelson, Pine, Ranchod, Randolph, McElhinney, Showalter, Vasquez, Zwissler, Vice Chair Halsted and Chair Wasserman voting, "YES", no "NO", votes and Commissioners Eckerle, Gorin, Peskin, Sears and Techel abstaining.

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

a. Our evaluation by the Office for Coastal Management in NOAA that oversees state implementation of the Coastal Zone Management Act was held in October. I had the opportunity to meet with the NOAA team along with Larry and some of our senior staff. I thought it was a very productive meeting.

We talked a lot about sea level rise and what BCDC is doing. They seemed reasonably impressed by what we were doing.

The initial reports that Larry has received are very positive. We will not get their final report until they have also had the interview with and review of the California Coastal Commission, our sister agency that is responsible for the implementation of the Act; and that is scheduled for later this year.

b. Next BCDC Meeting. Our next meeting will be held on January 18th, where we may:

Vote on the Marin County restroom removal issue on which we are holding a public hearing today.

Hold a public hearing and vote on the U.S. Army Corps of Engineers' proposed Shoreline Levee Project.

Hold a closed session on the Point Buckler enforcement issues.

During this holiday season there has been fewer sea rise articles and information, however, the problem persists. The very bad storms on the east coast are raising more focus on why they are occurring and what the consequences may be. The benefit of that is that, unfortunately, more of some of the influential senators and House members are from states affected by those storms, so hopefully we will get their level of awareness rising as well as the seas.

c. Ex-Parte Communications. Many, if not all of you, have received numerous e-mails or letters regarding the Westpoint Harbor enforcement case. BCDC staff believes that they, likely, have received copies of these as well. BCDC staff will make each of these publications that staff has received available on our website on the Enforcement Committee page. You can look there and if anything that you have received is posted there you do not need to individually disclose it because it has been disclosed to the public which is the purpose of the ex parte communication rule.

If, however, you think you have received a communication or you have responded to a communication that is not there, please do disclose it on the appropriate page on the website. You do need to put it in writing.

This is an adjudicatory proceeding so you do need to disclose what you have heard so that everybody concerned knows what information you've given or what responses you've given out.

If there are other matters not related to Westpoint Harbor, you may, of course, disclose those as well.

Commissioner McGrath had a question: I have a question about the "term" for that. Many years ago when Caitlin Sweeney was still the Deputy Executive Director, a while ago, I did get a copy of a violation complaint that I reported to the staff. That was years ago. Is that something that has to be reported since it happened?

Chair Wasserman replied: The statute of limitations has passed. This is not a new issue.

Chief Counsel Marc Zeppetello added: That email communication is in the record and is part of the enforcement file.

Commissioner Peskin commented: Relative to ex parte communications, whether they are enforcement matters or not, generally what I do is I look at the email and if Larry is copied I don't bother doing it. If Larry is not copied or staff is not copied, I just forward it to Larry. I don't go to the website and I don't mess around with it and that works at the Coastal Commission and I assume that works here.

Executive Director Goldzband chimed in: Anything that I get on an enforcement issue I would send to Mark, Brad and Adrienne for the most part anyway.

Chairman Wasserman added: So yes, if there is a cc to Larry it is reasonable to assume it has been disclosed publicly, and if not, you can send it to Larry and he will make sure it gets appropriately posted.

That completes my report and I will turn it over to Larry for his Executive Director's Report.

6. Executive Director's Report. Executive Director Goldzband reported: Thank you very much Chair Wasserman.

We all have been told that absence make the heart grow fonder. If so, given that this Commission has not met for about 10 weeks, each of you should be at a very receptive mood this afternoon. That's good news for all of us on staff who will attempt to keep you interested in everything that's occurred while you have been away. However, perhaps just as important is how we, as staff, view you after ten weeks of absence. After all, as the great Roman historian Tacitus taught us during our first college survey course in history, "greater things are believed of those who are absent." So, I encourage you to keep on your toes as we move through a somewhat long Executive Director report, an interesting permitting discussion, an update on our ART program and then a rollicking closed session on a legal issue.

a. Budget and staff. During our hiatus BCDC has found itself in need of three new staff members. Please let me know if you have any concerns about our hiring the following individuals:

To fill Tinya Hoang's vacancy in the Permitting unit, we have chosen Walt Deppe. Walt earned both his undergraduate and graduate degrees in mechanical engineering, having graduated as a Cavalier from the University of Virginia (also known as the Wahoos) and as a Husky from the University of Washington. He has worked at various university laboratories on issues surrounding the ocean's physical and chemical processes and is a published author on the effects of the outer ocean on the Puget Sound. Walt's skills will add a new dimension BCDC.

To join our Planning team we have chosen Clesi Bennett, who will lead the upcoming Bay Plan Amendment process for social equity and environmental justice. Clesi earned her graduate degree at the Middlebury Institute for International Studies in Monterey and her undergraduate degree in Environmental Policy from the University of the South, which makes her both a tiger and a panther. Clesi most recently worked at The Nature Conservancy where she concentrated on the use of natural infrastructure in adaptation strategies, and she previously was a Fellow at the Coastal Conservancy.

Last, but not least, we have hired Schuyler Olsson to join the Enforcement team. Schuyler earned his B.A. in International Relations from Tufts University (that means he is a Jumbo – don't ask) and has earned two Master's degrees – in Natural Resources and Sustainable Development from the U.N. University for Peace in Costa Rica and in International Relations from American University. (A.U. uses the eagle as its mascot, but I don't believe that the University for Peace has one.)

Schuyler has worked for USAID's Climate Change Resilience Development Project and has concentrated on issues such as nature-based flood management techniques, community-based vegetation management and adaptation finance.

Unless I hear from any of you today or tomorrow, please be assured that we'll be much closer to fully staffed by the first week in February.

In addition, I am pleased to introduce to you Myles Saron, (stood and was recognized) who joined BCDC's staff as an unpaid legal extern this past fall. Myles and I have a few things in common -- he is a proud Wildcat from Northwestern University. He earned his J.D. with a concentration in energy and environmental law from the University of San Diego (a beautiful school on my home turf), and he interned for the Mayor's Office in San Diego. Myles also worked for San Diego Coastkeeper and has been a tremendous help to Marc and John as they work on enforcement cases and Public Records Act requests. We are thrilled that Myles is still with us.

b. Policy. The first policy issue I want to raise with you is using a multi-agency permitting process to reduce the time required to permit large-scale habitat restoration projects. A few months ago, the Bay Area Council, the Silicon Valley Leadership Group, and the San Francisco Bay Restoration Authority convened a broad group of federal and state regulatory agency staff to determine their respective levels of interest in working together to determine whether we could streamline the permitting process while complying with all applicable laws, regulations, and policies. You will remember that one of your rising sea level policy recommendations was for BCDC to figure that out. Thankfully, I think that each of the seven agencies has responded positively, and we are now working collectively on a statement of purpose. This effort has been led in great part by your fellow Commissioner Rick Bottoms from the Army Corps of Engineers. Most important, the San Francisco Bay Restoration Authority (SFBRA) is in the process of determining whether it can, and should, fund a regulatory staff member at each of the agencies to ensure that its projects receive the necessary attention that they deserve in a very timely manner. I'll keep you up to date as we move forward.

Speaking of regulatory issues, I would like our Regulatory Director, Brad McCrea, to update you on how BCDC is working with Resilient by Design as it moves forward.

Regulatory Director Brad McCrea addressed the Commission: Resilient by Design is a collaborative research and design project that brings together a lot of people to come up with innovative solutions that are going to deal with climate, resilience and climate change issues that the region faces today.

The BCDC staff has thrown our support behind RBD in the manner that involves the regulatory teams around the region. What we have done is help them combine and pull together staff from a lot of different regulatory agencies to help the design teams develop their proposals.

So the 10 teams of engineers, architects, designers and other experts are working alongside community members to identify sites throughout the Bay Area and come up with these design solutions.

The teams have recently toured the Bay Area evaluating and learning about may site opportunities and they have learned a lot about the region and our climate change vulnerabilities.

From now through May the design teams are going to be working closely with stakeholders to develop their designs and create an implementation plan. And the results will result in 10 implementable projects.

However, the word, “implementable” is not quite clear to everyone. The teams themselves are trying to work this out. Does it mean, is it feasible, is it practicable, is it pragmatic, is it fundable and is it consistent with current regulatory policies or not?

To help the design teams better understand the regulatory landscape we are helping the staff convene an interactive, three-hour event called “Regulatory Office Hours.” In a few weeks on January 24th those 10 teams and agencies will be gathering here in this building. The set-up will be casual and, hopefully, fun where tables will be organized around the room. The 10 teams will circulate to each agency’s office.

Because our region has this complex web of agencies and jurisdictions that govern development adaptation efforts, we see this event as an important, collaborative, efficient way to get everyone’s input.

The regulatory office hours as we see it will be working both ways. This was an idea that was spun up with RBD staff. There is an invitation that has been sent out to all the agencies you saw on the screen. We have received interest from about one-half of them. We hope to have everyone at the table within the next couple of weeks to enable this forum to happen.

Commissioner McGrath spoke: I did attend the initial roll out of the different concepts. The schedule at the time indicated that, not just the 10 teams, but what their assignments would be determined about mid-December. There is nothing on their website that indicates what geographic areas that they are going to be assigned to which is an important step and something that as individuals with some awareness of the relative risk of sea level rise I would like to see the geographic areas line up, at least to some degree, with the magnitude of the risk and how soon it approaches.

Mr. McCrea agreed: Right. I had the same experience last week. I was on the phone with someone from the California Department of Fish and Wildlife and we were trying to also identify what are the final 10 sites.

Next month we will schedule a briefing from the RBD staff here at the end of February. You can ask all those questions of the staff themselves.

Chair Wasserman commented: I agree that the regulatory piece is the most appropriate piece for us to focus on; the financial feasibility or the exploration of the way to finance these projects is a very important issue. We will be eagerly looking to that piece as well.

Mr. McCrea continued: This is a success story. This is about agency collaboration as well. This is the Bridge Yard Building in Oakland. It has been there for about 80 years.

It is owned by Caltrans and it is located near the Bay Bridge Toll Plaza. It is going to be managed as a public space by the East Bay Regional Park District and a concession yet to be determined. MTC took the lead in funding the improvements to the Bridge Yard and the building is going to be a new public amenity and a key component of the future Gateway Park.

The building was built in 1939 as the Electric Inter-Urban Railway Bridge Yard Shop. It was a maintenance facility for the rail system that used to be on the Bay Bridge. More recently it was used by Caltrans maintenance division.

Through the efforts of Caltrans, the Bay Area Toll authority and the City of Oakland the maintenance facility was relocated down the street, freeing up the newly rebranded Bridge Yard for more public uses.

MTC was able to seismically retrofit the building and conduct Title 24 work for energy efficiency.

Caltrans is in the transportation business, not in managing a public event space. This is where the East Bay Regional Park District came in. Last month Caltrans and the District signed a lease for the historic building and the lease is a critical step in creating an active use and anchor to the Gateway Park.

The space is already being used for public events and is a great success. What was formerly an industrial building by the side of the road is now a gathering space and stopping point along the Bay Bridge Trail.

What was once a rather isolated facility is increasingly the beginning of a new Gateway Park at the foot of the Bay Bridge.

This could not have been achieved without the inter-agency collaboration between the agencies I just mentioned but that type of inter-agency partnership will also lead to the success of Gateway Park where all of those same organizations as well as East Bay MUD and BCDC and even the U.S. Department of the Army will play a role.

It is possible that the Park, which isn't fully funded, will be incrementally built. In several ways that effort has already begun. The Bridge Yard is one of those pieces and another possible increment involves Caltrans' proposal to retain several bridge foundations that could potentially be used as a public pier at the end of the Gateway Park site.

Oftentimes creating something special starts with a simple idea. Sometimes those ideas become a reality.

The BCDC staff offers our congratulations to Caltrans, to the Park District, to the City of Oakland and MTC for making this new public space reality.

Commissioner McElhinney spoke: It seems like yesterday when Brad and I met at the Bridge Yard. It has been a long journey to get here and it has taken some time. This is really a gem for the Bay Area. You can walk to the building today and you can get on the Trail and walk left to the Bay Bridge all the way to Yerba Buena Island or you can walk right to the Ikea area. It is a four and a half mile Trail segment.

We got approval for the new pier retention plan last month after the Bridge Yard signing with East Bay Regional Park. We got approval at a meeting in Sacramento for the Pier E2 YBI public boardwalk funding. That is finishing design and will be built this year. Remember that is about 140 feet from YBI walking out to the old E2 and that beautiful platform looking up at the new bridge tower.

It should be built by the end of the year and pier retention on the Oakland shoreline is a decision point later this month. We are very excited about seeing that move forward for a 600-foot long, 25-foot wide public access pier on the Oakland shoreline as part of the puzzle here with the Bridge Yard. It is very exciting, a great job by BCDC and all the agencies involved.

Chair Wasserman commented: I am going to pick up something I should have had in my report and ask Commissioner Zwissler to give a brief report on the Financing the Future Working Group meeting that occurred this morning.

Commissioner Zwissler addressed the Commission: We had another productive meeting. We received a briefing from the Integrated Climate Adaptation and Resiliency Program (ICARP) of the Governor's Office of Planning and Research learning more about their efforts to serve as a framework and a set of resources to coordinate state efforts and local efforts on adaptation.

We had a really fantastic presentation which was a much shortened presentation that Mark Northcross gave. Mark is on the working group that is working with Rebuild by Design to help them identify financing strategies for the various implementable projects.

His presentation will be up on the Commission's website soon. I highly commend this presentation to you. It is going to serve as the basis for some future presentations that we will be bringing to the full Commission.

Chair Wasserman added: And the interplay between our working group and the advisory group to Resilient by Design is being very productive because they are informing each other and this will lead to a much better set of workshops that we will sponsor on the ways to finance the various solutions we are going to need to create to adapt to rising sea levels.

Executive Director Goldzband continued: I mentioned that one of the people who will be hired by BCDC is going to work on one of the two Bay Plan Amendments. With regard to the other Bay Plan Amendment I want to let you know that while Lindy Lowe's departure has slowed the process down a bit, we have started the process as a staff for the Fill for Habitat Bay Plan Amendment.

I will tell you that we are still awaiting resolution by the Department of Finance and State Comptroller's Office on a series of technical, administrative issues that have delayed our using the grant funds that BCDC has been allotted as part of the Greenhouse Gas Reduction funds or the Cap and Trade funds.

As we expect to use about 40 percent of that funding to actually fulfill that Bay Plan Amendment process, we are hoping that the issues can be resolved very soon because the Governor's budget is going to be proposed early next week which should free up time for the Department of Finance and State Comptroller's Office to actually do their job.

We will keep you up to date on that issue.

You probably have read in one of your local papers that a Superior Court judge in Solano County has ruled against BCDC's and the Regional Water Quality Board's judgments in the case of the Point Buckler matter. I would like Marc Zeppetello and Shari Posner to give you a short status update.

Mr. Marc Zeppetello addressed the Commission: You will recall that John Sweeney filed the lawsuit shortly after the Commission adopted a cease and desist order in November of 2016. The cease and desist order concerned unauthorized work at Point Buckler Island in Suisun Marsh.

Mr. Sweeney also filed litigation challenging a cleanup and abatement order and a penalty order adopted by the Regional Water Quality Control Board.

Last week the Solano County Superior Court judge issued a series of three decisions and issued three writs of mandate. The writ and decision concerning BCDC rescinds the cease and desist order and remands to the agency.

We did not have time to notice this for a closed session today given that the notice requirement under Bagley-Keene. So we have noticed it for a closed session at your next meeting on January 18th. At that time we'd have a better opportunity to discuss the decision in more detail, answer questions and talk about potential next steps.

Executive Director Goldzband continued his report: Finally, I want to talk with you about two very serious issues that require your immediate attention. First, each of you has received a memo from Marc Zeppetello, our chief counsel, advising you that you need to complete your state ethics training by the end of this year. Every two years I let you know of this requirement and every two years I get the same question – "Can I skip out on the state training if I complete our local ethics training?" Every year is say, "no". As state Commission members, you must complete – and pass – the state ethics training. Please make sure that you complete the form at the end of the course, attach it to the certificate of completion and return it to Reggie Abad of our staff or you can send it to me as well.

And, finally, the State of California – like much of the rest of the nation – is reacting to the spate of sexual harassment allegations about which we all have read and seen on the news. In December, the Governor's Cabinet Secretary asked that each agency distribute to its departments a memo detailing the state's responsibility to ensure that its managers, supervisors and other leaders are trained about sexual harassment and the options available to state employees who believe that they have faced such harassment. You have a copy of that memo in your packet. I would like to read to you a paragraph from the e-mail that I sent to each BCDC staffer to which that memo was attached:

"I want to buttress the [Cabinet Secretary's] letter with these additions. First, though state law requires only supervisors and managers to complete anti-harassment training, BCDC extends this requirement to all staff including interns and volunteers. Second, please be assured that BCDC will investigate any such complaints quickly and appropriately. Finally, I want to stress that any individual at BCDC who encounters such behavior, or learns of such behavior encountered by another member of our staff, should immediately contact his or her supervisor, our H.R. staff or a member of senior staff (including me) to ensure that no other BCDC staff member encounters such behavior."

I want to make sure that you know that I take this issue very seriously, that our senior staff recognizes and supports that seriousness of purpose and that I have told our entire staff that BCDC will not tolerate harassment in the workplace and will support staff if an individual comes forward. BCDC must ensure that its employees feel supported enough to speak to their leaders about allegations of harassment and each employee who does so must receive the support and resources he or she requires after doing so. We seek a culture that has zero tolerance for harassment and disrespect of any kind, a process that ensures that any allegations are addressed immediately and leaders who are responsible for reporting such allegations.

Unless you have any questions, that completes my report Chair Wasserman.

Commissioner McGrath posed a hypothetical: If you have had state training, for example the Regional Board – not local training; does it suffice?

Executive Director Goldzband answered: If you had state training it suffices. You can always ask to make sure but I am pretty sure that if you have had state training it is the same state training.

7. Consideration of Administrative Matters. Chair Wasserman announced: that brings us to consideration of Administrative Matters. We have received a report on the Administrative Matters that were taken. Brad McCrea is here to answer any questions. (No questions were voiced)

8. Briefing on Bay Planning Coalition Strategic Plan. Chair Wasserman announced: The next item is a briefing on the Bay Planning Coalition's Strategic Plan. This will be done by Betty Kwan who is presenting in place of John Coleman who needed to fly someplace.

Ms. Betty Kwan presented the following: I am a Senior Policy Associate at Bay Planning Coalition. I will talk to you today about our strategic framework through 2030. We had a strategic planning retreat back in November where we talked about what our goals are for the next three years in particular.

If you are not familiar with Bay Planning Coalition we are a broad coalition providing expert advocacy and facilitation to advance a strong industrial economy to support the sustainable environment within San Francisco Bay and its watershed.

We have been in the Bay Area for 35 years. We are a non-profit, a membership-based organization founded in 1983. We first focused on dredging but since then we've expanded to other issues that are affecting the Bay and the shoreline. We have over 150 members across different sectors. We have an office staff of four. We have a Board of Directors, officers and an executive committee.

Here you see our strategic framework from 2018 to 2030 as developed by our Board of Directors. We boiled it down to two goals. The first one still focusses on what we have historically focused on which is dredging.

We want to affect significant change in dredging regulation and financing policy to promote resilient shoreline, restore habitat and navigable waterways.

Our second goal is, be recognized as a credible voice to promote reasonable air quality policy development. Air quality policy is not an arena we've been traditionally involved in. However, our members have been increasingly impacted by air quality regulations. It is something we are starting this year to look into.

We came up with supporting strategies on how we will work on these two strategic goals. You can read them on the handouts that you received.

We have examples of ways that we are already working on these strategic goals. On dredging regulations and financing policy we have collaborated with agencies. Our Sustainable Waterfronts Committee authored a white paper on the goal of facilitating constructive dialogue among the agencies and interest groups to figure out how to improve the timeliness and effectiveness of permitting for shoreline resiliency projects around San Francisco Bay.

The paper is in its final draft and we did learn about the efforts of the Bay Area Council and the Resources Legacy Fund and their partners. This is meant to complement and support that effort and not to be competitive with it in any way.

This is for figuring out how to improve regulatory efficiency for Measure AA types of projects. You can find the full paper at our website.

Other ways that we are looking to support this goal is increasing funding for dredging. We are looking to work with legislators in 2018 to fund a dredging study and economic benefits of dredging in California as a way to further promote funding in the state budget to support a dredging program in California.

We are working with Assembly Member Mullin to support AB 388 for making wetland restoration projects and the reuse of dredged sediment an eligible investment from the Greenhouse Gas Reduction Fund.

We had a meeting with our Dredging and Beneficial Reuse Committee that looked at goals for 2018. I have put four of these goals here for you to get a snapshot of what those look like. These include looking through the dredging operations plan, dredging after windows, R&D funds and innovative disposal.

Our meetings are open to public agencies and other stakeholders who would like to attend. We will be going over these goals for our first Committee which is in February.

Our second strategic goal is to be recognized as a credible voice to promote reasonable air quality policy development. This is a new arena for us so we are going to be developing our strategies more at our next Resources and Infrastructure Committee which was formerly Water, Energy and Infrastructure. This will help us include air quality as a subject matter that we are focusing on.

We are also looking at doing an expert briefing earlier this year with Bay Area Air Quality Management District so that we can learn more about what they are looking to do in the coming years.

We came here today to share with you what our goals are for the next couple of years but we also want to invite Commissioners and BCDC staff to work with us as we go through this. We want to invite you to the table to collaborate with us in facilitation and guidance on key industry issues.

This is our contact information and our website here at the bottom. I can now take any questions you might have.

Commissioner Nelson had a question: I notice that your second goal regarding reasonable air quality policy development; I am curious where this is taking the coalition – is this with regard to ports and other Bay-related emissions or is this a broader look at air quality regulations in the Bay Area?

Ms. Kwan replied: It was prompted by impacts being felt by the ports and also the refineries that we represent in the Bay Area.

Commissioner Gorin had a follow-up question: I appreciate coalitions coming together and looking comprehensively at these kinds of things. If you are looking specifically at ports, okay, great, but; you may want to broaden your review because there are many rivers and creeks that are struggling trying to find funding for dredging and how to make use of beneficial reuse of the dredged materials. They can't get both up there. It looks like a little oasis in the middle of Petaluma.

Is this coalition prepared to look a little bit upstream from what you have been contemplating?

Ms. Kwan replied: Certainly, if that is an area that our members feel is needed. We do have members that go to the Delta and to Sacramento. What really drives our issues are our Committees. So if that is something that a member brings forward, certainly, we would look at it.

Commissioner Gorin continued: I will go onto your website to figure out who your members are but it may be good for us to consider suggesting members to the coalition to help you focus on areas outside of just the immediate area.

Chair Wasserman commented: In the couple of sections where the Plan addresses beneficial reuse, you focus primarily on state funding and that is certainly important but I know that the Coalition has been involved on the federal level. It seems to me that this would be an appropriate piece of the Strategic Plan as well because working with Congress and the Army Corps of Engineers is an important piece of our changing the way this is dealt with which is critical to being able to adapt to rising sea level as well as being sensible.

Ms. Kwan stated: I certainly agree with you. I know we have had discussions about federal funding especially for the Army Corps and we have continued to work on that issue. I will check with our Strategic Plan and see if that is in there. I have a feeling it is in there.

9. Public Hearing on City of San Rafael and Roots Construction Company's Application for Amendment No. Six to BCDC Permit No. 1978.028.00 to Remove a Public Restroom at Starkweather Shoreline Park. Chair Wasserman announced: Item 9 is a public hearing on a proposed amendment to the City of San Rafael and Roots Construction Company to remove a public restroom at Starkweather Park in San Rafael. Ethan Lavine will make the presentation.

Principal Permit Analyst Ethan Lavine presented the following: On December 22nd you were mailed a summary of an application to materially amend BCDC Permit No. 1978.028. The proposed amendment would allow for demolition of a public restroom structure and Jean and John Starkweather Shoreline Park, a city-owned park in the city of San Rafael in Marin County.

The BCDC permit is held jointly by the city of San Rafael and Roots Construction Company, the developer of San Rafael Bay Park which is the adjacent office park.

The public access facilities of the site were constructed by the office park developer at the time of its construction in the early 1980s and then later conveyed to the City.

The BCDC permit that authorized both of those developments requires that the permittees provide a permanent public restroom as a public access improvement.

The restrooms were opened approximately 33 years ago in 1985. However, according to the City the restrooms within the structure were closed within a year or so of being opened and they have since remained closed and unavailable for public use.

The staff summary will orient you to the project site and its surroundings, provide a brief history on the subject permit including its requirement for a permanent public restroom, summarize the points raised by the permittees in their amendment request and then outline the main policy issues before the Commission today.

Today's hearing is going to provide you with the opportunity to discuss the issues presented by the amendment as well as to hear from the permittees and members of the public.

After hearing your discussion today we will come back to you at your next meeting on January 18th with a staff recommendation at which point you will vote on the amendment request.

Starkweather Shoreline Park is located near Point San Quentin off of Interstate 580 just north of the Richmond/San Rafael Bridge. The Park is used by walkers, joggers, dog walkers, bicyclists and nearby office workers.

It also has a public beach that is used for wading and launching non-motorized boats during higher tides including kayaks and kite boards.

The project site is located off of Francisco Boulevard and bound by the Bay to the north, to the east is the Marin Rod and Gun Club where there is currently no public access provided along the Bay and to the west is a storage facility.

The shoreline public access areas subject to this permit are roughly within the area that you see here in green. Here you see a footprint of the office park including its parking lots and buildings.

The Park was constructed in conjunction with the adjacent office park. The permittees tell us that the office park has about 300 employees.

The project site is located about a quarter of a mile northwest of the western touchdown of the Richmond/San Rafael Bridge. Many Commissioners will remember that in 2016 the Commission approved a bicycle and pedestrian path along the Richmond/San Rafael Bridge. Once it is complete there is going to be a continuous Bay Trail connecting from the East Bay and running the length of the grade which is about five and a half miles.

That project also includes pedestrian and bicycle improvements on either side of the Bridge. The facilities along Francisco Boulevard will be built along that alignment and they will include a two-way path along the road for pedestrians and bicyclists.

When visitors accessing this area from Francisco Boulevard they go through the driveway entrance to the office park and through its parking lot in the drive aisle which is an easement that provides public access to the park.

From there the Bay Trail continues with one small gap up to Pickleweed Park which is another city-owned park. It is about two miles to the north.

In terms of the facilities for restrooms the project site has the only facility of this type on the Bay Trail throughout this alignment. Although when you get to Pickleweed Park there is a public restroom located within the library and a community center.

While this restroom is closed the City in the interim has been providing a temporary toilet just adjacent for the last year. This is a chemical toilet and a handwashing station.

There is a public-access parking lot at this site and it has 18 spaces. The elevation of Francisco Boulevard is level with the site at its entrance but back towards the public access area there is actually a grade change in that there is a steep hill which is heavily vegetated and this impacts the views down to the public park from the road.

The public beach at the site has been identified by the San Francisco Water Trail as a potential future Water Trail access site which means it would be identified on the Water Trail's map and website as a boat launch and a landing area for non-motorized boats.

When Commission staff was first informed by the permittees about their intent to demolish the restroom structure in 2015 the staff visited the site and identified a number of violations to the terms of the permit in addition to the closed restroom.

These violations included the absence of public parking signs within the parking area and inadequate maintenance of the Park's landscaping, furnishings, directional signage and shoreline trail.

We are happy to report that the City has taken diligent action to address these permit violations and with the exception of the closed public restroom the Commission's enforcement staff considers these matters to have been resolved.

While there is no permanent restroom structure open, as you saw, the City has provided a temporary toilet over the past year and plans to keep that in place pending the Commission's vote on this amendment request.

The permit was originally issued in 1979. At that time the design of the office park and public-access areas were somewhat different from what you have just seen here. The original approved design included a larger, public-access area by about one acre than what is there today. As originally authorized, the entire one-hundred foot shoreline band and some additional areas outside of the shoreline band were to be provided as guaranteed, public-access areas.

The original design did not include a public restroom nor did the permit require one.

Following the issuance of the original permit and then prior to the start of construction of the office park, some changes were made to the overall design to the office park that necessitated the permittee to seek a permit amendment from BCDC. In 1982 a permit amendment was issued to allow for these design modifications.

This amendment was issued as a non-material permit amendment by the Executive Director and on the Commission's behalf, not by the Commission as is indicated on page seven of the application summary.

Among other things, this amendment and the new design placed portions of two office park buildings within the one-hundred foot shoreline band. This and other changes in the design resulted in the reduction of public-access areas from the originally required 2.77 acres down to 1.72 acres.

Offsetting the reduction in public-access areas was a requirement for a permanent, public restroom structure to be provided as a public-access improvement.

The findings within the amended permit stated that the revised project was consistent with the Commission's laws and policies in that it required public-access improvements which included the restroom, provided the maximum feasible public access consistent with the project.

There is a summary of Amendments one, three, four and five in the application summary on pages eight and nine of the application summary.

In a July 2017 letter which is provide as Exhibit D to your application summary, the permittees outline the following main issues that are driving their request to demolish the restroom structure. First, the permittees cite the visual and physical isolation of the public restroom structure. It is not visible from the public street and it is located at the terminus of the office park's parking lot where it is not readily visible for optimum surveillance by police. Second, the permittees state that the lack of visibility from the street has helped to attract unsafe and criminal activity in the vicinity of the restroom structure.

The permittees report 29 calls for service by police in the 12-year period from 2005 to 2017. A list of these calls as well as logs from private security guards that are employed by the office park are provided as Exhibits E and F to your summary.

Third, the permittees assert that because of the elevation difference between the restroom structure and the road below the road the main sewer line is located the restroom will require a placing of an injector pump to pump the waste up to the level of the main line.

If this pump lost power or failed the permittees assert there would be a potential for a discharge of wastewater into the Bay threatening Bay resources.

Finally, the City reports that it has not recorded any public requests to reopen the restroom during the 30-plus years it has been closed.

Since first learning about the permittees' desire to demolish the restroom structure in 2015, BCDC staff has had numerous meetings and traded correspondence with the City on this proposal. Staff has encouraged the permittees to consider other means that might address the over-arching concerns that they have raised besides demolishing the restroom structure.

To address the infrastructure and utility challenges cited by the permittees a number of alternative approaches exist. These alternative approaches would include installing a back-up pump that runs on a generator or even installing an alternative type of toilet that does not require plumbing like a vault toilet.

To address the concerns raised about public safety and crime alternative approaches could include modifying the design of the structure in a way that would actively discourage criminal activity, possibly relocating the structure to a location where it is more visible, possibly providing equivalent, in-lieu access nearby or some combination of these approaches.

Beginning on page 11 of your application summary there is a discussion of a number of well-established environmental design strategies that are intended to reduce the likelihood of incidences of crimes in location such as these.

A number of these strategies might allow for some greater visibility of the restroom entrances from the road or from other locations on the site. These include things such as: clearing the vegetation along the hillside at Francisco Boulevard which would allow for greater visibility of the park although the grade separation means that not all of the public-access area would be visible. It is possible to re-orient the entrances of the restroom toward the more active parts of the site such as the office park or the Trail head where more users are present and that could enhance the informal surveillance of the restroom by passersby. Right now the entrance is opposite the hillside and it faces the parking lot.

The installation of nighttime lighting would enhance visibility during dark hours and it could prove to be a deterrent to those who would engage in unlawful activity under the cover of dark. Enhanced lighting might be appropriate within the parking lot area as well.

Formal surveillance equipment like cameras is oftentimes cited as an effective crime deterrent in that it signals to those who might engage in unlawful activity that the site is under surveillance and the risk of being caught is higher.

Some other potential environmental design methods could be stronger locks, gates and vandal-resistant hardware which can help prevent damage to a facility during hours when it is not in use. That keeps the integrity of the structure intact and signals that the site is controlled and well maintained.

Keeping the facility well maintained makes it feel safer and more comfortable to use over time.

Other techniques might include those aimed at increasing the user base of the Park to generate more activity and provide some additional informal surveillance which generally has the effect of deterring criminal activity.

The extension of the Bay Trail across the Bridge is likely to increase use and demand on this entire stretch once that opens.

A designation of a Water Trail site at the beach could also have the same effect.

Installation of facilities like the exercise equipment shown here or playgrounds or other similar facilities would cluster more activity and put more eyes on the restroom during daytime hours.

If Commissioners feel that public-safety considerations may make the site an incompatible one for a public restroom facility they may wish to consider if established environmental design techniques such as the ones just mentioned or others might exist to address the problems such that the site could become a safer space for the public.

While staff has suggested the permittees consider design changes and possibly relocation of the restroom structure elsewhere on the site or possibly nearby, at this point, the permittees have not proposed to remodel or relocate the restroom or to provide an equivalent access improvement in-lieu of the restroom structure once it is demolished.

For the Commission's discussion today the staff believes that the primary issue raised by the amendment request is whether the proposed demolition of a required public restroom would be consistent with the Commission's laws and policies on public access.

The Commission should therefore decide if the project which was previously approved through Amendment No. 2 in 1982 would still provide the maximum feasible public access consistent with the project if the restroom were removed.

The amended permit issued in 1982 did find that the project provided the maximum feasible public access because of the improvements it provided which would include the public restroom.

Bay Plan public-access policies to consider are listed on pages 4 and 16 of the summary. In a case such as this where access is inconsistent because of the considerations enumerated; in-lieu access at another location, preferably near the project site, is to be provided.

Policy No. 4 states that, public access should be sited, designed and managed to prevent significant adverse effects on wildlife. If that cannot be achieved then equivalent, in-lieu, public access is to be provided offsite.

Lastly, Policy No. 7 states that public-access improvements are to be provided for the public safety and convenience and they are to be designed to encourage diverse, Bay-related activities and movement to and along the shoreline.

That concludes the staff presentation. We will look forward to hearing your discussion and we will be back to you on January 18th with a staff recommendation at which point you will vote on the staff recommendation.

We are available for questions and at this point I will introduce Rob Epstein of the City.

Mr. Robert Epstein addressed the Commission: My name is Rob Epstein and I am the city attorney of San Rafael. I am joined by a delegation from our city. They include engineers Thomas Wong and Kevin Magellan, our Public Works Director Bill Guerin, Police Chief Diana Bishop and Community Development Director Paul Jensen.

We are here today and acknowledge that there is likely some disappointment in this room regarding a permit condition imposed years ago with which the City admittedly has not complied.

We believe that we have strong reasons that we can present as to why that condition was not the best idea for the City and the community ever and that there have been good reasons why we did not ensure that this bathroom be open during all those years and in an effort to acknowledge and try to ameliorate the situation that we have present before us today.

We do have some alternatives to propose to try to deal with the issue.

Thomas Wong has a presentation that he would like to make to you from the City's perspective. I know that our police chief has some comments to make. We are all here to answer any questions that you might have. We do appreciate the opportunity to be heard. Thank you.

Mr. Thomas Wong addressed the Commission: My name is Thomas Wong and I am with city of San Rafael, Department of Public Works. I want to thank BCDC staff for the help they have given us on this matter.

It is important to recognize where in the city of San Rafael this bathroom is located. It is at the very southern, southeastern end of our City. It is far away from our population centers.

Much of this area remains undeveloped. In 1987 some of this area was graded and it is now developed with a Home Depot and a Target as well as many other office complexes that are in this area. Much of the area to the north is still undeveloped.

It is difficult for the public to access this restroom. The private property around this site is inaccessible to the public. The bathroom located here has a somewhat limited access to the public.

In the 30-plus years that this bathroom has been closed the city of San Rafael has not received one request that it be reopened.

Land use in east San Rafael is important to this bathroom and to the Park. During business hours this area does see an influx of people and they could help monitor and ensure some sort of safety on the path that runs alongside of the restroom.

Before or after normal business hours and especially on weekends, this area becomes very desolate and quiet. There is no reason for residents, other than to visit the Park, to go venture into this area. It becomes very remote at that time.

The city of San Rafael conducted a few counts. BCDC staff requested that we acquire some data. We did go out there for six hours and we did three counts, two hours each. We picked times that we believed would be peak usage. We picked a weekend, middle of the day as well as a week day from 7 a.m. to 9 a.m. as well as 3 p.m. to 5 p.m.

Pedestrians and bicyclists use this area. On the weekends is when we see the lowest usage at this park. This comes out to about eight people an hour with no one using the restroom in a two-hour period. This is not surprising given how remote this location becomes during non-business hours.

The peak usages were during the week days where we see about 10 to 12 people an hour with a slightly increased use of the restroom. We do estimate that on average about 10 people a day would be using a restroom facility at this site.

The City did another comparison on the same path one mile north of the bathroom and we wanted to see if the residences of San Rafael used the path consistently. We did four more hours of counts on the peak periods that we saw down at the shoreline park.

We found that there were about four to four and a half times more people that were using the Park just a mile north of the end of the path. This can be attributed to people feeling unsafe or not willing to walk down to an area that does not have many people. It can also be attributed to less usage because of the unpaved path in this area.

The temporary facility at this location has been in place since December of 2016. The City does pay to have it serviced twice a week. The City has also hired private security to monitor the bathroom at nighttime due to the difficulty of our own police department being able to spend resources to have someone out there at that time given its remote location.

When we asked these monitors what type of usage they were seeing with the portable restroom we were informed that most of the usage was from RVs illegally dumping their tanks into the facility. This is not surprising given how remote this location is.

The Park usage numbers that we have obtained clearly shows that there are not many people there at certain times of the day. This presents a challenging environment for us to monitor.

I would like to introduce our Chief of Police, Diana Bishop who will better describe her department's challenges as well the safety challenges presented at this site.

Ms. Diana Bishop presented the following: I never thought that in my 33 years of police work I'd be coming before this Board to talk about restrooms (laughter).

This is important and I don't want to make light of it. The place where this restroom is located is very isolated. It is at the eastern-most tip of San Rafael. I have six officers working during the day. One officer is responsible for this whole area and they are not going to be generally going into this parking lot.

This restroom is not a real safe place and you cannot see it at all from the only roadway going in and out which is Francisco Boulevard east. It is a pretty remote place and there are some San Rafael resident that probably would not feel secure and safe in this part of the City.

When you add a restroom that has concealment and the possibility of a closed area then it just adds to my concern about folks using that facility.

It would be very difficult to see this bathroom even with the vegetation removed because there is only one way in and one way out. I would ask you to consider the remoteness of this location and the isolation here. It is not a highly-used section of that very beautiful Trail.

Mr. Wong continued: Thank you Chief. The parking lot in this area usually remains quite empty.

The city of San Rafael's focus is to remove the bathroom in the name of public safety and work with BCDC to provide alternative amenities. One of these is working with the property owners to have the city of San Rafael operate and maintain portions of the path that are currently unpaved.

The city of San Rafael is blessed to have the Bay Trail as well as a lot of parks but resident in San Rafael and visitors choose not to come down here. We would like to change that. In this case the limited access is an obstacle to this.

The numbers that we got here at peak times are very low and it is difficult for the city of San Rafael to justify operating and maintaining a bathroom that would increase risks to the public to serve so few.

This is the conclusion of our presentation. We would be happy to answer any questions you might have.

Chair Wasserman continued: Let's open the public hearing first. We have one speaker on this item so far. The one speaker we have is Brenda Goeden who is speaking to us as a resident of San Rafael.

Ms. Goeden addressed the Commission: I usually am representing BCDC staff but today I am representing a resident of San Rafael that is a regular user of this trail.

I felt compelled to speak on behalf of those of us who use this trail regularly in San Rafael because some of the information was perhaps inaccurate that was presented today.

First of all, the community that uses this area primarily is the canal community of San Rafael. It is the low-income, multi-cultural community of San Rafael that lives in that area adjacent to Pickleweed Park.

They walk the entire length of the Trail on a regular basis for shopping purposes at Target, Home Depot, for recreation. There are numerous people who fish down there on a regular basis, probably for subsistence fishing. There are numerous dog walkers who use that area; I am one of those people. I appreciate the parts that are paved but it is an extremely long trail.

When you are walking all the way down to the bottom it is really great if there is a restroom there. There are people who are there all day long spending their day fishing. Having a place to use the restroom would be extremely helpful. Sometimes people do use the bushes down there because there is no restroom and this happens on a regular basis.

I totally agree with the officers that it is difficult to see from the road. I would suggest that maybe if there is a solution to be found here it is maybe moving the restroom closer up on the Trail to the area that is used more often rather than the isolated area down at the bottom. That could probably solve both problems.

That is my public testimony. The numbers that I see down there on the weekends, on the evenings during the summer are much greater than what is represented today. I felt it was important to say this to the Commission because I am there frequently.

Chair Wasserman continued: I will now entertain a motion to close the public hearing.

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

Commissioner Butt had a question: Apparently this permit was issued jointly to the city of San Rafael and Roots Construction Company?

Mr. Lavine replied: That is correct. It was originally issued to Roots Construction Company and the area of the property that is public access was later conveyed to the City. That was a requirement of the original permit.

Commissioner Butt continued: So Roots Construction Company is no longer a permittee?

Mr. Lavine explained: They are a permittee. They are jointly responsible in this permit application and portions of the office park development do fall within BCDC jurisdiction.

Commissioner Butt had questions: We've heard a lot of testimony from the city of San Rafael staff and it is all about San Rafael and their issues and their problems but we haven't heard anybody from – is it still Roots Construction or is there is some successor in ownership?

Mr. Lavine replied: The same ownership is there and I am not sure of the name.

Commissioner Butt continued: We haven't heard anything from them and I wonder, they have a substantial office complex there. They have security issues. It looks like this restroom is in a part of their parking lot complex. And if they have issues there as the Chief testified about drug use and other kinds of problems it sounds to me like they are just part and parcel of their overall parking lot security problems.

Why is the city of San Rafael not only taking full responsibility but making the full case about why this restroom should go away?

Mr. Epstein responded: The City is responsible for the bathroom and that is why we are here. I can tell you that the current property owner certainly shares the feelings expressed by the City today that the property owner would much prefer that this bathroom be eliminated because of all the problems that have been stated.

The office complex has its own restrooms for its users which are secured restrooms inside of the buildings. The security issues are present during the hours that the entire office complex is closed. No one is working there on the weekends or during the off hours.

But for issues presented as we have asserted by the bathroom and the concerns around it, there would not be much to patrol there for them because they don't have users of the property there.

Commissioner Butt pressed for a more specific answer regarding responsibility for the restroom: I am not getting it answered. If the City and Roots are co-permittees, don't they share responsibility? You just told me that the City is responsible for the restroom not Roots Construction but if they are co-permittees why don't they both have responsibility?

Mr. Lavine chimed in: There may be a distinction between the arrangement between the City and the other permittees in terms of management of the restroom but I was speaking in terms of the BCDC permit in which both permittees are responsible for fulfilling the requirements.

Chair Wasserman asked for clarification: Am I correct in understanding this bathroom has not been opened and operable for 30 years?

Mr. Wong answered: The bathroom was closed very shortly after it was constructed due to safety concerns and it has been closed for 30 years or somewhere along that.

Chair Wasserman continued: I don't know what the solution here is and I don't know what is right but I have to tell you; talking to us about all of these public safety issues related to a bathroom that has not been in operation for 30 years is a slight disconnect.

Commissioner Nelson had concerns: First of all, I will suggest that it is easy to look at this as a small item. I suspect this is the longest presentation by an applicant regarding a bathroom in the history of the Commission (laughter).

There is a long list of items here that really, deeply trouble me. The first is, that we are clearly looking at a 30-year long permit violation and the solution the applicant is bringing to us is eliminating the public access requirement that they have been violating for 30 years. That troubles me deeply.

Next, this is a decision made many, many years ago. The idea that the original amendment was a non-material amendment troubles me deeply. Losing an acre of public access and constructing portions of office buildings troubles me deeply. It certainly is worthy of notice.

But the core of that deal, that permit amendment, was a trade. It was trading an acre of public access for this public restroom. Eliminating this facility seems wildly inappropriate.

As far as use; a number of comments. First, as a regular user of the Bay Trail and the Water Trail I know how valuable public restrooms can be – I really, really do (laughter). I've heard that there hasn't been a request to reopen the restroom; on behalf of this user, I would make that request. On behalf of my 93 year old father with whom I was looking for a public restroom in precisely this location a year ago, I would repeat that request on his behalf.

It strikes me that Water Trail use is going to increase and public usage is going to skyrocket once the Trail over the Bay Bridge is open. The survey done regarding public use was done in December – a long way from peak public usage here. I suspect that the value of this site is dramatically greater than the applicant is suggesting here today.

I don't think the applicant is here to suggest returning that acre of public access that was eliminated 30 years ago. I would be open to considering that.

Regarding crime; this really troubles me. The staff description says that in 2015 there were two sexual assaults on the shoreline trail a mile away from this site. It is beyond a stretch to make a connection here. There were three calls regarding drug use over 12 years. I don't see a real link here to this restroom.

In particular, that restroom has been closed. I completely recognize that cities have to struggle with limited resources. I completely recognize that public access comes with some challenges. It is also clear that this public-access site has not been diligently maintained and improved over the years and that the solution here is not going to be less public access but, rather, more.

I'm not going to say that I know exactly what the solution here is but I am extremely unsympathetic to a solution that just involves closing this restroom without something quite dramatic, in part, to reflect 30 years of the fact that members of the public have not been able to use that restroom but because that restroom was required for a reason.

I would urge the applicant to go back and work with the staff and come up with a very different solution than simply eliminating this facility.

Commissioner Peskin commented: I would like this to be a constructive dialogue with the city of San Rafael and the co-permittee Roots Construction and hope that with staff we can figure out a way to raise the amount of public use in that area. The staff report sets out very clearly that the violations are not only the 30-year closure of the restroom but a number of other things and I am delighted that San Rafael has cured those and done that diligently.

It is abundantly clear that this is not consistent with the Bay Plan public access policies of the McAteer-Petris Act. I cannot imagine that it would not be a unanimous vote to reject this application.

What happened in 1982 I don't know how a non-material amendment by staff to reduce an acre of public access and parks in exchange for a restroom could have happened is water over the dam or under the bridge but that is what it is. I hope that in the intervening time between now and our next meeting on the 18th that San Rafael and the co-permittee can seriously reconsider this request.

Commissioner Sears had a question for staff: I'm wondering if we could go back to the map for a minute. I would like to see the view a little closer to the Richmond Bridge. You will notice that there is a very small public park area in this vicinity. That is a lovely location and I am wondering; it is not too far from the property we are looking at – I'm wondering if there has been any consideration by the city of San Rafael to perhaps creating a restroom at that location that is actually easier access.

I am just throwing that out there. I think that there is a lot more conversation that we want to have here on the Commission. But I wanted the Commissioners to be aware of the slightly larger geography here.

I agree with the comments that have been made. Whatever the reason was to grant the permit in 1982 and to close the restroom shortly thereafter, this is a new day. We have a lot of users of the Bay Trail. We want to have more users. I suspect there will be more users of the Bay Trail with the changes that are being made in terms of access on the Bridge itself for bikes and pedestrians but also improving and enhancing the linkage between the Bridge and areas of San Rafael that the Transportation Department of Marin is working on.

I think this is a very dynamic area that is going to have a future that is even more public oriented with more people wanting to use this area than it has been in the past. It is very important that we come up with a positive solution here that does provide the kind of public amenities that we all need whether we are biking or walking our dog or just taking a hike. I think that there is a lot of room for conversation between the city of San Rafael and our staff.

Commissioner Showalter commented: I wanted to ask a question about the section of the staff report that talks about the functionality of the plumbing. One of the things that was given as a problem is that they need a pump and there could be problems with spills and that sort of thing. I did not find that credible.

I am presuming that if you have 300 people working in an office park that is literally a baseball's throw away; they have working plumbing. They have had working plumbing every day they have been in business. Isn't this true?

Mr. Lavine answered: Yes.

Commissioner Showalter continued: I think the idea that the pump need; you need to look at other options such as potentially tying in the plumbing with the existing office park. I'll let you come up with any options.

Mr. Guerin commented: I am Bill Guerin with the city of San Rafael, the Director of Public Works. The bathroom itself has a sewage ejection system built into the bathroom. It is not connected to the larger office complex. Adding some sort of connection to the office complex would be prohibitively expensive compared to the sewage ejector system that would be built back into this facility if we do remodel it and get it back into functioning order again.

That is not something that we would contemplate. It is basically the same system. The sewer line is above the bathroom and above the office complex itself. Any sewage has to be moved up to the sewer line so it can get discharged to the waste facility.

Commissioner Showalter continued: I hope that you will consider for those of us who use these trails a bathroom is a treasure. We note them on our maps. They are really important. They improve the quality of the public access tremendously. I want to concur with everybody along those lines.

I do think that there are legitimate questions about how long the bathroom needs to be opened and closed. There are a number of bathrooms in Mountain View that are opened at dawn and they are closed at dusk. This changes over the years. Maybe there is something like this that would be workable here. I do feel very strongly that public access is dramatically improved by the use of restrooms and as the Bridge connection is completed it is going to be even more vital there.

Commissioner McElhinney commented: I also appreciate Commissioner Nelson's comments up front. It has been 34 or 35 years since the permit was agreed to and I think that is the new record.

I expected the second half of the applicant's presentation to say, and here is our opportunity to improve the site and this area is the gem on this side of the Bay and it is a great opportunity in this area. I understand that there are some partners that probably need to step up if the City needs help to make this happen. They do have a great opportunity here. This is not the early 80s and even at the turn of the century there was a lot of pushback of getting Bay Trail across Richmond Bridge. Here we are in 2018 and that is going to happen within a year or a year and a half. We have to be ready for that and the Bay Trail is going to connect and that is a wonderful thing.

I really encourage the City to rethink to a broader vision and BCDC staff is great with providing that greater vision help.

Commissioner Zwissler commented: I am not sure I am with everyone else in the room. We have an acre less of public access and so we create an amenity for less public access? I am curious as to what the theory was originally, what it might have been – if we remove public access or an amount of public access that we create an additional amenity for less public access.

Mr. Lavine replied: We will have to read into it a little bit. The office park was redesigned between the time it was originally permitted and the time it was built. In that time they lost a lot of usable public access area in a place that is now provided for parking.

When the Commission staff looks at the question of maximum feasible public access you are looking at area and also public access improvements. Commissioner Showalter has pointed out that a restroom is a treasure. It is a highly valued one and perhaps that played into the calculus.

Commissioner Zwissler continued: No one will know that because it was done 35 years ago. I feel like we have a problem in search of a solution or a solution in search of a problem.

The City showed a little chunk of Trail at the end of their presentation. Is the City suggesting that they are willing to make other improvements or enhancements to the area? It was not clear from the presentation.

Mr. Guerin replied: I think it is safe to say that we made an application to close and remove the bathroom and we are presenting that case today. We are very open to the idea of making other improvements in the area.

Commissioner Zwissler asked: But you are not putting anything specific on the table?

Mr. Guerin explained: What was specifically put on the table was connecting some of the dots where the path fades away into dirt and then becomes a path again. We think that this would be a nice amendment to people walking on the Trail.

Commissioner Zwissler continued: On the Bridge Trail; is this path the anticipated path that the cyclists will use once the Bridge is opened?

Mr. Guerin replied: The path for bicyclists would go to Anderson Drive. The vision is that it will go along east Francisco Boulevard to a crossover that would go up Sir Francis Drake Boulevard to Anderson Drive so you can go either into Larkspur on Sir Francis Drake Boulevard or Anderson Drive into central San Rafael.

Commissioner Zwissler asked: So this path is not part of the plan for accommodating the increased traffic by opening the Bridge?

Mr. Guerin replied: No, the path is widening the sidewalk along east Francisco Boulevard to a connection that goes up over the hill.

Commissioner Zwissler continued his inquiry: What is on the other end of this path? Is there any public access? Where does it end up?

Mr. Guerin explained: It ends up at what is now the Alboro Community Center. It is called Pickleweed Park. It goes past the residential area of Spinnaker and Bay Point and then it ends up at the community center.

Commissioner Zwissler continued: I guess I am just searching for and I am curious about whether or not there are going to be any resources available to encourage the City to fund some of this or be more strategic about how resources get spent.

I hear the need for a bathroom and I appreciate it but for 30 years we got by without one. Rather than just say, shame on you, build a new bathroom that 30 years ago someone thought was a good idea, maybe there is a smarter way to use the resources we are going to be asking to deploy here.

If a bathroom is truly the highest and best use to put there, okay, I guess that's it. But if it wasn't there for 30 years I'm not convinced of it. If we need a bathroom somewhere around there is that really the best place rather than just arbitrarily because 30 years ago we said it was a good idea – we are going to make you do it today.

I would rather be smart about us forcing you to do something rather than just say, because we said so.

Mr. Epstein commented: Where I thought you were headed with one of your questions is, where does the Trail terminate because there still may remain an impression that there is a way once you come across our new bike path that we are going to have on the Bridge that it will naturally take you down to this spot and it won't.

I would agree with Commissioner Sears that a much more sensible, safer, better location would be on Caltrans property at the terminus of the Bridge.

Chair Wasserman interjected: Excuse me. Now I am going to exercise Chair's prerogative. I appreciate your response. We are not going to get into that level of detail here because we are not going to solve the problem on this day.

Commissioner Vasquez commented: I would say either repair or relocate. In 1982 someone said there was a need for a restroom. Some 35 years later there is probably a greater need for a restroom along there.

I was a little confused in the presentation. It was almost as if you were arguing that a closed bathroom created these criminal problems that were occurring down there. Are you arguing that because the bathroom is there that the Trail is not used enough?

It is part of a piece of the Trail that hasn't been linked up yet. Once these linkages get in place it will be used more and more.

Someone agreed in 1982 to put this bathroom there so that is a condition of that permit. You make that commitment and then to not do anything or to close it and then put a portable unit in 2015 because we essentially catch you. You haven't kept up any of the maintenance of the Trail itself and the landscape.

If it was a private individual we would be going after them.

Chair Wasserman added: We didn't catch them. They came forward.

Commissioner Bottoms commented: I am kind of leaning with my colleague across the way. It baffles me that you are almost 34 years with a closed restroom because it was out of sight you could close it. I would like the City to look at and the staff to consider that with this expansion of the Bay Trail there must be some demographics in place from planning. There should be a restroom in place. Why not look at that demographic a little bit and try to come with a solution whether it is at this location or across the other way where it might be more congenial for other traffic and maybe make it so it cannot be used as a dumping site for campers and vehicles on the weekend.

Certainly, the idea of removing a restroom, the only restroom in the area as a solution is not a solution. Advocacy by the City and others, it just makes sense to try to find a solution to have something there for the public as you look to expand and celebrate the Bay Trail in your community.

Commissioner Gioia commented: I represent the communities on the other side of the Bridge. There is one major thing that is happening that changes the dynamics of this and that is the new bike path on the Richmond/San Rafael Bridge. That is going to change the dynamics. There is going to be more people using that.

A path forward comes out of instead of just looking at one site, and this is the reason why we have local government officials here, we must look at this holistically and look at the fact that there is a need for a bathroom in that area; maybe it's not exactly this site, figure out where the best location is for safety, access and all of those things and come back with that solution.

For us to get into the details here is sort of useless. We can provide general guidance. Kate from Marin can work with San Rafael and BCDC and figure out and come back with a proposal that keeps a bathroom somewhere in that area. We get a win/win solution out of this.

The change of circumstances is the opening of the path on the Bridge where folks from my area go across this Bridge and it presents a great opportunity to come with a great bathroom in the right location.

Commissioner Butt made some observations: I just looked at MTC's map of the proposed Bridge/Bay Trail improvements and it shows the Bay Trail on the Bridge coming in right at that old sportsman's club and then it shows it connected to this piece of Trail we are talking about.

Chair Wasserman stated: There is some disagreement with that. We are not going to resolve everything around this dais.

Commissioner Butt added: That is something that staff ought to verify.

Commissioner McGrath commented: I am a simple person and a deal is a deal. When you get an acre back and you promise to do something and you don't do it; you are starting in a hole. I hope the city of San Rafael realizes that you are starting here without a majority, perhaps without a vote. Certainly you do not have mine.

I am a former member of the Bay Trail Board. I have worked on Bay Trail segments throughout the Bay. I am on the San Francisco Board Sailing Association Board. I have sailed this site. I would have used this bathroom had I known about it. The fact that people have been using the bushes for 31 years doesn't mean that there isn't a need for the bathroom; it's the fact that nobody knew.

I am a kayaker, a bicyclist, a windsurfer; I represent board sailors. You have in your town the most successful board sports operation, 101 Surf Sport, generating money. This site, a new acre of land generated a land value; when we talk feasibility you need to talk about what accrued through the release of restrictions on that site. What kind of tax revenue has been generated? What kinds of savings not maintaining a bathroom for 30 years engendered? What kinds of fines are potentially exposed?

Now, back to the siting issue; I agree with the comments that the bathroom ought to be in the best place. I would point out that it is very difficult along this stretch of the shoreline to find places that are suitable to actually get to the water. There is a beach in this area that is one of the only beaches if you look up and down.

It is not axiomatic that it should be moved away from this place because stand-up paddling is one of the most rapidly growing areas. If you want to work and sit down with the Bay Water Trail people and local users and figure out what they would support in terms of combination of access and bathroom where it makes sense; but that is not going to happen on January 18th.

Commissioner Addiego commented: I am an elected person from a small community on the peninsula so I'm feeling the pain of San Rafael. I understand what you are up against. I understand what you are trying to solve. Today, the problem is this bathroom is neither practical nor reasonable.

I am heartened by Commissioner Sear's openness to looking at all their alternatives. I saw a major gap on the Bay Trail and that might be a nice addition if you could facilitate that.

I read some of the Bright Star Security reports for that area and there are problems there. I was heartened by Marin's commitment to the culture of the 1960s; a lot of free love (laughter) and a lot more marijuana use occurring in that corner of your town is something to be proud of it is just how you look at it.

I will end with that.

Commissioner Randolph was recognized: I have two questions. If the bathroom is closed we were saying earlier that there is illegal dumping by RVs. How they dump if it is closed?

Chair Wasserman clarified: The temporary one.

Commissioner Randolph continued: If there is not a lot of traffic there now; in the not-too-distant future there will be a lot more traffic in the vicinity. It seems a little bit odd to take away a facility in an area where usage is going to be increasing. It would seem logical, if there was just a spur off Anderson Drive to get you onto that path that would provide bicyclists an alternative route into San Rafael.

Chair Wasserman made a suggestion: At some level we need to move along. I think there is a sense here that there is not a lot of support for simply approving the removal of the bathroom. I am going to test that in a moment.

At the same time, I think there is a lot of sympathy for the issues that you presented in trying to find a solution here even in light of a deal that seems not to have been honored for a very long time.

I would like to propose that we take a straw vote to see what the reaction might be if the motion were to be made to approve the application. And assuming it comes out the way I am guessing it is going to, we actually continue this matter to allow the City and staff and other agencies to work together to see if there is not a productive solution here.

Mr. McCrea stated: The only clarification Chair Wasserman is that the continuation would have to be a request or be granted by the applicant. This application has to be voted on by the next meeting.

Chair Wasserman replied: I appreciate that and we will get to that. I would appreciate a straw vote. I am doing this very carefully because there is not a motion; as though there were a motion to approve the application. By hand, how many would vote to approve the application? (No hands were raised by any Commissioner) How many would vote against it? (Almost all of the Commissioners raised their hand with several Commissioners abstaining)

Okay. Would the applicant be open to requesting or agreeing to continuance?

Mr. Epstein replied: Absolutely Mr. Chair and my only concern with regards to that being my understanding that the extension typically contemplated would be 90 days which would be terrific under the circumstances, however, I think likely insufficient to accomplish the task before us.

I don't know whether we could come back and report on progress within that time period to indicate and demonstrate our commitment to the cause. I seek input regarding that problem.

Mr. Lavine made a point of clarification: One option that would avoid the 90 day problem would be if the permittees voluntarily withdrew their application with the intent that it would be resubmitted. The information needs probably would not differ significantly from those that have already been submitted.

I anticipate that it would probably be a pretty speedy review.

Mr. Epstein answered: I hear that Mr. Chair and our concern at the City level is the potential of past and future fines being imposed. I am wondering whether there is some procedure by which that concern can be abated while we work towards solving this problem and we would absolutely be prepared to withdraw the application. But if it is going to initiate fines beginning to occur; we are concerned about that.

Mr. McCrea added: Mr. Trujillo of our enforcement staff has informed me that there is one violation for this bathroom and the fines have maxed out at \$30,000.00 so they are not still accruing.

Mr. Epstein responded: Thank you. In light of that information I want to have one moment to consult with my team. If you could give me one moment. (Mr. Epstein consulted with his group off the record)

The city of San Rafael respectfully withdraws its application and looks forward to working with the staff and any other relevant agencies to sort out the solution to the closed bathroom.

Chair Wasserman stated: Thank you very much for your curtesy and we support the efforts of the City, staff and other agencies in reaching a creative solution to this problem.

Mr. Epstein answered: Thank you Mr. Chair and thank you to the Commission for its consideration today.

Chair Wasserman continued: Thank you very much. That concludes this item and brings us to Item 10.

10. Briefing on Adapting to Rising Tides Bay Area Project. Chair Wasserman announced: Item 10 is a briefing on the Adapting to Rising Tides Bay Area project. Carey Batha will make the presentation.

Executive Director Goldzband stated: Let me tell the Commissioners who are present; Carey's presentation will be somewhere around 15 to 20 minutes. I think it is really important that you pay real strict attention to this presentation because of the dollars that are involved and the significance of the project in relation to rising sea level and planning and the recommendations that you made in October 2016. Thank you.

Chair Wasserman continued: Let's take a five minute break.

(A brief off-the-record break was taken)

Senior Environmental Scientist Carey Batha presented the following: I joined BCDC staff about three months ago. I am going to give you an update on a relatively new project called Adapting to Rising Tides Bay Area or ART Bay Area for short.

The main purpose of this project is to look at the vulnerability of transportation infrastructure and other regionally significant assets to rising sea levels.

This project recently got started, so this is the first time we are bringing a full project update to you at a Commission meeting. I am going to give you a broad overview of the project and update you on where we are now.

We do use a lot of terms with “ART” in them. ART is the name of the program at BCDC devoted to looking at rising sea levels. We call our individual projects ART projects.

These are typically vulnerability assessments and adaptation planning projects usually at the county scale or smaller.

What we are here to talk about today is ART Bay Area and this is also an ART project but what makes it different is that instead of focusing on a single section of the Bay shoreline we are going to be looking at the entire Bay region and focusing on some particular assets of regional significance.

ART Bay Area not to be confused with other terms and other projects you may hear about.

Okay. So why this project? This project was made possible with funding from a Caltrans sustainable transportation planning grant. There are several reasons why our funder decided to make this project possible.

One was the awareness of the need to plan for rising sea levels and its impact upon transportation infrastructure, and also the opportunity to build upon previous work such as Plan Bay Area and some other studies.

But also there was recognition of the need to plan holistically. We can't effectively plan for sea level rise by looking at project-by-project because everything is connected.

What happens to one section of highway can have effects that ripple across the rest of the Bay.

By approaching this problem through the ART process that gives us this holistic perspective that we need to look at those interconnections and dependencies between assets and gives us the framework to look for adaptation strategies that will have multiple benefits across sectors and ultimately increase the resilience of the entire region.

This project has come together as an inter-agency project. We have staff on our project management team from Caltrans, MTC, Bay Area Regional Collaborative and BCDC. Allison Brooks from BARC is our project manager and the BCDC ART team staffs the project.

We also have a consultant team from AECOM and the Natural Capital Project. We have brought together a regional working group with stakeholders that represent local governments, asset managers and experts, community groups and so on. We are holding a series of working group meetings and public meetings throughout the project at key stages that will allow stakeholders to shape the project and push it in directions that are most useful to them.

The other thing that this project is giving us an opportunity to do is to bring together all our past ART projects and distill what they can tell us about regional vulnerabilities.

We are not reinventing the wheel. We are looking at our past projects to give us information that we can use here.

We are also using the flood maps that BCDC recently completed to do the exposure analysis for our vulnerability assessment. These maps were recently completed for the entire Bay Region with support from the Bay Area Toll Authority. They represent some of the most up-to-date and accurate information about flood extent with rising sea levels that is available now.

We are focusing on the vulnerability of four main regional assets: transportation infrastructure, priority development areas, priority conservation areas and disadvantaged communities.

With transportation we are looking at the web of infrastructure and arteries that move people and goods throughout Bay. We are looking at categories like highways, heavy rail, light rail, bridges, seaports, airports, BART and so on.

We are looking at what gets wet and when with rising sea levels and how flooding can impact certain locations and cause impacts that emanate throughout the rest of the Bay and ultimately impact the function of the whole system and our economy and communities.

We will be developing a series of indicators that serve as signals for when certain assets need particular attention. We are going to be establishing a methodology that can be applied later once ART Bay Area is over that we can continue forward to advance planning for vulnerability of transportation infrastructure.

We are doing all of this work with extensive coordination with our partners, our regional working groups and experts and we are pulling information from existing reports. One of the reports we'll be referencing is the Caltrans District 4 Climate Change Vulnerability Assessment, which we've included in your packets. This is a good example of the type of report we will be leveraging and incorporating into ART Bay Area.

The second main, asset category that we are looking at are priority conservation areas or PCAs. This is a designation given out by MTC/ABAG for areas that have open space values for agriculture, natural resources, urban greening, or recreation.

They can be nominated by a local government or a park or open-space district and once adopted they would qualify for certain targeted funding sources.

Currently there are 165 PCAs in the Bay Region which you can see on this map. What ART Bay Area is doing is looking at the collection of values that this system of PCAs provides us and asking, how might those benefits change with rising sea levels as we see more and more impacts?

The next step is to ask, how can we reduce these impacts or adapt to help the PCA program continue to meet its goals even in the face of sea level rise.

The third asset category that we are looking at is priority development areas or PDAs. PDAs are places where it makes sense to increase the density of development and invest in transportation infrastructure to reduce greenhouse gas emissions.

Together PCAs and PDAs really paint a picture of where in the Bay it makes sense to develop and where it makes sense to keep as open space.

The ART Bay Area projects will be looking at the vulnerability of our existing network of PDAs to different amounts of rising sea levels. And we are looking for adaptation strategies to increase resiliency.

Our research might show that some PDAs continue to make sense because the area is resilient to rising sea levels and it might show others where it will require more adaptation effort to keep the area a suitable place for a density of development.

The fourth topic that we are looking at is disadvantaged communities. We are looking for the characteristics of individuals and households that make it harder to prepare for, respond to and recover from flood events and other hazard events.

We will be looking at how rising sea levels may impact communities where those characteristics occur and look for adaptation strategies that will help.

We will also be looking at how the vulnerability of other asset areas we're looking at in ART Bay Area will affect disadvantaged communities.

We are also pulling information together from our various partners. We are looking at existing studies like Marin BAY Wave, Sea Change San Mateo, Silicon Valley 2.0, the San Francisco Sea Level Rise Action Plan and other examples that you see here.

We are also working with the Resilient by Design Challenge in a few ways. We are using RBD events as opportunities to coordinate and do some outreach on the ART Bay Area projects.

We are also hoping to incorporate the final outcomes of the Resilient by Design Challenge into ART Bay Area as we move forward and start looking at adaptation options.

We are also coordinating this project with Plan Bay Area. We are looking at how we can use the resilient action recommendations that were put out in the most recent iteration of Plan Bay Area into ART Bay Area.

We are also thinking about how ART Bay Area may inform the next update of Plan Bay Area.

Right now we are in the midst of doing the research for our vulnerability assessment really digging into the detail of our different asset areas, and that will continue through the summer. By fall we will be moving into developing adaptation strategies and we will be developing systems and methods for prioritizing adaptation strategies and ultimately by the end of the project around spring or summer 2019, we hope to have the following outcomes.

We will have a suite of strategies which are prioritized for funding and implementation. We will have set a framework for conducting future studies and we will also have the groundwork in place to inform a regional adaptation plan. We will also have an informed and engaged network that has come out of our ongoing coordination throughout the project.

"I want to close by describing how ART Bay Area relates to the recommendations adopted by the Commission on October 16.

First, ART Bay Area will help set the stage for a regional adaptation plan and it will also help inform the remaining county-level ART projects that we have yet to complete. It will help us identify regionally significant assets and through the outreach that we are doing with stakeholders and the public will be setting the stage for a regional education campaign.

A lot of the research we are doing is pulling together data sets for the entire region that help us do these studies. This will help us build regional, data repositories.

And near the end of the project when we are looking at implementation of adaptation strategies we will be looking at financing options which will also advance the work done by the Financing the Future Group.

I hope that was a good overview of what ART Bay Area is and how it relates to some of the other work that is going on within BCDC and outside.

With that I will close and I am here to answer questions you might have.

Commissioner Eckerle asked: That was really interesting and helpful. As we think about sea level rise impacts for the entire state of California I am curious as to how this can be exported to understand the vulnerabilities of these assets across the state. Do you think that this is something that we should export regionally as we think about going up and down the coast or something we should be launching as a statewide effort?

Ms. Batha replied: It absolutely has applications to share best practices elsewhere. And one of the strengths of the ART Program is that it provides a set methodology to replicate elsewhere for performing vulnerability assessments that incorporate stakeholders at every stage producing products that have buy-in from stakeholders and locals that has a higher likelihood of success.

Commissioner McElhinney commented: This was a great presentation and welcome to BCDC. Caltrans Climate Change Vulnerability Assessment Summary Report that is attached seems fairly thick but that is just the summary report. (Laughter)

I was involved in reviewing and editing that and the technical report with a host of Bay Area team members as well as our Sacramento office. WSP was a consultant and I thought they did a really, nice job. Our intent locally was to be sure that it blended well with our many, many years of work with BCDC here in the Bay Area.

This is the first of 12 reports and it is going to go statewide. This is being presented and it has been highlighted at California Transportation Commission meetings. So the Department of Transportation will have 12 of these completed.

We helped guide them through taking it from a technical summary to a good reference. BCDC, Bay Area Regional Collaborative, MTC and all our regional and local partners have blended all of our work over the years.

I am really happy to where we are today. This is going statewide through the California Transportation Commission and the DOT. This is just the summary report. There is a technical report that is also available online.

This is just the first phase. The next step is risk, asset-by-asset level and the full range of impacts across. We are doing a lot of that with our current look at investing SB 1 funds and what our priorities asset-by-asset should be and the climate change impacts to those. It is really continuing to evolve in California.

Commissioner Pine asked for clarification: Thank you for the presentation. It is good to get this update. I was hoping you could talk a little bit more about the phase that is described as, develop adaptation responses. Do you envision specific adaptation solutions in each of the vulnerable areas or how will that be approached?

Ms. Batha explained: Yes. We will be developing adaptation strategies for each of these four asset areas. Because the Bay is huge we will be looking at individual assets but also at solutions that can be replicated many places due to the common characteristics of a group of assets.

We will be looking for those connections; solutions that can be iterated on and maybe characteristics that signal the need for a particular solution.

We will be coming up with frameworks that signal where certain adaptation strategies are appropriate and getting specific on the ground, implementable solutions through our prioritization exercise.

Commissioner Pine observed: That seems really ambitious. (Laughter) So you might say, this particular area should be protected with a levee and another one should have a natural wetland solution. How will this take place?

Ms. Batha replied: Yes. Ultimately that is our aim to find implementable solutions for certain areas.

Executive Director Goldzband chimed in: You will remember that what the ART Program did in its Hayward Project was come up with four separate strategies that the locals could look at and figure out what the best process would be for them to use.

I would imagine what the project will do is say, here is a suite of options or here is one or two options to incite the discussion to figure out what the best options are.

Vice Chair Halsted gave kudos: Thank you for this and it is very important work. The public psyche is coming around to understanding the need for this and when we are ready to issue the priorities or issue the transition to adaptation people will be anxious to know what we have to say. It is going to be tough but very important.

The Caltrans Report which is just a summary is incredibly dense. I hope you will help us find our way through the details of this. I certainly hope someone will do this as well at MTC because trying to grasp it all is challenging.

I think it is really critical and for the public to understand it is critical too. I hope Caltrans is spending time thinking about how the press and the public will be taking this in.

Commissioner McElhinney added: It just got released a few days ago and some media picked it up. There will be quite a bit of discussion this quarter.

Commissioner Gorin commented: Thank you for some clarification on how we might be using all of the things that we have been talking about for the last two years. And thank you Dan and Caltrans for starting this ambitious, 12-issue, 12-volume discussion about what we might be anticipating.

Obviously, my perspective has broadened and been very depressed by the October fire storms. I appreciate Caltrans discussion about the wildfires and effects of the wildfires and the association with climate changes because even those communities that felt pretty comfortable and safe in an urban neighborhood were not safe.

The infrastructure that we thought was going to be buried and remain safe from everything - was not safe.

I don't know how we can use your comments and your thoughtfulness on wildfires and incorporate this into the Adaptation of Rising Tides because we have been talking about water. All of those lands that could be inundated with water should be safe from the wildfires. I don't assume that to be true now.

As you think about this and especially the habitats of the area around the Bays and the vegetation and the kinds of things that we are planting; you might think through fire-resistant materials in an infrastructure sense because we had plastic pipes, culverts, metal pipes melting and dirt collapsing, dirt burning, wine caves collapsing – it is unbelievable the kinds of things that we are finding when fire just spreads everywhere.

I would encourage us to think more broadly about how we look at climate change and how this area might be more vulnerable than we anticipated for wildfires than we originally assumed.

Commissioner Gioia was recognized: I would like to talk about where we are fitting in the discussion about governance because we have talked about best practices and various technologies but in a lot of these sub-regional efforts to adapting to rising tides there are multiple jurisdictions and we really do need to figure out where we are going to be talking about the governance issue to best implement these practices.

Chair Wasserman commented: The governance issue is clearly a critical issue. So far, we have been approaching it in a reasonable, incremental way. I envision that at some point that will not be sufficient. I don't think we are there yet. We do expect to have a presentation in February about governance from the study that has been done out of Davis and out of Berkeley. That will be another opportunity to focus specifically on it.

As we approach the fall development of this proposal we are going to start grappling with that a little more directly. We need to continue working the way we are to see how we can use existing powers and relationships to get as far as we can.

I do not believe that will get us as far as we need to go. But we need to see how we can do that.

Commissioner McGrath was recognized: I think you have the governance issue covered. What worries me a little bit here is the rate of change in the underlying economic equations. What hit the public awareness this last week was the cancellation of fire insurance in certain places in Oakland.

Those of us that have been paying attention to this for a couple of decades know that nobody is watching the actual science like the insurance industry. And you are insured until you are not.

And past performance is no guarantee of future insurance. In addition to that we also have the trend to limit the deductibility of damages from certain kinds of events and the increasing rapidity.

This may be something for Alex's group to dig into a little bit. It would be nice to know what is coming at us before it actually hits us like a two-by-four and I am sure that there are people in the insurance industry who follow the science rather than deny it.

It is something that would be important to all of us to have a little better understanding of.

Commissioner Eckerle commented: At the Ocean Protection Council we have met with the State Department of Insurance on this issue around sea level rise. And the challenge there is that insurers think year-to-year.

Flipping that equation to think more long term is the challenge. It is still worth us pursuing.

Chair Wasserman added: This framework and this action are very important. This is what is going to move us to really creating a solution that we can understand, that we can get the public to understand, that we can get to our partners and the Legislature to understand and to craft the path to the solutions that we need and the dialogue here on what it is exactly going to look like – we don't know at the moment and even when we put it together there are going to be some pieces of it that are very specific because it is very clear that in this place, this is the solution you are going to have to use. And there are going to be others where there are some alternatives and there may be some others where we are still exploring.

The Regional Adaptation Plan we have talked about is not a plan that will be set in stone. It is going to have to be flexible and we know that it is going to evolve.

The steps that have been outlined here are the right ones and are very important. I really hope that we can make this time table and I think we can. We are continually working to get more resources to do that.

Executive Director Goldzband stated: On behalf of staff I suggest that we provide you with another update in the fall because that is a pretty good time given the time table when we can actually start looking at results a little bit.

Chair Wasserman announced: That brings us to the closed session which is a briefing on the status of our lawsuit with the Army Corps of Engineers and we will go into closed session. I will turn the gavel over to Vice Chair Halsted.

11. Closed Session on Pending Litigation: San Francisco Bay Conservation and Development Commission v. United States Army Corps of Engineers, United States District Court for the Northern District of California, Case No. C3:16-CV 05420-RS. After returning from closed session Acting Chair Halsted announced: We have completed our closed session regarding BCDC's lawsuit regarding the U.S. Army Corps of Engineers' refusal to accept certain conditions of the Commission's concurrence with the Corps' consistency determination for its maintenance dredging activities and did not take a reportable action.

12. Adjournment. The Commission meeting was adjourned at 4:16 p.m.