San Francisco Bay Conservation and Development Commission
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December 28, 2018

TO: All Commissioners and Alternates

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)
Peggy Atwell, Director, Administrative & Technology Services (415/352-3638; peggy.atwell@bcdc.ca.gov)

SUBJECT: Draft Minutes of December 6, 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 1:04 p.m.

2. **Roll Call.** Present were: Chair Wasserman, Vice Chair Halsted, Commissioners Addiego, Alvarado, Butt (Departed at 4:47 p.m.), Chan (represented by Alternate Gilmore-Departed at 4:49 p.m.), Cortese (represented by Alternate Scharff-Departed at 4:49p.m.), Gorin, Lucchesi (represented by Alternate Pemberton-Departed at 4:47 p.m.), McGrath, Peskin (Departed at 4:40 p.m.), Pine (Departed at 3:45 p.m.), Ranchod (represented by Alternate Nelson), Randolph (Arrived at 2:14 p.m.), Sears (Departed at 4:18 p.m.), Showalter, Spering (represented by Alternate Vasquez), Tavares (represented by Alternate McElhinney-Departed at 3:45 p.m.), Techel (Departed at 4:50 p.m.), Wagenknecht (Departed at 3:45 p.m.), and Zwissler (represented by Alternate Holzman-Departed at 3:45 p.m.).

Chair Wasserman announced that a quorum was present.

Not present were Commissioners: U.S. Army Corps of Engineers (Bottoms), Speaker of the Assembly (Ahn), Department of Finance (Finn), Contra Costa County (Gioia), Secretary for Resources (Vacant) and U.S. Environmental Protection Agency (Ziegler)

3. **Public Comment Period.** Chair Wasserman called for public comment on subjects that were not on the agenda. Speakers would be limited to three minutes.

Mr. Chad Otten addressed the Commission: I am here to address the proposed Marriott Residence Inn planned development at Harbor Bay Business Isle in Alameda, California. It has come to our recent understanding that this Commission will not be having any oversight or require any permit for this proposed development.

Two years ago there was another hotel planned here and with the guidance and the oversight of the Commission that hotel use was denied because it was immediately on the shoreline, inapplicable and over-sized.

This planned hotel is scaled to be twice the size of the prior hotel. This hotel will be five stories high, 172 rooms on an insufficient parcel that is immediately next to the ferry terminal and all the residential neighborhoods.

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There is no other facility anywhere in the business park or nearby that comes anywhere close to the scale or to the height of the existing building that is being planned.

I would like to know why the Commission will not be having closer oversight and require a permit for something of this magnitude – twice the size of the prior hotel. If so, then we would like to work with you on it.

Secondly, BCDC had oversight over some simple parking that was proposed and BCDC denied that because of the view. Again, with the set-backs and the height of this thing and the scale it is just completely inappropriate let alone the impact it is going to have on traffic and crime. It is a use that is going to be going 24 hours a day, seven days a week as opposed to a business park where it just operates during the week day.

I would wish the Commission would consider requiring a permit and having greater oversight so that they can help the community get an appropriate development at this sight. Thank you.

Chair Wasserman added: We will take note of your comments. The Commission and staff cannot respond to matters in the Public Comment period because they have not been agendized but we will take note of your comments. Thank you.

Ms. Reyla Graber was recognized: I am here also because of the proposed, five-story, 73-foot-tall Marriott Hotel on perhaps the finest, remaining shoreline in the Bay Area and in the city of Alameda.

This area is enjoyed by hundreds if not thousands of people every year who walk and bicycle there. It is also a sensitive, environment habitat with many birds and wildlife that forage there.

If built; Alameda has nothing on the Bay that is this high of a building. It will be seen for miles. It is totally out of scale with everything that is surrounding it including the adjacent office buildings.

We are here to urge you the Commissioners to do the right thing here as required by state law and direct your BCDC staff to require a permit for this major and massive project.

Yesterday I was shocked to learn from Wilma Chan's office that the BCDC legal staff had already made a decision not to require a permit from the owner of the proposed hotel. I was shocked because I've had at least two extended conversations with your legal counsel by phone as recently as last Wednesday when he assured me that now decision had been made and that he would know more in one week.

Now however I have learned that around Thanksgiving the legal staff had already decided upon a course of action which is not to require a permit but to merely engage with the developer in a side agreement such as BCDC formerly had with HBIA.

This developer is a second party successor. And according to your own documentation, as he is not HBIA, he is not legally entitled to such a side agreement.

Just last evening there was a Harbor Bay Homeowner's Association meeting in Alameda which is near the project representing 2,900 homes and 9,000 Alameda adults. At the end of the meeting the Board went on record with a resolution against the Marriott Hotel saying it was too large in scale for the area and would negatively impact our neighborhoods and the environment.

Additionally, the president of the Board said that BCDC would be weighing in on this and that BCDC would be there to protect our shoreline.

Please prove our Board president is right on this and do the right thing and require a permit for this massive project which will greatly affect our shoreline that you are obligated to protect and preserve.

Mr. Joe Ernst presented the following: I am with SRM Ernst Development. I am here to speak on the item regarding Harbor Bay. I come to you as an active developer having over 20 years' experience in this business park. I am the president of the Business Park Owner's Association. I have been in that role for 15 years and I am part owner of the parcel in question here. We are not the applicant but we are the owner.

This history gives us a lot of intimate, working knowledge with the various documents that govern the shoreline.

I believe the authors of the letters and the speakers you have just heard from are reaching out based on their experience with the other hotel application which was on a different site. It was not on this site and had a very, different set of circumstances and rules governing that parcel.

In short, parts of this parcel are within the 100-foot band. And these parcels have been under jurisdiction of a series of agreements that go back to the 1980s. They go back to when the original Harbor Bay Isle was filled and there is language in the agreements, paragraph 19, where subsequent owners to the original master developer do benefit from the provisions. And in that time, over 30 years, with the exception of the Health Club; all development along the four miles of shoreline has been developed according to these agreements without permit but according to these standards.

I make that statement based on these 30 years of experience. We've had three projects of our own that we have had approved under these agreements and have worked with staff and have documented that over a period of 12 years.

The parcel in question has received two approval letters recently. These approvals are being memorialized in an agreement. And we've even gone back to one of the former, executive directors, Mike Woolmer who was in place when a lot of these original agreements were created.

The differences here with the other parcel in question are quite different. That parcel required a use change which had to be memorialized in these agreements; this parcel does not.

That parcel had some encroachment issues on the public space which that public access had not yet been created and that land had not yet been dedicated to the city; very different here – all of this public access and land has been created.

I want to thank you for your time. The city of Alameda's Planning Board is taking this up next week to make the determination that this project does comply with the development standards and agreements. I appreciate your time.

Ms. Patricia Lamborn commented: I am here to speak on the same issue, this Marriott Residence Inn at 2900 Harbor Bay Parkway. I am here to ask that you require a permit of this development. At the size that it is it is a major project right on the Bay. It requires a major permit.

I came to a BCDC meeting in September of 2015 and it was because of the development that the previous speaker referred to. I came because I thought my city was putting one over on you guys; that they had violated the agreement you signed about that use. They put in a permit application for ferry parking and it wasn't near the ferry. It was in front of the hotel. I came to make sure my city didn't pull a fast one on BCDC and to tell the truth and to blow the whistle.

And that is why I am here today. But today I am here that BCDC doesn't pull a fast one on my city and on the residents in the community.

We could argue in terms of the litigation but I feel that it is truly clear; BCDC signed an agreement with HBIA. And I will share with you and put into public record an email that your legal department sent in 2015 to the attorney of HBIA.

And in that agreement; it is a third, supplementary agreement. It states, Section 5, "No modification of jurisdiction." This and the amended TCA does not constitute modification or application of BCDC jurisdiction or controls as to any other party other than HBIA.

Mr. Ernst is a successor owner and the next developer of this hotel is a successor owner. Are you going to give up your jurisdiction of permitting? That is your power. That is how you mandate public access.

This hotel is already defined and out of compliance with our own city's planning set-backs for a building of its size.

There has been no design review. If you require a permit there will be a design review by your own experts on their committee.

We are asking you to require a permit or you will set a dangerous precedent all around the Bay in terms of your jurisdiction.

The things that have been said have already emboldened this developer. He has added your logo to his PowerPoint and presented that you have already approved and endorsed his project. There is nothing in writing. We have asked for it.

He is going to use that on Monday at our Planning Board meeting to say that you have approved his project. That is not true. You can amend that. Please send a letter to our Planning Board saying, "It does not meet with either permitting or approval as of that date."

Mr. Steven Gortlet addressed the Commission: I am a resident of Alameda. I do feel strongly that your staff in granting an exemption from the permitting requirements is usurping their authority. They are taking on the role of the Commission and that is your job. You can't delegate your job to staff. You need to get involved. You need to find out about this project. You need to invest a little time and effort and make it your business to either grant an exemption or to require a permit.

Ms. Andrea Aust spoke: I am also with the Marine Science Institute (MSI). I am the chair of the Board of Directors of the Marine Science Institute in Redwood City. MSI is a non-profit organization that provides education programs to youth and adults about the ecology of San Francisco Bay.

Since it was founded in 1970 we have served more than 1.3 million students including 50,000 students last year.

We host ten-thousands of these students every year at our Bayside facility providing them with engaging, hands-on experiences with San Francisco Bay marine life.

MSI is a really unique and special organization that creates lifelong experiences of the Bay through its programs. First I want to thank BCDC staff for issuing a permit that allowed MSI to complete our dock repairs last week which were crucial for providing a safe experience at our site.

Second, we need more help. We need your approval to replenish our 100-foot-long beach with oyster shells. We use the beach to enable students to engage directly with the Bay. It is the most thrilling part of our shore-side program especially for students who come to us as young as in kindergarten.

The beach has eroded over the years making it really unsafe for our programs. Oyster shells from the Bay have been used for decades in order to make it a safe space for our students to access the water.

It is a two-day job to replenish the beach. And we know that you want to help. We just need to expedite the approval as we have been working on this for five years.

BCDC staff wonders how long the new shells will last on the beach. We spoke with an engineer recommended by staff who said that no one will be able to tell how long the shells will last.

We want to work with BCDC staff to resolve this quickly so that we can get children safely back on the beach.

We have a window at the end of this year when schools are out of session and that would be the ideal time to complete this work but we would need expedited approval to make that happen.

The work is being paid for funds established for Bay mitigation as a result of the Cosco Busan settlement. The trustees also wanted the work done by the end of this year though they may be flexible on the timing of that.

We realize we are asking a lot to expedite something for your end though I would suggest that it would be a fantastic gift for our thousands of students who would continue to be lifelong stewards of the San Francisco Bay.

Thank you for your time and for the opportunity to speak today.

Mr. Jesus Jimenez was recognized: I am the facilities engineer and educator and have been at MSI for the last 12 years. I want to thank BCDC staff who has helped support our efforts in repairing our pier and worked with us on our beach restoration project.

Last week we just completed these repairs to the pier and these repairs will allow us to ensure the safety of thousands of students and visitors as they board our research vessel to explore the Bay.

For many students MSI is the first time that they board any sort of ship and the experience can have a positive and profound impact for their whole lives. It can really impact the way they perceive their environment and their role in protecting their environment.

However, for many students that are too young to go out on the boat we have a shore-side program that happens at our site. You can see from the pictures on the screen that it is in desperate need of restoration.

The naturally-occurring, oyster-shell beach that has been up there for decades has eroded away over the years and it has caused a serious concern for the program and the safety of each and every one of the students that come through MSI not to mention the thousands of boaters that use the site on a yearly basis.

We have been cooperating with BCDC over the last five years on getting this permit issued. It is a very, very small restoration – just over 100 feet on the shoreline. We have approval from every other required federal and state agency. We have provided BCDC with all the information that you have requested and followed the recommendations.

We contacted a coastal engineer that BCDC recommended to assist with submitting some additional information. Mr. Bob Battalio advised that this specific project could be a test-case restoration to help determine the actual cause of the erosion which no one can tell us what it is.

With the guidance from BCDC and Mr. Battalio we have prepared and submitted a monitoring plan and management plan and still it is not enough information. Commissioners I implore you to help us expedite the issuance of this permit so that we may continue to educate future generations on how to be stewards for the San Francisco Bay. Thank you so much for your time.

Commissioner Vasquez asked: Which is the before and which is the after picture on this slide we are seeing?

Mr. Jimenez replied: These pictures don't do it justice. I am sure that if any one of you visited the site there would be no question. The left is what the beach looked like historically. That picture has been dated back to the early 90s.

As you can see all of the students are standing on what is almost a dune of oyster shells. Those were naturally deposited – no staff member or organization or anyone ever went out to deposit those shells.

On the right you see all the rip-rap and the concrete and to the left of the picture on the right you see a big, two-foot drop-off. That is where the erosion has been continuing and exposing rip-rap and rebar which a serious hazard. Essentially, out of the 100-foot stretch of the beach only about 10 feet or less are actually usable for our students and visitors.

Mr. Dana Sack addressed the Commission: I am also here on the issue of the Harbor Bay Marriott Residence Inn. I have here the image that the developers have created about what the hotel is going to look like. I would like to have you pass that around.

What the Harbor Bay, community residents are asking of the Commission is that the Commission put on its agenda for a future meeting a review of whether or not this project should go through the regular, permit process or be allowed to be done by a backroom, side deal by staff.

The agreement that Mr. Ernst referred to is dated November 13, 1990 and it was based on an amended, CEQA EIR from 1989. A lot has happened since then.

And for the Commission through its staff to approve a side-deal allowing anything based on that ancient document is completely inappropriate. There ought to at least be a hearing where the Commission can decide whether that is the right course of action for staff to be taking or whether this should go through the permit process.

We've been told that the staff is or has prepared a memo on which way it should go but we haven't seen it yet. So we have no idea what their criteria are and whether they are valid or not.

When that agreement was done in 1990 it required a minimum set-back from Shoreline Park which is only 20 feet wide from the water. It is a wonderful park but it just a walking trail and bike path. I use it myself all the time.

They are talking about building a 73-foot building 35 feet from that trail. In 1990 when BCDC approved this complicated side-agreement in lieu of a permit and set a minimum of 35 feet it was relying on the sub-division agreement and the development agreement that Harbor Bay Isle Associates entered into with the city of Alameda. Those two documents require that buildings at 35 feet or less can be built with a 35-foot set-back but taller buildings require greater set-backs. Buildings 50 to 100-foot tall require a set-back of 50 to 100 feet.

What the developer and the city staff in Alameda have done and are going to do at the next Planning Board meeting is they are going to say that they can disregard that sub-division agreement and the development agreement because "you" said it is okay. That is what the planning staff report says is they should disregard the sub-division, improvement agreement that your prior Commission relied on in entering into that 1990 agreement because "you" told them it was okay.

All we are asking is the staff needs to tell the Planning Board at the meeting on the 10th that, no – we are still trying to figure out what we are going to do and we would ask that the Commission hold a hearing to decide, are we going to do a backroom, side-agreement based on this 1990 agreement or we are going to look at this a little harder or are we even going to do a full permit process?

Chair Wasserman moved to Approval of the Minutes.

4. **Approval of Minutes of the November 15, 2018 Meeting.** Chair Wasserman asked for a motion and a second to adopt the minutes of November 15, 2018.

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

VOTE: The motion carried with a vote of 20-0-1 with Commissioners Addiego, Alvarado, Butt, Gilmore, Scharff, McElhinney, Gorin, Holzman, Pemberton, McGrath, Peskin, Pine, Randolph, Sears, Showalter, Vasquez, Techel, Wagenknecht, Vice Chair Halsted and Chair Wasserman voting, "YES", no "NO", votes and Commissioner Nelson abstaining.

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

a. It has been an interesting few weeks about climate change. The papers are daily rife with articles comparing the increase in greenhouse gases to a runaway, freight train. There is a campaign that is also gaining steam to persuade all of us to severely limit if not give up eating meat. It is not a crazy campaign if you look at the percentage of greenhouse gases emitted because of the animals that are raised to feed us meat.

Amidst that bad news the good news is at least the press and people are paying attention. The attention continues to be towards mitigation which is critical. Adaptation is still getting relatively little attention. That for me increases the importance of the education campaign that we are starting to try and figure out and plot out and plan.

That was made particularly clear to me in a report which I do commend to you issued by the University of California, Berkeley Law in conjunction with the Resource Legacy Fund, "Priority Policy Solutions for California's Next Governor – Water, Climate and Wildlife."

There is some discussion of adaptation in there. There is disappointingly no discussion of rising sea levels. All of that is simply to say, our mission continues to be of utmost importance in saving the natural and the built environment in and around our Bay from what we know will happen.

And given the other comments about the increase in rate of greenhouse gas emission – it is going to happen sooner than we have talked about.

Our task is great. The need is great. We are going to continue to demonstrate that our will is great.

With that I will ask our Alternate Jeff Holzman to give us a report on Financing the Future Workgroup that met this morning.

Commissioner Holzman reported the following: We met at 10:30 and most of the session was devoted to a very, interesting presentation by Dr. Susi Moser a climate-change researcher and consultant who had been working on a study looking at coastal managers' needs as they prepare for and manage climate change and sea level rise impacts, resilient and active projects especially the finance challenges that they face.

What the study was mostly looking at was finding common themes and topics across projects. She identified 15 major, common problems that we could quickly sum up to be similar and unfortunate that there is just not enough staff time, not enough resources – but in this case the problems are enormous.

We did spend some time talking about those and as we were running out of time she teased us by saying, at the back of the presentation there were possible solutions for each one of these 15 categories. (Laughter)

I believe that the presentation is going to be made available to the public and I would encourage everyone to look at it.

Chair Wasserman continued: I will now ask Commissioner Alvarado to report on the Environmental Justice Working Group.

Commissioner Alvarado reported the following: We met this morning as well. In addition to myself we had Commissioners Showalter and Pemberton participating. We had a discussion about BCDC's Bay plan policies regarding mitigation specifically talking about our authority, the scope, timing and implementation of mitigation policies and how they could address environmental justice and social equity.

The full Commission will receive a presentation today on the agenda about our activities to date and so I will end there. Thank you.

Chair Wasserman announced: I would now like to introduce a very important guest. Mark Osler serves as NOAA's Senior Advisor for Coastal Inundation and Resilience. In that role he works across the federal government's National Ocean Service and the broader NOAA community to provide national-level leadership and engage federal, state and local stakeholders so that they can advance coastal improvements, inundation science and increase the ability of decision-makers to prepare for and respond to changes affecting coastal communities.

Mark worked for 18 years in the private sector, most recently as the national practice leader for his firm's coastal, flood risk and community-resilience, business line prior to joining NOAA.

Following Hurricane Sandy Mark led the Flood Risk Vulnerability Study and resultant flood mitigation framework designed for the World Trade Center as well as analysis of climate change impacts to major airports around New York City.

He has worked extensively with FEMA on modelling, mapping and communicating flood risk. Over the course of his career Mark has performed coastal risk analysis for regions in the Atlantic, Gulf of Mexico, Pacific, Great Lakes, Alaska and Antarctica.

Mark as well as other senior, NOAA representatives are in California for a few days to participate in next week's Restoring America's Estuaries and Coastal States Organization Biennial Conference which is being sponsored, in part, by the three coastal zone management agencies including ours.

Mark, we are looking forward to your comments.

Ms. Osler addressed the Commission: Thanks for the opportunity to spend some time with you this afternoon. I am particularly happy to get to the Bay Area. I am pleased to be spending my second day of eight days in California with you.

One of the highlights for me here in San Francisco is to learn about the priorities, challenges and success that BCDC has had and continues to have as well as other partners in the Bay Area all of which are essential to increasing this region and our nation's coastal resilience.

The Bay Area is a beautiful and complex landscape in which you live and work. You hold in your hands a profound responsibility.

Of the very many stakeholders involved in caring for our nation's shorelines, no matter where I travel, it is undoubtedly the local officials and the deliberative bodies such as BCDC which have the greatest challenge before them.

Your ability as Commissioners to work together to solve regional problems while addressing and respecting local challenges and issues and perspectives is the key to addressing this complexity. I appreciate and value your work in adjudicating, balancing and joining these many pieces together.

Through this work you have created partnerships that cross jurisdictional lines and scales across public and private industry as well as non-profit stakeholders and allowed this community to tackle critical, coastal challenges that affect the communities and resources throughout the region.

Your organization is seen and the actions of this region are seen in an international lens in terms of leadership on how to deal with the issues that you face.

You have been leaders with respect to addressing the issues of climate change particularly with respect to sea level rise.

My amazing team helped me prep for this visit by laying out a few of BCDC's greatest hits. Rather than listing them let me just say that as I read them I was reflecting on the fact as accomplish things that haven't been accomplished before there can be no room for dogma. We must efface with first principles in mind, common sense and logic.

As I read through your current, ongoing initiatives to tackle the challenges of environmental justice, social equity and refine how we consider the use of fill in the Bay as well as to tackle the challenges of adaptation financing; these are all clear signals to me that this body possesses the self-reflection, the ability and the openness to revisit how you do your business and always keeping an eye on the horizon for the best regional outcome.

None of us are doing this work alone and my admiration of BCDC's leadership to this community is matched only by my pride in the foundational role that NOAA has played along this journey.

When we partner together we not only benefit the region and the San Francisco Bay but we serve as a model for the nation and all the others across the globe who are struggling with these same issues.

Whether it's our joint effort with NOAA, BCDC and USGS to fund and collect a single, authoritative set of high-resolution, elevation data for the Bay or our coastal zone management partnership and funding or the trainings in coastal inundation mapping and green infrastructure or other technical assistance and tool development I am extremely proud of the role that NOAA has played in partnership with you.

On a personal note, I could not be more impressed with the NOAA team that you have personally here in the Bay Area. I have with me Becky Smyth and Sarah van der Schalie and it is important to recognize them. Within an agency of 12,000 very smart and dedicated, public servants; the team that you have with you at your side here stand out as some of the best colleagues I have the privilege to work with.

What a tremendous luxury to know that you have partners like these who can support you over the long haul, over decades and when necessary marshal the resources of the federal agency to your side.

In closing, let me reaffirm that NOAA values our partnership with BCDC tremendously. Together we have continued to make progress by defining shared goals working in concert with one another and always striving to employ creativity and innovation.

Managing the intersection of a vibrant city alongside one of the world's most complex and beautiful estuaries is a tremendous challenge. It is a challenge that this city shares with other great cities on the planet – New York City, Tokyo, Jakarta.

There is no script for you to follow to administer the business that you are asked to administer but your work is writing that script for others to follow.

NOAA could not be more proud. Thank you again for your continued partnership. Thank you for your leadership on these challenging issues. And be sure that NOAA will continue to work closely with you as you move forward. Thanks.

Executive Director Goldzband commented: Mark before you go and we didn't prepare this; I just want to let you know that BCDC staff believes that Becky and Sarah do a great job. And we really, really appreciate your support of them because we can't do a lot of what we do without talking with them and making sure that we are all in alignment.

And they are not only smart as all get-out they are incredibly accessible. And you can't ask for more than that from any government agency. Thank you.

Mr. Osler replied: I appreciate that comment. I will be sure to take that home. That is no mystery in our agency. It never hurts to hear that. Thank you very much, I appreciate that.

Chair Wasserman announced:

b. **Next BCDC Meeting.** Our next BCDC meeting will not need be held on December 20th. We will meet on January 3rd, here in this building when we expect to:

(1) Consider an agreement with the Coastal Conservancy to provide us funding for our participation on the Bay Restoration Regulatory Integration Team (BRRIT).

(2) Hold a Commission discussion on the composition and purpose of a reconstituted Citizen's Advisory Committee. We do have, by mandate, an Advisory Committee. It has not met in a very significant amount of time. In the last several years it has to some extent been supplanted in practice, not intentionally, with our series of public workshops where we have solicited and received a lot of public advice.

(3) Hold a Commission discussion on how regulatory staff is using the Ocean Protection Council's guidance on rising sea level to further the presentation made by Andrea and Erik last month.

c. **Ex-Parte Communications.** Now is the time to put any ex-parte communications regarding adjudicatory matters on the record. This is voluntary and you know you need to do it in writing under any circumstances. If people have received ex-parte communications they wish to disclose it is a good time to do it. We'll start on my left with Commissioner Pine.

Commissioner Pine reported: I just wanted to inform my colleagues that I have been advised by counsel that I cannot participate in Item 9 and 10 pertaining to Westpoint Harbor as I was very involved in meetings between Westpoint and the staff over a number of months leading up to the preparation of those documents. I will be excusing myself from those two portions of the meeting.

Chair Wasserman moved to the Executive Director's Report.

6. **Report of the Executive Director.** Executive Director Goldzband reported: Thank you very much Chair Wasserman.

Given the tight agenda I want to mention only three issues.

a. **Policy.** The first has already been taken care of. You have in your packet a copy of "Resources Legacy Fund and Berkeley Law's Center for Law, Energy & the Environment".

Second, I sent each of you an e-mail on Monday evening. I want to reiterate that BCDC will hold a Commission meeting on January 3rd, Thursday here that will include votes. In addition, we expect the meetings in February, March and April to be chock-full of permitting issues that will require votes as well as workshops on our Bay Plan amendments. In other words, please expect that we shall hold all of the meetings through the winter and that they will last most of the afternoon – past four o'clock. In general, the first meeting of the month will include permits and other complex issues and the second meeting of the month will be used for the workshops - but not always.

Finally, please make sure that you complete your ethics training by year's end and that you provide Reggie Abad with the confirmation that you have done so.

I am happy to answer any questions.

Chair Wasserman asked: Questions for the Executive Director? (No questions were voiced) One item I forgot to state in my report – we're going to make a slight change in the agenda today. We're going to put Item 11, the Public Hearing and Possible Vote on the Golden Gate Bridge Physical Suicide Deterrent System right after Item 8 in respect of the people who have come to talk about that important issue.

That brings us to Item 7, Consideration of Administrative Matters.

7. **Consideration of Administrative Matters.** Chair Wasserman stated: The administration actions have been provided to us. Brad McCrea is here if you have any questions. (No questions were voiced)

8. **Public Hearing and Possible Vote on the Bay Point Restoration Project by the East Bay Regional Park District at the Bay Point Regional Shoreline in the Community of Bay Point, Contra Costa County; BCDC Permit Application No. 2017.006.00.** Chair Wasserman announced: Item 8 is a public hearing and possible vote on a proposed restoration project at Bay Point in Contra Costa County by the East Bay Regional Park District. Erik Buehmann will introduce the project.

Mr. Buehmann addressed the Commission: On November 21st you were mailed a summary of an application by the East Bay Regional Park District to construct the Bay Point Restoration Project located at Bay Point Regional Shoreline at the terminus of McAvoy Road and the community of Bay Point Contra Costa County. (Mr. Buehmann showed a video) This shows the very end of BCDC's jurisdiction up toward the Delta.

The project involves restoring and enhancing approximately 17.65 acres of tidal marsh and Bay waters by grading within an area diked off from the Bay, excavating tidal channels and breaching the existing berm.

The project will improve an approximately 1.1 mile-long, existing, public-access trail called the Harrier Trail along the existing berms at the site and enhance an approximately 1,700 foot-long, existing, spur trail leading to a new boat launch for small, hand-launched boats.

The project will involve the placement of approximately 33,651 square feet of fill in the Bay including within an existing tidal marsh in the Bay and approximately 13,676 square feet of excavation.

The Bay fill will be placed primarily to raise and widen the existing, public-access pathways and the newly-installed, boat launch.

Both the restoration components and the public access provided by the project will be resilient to a mid-century of sea level rise projection of over two feet.

The tidal marsh restored by this project can accommodate sea level rise by migrating upland as water levels rise.

The spur trail may occasionally flood in the highest, tide events at the end of the project life of 2070 while the Harrier Trail will be resilient to end-of-century projection of 6.9 feet of sea level rise. However, it is likely the trails will flood in extreme storm events over time.

The staff summary lists the issues raised by the project in particular whether the proposed fill for the project is consistent with the waterfront park, beach, priority-use designation in the San Francisco Bay Plan, whether the project is consistent with the McAteer-Petris Act and the Bay Plan policies on fill and natural resources and whether the project provides maximum feasible public access consistent with the project.

Here to present the project is Chris Barton from the East Bay Regional Park District.

Mr. Barton addressed the Commission: I am with the East Bay Regional Park District. I would like to thank Erik and his staff along with Brad McCrea for all the help in getting this project to this point and also from our project team we have Melissa Carter and Michele Gioli, the best in the business in developing these kinds of habitat, restoration projects.

I will run through a brief, slide show that provides some background and some history. I will also describe the proposed project.

This project is at the far, eastern limits of BCDC jurisdiction. Bay Point Regional Shoreline is located between Concord and Pittsburgh in east, Contra Costa County.

What is unique here is we have a large, residential population at around 4,000 or so within one-half mile of the shoreline. We know that there is a severely, disadvantaged community nearby. The mean, per-capita income is less than 16,000 dollars per year. The project is also within one of the most limited areas for park land access and this makes the project especially important.

In West Contra Costa County this is one of the most, park-deficient areas. We are very happy to be able to bring forward these improvements to the park.

There is an existing, 1.1-mile loop trail at the site which is huge for encouraging the public to get out there to exercise. There is tidal marsh that surrounds most of the property. The park is about 130 acres. There is currently access, a restroom, parking and a picnic area at the park.

There is a J-shaped channel at the park and historically it is a completely, diked-in area. The land that we are restoring was historically used for sand mining. A barge would park in this J-channel here and there was a pipe that would run along this levee and pump the slurry of sand into these diked areas. Once the slurry was pumped in the sand would be dried out and then it would be available for market and it would be trucked out.

There are some low-quality, seasonal wetlands. There are also some higher-quality wetlands which we are keeping intact. Every type of weed known to us is probably located here.

The Harrier Loop Trail currently floods. Part of the project is to raise the elevation of the Trail so it remains high-and-dry and also accessible to persons with disabilities.

There is an existing, staging area are out there. We do have picnic tables, a restroom and a parking lot. One of the upgrades that we have included with this recent upgrade to the Park is to bring shade to the area. So there are shade structures that have gone in. This is outside of BCDC's jurisdiction.

We will be bringing in running water. If we expect people to come out to picnic you need to have running water. This is something that required an annexation into Delta Diablo Sanitary District which the Park District has moved forward with. We are confident that we are going to be bringing water into the Park.

The land was first acquired about 20 years ago. Five years after that the Park District developed a land-use plan which establishes that the intensity and type of development for recreational access. Shortly after that the size of the Park was greatly expanded through a State Lands lease – about 80 acres was added to the Park.

I show you this 2006 milestone here which is the passing legislation of the Great California Delta Trail System by Tom Torlakson. This is a huge piece of legislation that creates public access in Contra Costa and Solano Counties.

In 2007 the land-use, park improvements were implemented. The first measures were the parking lot and the picnic area.

My job as the project manager is to move forward with implementing the rest of the Land Use Plan. That is what is before this Commission this afternoon. This includes the public access and the habitat restoration component.

The project goal is to implement the Land Use Plan. We have co-equal goals and public access is not an afterthought and neither is habitat restoration. Both of these elements would be developed and implemented and given the same consideration.

For restoration we would like to improve or bring back the tidal marsh that was formerly filled with the goal that high-value habitat would be established for sensitive species such as the Salt Marsh Harvest Mouse and also the Ridgeways Rail and all the other species that would fall under that same umbrella.

We would like to make the trail accessible in the immediate and near term but later on down the road we would like it to be resilient to sea level rise thus the need to fill some areas in the Commission's jurisdiction.

Where we connect the former, sand-dredged, oil area to make it tidal wetlands we are installing a bridge in this area and it will be open to tidal action. We will have overlook areas where the public can stop and enjoy the view. We will install a bench in this area with clear and open views of the marsh. The entire trail will be accessible to persons with disabilities.

There is a kayak launch proposed in the spur trail area. There will be recycling containers in this area to diminish the need for trash pick-up along the trail. We will have a full, eight-foot-wide, accessible trail that leads out to these trash cans and also to trash and recycling cans and also to a kayak launch. We have designed the access to the kayak launch to be sustainable.

We will clean up debris that is currently located on the site. This will help us implement the restoration plan which is very similar to a past project that I worked on out in Richmond, the Dotson Family Marsh Project otherwise known as Bruener where we removed the Bay fill and then took that fill and created uplands and used it to raise the trails. We are elevating the upland areas to there will be an ecotone transition from the wet areas up to the high-and-dry areas.

There will be areas of enhancements where there will be breaches to some of the levees that are out there to allow some tidal action to improve the habitat.

The Park is designed to be resilient to sea level rise through 2050. We have projected to 5.5 feet of sea level rise by the end of the century.

The Harrier Loop Trail will remain intact. There are different habitat types that will become more and less and available as time goes on.

We have to bring up money because that is how we get these projects built. We have a lot of grant-funding partners. This happens to be a smaller project and the smaller projects dollar-for-dollar cost more because there are economies of scale. We have great funding partners starting with the County and also with the state all the way up to the federal level.

That concludes my presentation. We are really happy to be here. Being in front of BCDC is a great place to be because that means we've gotten towards the end of the process and we are ready to build it.

We hope to go to construction on this project by next year. I can answer any questions if you have them.

Chair Wasserman announced: Before we go to questions, we will open the public hearing. I don't think I have any public-comment cards on this item. I will take questions from Commissioners.

Commissioner Nelson was recognized: I have two questions for the applicant. Can you walk us through what happens to the trails as we look at sea level rise projections? I want to know how the trails will do.

Mr. Barton replied: The trails are fairly high-and-dry right now. The biggest constraint with sea level rise is the trail currently floods in this area here in the low areas. Here is where the trail needs to be raised the most. Here you see where the new bridge is going to be located to span across the channel.

The good news is this brownish-gold color is going to be there through 2100 which means we will be high-and-dry there.

As far as the habitat goes the darker green color is the low marsh and the lighter green is the high marsh. Immediately we will have the habitat benefit of having that high-quality habitat. If you fast-forward 30 years a lot of it will be converted to low marsh but there will still be some high marsh and some upland transition areas.

As we start to get closer to 2100 it really becomes slim going up to the Trail elevation.

Commissioner Nelson asked: With regard to elevations, fresh water and brackish marshes do a better job of keeping up with sea level rise than salt marshes do. Do these estimates of inundation impacts include estimates in sedimentation changes, elevation changes in the marsh itself as it tries to keep up with sea level rise?

Mr. Barton explained: Yes. Sedimentation and accretion were accounted for in the sea rise projections.

Commissioner Nelson continued: Can you walk us through the breaches for that lighter green area that you showed as being enhanced habitat in the upper left?

Mr. Barton responded: With the lighter green these are some remnant dikes that are out there now. There is some higher-quality habitat out here. What is proposed is to breach at this location to open this more up to tidal action. There will be more brackish water that is going into those areas. Through the evaporation cycle it will become more accumulation of salt so it will become a kind of seasonal pond.

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

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

Chair Wasserman called on staff: Erik will you present the staff recommendation please.

Mr. Buehmann presented the following: On November 30, 2018 you were mailed a staff recommendation on the Bay Point Restoration Project. The staff recommends that the Commission approve BCDC Permit No. 2017.006.00 to authorize the proposed project.

The staff recommendation contains special conditions including: the permittee will provide the approximately 1.1 mile long Harrier Trail and the approximately 1,700 foot-long, existing spur trail and the new boat launch for small, hand-launched boats along with a set of amenities, the permittee shall submit a final, monitoring plan for review and approval by or on behalf of the Commission based on specified, success criteria, the permittee shall monitor the restoration project for a 10-year term and provide monitoring reports and conduct adaptive, management measures if necessary, the permittee shall construct the project to minimize adverse impacts to existing tidal marsh except for the areas that would be filled and minimize adverse impacts to wildlife.

As conditioned the staff believes that the project is consistent with your law and the Bay Plan policies regarding fill and public access.

And with that we recommend that you adopt the recommendation.

Chair Wasserman continued: I would entertain a motion to approve the staff recommendation.

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

Chair Wasserman asked: Has the applicant reviewed the staff recommendation and do you accept it?

Mr. Barton replied: Yes, we gladly accept the conditions.

Chair Wasserman continued: Any questions or discussions?

Commissioner McGrath commented: About 16 years ago a group of kayakers approached me and they had found Middle Harbor and they needed a windsurfer on their board. They were engaged in preparing legislation which ultimately became the Bay Water Trail.

They had great traction here and in the Bay and have had as a goal moving up into the Delta. They are extraordinarily excited about this. The East Bay Regional Park District has been a wonderful partner in improving access.

I urge the Commission to a vote to approve this.

Commissioner Vasquez had a question: Construction begins next year; when will you be completed?

Mr. Barton replied: We expect about a six month construction schedule. Hopefully by the end of next year we will be done.

Commissioner Showalter commented: I see that all of the work period shall be confined to August 1st through November 30th. What is the basis for that? That seemed like an odd period to me. That is a very short period.

Mr. Buehmann explained: That is to minimize wildlife impacts. It is fish. And it is just for this pile-driving and the excavation.

Executive Director Goldzband added: This sounds very familiar to the NMMS work window.

VOTE: The motion carried with a vote of 21-0-0 with Commissioners Addiego, Alvarado, Butt, Gilmore, Scharff, McElhinney, Gorin, Pemberton, McGrath, Nelson, Peskin, Pine, Randolph, Sears, Showalter, Vasquez, Techel, Wagenknecht, Holzman, Vice Chair Halsted and Chair Wasserman voting, “YES”, no “NO”, votes and no abstentions.

11. **Public Hearing and Possible Vote on Golden Gate Bridge Physical Suicide Deterrent System; Material Amendment No. Three to BCDC Permit No. M1996.019.00.** Chair Wasserman announced: Item 11 is a public hearing and possible vote on the Golden Gate Bridge physical suicide deterrent system. Ethan Lavine will introduce the project.

Mr. Lavine addressed the Commission: On November 21st you were mailed a summary of an application by the Golden Gate Bridge Highway and Transportation District to material amend its BCDC permit to allow for construction of a physical suicide deterrent system at the Golden Gate Bridge.

The District believes the deterrent system will be effective in reducing the number of fatalities and suicide attempts from the Golden Gate Bridge as it has been at many other bridge systems using such a system across the world.

That system would consist of a stainless-steel netting suspended approximately 20 feet below the elevation of the sidewalks that run along the east and west sidewalks of the Bridge.

The project would also require some work beneath the Bridge to replace components of a permanent, maintenance, scaffolding system that will be impacted by installation of the new system.

Finally, during construction chain-link, security fencing would be installed along sections of the Bridge sidewalk for security purposes and some construction staging would occur on the Bridge sidewalks.

However, access for pedestrians and bicyclists would be maintained throughout construction.

It is helpful to understand BCDC jurisdiction in relation to the Bridge. The Golden Gate Bridge is 1.7 miles long and the system would be installed within and outside of the Commission's jurisdiction.

The Commission's Bay jurisdiction is shown here in blue. On the San Francisco side of the shoreline BCDC's shoreline, band jurisdiction shown in green extends 100 feet in land and it encompasses a portion of the arch on the Bridge's south approach. And the portion in red is outside of the permitting jurisdiction of BCDC.

Here you see that the Commission's shoreline, band jurisdiction extends in about 100 feet from the north tower with the rest outside of the Commission's permitting jurisdiction.

The application summary identifies issues raised by the project including allowable Bay fill, appearance, design and scenic views and public access.

On the issue of allowable fill in the Bay the McAteer-Petris Act allows for some filling of the Bay for purposes providing substantial, public benefits if these same benefits could not be achieved equally well without filling.

The project has minimal potential for harmful effects to the Bay itself given its location approximately 220 feet above the Bay's waters.

It does have the potential to adversely affect bird species who might attempt to nest or become tangled in the net system. However, the project incorporates measures to reduce the potential for such adverse impacts and it also includes monitoring to ensure mitigation is successful in avoiding such impacts.

On the issue of appearance, design and scenic views the project would result in visual impacts. However, maximum efforts have been made to preserve views of the Bay through its design. Shown here is an alternative that was studied to give you a sense of proposals that were rejected because of the more, severe design and view impacts that would have occurred.

The proposed, net system would only be visible to individuals looking at the Bridge from the shoreline or the Bay itself or who are looking down at the Bay from over the edge of the handrails at the Bridge's sidewalks.

The net itself is designed of materials that would maximize visual transparency to the greatest extent feasible.

During construction only the use of temporary, chain-link fencing for security would be required along sections of the Bridge's sidewalk handrails which although transparent would have an effect on the public's experience albeit on a temporary basis.

Finally, on the issue of public access; the Bridge's sidewalks are extremely, well used by pedestrians and bicyclists. The permanent system would not occupy any space on these sidewalks though some temporary, construction staging and storage would occur on the sidewalk while maintaining a line of passage at least six feet wide in any given spot.

The District does not propose to construct any new or improved public-access areas or amenities as part of this project. Unlike most other projects that appear before you the project would not displace any existing, public access nor would it create greater need or demand for public access than exists at present.

That concludes the staff presentation on the issues raised. I would now like to introduce Dennis Mulligan the general manager for the District to introduce the project.

Mr. Mulligan addressed the Commission: I am the general manager for the Golden Gate Bridge Highway and Transportation District. I am here today to discuss the proposed permit associated with saving lives at the Golden Gate Bridge.

The Golden Gate Bridge is not part of the state highway system. We are a separate entity with a separate board that sets our policy. We are the agency that built the Bridge and we own and operate it today.

The Bridge is a tremendous achievement with respect to its original construction. It was built amidst the Great Depression when money was tight. While money was tight they still had the foresight to include public access on the Bridge.

The Bridge was constructed with sidewalks on both its east and west sides. When the Bridge first opened to the public it was opened to pedestrians; cars had to wait a day.

When the Bridge was originally built the rail you see here in the slide is quite low is all that separated vehicles from the sidewalks.

Over the decades the Bridge District has made a variety of improvements to enhance access in the Bridge. The east sidewalk along most of its length for the original construction was 10 feet wide however the last quarter mile was only six feet wide. The Bridge District widened that last quarter mile of the east sidewalk from six feet to ten feet to match the rest of the Bridge.

The west sidewalk when it was originally built ended at the north, anchorage house. It did not extend all the way to the trail-head, parking lot in Marin County. So the Bridge District added a quarter mile of 10-foot-wide sidewalk to the west sidewalk. So public access is part of who we are.

We have added a safety railing to separate people adequately from the vehicle traffic which has greatly enhanced and made the sidewalks even more desirable.

Those changes coupled with changing demographics and increasing tourism has led to our sidewalks being intensely used today. On a busy Saturday in July we will commonly have over 20,000 people on our sidewalks in a single day.

We will have over 12,000 pedestrians walk part way out. We will have over 8,000 bicycles cross the Bridge.

Unfortunately, not everyone who comes to the Bridge is in a good mood. Some people are despondent. Some people come to the Bridge to hurt themselves.

We currently have a variety of non-physical measures in place to intervene. For decades we have had crisis counseling phones on the Bridge where you can pick up and someone will respond.

A young person today probably won't recognize a phone attached with a chord so we now partner with crisis tech lines so you can text GGB to a number and get immediately responses back plus we will be able to locate your phone on the Bridge so we know where to look for you.

We currently have Bridge patrols on the Bridge. And two and a half years ago we increased the size of the Bridge patrol in light of the rising increase of suicides in our community. We have patrol officers on scooters, on bicycles and on foot.

Those non-physical measures do a lot of good but there is still much loss of life and tragedy. In 2017 last year 278 people came to the Bridge to hurt themselves. Last year we stopped 245 people including the people on this slide who were taken off the Bridge for a psychiatric hold at a local hospital but sadly 33 died.

As a community we can do better. So we are going to build a physical barrier along the entire length of the Bridge. We will build a physical barrier on the east and west side of the Bridge.

What is contemplated is a net. The net will be located approximately 20 feet below the sidewalk and it will extend out horizontally about 20 feet.

Nets have been erected on about two dozen bridges throughout the world. Those nets have been almost completely successful. There has been a virtual elimination of suicides. There has been only a handful at all of those locations. And the longest that they have been up is two decades. So this is a physical measure that will save lives. We have awarded the construction contract. We held a ceremony to mark that historic occasion with those that supported the project.

Our contractors put up temporary fencing. The purpose of temporary fencing is to protect the workers below so people don't drop cameras and cellphones on them injuring the workers. There is a secondary impact in that it allows our patrol to focus their efforts on those portions of the sidewalk where that fencing is not up and we have had fewer suicides this year thus far.

The bulk of the work you won't see. The bulk of the work occurs at night and that is because traffic volumes are lower at night. When traffic volumes are lower we will close lanes on the Bridge where we won't cause a significant backup. Our contractor sets up their cranes and they lift equipment over the sides threading between the vertical, suspender ropes.

Meanwhile all across the country parts are being fabricated. In Missouri they are spinning the main border cables as we speak. The steel struts that will support the net are being fabricated in Oregon.

The proposed fill is more than 220 feet above the water. The proposed fill is actually quite porous or open. Those struts that are located every 50 feet are only eight inches wide. The border cable that runs along the length of the Bridge on the outside of the cables is a little over an inch in diameter. The steel mesh is comprised stainless-steel, wire ropes and those wires are less than 3/16 inch in diameter. The proposed fill is less than 10 percent solid and it is more than 90 percent voids.

This undertaking is not a substantial change in use of the Golden Gate Bridge. This project will save about 30 lives a year. And this project is essential to the health, safety and welfare of the public.

I respectfully request an affirmative vote. I thank you for your consideration and I will be available to answer any questions at the appropriate juncture in your process.

Chair Wasserman announced: We will now open the public hearing and recognize speakers.

Mr. Manual Gamboa was recognized: Satisfaction comes with this barrier that has started already on the Golden Gate Bridge.

The sorrow started five years ago when my son, Kyle Gamboa at the age of 18 stopped his truck by the sidewalk towards the east side and with no hesitation got out and leaped over onto the sidewalk and over the rail.

I believe that if this net was here back in 2013 it would have prevented him from killing himself there at the Bridge. I don't know what the future would have held for him after that. I believe this will save lives of people like my son and especially for the people that go there and look over the edge. They will see this net. They will realize that coming here is not going to do them any justice for whatever they are going through.

I believe my son had a mental breakdown. He was just too proud or strong – no one knew what was going on with him to seek help. There is no warning, there is no sign.

The other thing that came as a disappointment was for me to be here and to ask; and I thought, do I even have to ask? I believe there is a lot of stuff going on and it needs to be done and this and that but to have your vote for this permit to continue with this project to save lives – I just ask you to join me to save lives.

Basically that is all I want to say and I thank you for being here. I much rather not have been here but unfortunately my son made that decision and I believe this is a good thing. Thank you.

Chair Wasserman stated: Thank you sir and I am sorry for your loss. (Applause)

Mr. Paul Muller addressed the Commission: I am the founding member and current president of the Bridge Rail Foundation. Our organization exists to see that we stop the suicides on the Golden Gate Bridge.

As many of you know there has been well over 1700 deaths from our most famous Bridge. These are only the known deaths however where a body was recovered. There are many others where either the Coast Guard was not successful in recovering someone or there was no witness or report of a jump made. Some of these unreported deaths are simply washed out to sea. As large as this tragedy is its profound impact on many families who suffer a suicide loss has never been fully calculated. Some of these families are represented here today and they can tell you that the tragedy itself is compounded by the simple fact that it can be prevented.

Taller railings and nets on bridges are proven effective as suicide-prevention measures. They save lives. And when a fatal jump isn't possible those who would jump rarely choose another means thus buying time for the suicidal impulse to pass or fade and for proper treatment to begin.

It is important to note that the suicide problem on the Golden Gate Bridge is truly a regional issue. A 15-year review of the Coroner's data clearly shows that this is a Bay Area problem. Over 85 percent of all the deaths at the Bridge are from the nine-county, Bay Area with San Francisco, Marin and Santa Clara Counties leading in the Coroner's count.

Finally, it is important to note that the design and construction of the net will have minimal, if any, impact on the Bay itself. It poses no interference to any Bay or shoreline activities nor will it interrupt any Bay commercial or shipping work. In fact, when the net is in place there should be less interference with activities on the Bay as there will be of a need for first responders.

The net that the Bridge proposes to construct will stop on ongoing tragedy where on average there are three suicides every month. It is an urgent life and death matter and we implore you to act on this application today. Thank you.

Chair Wasserman continued: I would entertain a motion to close the hearing.

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

Commissioner Nelson commented: This project is unlike virtually any other that comes before the Commission and part of our jurisdiction here is maximum, feasible, public access. That inherently means not just accessibility but safety. I have a question for the applicant. I want to thank the witnesses for really impactful and moving testimony. There is a tradeoff here. A railing can provide a barrier that is extremely difficult to scale but has visual impacts on that very heavily used path system – that sidewalk. A net system doesn't. It is our job to make sure that this tradeoff works. That it works from a public-access perspective but it is actually safe enough for the people who are using that Bridge and who are at risk.

I understand how railing works. I don't know anything about suicide prevention. Can you help us understand why it is that these nets work? What prevents someone from simply making a second leap off of that net?

Mr. Mulligan explained: Suicidal people don't want to hurt themselves – they want to die. When there is a stainless-steel, wire-rope netting down 20 feet even in your most despondent state it will be clear that you are going to hurt yourself. It is difficult for us who are not going through this trauma to appreciate it.

But there is a proven track record. And there are a couple of published studies on this because most nets are up in Europe in Switzerland and Germany and researchers have done studies of the efficacy or the effectiveness of nets versus high railings. The effect of nets is more impactful and greater at reducing suicides than high railings.

People can climb high railings but a net for whatever reason creates a mental stigma. Cornell University in upstate New York in Ithaca would have lots of suicides around finals weeks and so they put nets up on six bridges. They have had only two people jump – one jumped into the net and did climb to edge and jumped again. The other jumped and was rescued.

Some of the installations in Europe such as one is Switzerland has been up now for over 20 years and not a single person has jumped into it.

There is a track record that belies our common sense logic but the track record speaks for itself. If someone were to jump into this net we are partnering with local, first responders.

With respect to how effective nets are if you haven't read literature or looked at test cases it doesn't seem logical. But sometimes what is not logical is what works. And clearly they have worked at a variety of locations. In most locations nobody has jumped period.

Commissioner Scharff commented: I had the question of there is going to be a six-foot clearance and right now we have about a 10-foot clearance on the sidewalk?

Mr. Mulligan answered: Right now there is a 10-foot clearance on the sidewalk until you get to a light pole. When you get to a light pole which is every 75 feet it is narrowed.

Right now bicyclists have 24/7 access to the Bridge and at night they have to buzz in and buzz out for security reasons. We have gates that are automatic and we track them going across the Bridge. We will maintain that during construction. But to construct this we have to be out on the sidewalks. We will do much of the work at night but we will do some work during the day where workers will access the platforms underneath to continue the attachments for the pieces that were erected at night.

This will narrow the sidewalks but we will maintain a six-foot width clear at all times. It is impossible to build this without some impact. The bulk of the impact will be at night to motorists.

Where we are staging on the east sidewalk we will let the bikes on the west side during day weekdays. We will maintain access 24/7 but is vital that we build this and we have to strike a balance between giving the contractor adequate access and maintaining access during construction.

Commissioner Scharff asked: How long will the construction period be?

Mr. Mulligan replied: We are talking about several years. The net will be completed in January 2021 and other measures will take longer so we will be out there for several years.

Commissioner Scharff continued: So is access going to obstructed for the entire time or is it going to be staged? I wanted to ask staff if they have looked at minimizing this. What are we doing about this?

Mr. Lavine responded: The fundamental consideration when it came to public access is that while there will be the narrowing of the sidewalk in certain locations there is a continuity of public access being provided. There is no closure of the Bridge in any way beyond what there is at the present. So there is the same general level of access for pedestrians and bicyclists as provided although we all know it is a very busy Bridge and certainly the public will feel the pinch points because of the need for construction staging. But fundamentally the level of access provided will be consistent and that was a big consideration.

And when we get to the recommendations you will see that one of the special conditions that we included reinforces that proposal which was already proposed by the District.

Commissioner Scharff asked: And which special condition is that?

Mr. Lavine answered: That is special condition 2.B.4 which is found on page 12.

Commissioner Scharff continued: And I did notice in the special conditions that they will provide the plans, it says, "plan review shall completed by or on behalf of the Commission within 45 days after receipt of the plans to be reviewed".

Mr. Lavine responded: For this project if you see the special conditions on page 11 this is a project where we know what the construction staging is going to look like. We are not requiring any additional plan review for this project.

The only instance in which the District would need to come back to the staff and get additional plan review would be if they change the construction staging or any aspect of the project. And in that case that would be where we would be looking to make sure that there is no additional impacts to public access beyond what was originally proposed.

Commissioner Scharff clarified: Okay, so you are not planning on any further plan review.

Mr. Lavine replied: Not unless there is a change to the project which is not what we anticipate.

Commissioner Scharff continued: So if there is a change to the project which unanticipated and probably unlikely; what is the purpose of putting in the special conditions, "plan review shall be completed on behalf of the Commission within 45 days of receiving the plan"?

Mr. Lavine explained: Sometimes when we have a project that comes to us we don't have 100 percent construction documents or even if we do conditions on the ground prove that there is a need to change some aspect of the construction plan. And in those cases what it does is it allows the staff to look at it and make sure that there are no impacts beyond what were considered by the Commission.

If we found that there was a change to the project that made the potential for public access impacts that we weren't envisioning we would through the Executive Director consider whether it actually required an amendment to the permit and if it was a significant amendment it might come back before the Commission. This gives us the opportunity to have some flexibility.

Commissioner Scharff stated: So that was exactly my concern. I said to myself, well how would you do that within 45 days and why would we as a Commission put a 45 day limitation on ourselves? Is that statutory? Is there a reason why we wouldn't just say, plan review shall be completed after receipt of the plans?

Mr. Lavine explained: That is kind of a customer service thing that your staff has done over the years. Many, many years ago in an attempt to be responsive to applicants/permittees we put that limitation on ourselves. It is a limitation on staff to do the plan review. It is not a limitation for us to bring it back to the Commission for its consideration.

Commissioner Scharff stated: So it is not a limitation to bring it back to the Commission.

Mr. Lavine answered: Yes. Because we could determine that the plan raises that significant impact and then we would schedule a Commission meeting following that and we would do that within the time on the Commission.

Commissioner McElhinney commented: First of all to the families, we thank you for being ever-present in keeping this a priority for all of us.

I wanted to say that Dennis Mulligan has been a fantastic leader on this. I have been in a lot of sessions with Dennis over the years. From one toll, bridge engineer to another – Dennis your leadership on this has been extremely important to all of us. There have been tough decisions, complex designs and the funding package that came together among various agencies has been tremendous.

On behalf of the California State Transportation Agency we appreciate your leadership on this. We can see the end coming near so thank you Dennis. (Applause)

Commissioner Sears commented: I have served on the Golden Gate District Board for seven years. This has been quite a journey. It has been one of the most challenging projects that has ever become before us as a Board. It has been challenging in a variety of ways.

Mr. Gamboa and his wife have been absolutely fantastic supporters of this project. Hearing him speak today gives you a really strong sense if the strength of the stories from surviving family members.

Mr. Gamboa is not alone. We have gone through periods of time where we have heard from many, many family members about the impacts on their lives from having a suicide in their family.

And it has been a journey for the members of the Board because all of us as Bridge District Board Members were very concerned about the impact to the Bridge itself – the visual impacts, the impacts on public access to change that happens. But we became so convinced through the compelling testimony that we heard from people about the incredible importance of making a difference to the number of people who come to Bridge wanting to hurt themselves.

As a Marin County Supervisor our Highway Patrol in Marin, our southern Marin Fire District are very close partners with the Bridge District in addressing safety issues and really helping to address and deal with people who come to the Bridge to hurt themselves.

But as you heard Mr. Mulligan say, we can't make this Bridge completely safe simply by having foot patrols and emergency responders and other professionals try to address and save lives. We had to make this step.

And tremendous challenges were involved in coming up with a design that was going to have the least impact on the visual appearance of the Bridge but also be effective.

I really want to shout out both kudos to Dennis Mulligan but also to the engineering staff of the Board. This is tremendously challenging work. And Dan you will be glad to know that there are a number of videos that talk about the processing of the different parts of the net that will go into creating the net but also into building it.

Imagine the challenge here; this is a long bridge and there is also a traveler piece of equipment under the Bridge that had to be completely taken out and replaced before you could even start building this Bridge. We have mock-ups of the net that are being tested where people are being trained about how to actually build the net, how to assemble it and how to make this an impactful project.

This is extraordinarily important for our Bay Area. And so as much as I am sorry that it had to come back to BCDC I am glad that it did because it is yet another opportunity for people to really understand what the challenges are on the Golden Gate Bridge and how extraordinarily important this project is.

We've tried really hard to come up with a good project. And I think staff and the consulting engineers have done a great job. I can hardly wait Mr. Gamboa until it is in place and we can all celebrate together. Thank you for your support.

Chair Wasserman commented: I certainly cannot begin to feel or understand the loss and feelings and bewilderment of Mr. Gamboa and the other families who have lost family members jumping off the Bridge. I felt a very, very small piece of that a number of years ago because I did have a partner at my firm who jumped off the Bridge and his body was not found but his car was found abandoned on the Bridge.

The other issue that Mr. Gamboa and the other people who have lost family members raise, of course, far beyond our jurisdiction and that is the terrible problem of suicide and mental illness and our absolutely inadequate resources in dealing with that at every level.

I certainly join in supporting this effort and am pleased to join in the vote to support this very important effort and wish it all the success in the world.

With that we will have a presentation of the staff recommendation.

Mr. Lavine presented the following: On November 30th you were mailed a copy of the staff report recommending the Commission authorize the proposed project with conditions.

The staff recommends inclusion of special conditions that will require the District to report the results of avian monitoring to the Executive Director and implement feasible, mitigation measures as determined to be necessary through consultation with Cal Fish and Wildlife and the U.S. Fish and Wildlife Service, to ensure the removal of the temporary fencing as soon as feasible and immediately upon completion of the work, and to require the District to ensure that the same general level of public access exists during construction as it does at present.

As conditioned the staff believes that the project is consistent with your law and Bay Plan policies and with that we recommend that you adopt the recommendation.

Chair Wasserman asked: Does the applicant accept the conditions and the recommendation?

Mr. Mulligan replied: Yes.

MOTION: Commissioner Peskin moved approval of the staff recommendation, seconded by Commissioner Sears.

VOTE: The motion carried with a vote of 20-0-0 with Commissioners Addiego, Alvarado, Butt, Gilmore, Scharff, McElhinney, Gorin, Pemberton, McGrath, Nelson, Peskin, Pine, Randolph, Sears, Showalter, Vasquez, Techel, Wagenknecht, Holzman, Vice Chair Halsted and Chair Wasserman voting, “YES”, no “NO”, votes and no abstentions.

9. **Closed Session on Pending Litigation: (1) Mark Sanders and Westpoint Harbor, LLC v. San Francisco Bay Conservation and Development Commission, San Francisco Superior Court case no. CPF-17-515880; and (2) Enforcement Committee's Recommended Enforcement Decision Regarding Westpoint Harbor; Proposed Settlement Agreement between the Commission and Westpoint Harbor, LLC.** Item 9 is a closed session regarding (1) the litigation brought against BCDC by Mark Sanders and Westpoint Harbor, LLC; and (2) the Enforcement Committee's recommended enforcement decision regarding Westpoint Harbor. For the closed session, the Commission will move to the Claremont Room, which is through the doorway to my right. Everyone else can remain here. We shall rejoin you as soon as we are finished.

We have completed our closed session regarding Westpoint Harbor and did not take a reportable action.

10. **Consideration and Possible Vote on the Enforcement Committee's Recommended Enforcement Decision Regarding Westpoint Harbor; Proposed Settlement Agreement between the Commission and Westpoint Harbor, LLC.** A verbatim transcript of Item 10 (attached) was prepared, and is posted with the following link: http://www.bcdc.ca.gov/cm/2018/1206WPHTranscript.pdf

A high-level summary follows.

Chair Wasserman stated: Item 10 is consideration and a possible vote on the Enforcement Committee's recommended enforcement decision regarding Westpoint Harbor which includes a proposed settlement agreement between the Commission and Westpoint Harbor, LLC.

Enforcement Committee Chair Greg Scharff presented the committee's recommendation.

Chief Counsel Marc Zeppetello presented BCDC staff's position. Kevin Vickers of Baker Botts presented on behalf of Westpoint Harbor.

Ten members of the public addressed the Commission. Their comments are detailed in the verbatim transcript.

MOTION: Commissioner Scharff moved to adopt the Enforcement Committee's recommended enforcement decision, seconded by Commissioner Techel.

VOTE: The motion carried with a vote of 15-0-0 with Commissioners Addiego, Butt, Gilmore, Scharff, McElhinney, Gorin, Pemberton, McGrath, Nelson, Randolph, Showalter, Vasquez, Techel, Vice Chair Halsted and Chair Wasserman voting, "YES", no "NO", votes and no abstentions.

12. **Briefing on Environmental Justice Bay Plan Amendment No. 2-17.** Item postponed.

13. **Adjournment.** Upon motion by Commissioner Scharff, seconded by Commissioner Nelson, the Commission meeting was adjourned at 4:47 p.m.

The meeting continued as a Commission Committee until 5:00 p.m.