

# San Francisco Bay Conservation and Development Commission

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January 11, 2019

**TO:** All Commissioners and Alternates

**FROM:** Lawrence J. Goldzband, Executive Director (415/352-3653; [larry.goldzband@bcdc.ca.gov](mailto:larry.goldzband@bcdc.ca.gov))  
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**SUBJECT: Draft Minutes of January 3, 2019 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, Ahn, Alvarado, Butt, Chan (represented by Alternate Gilmore), Gorin, McGrath, Ranchod (arrived at 1:39), Randolph, Sears, Showalter, Spering (represented by Alternate Vasquez), Tavares (represented by Alternate Nguyen), Techel, Wagenknecht and Zwissler.

Chair Wasserman announced that a quorum was present. He also welcomed Commissioner Doanh Nguyen to his first Commission meeting.

Not present were Commissioners: U.S. Army Corps of Engineers (Bottoms), Santa Clara County (Cortese), Department of Finance (Finn), Contra Costa County (Gioia), Secretary for Resources (Vacant), State Lands Commission (Lucchesi), City and County of San Francisco (Peskin), San Mateo County (Pine) 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. He had nine public speakers wishing to comment.

John Coleman with the Bay Planning Coalition was recognized: I want to thank Executive Director Goldzband and Chair Wasserman who spoke at our annual meeting lunch on December 7th in San Francisco. They gave a very, good presentation on the Bay fill process which was important to the business community which the Bay Planning Coalition represents to understand what you are doing, why you are doing it and how the process is being played out.

We went through a similar exercise about eight years ago that did not initially include the business community and it raised a lot of concerns and issues. Again, I applaud you and we are looking forward to being engaged in it and being able to be active participants and add value to your process. Thank you.

**BCDC MINUTES**  
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Chair Wasserman added: We also talked about the environmental justice amendment to the Bay Plan which I am also sure is of great interest to the business community.

Ms. Patricia Gannon addressed the Commission: I live on Bay Farm Island in Alameda. I am here to urge your Commission to enforce the permit process for this hotel to ensure public access is compatible with wildlife through siting, design and management strategies.

As a former board member of Golden Gate Audubon and a current, active member I am appalled that a five-story hotel is proposed on this pristine site adjacent to Shoreline Park and our beautiful San Francisco Bay.

Alameda is part of the Pacific flyway which is vital for migrating birds which are federally protected. They depend on the Bay and the lands surrounding it for food and rest.

A biological opinion has documented the extraordinary number of birds whose future depends on this Bay shore. A five-story hotel, a virtual wall on the Bay will seriously interfere with their migration pattern. Thousands of birds are killed every year by flying into tall buildings.

The hotel will also harm terrestrial wildlife by eliminating corridors enabling them to travel from one site to another while foraging and migrating.

The citizens of Alameda flock to Shoreline Park for birding, walking and biking et cetera and just enjoying the beauty and serenity of this unique site and the wildlife that depend on it.

The addition of this massive hotel would be a travesty. It would dominate the area and drastically diminish public access and enjoyment of the shoreline.

In closing I strongly urge BCDC to deny this permit to build the hotel on this site. Thank you.

Ms. Reyla Graber commented: I tried to get my speech under three minutes and an associate said that she would give me her time if it goes over. I understood that was okay and I checked with BCDC.

Chair Wasserman spoke: I won't be harsh but start your comments.

Ms. Graber continued: Okay. We Alamedans are here today to request the Commissioners to require a permit of the proposed Marriott Hotel on Bay Farm. We believe it is essential that the permitting process be done as this massive hotel would be a radical departure from the former usage for this site and its impact is far greater.

This entire shoreline area with its windswept, tree-line trail is beloved by many hundreds if not thousands of Alamedans who love the fresh air and peace of our Shoreline Trail.

BCDC was involved in the original creation of this trail and so now we ask you to protect what you once helped to create.

On Bay Farm blessed as it is with thousands of trees plus the Bay encircling it, we still have a touch of the semi-rural here and there. We have a den of foxes and a few muskrats and turtles living on our golf complex in addition to Jack rabbits, raccoons, squirrels and snakes roaming throughout Bay Farm.

There are hundreds of bird species living or foraging here including raptors, Great Blue Herons, Great Egrets and in the past, Least Terns.

In Alameda we have no renowned and gorgeous Marin Redwood Grove. Neither do we have a dramatic Mount Diablo to explore. Instead what we do have on Bay Farm is our Shoreline Trail. And this trail and its quiet ambiance is precious to us. It provides a relaxing and peaceful environment where folks can quietly walk their dogs, forget their troubles and maybe bicycle or fish quietly. We can view the Bay from many different angles and enjoy its unending variety.

However, as presently proposed this 72-foot, tall, enormous hotel only 35 feet back from the Shoreline Trail would destroy the enjoyment and diminish the experience of many people who visit this area as well as those people living close by.

This is why we strongly urge the Commissioners to require permitting of this project, i.e. to ensure that the public has access to the Bay shoreline in the most complete sense of the word.

In the BCDC Handbook the BCDC design objective one states that public access is made public by ensuring that the user is not intimidated nor is the user's appreciation diminished by large-building, massive structures or incompatible uses.

If built as is this 72-foot, tall hotel will dwarf and intimidate not only the passers-by but also negatively affect the neighborhoods with its homes behind it. The hotel will come out of nowhere.

In addition, this is not a pretty hotel. It is ugly and obtrusive and it is blocky. It is a modular hotel and it really has no character except its own mediocrity.

Please Commissioners we ask you to do the right thing here. Please require permitting of this hotel so they will go through the proper vetting procedure and all elements of public access will be discussed and weighed.

Perhaps the hotel might be broken into two buildings. This might help provide more visual access. It might make it somewhat less imposing to the public.

Additionally, the hotel is a radically different use than what was planned previously which was a series of smallish, two-office buildings.

Given all the factors combined we are asking you, the Commissioners, to please do the right thing and require the permit process for this very impactful project. Thank you very much.

Ms. Patricia Lamborn addressed the Commission: I am here to echo the demands that BCDC require Harbor Bay Hospitality, LLC. - Developers of the hotel that we have been talking about submit an application for a BCDC permit, pay the appropriate fees and then go through a complete, public-review process.

As part of your supplementary materials that were sent to you on December 21st the memo argues that the Marriott Residence Inn Project simply sign an outdated TCA (Third Supplementary Agreement). That dates from 1989.

Your staff memo actually makes legal arguments for and against the permit process. As elected officials, which many of you are, is your usual approach; when it doubt take the easiest route? Because that is what the staff is saying. The easy route is no public hearings.

If you allow the staff to take that route you are actually approving a five-story hotel, 275 parking spaces without even looking at the drawings, the set-backs or the public-access points.

The public will have no opportunity to give any input into the agreement they are talking about BCDC signing with a private developer.

I don't trust the city of Alameda to make the tough decisions to defend public access as strongly as BCDC. The people you see here are the strongest activists for parks.

I think our city is violating objective number six of your public-access guidelines. That says, takes advantage of the Bay setting so uses which do not orient to the Bay are set well back from the Bay, sited and designed so as not to impact the shoreline.

What did the city of Alameda do? They approved this project on December 10th. They used a planning ordinance in effect in our city. They put the hotel in a category that is defined for a restaurant. This uses a 25-foot set-back from Shoreline Park. Our city planner applauded the developer. He added all of 10 feet. This is 35 feet for a five-story hotel right on the edge of the Bay Trail.

Even the intent in our own planning law says that as office buildings rise the set-back rises from 50 feet to 50 feet. A 100-foot, office building would 100-foot set-back. Our city opted to put a hotel in the restaurant category and go for the minimum set-back.

We are asking you to have deep scrutiny and oversight of this project. Going through a permit process will do that. This means that you will create a correct set-back and you will review the public access.

The developer misrepresents his public access all the time. We go to community meetings and the developer has touted that there are going to be public, meeting rooms which he then admitted were not large enough to fit public meetings or a private party. He really recommended that we use a venue other than his hotel for public events.

There is going to be a restaurant here. He made it very clear that they are not going to operate that restaurant. Another entity has to operate it. It is a really, isolated location. It isn't going to stay open folks. Every operator and previous developers have said, we cannot get a restaurant to open and operate at this location. There goes that public-access point.

You need to scrutinize this developer. Our city just won't do it. They are anxious for the promised revenue which, under scrutiny, isn't as large as they say it is either. And they just like to say, yes.

We appeal to you to act and do the right thing. Your staff memo says that it is legal; it will be a legal act to require a permit of this developer and this is what we are asking you to do.

Mr. Dana Sack commented: I am an Oakland real estate and land use attorney. I actually use this trail several times a month myself and it is a spectacular view of San Mateo and San Francisco and Oakland.

This project absolutely without question incontrovertibly violates six of your seven guidelines. On the seventh one it can be argued that it violates it as well. But six of them it is absolutely clear it violated them and there is no way around it.

There is no way you Commissioners would approve this project if it went through the permit process without substantial mitigation.

I think you heard that there is a lot of parking. That parking will not be available to the public. One of the problems they have is next door to this site is the ferry landing. And there is already a huge parking problem. One of the complaints we have is that there is a portion of the parking lot, the parking lot area furthest from the ferry building, where they are going to have some electronic system to control the parking.

They are going to have to somehow keep the ferry users and anyone who wants to use Shoreline Park out of that parking lot in order to make it available. So that is not public access.

The only way this project avoids BCDC permit review is the memo you received from your staff counsel saying, this is exempt pursuant to the third, supplemental agreement. And you also received a letter from me explaining why that is not the law. That is absolutely contrary to the law.

Staff counsel looks at two sections that say you cannot exempt this project because of the third supplemental agreement because there is a conflict with another sentence in section 19 which was deleted five years ago.

The first crux of their argument is the conflict between two existing sections and a section that doesn't exist. As you'll see in my letter the law is that those two sections would prevail even if that deleted sentence were still there.

Their other basis is they gave this exemption to two other owners and that somehow sets a precedent. That is not the law and the reason we are all here is because the citizens of Alameda; we don't get a lot of notice of what BCDC is doing especially when they do a letter like that on the side. We are all here now because we are watching really, really carefully for this land.

There is no law that says that because you made a mistake twice you are now bound by it forever. What the staff is doing is setting up a procedure whereby you guys can decide something and the staff can just direct somebody a letter and say, it's something else and everyone is bound by it. Obviously, that is not what you intend. Thank you.

Mr. Steven Gortler commented: I am a resident of Alameda as well. It seems to me that your staff has exercised a great deal of discretion in granting an exemption from the permitting requirements for this project.

Granting an exemption is tantamount to granting a permit. This is a huge project. It would seem to me at the very least you should put this item on your agenda and if you want to vote to grant an exemption then do so in a public forum. Show the public where you believe you have the authority to grant an exemption. Be transparent so that the public can have confidence that you are exercising your authority properly instead of hiding behind staff.

Mr. Brian Tremper gave public comment: I am the president of the board of Freeport Homeowner's Association right across the lagoon from this project. Our houses are small. I bought my house over 20 years ago on a cop's salary with a teacher. That is the kind of people who live here.

Usually you think, oh close to the Bay – rich people; no, we're working professionals, working middle-class folk, teachers, single mothers – that is the type of people that we are.

Similar to what was just said these processes only work when people have the confidence that it is open and fair. If after the end of that we say, well – we lost in an open and fair manner; then, we lost. And then we see what other sort of tactics we take. My understanding of what I am hearing from my community and other members around the community is that if I have a house and I have it close to the Bay and I want to do something with it I have to go through a hearing. I have to go through all of this process and yet now I am hearing that a huge, five-story building is going up. It's a pre-fabricated building that will not look good and last a long time. It will go up right on a prime piece of real estate and no open, public hearing.

I would like to request from the members of my association that you have an open hearing about it and so that everything can be put in. Thank you.

Chair Wasserman announced: That concludes the public speakers. Since this matter has not been agendized we cannot respond to the comments and requests. It is certainly possible for us to agendize this matter for a future meeting if there were requests from the Commission to do so.

Commissioner Zwissler commented: Based on attending today I thought some very compelling and interesting points were raised. I would be interested in hearing the law and policy around the details on why there is a recommendation that an exemption be granted and all of the above.

So I would advocate for some further discussion.

Commissioner McGrath was recognized: I am going to echo Commissioner Zwissler's questions. I am not going to talk about the merits because I can't but it is important for us to look at the full text of the TSA, what is proposed on the lot and make a comparison between vested right and settlement and have that kind of discussion.

I think we owe the public that much.

Vice Chair Halsted stated: I would suggest that we not get involved in too much discussion of the matter but I suggest that we do calendar it for discussion at a later time.

Commissioner Addiego chimed in: I concur with my colleagues.

Chair Wasserman stated: We will ask staff to agendize this for a future meeting as soon as reasonably possible so that there can be a discussion of the issues.

Executive Director Goldzband commented: We are happy to do that. We will agendize it for the first meeting in February and we will accompany it with a closed session with regard to possible pending litigation.

Chair Wasserman announced: That concludes our public comment period and thank you all for your comments. We will move to Item 4, Approval of the Minutes of our meeting of December 6th. We have received copies of them.

Is there a motion to approve the minutes?

#### **4. Approval of Minutes of the December 6, 2018 Meeting.**

**MOTION:** Vice Chair Halsted moved approval of December 6, 2108 Minutes, seconded by Commissioner Gorin.

Commissioner Alvarado had a clarification: I see that departure time for other Commissioners is noted. I departed at around 2:30 on that meeting date.

Chair Wasserman replied: Thank you very much. That will be noted. Any other corrections or comments? (No other comments were voiced)

**VOTE:** The motion carried with a vote of 17-0-0 with Commissioners Addiego, Ahn, Alvarado, Butt, Gilmore, Gorin, McGrath, Randolph, Sears, Showalter, Vasquez, Nguyen, Techel, Wagenknecht, Zwissler, Vice Chair Halsted and Chair Wasserman voting, “YES”, no “NO”, votes and no abstentions.

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

a. I think that 2019 is going to be an exciting year for us. It is going to be a year of real progress. It may be a year of real challenges as well. I look forward to the progress and look forward to meeting the challenges.

There was an op-ed piece in the East Bay Times this morning. If you haven't read it – don't. (Laughter) That is not fair – go ahead and read it; you're going to anyway.

I generally do not believe in getting into policy and factual debates in the newspapers. It usually doesn't get people very far.

Number one it criticizes our enforcement proceedings and recommends that we suspend all enforcement proceedings until the state audit that is underway is completed. We are not going to do that. To do that would be a dereliction of our duty. And I think that the very fact that the people recommending that demonstrates that they do not have a full grasp of our duties.

I think there are some factual mistakes in it. They pick and choose rather cavalierly which is not to say our enforcement efforts have been perfect. None of us sitting here individually are perfect and collectively we don't achieve perfection either.

The fundamental thrust of their comments is inaccurate. We are cooperating fully with the state audit and when that comes out, we will deal with the report and our response and we will see whether there are specific actions to reform some of what we are doing.

This is an area in which we are very conscious and we were conscious of some of the issues before the state audit was commenced and have had internal staff discussions as well as a number of Commission discussions.

The next two reports from Commissioners about the amendments to the Bay Plan, our governing document, are indicative of the attention that we are paying to protecting the Bay and protecting the shoreline and protecting the natural and the built environment from unnecessary incursions and from the inevitable incursion of rising sea level.

We are being very proactive in those areas and continuing to be diligent about exploring all of the things we can do reasonably and sensibly.

With that I would ask Deputy Director Goldbeck to give a short report of the Bay Fill for Habitat Work Group meeting that occurred on December 20th.

**b. Fill for Habitat workgroup.** Mr. Steve Goldbeck presented the following: We discussed the process that we are going forward to get new amendments and how we are going to go through the process.

Planner Megan Hall added: December 20th was a single agenda day. We talked about a policy memo that staff produced for the Bay Fill Working Group. The policy memo outlines the key issues that we think are affiliated with increasing amounts of Bay fill and things we might need to add in to make the changes we want to make.

We went through about half of that memo and we are going to go the rest of it in a phone call next week.

Commissioner McGrath chimed in: Given the Christmas season somewhat belated is appropriate. We know a lot more about the need for using sediment sources for protection and enhancement of our wetland systems. My old friend Phyllis Faber has threatened to come back and haunt me if this is not done before she passes away. And I carried on that threat to the staff. I said, if it's not done and Phyllis haunts me, I'm going to come back and haunt you as well. (Laughter)

**c. Environmental Justice Working Group.** Chair Wasserman continued: Commissioner Alvarado will you give a presentation on the Environmental Justice Working Group that was held this morning?

Commissioner Alvarado presented the following: I was joined by Commissioners Ahn, Showalter and Vasquez. We discussed the timeline for the Environmental Justice and Social Equity Bay Plan Amendment.

We talked about the agenda for the upcoming workshop on January 17th to review all of this with the full Commission. And we talked about some read-ahead material that we would like to share with the Commissioners in advance of the workshop and the public is invited.

**d. Next BCDC Meeting.** At our next scheduled meeting on January 17th we expect to:

(1) **Consider adopting two Brief Descriptive Notices.** The first notice would initiate the process through which the Commission will update the Seaport Plan as a whole which is the specific governing of how the various elements of the places in the Bay to serve cargo transportation in and through the Bay.

(2) The second would initiate the process through which the Commission would consider removing Howard Terminal from the Sea Port Plan in the Port of Oakland for its Port priority use designation. This is related to the proposal to put a baseball park on that site.

If both are adopted the two processes would take place concurrently but Howard might move more quickly on a separate path to address the plans being publicized by the Oakland As.

(3) Hold a workshop on environmental justice and I want to invite the Commissioners and their Alternates to this important session. It will be the first of what may be two workshops prior to the Commission considering an amendment to the Bay Plan concerning this very important issue.

It will also act as a prelude to the important and required public hearing for that plan amendment.

e. **Ex-Parte Communications.** In case anyone has inadvertently forgotten ex-parte communication reports you may do so now but you need to do so in writing even if you do so now. (No ex-parte communications were voiced) And that brings us to the Executive Director's Report.

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

Welcome to 2019! We on staff very much appreciate your willingness to attend a Commission meeting on your second day back at work. I know that it may take a while to transition from having a few days off, if any of you were able to grab some time off, to resuming your Commission duties but we have faith that you'll jump right in. In my case, I had to transition yesterday from binge-watching the last couple of years of "Game of Thrones" with my wife to putting on a suit and tie and realizing how lucky we are that we don't live in Westeros under the rule of the Lannisters. (Laughter)

a. **Budget and Staffing.** As you know, Governor-Elect Newsom will be sworn into office on Monday. His first budget proposal will be presented on Thursday a week from today. I shall let you know as soon as possible thereafter whether and how BCDC will be affected by his initial budget plan.

b. **Policy.** I want to catch you up on a few things that happened in December. First, nine of our staff attended the biennial Restoring America's Estuaries conference in Long Beach, which was co-hosted by the Coastal States Organization. Six of our staff made presentations, a couple of us moderated panels and all of us thought that the experience was well worth the

expense. BCDC, the Coastal Commission and the Coastal Conservancy helped sponsor the conference and my fellow Executive Directors and I spoke at length with NOAA's acting deputy director to explain how California works compared to other parts of the nation especially from Texas where she hails from. She is now on furlough given the partial government shutdown.

We also learned in December that the Georgetown Climate Center which had a significant presence at the conference found BCDC's new Bay Shoreline Flood Explorer to be a very welcome and significant addition to individuals and organizations seeking the latest data on rising sea level. And, in another example of our expanding GIS tools, our staff now has access to the California Natural Diversity Database which provides data on threatened and endangered species (both state and national) across the state which should be useful for both planning and permitting staff.

I want to take a minute or two on another topic – wetlands monitoring. A couple years ago our staff created a group called the "WHAT," which is an acronym for "Wetlands Habitat Assessment Team." The WHAT was created, in large part, because regulatory staff members recognized that they need to better understand how natural habitats may or may not be affected due to the uncertainties surrounding rising sea level. The WHAT recognized early on that many of BCDC's permittees submit wetland monitoring reports but that many of those reports have been put on a shelf and not used to help us do our work better. So, last year we combined resources with the San Francisco Bay National Estuarine Research Reserve and created a graduate internship program to review all of the wetlands monitoring reports that BCDC has received as part of permit compliance requirements and to provide recommendations about how BCDC can use such reports to improve our work. The interns were tasked with determining what restoration and mitigation monitoring conditions have been required, whether the success criteria led to functioning habitats, lessons learned and how those lessons could be applied to future restoration permitting and planning.

Of course, one of the possible outcomes of any internal audit such as this is finding out that, historically, BCDC neither has reviewed whether permittees have complied with their permit reporting requirements nor examined many of the reports that have been submitted in any systemic way. Our interns found only about one-third of the required reports and, most times, the staff member responsible for creating the permit and following up with the permittee had left BCDC.

So, to follow up on this disappointing result, the WHAT will examine our internal processes and make recommendations to fix what is not working. In addition, our next set of interns will look externally to learn from other regulatory organizations how they create success criteria and monitoring requirements, how they earn compliance and will try to identify overlaps and gaps among the agencies. I know that I have gotten into the weeds a bit with this

report but I think it's important for the Commission to know that we recognize that we need to improve our permit compliance in light of our uncertain rising sea level future. And I shall give you a report at some point in the next six to twelve months about how we are moving forward with recommendations.

That being said, I want to end on a positive note. On Friday, December 28th, the U.S. Army Corps of Engineers announced the ten pilot projects that have been selected to increase the beneficial use of dredged material in specific places across the nation. You will remember that BCDC, the State Coastal Conservancy, Save the Bay, the Bay Planning Coalition and The Bay Institute formed a coalition to help draft the federal legislation that requires that selection process. And, I am happy to let you know that the Bay Area has been selected as one of the ten sites due in large part to the outstanding proposal that was drafted by staff of the coalition members, including Brenda Goeden of our staff. We don't know how this program is going to be funded. We also don't know what level it will be funded. But we certainly believe that this is a step in the right direction and is a culmination of a lot of hard work over the past three years.

Finally, at least 20 Commissioners and Alternates have not completed their ethics training required by year's end. I say this holding up the list right here. (Laughter) I am happy to go down the names but I shan't today. If the Chair wants me to on January 17th I shall.

In addition, after you all complete the ethics training, I urge you to print out from the state Department of Justice the additional resources and feedback sheet along with the issue spotter checklist that will help each of us make sure that we are in full compliance.

I will tell you that a couple of staff have not completed it as well. And I have given them until Monday at noon to do so.

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

Chair Wasserman continued: I have a couple of comments but any questions? (No questions were voiced) Yes, we will read the list of who has not done it if it is not done by the next Commission meeting – so be warned.

I will figure out an appropriate award for anyone who can come up with the routine about what from who's on first.

One other resolution I would like you to think about adopting is to think about educating someone at least once a month about looking at our shoreline adaption and thinking about vulnerable places that they may care about.

It is an effort related to our overall education campaign that we can carry out relatively easily. It is a fun thing to use once you start playing with it and I compliment staff. It is quite user friendly.

7. **Consideration of Administrative Matters.** Chair Wasserman stated: With that we will turn to Consideration of Administrative Matters which we don't have.

8. **Staff Recommendation on an Interagency Agreement between the Commission and the California Coastal Conservancy to Fund Staff for the Bay Restoration Regulatory Integration Team.** Chair Wasserman announced: That brings us to Item 8 is staff recommendation on an interagency agreement with the California Coastal Conservancy to fund the Bay Restoration Regulatory Integration Team (BRRIT). Erik Buehmann will introduce the subject.

Chief of Federal Consistency and Permits Buehmann stated: The staff recommends the Commission authorize the Executive Director to execute an interagency agreement with the California Coastal Conservancy to provide to the Commission up to \$468,313 to fund Commission staff participation in the San Francisco Bay Restoration Regulatory Integration Team ("BRRIT"), a multi-agency team proposed to collaboratively review multi-benefit wetland restoration projects throughout the Bay Area.

The BRRIT would be made up of representatives from six federal and state regulatory and resource agencies including the San Francisco Bay Conservation and Development Commission, the Water Quality Control Board, California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, NOAA National Marine Fisheries Service and the U.S. Army Corps of Engineers.

The team would incorporate a collaborative, transparent, pre-application process to expedite permit processing for wetland restoration projects.

The funds will be provided by the Conservancy over a five-year term expiring January 22, 2022 to hire a senior, environmental scientist-specialist to serve as the Commission's representative to the BRRIT supervised by the chief of federal consistency and permits.

As a result, the Commission staff recommends the Commission authorize the Executive Director to enter into and execute the agreement with the California Coastal Conservancy.

Additionally, the Commission staff recommends the Commission authorize the Executive Director to amend the contract as long as the amendment does not involve substantial changes in the scope or an increase in value of over ten percent of the original amount.

Chair Wasserman asked: Any questions?

Commissioner Vasquez commented: This is really an ongoing process. We have been working towards this for a number of years, have we not?

Mr. Buehmann answered: That is correct.

Commissioner Vasquez continued: And so this action will just simply provide the funding.

Mr. Buehmann replied: For the past year we have been collaborating with the other agencies and with the San Francisco Bay Restoration Authority and the Coastal Conservancy staff and the staff of the Restoration Authority to put this in motion.

So now we've got draft agreements prepared for all the agencies. And we are seeking approval of the Executive Director to enter into the agreement so we can get the process started in hiring and then putting it together around April.

Commissioner Vasquez asked: And this is a good thing for everybody? (Laughter)

Mr. Buehmann responded: Yes, I believe so.

Chair Wasserman reiterated: It is absolutely a good thing. Go ahead and make the motion.

Commissioner Showalter commented: It is a grand idea and it is something that we have needed for many, many years.

Chair Wasserman continued: As we all know these processes move too slowly. They particularly move too slowly when they are done separately and without coordination. This is a very, major effort and staff of all the agencies are to be complimented on it as well as the private sector which was very involved in studying how this could best be done and funding some of that and moving it along. This is a broad, cooperative effort that will make productive, decision making amongst and among the agencies much more efficient and much more effective.

We thank you for your efforts and with that we will call the roll on this vote.

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

**VOTE:** The motion carried with a vote of 18-0-0 with Commissioners Addiego, Ahn, Alvarado, Butt, Gilmore, Gorin, McGrath, Ranchod, Randolph, Sears, Showalter, Vasquez, Nguyen, Techel, Wagenknecht, Zwissler, Vice Chair Halsted and Chair Wasserman voting, "YES", no "NO", votes and no abstentions.

Chair Wasserman stated: That brings me to something I forgot to mention in my remarks. We did get good coverage in the San Francisco Business Times two issues ago on the presentation we heard about improving staff reports. It was nice to see and it was a decent sized article nicely presented. They learned some of the lessons. It was well done and a deserved compliment.

Executive Director Goldzband added: That is Ethan Lavine sitting right there who arranged for that briefing. And he then used some of the tools that he learned about in your Golden Gate Suicide Barrier briefing as well. Be on the lookout for more and more examples. And any examples you can give Ethan of real good staff reports are certainly welcomed.

**9. Consideration of 2017 Annual Report.** Chair Wasserman announced: Item 9 is going to be considered at a future meeting.

Commissioner Sears asked: Is that 2018 in your report or is that 2017?

Mr. Goldbeck answered: It is a 2017 with a 2018 to follow closely thereafter.

**10. Briefing on Environmental Justice Bay Plan Amendment No. 2-17.** Chair Wasserman announced: Item 10 is a briefing on the Environmental Justice Bay Plan Amendment No. 2-17. Clesi Bennett will make the presentation.

Coastal Planner Bennett stated: Thank you Chair Wasserman and Commissioners. My name is Clesi Bennett and I am a planner for BCDC where I am managing the Environmental Justice and Social Equity Bay Plan Amendment. Today I will be providing you with an update on the process to-date.

I know you saw a similar slide in November when Megan presented on the Fill for Habitat Amendment. You will see a series of similar slides as the two amendments have a similar origin story.

As some of you may recall, the Rising Sea Level Working Group was an informal Commissioner Working Group convened in 2013 to strengthen the Commission's expertise around the issue of Rising Sea Level (RSL). The working group was also tasked with providing policy recommendations for future sea level rise Commission actions and to help formulate a regional resilient shoreline strategy. One of the key issues identified by this working group to further explore was social equity. Commissioner Working Group members agreed that no regional shoreline resilience strategy could be successful unless it ensured that the most vulnerable Bay Area communities were not made more vulnerable through the strategy's implementation and, instead, such a strategy should work towards making the entire Bay Area more resilient in a fair and just manner.

BCDC's Policies for a Rising Bay Project, funded by NOAA as a project of special merit was developed in order to evaluate the Commission's laws and policies around the threats to the Bay presented by rising sea levels and to determine if changes were needed to help facilitate resilience and adaptation around the region. Again, social equity and environmental justice arose as key concerns.

Lastly, in 2016 the Commission initiated a workshop series to increase its efforts to address rising sea levels in the region. The workshop series provided the Commission, stakeholders and members of the public with opportunities to reflect upon past and current efforts to address rising sea levels and to determine the best approaches for BCDC to undertake going forward.

In your packet, you received this print out and this is the timeline that was initially presented by staff during the Workshops on Rising Sea Level. In blue, you will see the identified Bay Plan amendments that we are pursuing over the coming years that came out of the processes I just described. We are currently about 6 to 12 months behind on this timeline.

And we know that the years need to be shifted and things may need to be changed around and other processes added. This is a topic we would like to explore more thoroughly at a further date.

As you heard in November, Megan is currently working on the amendment to address fill for habitat projects and today you are hearing from me about the Bay Plan Amendment to address environmental justice and social equity.

This is the process for the Environmental Justice Bay Plan Amendment. We started with a scoping of the issue which I'm going to dive into on the next slide. We then moved into the background research phase where we have been exploring the intersections of environmental justice and social equity with BCDC's work with the help and guidance of our Environmental Justice Commissioner Working Group.

On January 17th we will be holding a workshop with all of you all to explore these issues and we will potentially hold a workshop in the spring.

We will then draft policy changes with the help of our staff project team, our regulatory and legal staff, our Environmental Justice Commissioner Working Group, environmental justice advocacy groups, communities and members of the public. We intend to release our staff planning report in mid-May 2019 and hold our first public hearing on July 18, 2019.

This will provide a 60—day comment period which is longer than required period to allow for more public input. If we only need one hearing we could expect a vote in September of this year.

In our scoping and organizing phase we spoke to and met with and presented to many folks working on related topics including environmental justice organizations and communities, other California state agencies, other Bay Area regional agencies, counties and cities around the Bay Area and we have reached out to and have begun speaking with the development and design community. Even past this phase we continue to strive in improving our outreach.

In these conversations we have learned what other groups are pursuing regarding environmental justice and equity. We have shared resources and discussed concerns and needs.

We also hosted a public community roundtable with the State Lands Commission and Coastal Commission this past summer.

In our background research phase, we have conducted a breadth and depth of research starting with general concepts and terms as well as best practices and guiding principles. We dove into community outreach and engagement strategies. And we looked at what other environmental justice policy efforts are happening around the state and region. Lately, we've been working to research the intersection of various topical areas and environmental justice which you will hear more about in this briefing. Memos from this research can be found on the BCDC website.

Our process has also tried to leverage resources. We have leveraged the vulnerable community mapping efforts of the Adapting to Rising Tides (ART) Program. And we have also been leveraging resources that we've gained from participating in the Government Alliance on Race and Equity (GARE) Program.

When BCDC was created in 1965 it was a different time. Excess fill was threatening the Bay and so our policies were initially written to safeguard against too much fill. However, climate change and sea level rise are game changers. BCDC is now in the process of pivoting to address this threat.

As BCDC evaluated its policies around rising sea levels, not only were the threats to infrastructure and habitat realized, so were the threats that future flooding presented to the most vulnerable communities around the Bay Area.

BCDC also realized the need to prioritize these communities in the adaptation to such flooding. Concerns around environmental justice and social equity and adapting in an equitable and just manner rose to the forefront in both the Policies for a Rising Bay process and the Commissioner workshops on rising sea levels.

So with that background in mind the goal for this project is to: "Amend the San Francisco Bay Plan to incorporate principles of environmental justice and social equity into the planning, design and permitting of shoreline projects in and along the San Francisco Bay."

You may remember that at the end of the workshop series on rising sea levels in July of 2017, you first voted to initiate this Bay Plan amendment. There were several sections of the Bay Plan identified for amending in the Brief Descriptive Notice.

These sections included public access, shoreline protection, mitigation, and the option to create a new section on environmental justice and social equity.

We have spent the last three months studying BCDC's current authorities, policies, and procedures around these areas to lay the groundwork for how they may be amended. The next few slides will dig deeper into the intersections between these policy areas and environmental justice.

There are several intersections of environmental justice and public access. I have listed a few on this slide including ensuring that communities are involved in the design of public access so that the access is appropriate, including creating access that is inclusive, culturally-appropriate and economically appropriate for its users.

Here are photos of some of the signage BCDC currently requires. Posting these signs only in English, as we do now, in areas where the population may not speak English well can be an environmental justice issue.

Additionally, public access areas near vulnerable communities may not be as well maintained or safe. These public access areas also tend to be near industrial sites making the amenities difficult or unsafe to access especially on foot or by bike.

Moving onto shoreline protection, we've identified four main potential areas where environmental justice and shoreline protection intersect.

- a. First, there can be a prohibitive cost of shoreline protection, design, construction, and maintenance over time on lower-income communities.
- b. Second, some protection structures can cause adjacent impacts including increased erosion to communities that may not be able to afford the same level or type of protection.
- c. Third, and similarly to public access and all of the sections, some projects may not have robust levels of community input in the protection design and in the identification of what assets to protect.
- d. Lastly, there is an intersection with the issue of protecting contaminated lands to prevent the mobilization of contaminants to the surrounding communities many of which in the Bay Area are low-income communities of color.

Moving onto mitigation, BCDC's current mitigation policies require mitigation, typically in the form of habitat restoration, enhancement or creation, for biological resource impacts. Our current policies also stipulate that the mitigation should occur as close to the project impacts as possible.

However, some projects may have impacts to communities as well. Through this Bay Plan amendment we can explore BCDC's ability to expand our mitigation policies to include social impacts.

Again, in order to work towards a more environmentally just Bay Area, communities should have a strong role in the identification, selection, design, construction and monitoring and maintenance of mitigation projects.

There are several other environmental justice and social equity issues that have come up in our process thus far that may not fit into the previously identified section but perhaps in a new Bay Plan section or even in other BCDC plans, procedures, practices and policies.

These intersections of our work at BCDC and environmental justice were identified through conversations with environmental justice organizations and communities, the Environmental Justice Commissioner Working Group, conversations with staff, participation in the Government Alliance for Race and Equity and through research.

These intersections include:

- (1) Local economic development and local job creation.
- (2) Improved coordination with local governments and other regional and state agencies.
- (3) Public process and meeting accessibility. Specifically, this may include language access, noticing requirements, reexamining meeting dates/times/locations, providing food and childcare at meetings, providing travel or participation stipends for meetings, making our meetings more user-friendly and less technical and requirements for public engagement of our applicants in our regulatory processes.
- (4) And lastly, internal workforce development and staff training can also be improved to better reflect the agency's commitment to equity and justice.

Many of these items are also currently identified in BCDC's Strategic Plan and are slated to occur in the coming years.

With that, I'll turn it over to any of our members of the Environmental Justice Working Group to say any words about some of the work that we have been doing.

Commissioner Alvarado commented: I just really want to thank staff. Staff has done an incredible amount of work in a short amount of time collaborating with other agencies to come to us with a lot of great ideas. And we have been exploring and very open and people on our Committee have been very engaged in all facets of this conversation.

We are excited about the workshop next week and would like to hear from you as well at that time. I would invite the other members of the Commissioner Working Group to make comments as well.

Commissioner Vasquez chimed in: We had some stuff go out earlier so it really is a homework assignment. (Laughter) I find it exciting. And one of the things I want to be able to do is, what do I take home to my local jurisdictions? I want to be able to articulate what environmental justice is to the rest of the communities so they begin to look at their own general plans and how they can better solve or resolve environmental issues within their own communities.

Commissioner Showalter agreed: I would just like to echo what has been said previously and say that one of the things that has been so interesting about this is that environmental justice is not just being considered by BCDC. It is being considered by a whole host of agencies at the same time.

One of the things that Clesi mentioned but that has really been – and very important about this is how we coordinate with those other agencies and how what we put forward fits in well with the concepts that other agencies are using.

When you come to the workshop in a couple of weeks please bring with you the thoughts about other environmental justice examples that you have come in contact with in other places.

Commissioner Butt was recognized: On one of the slides one of the bullet points was leveraging resources and you had ART and GARE on there. You might add Resilient by Design. There was a lot of community outreach built into that and it built on environmental justice. There is some good stuff in that process.

Commissioner Zwissler spoke: I noticed that mitigation was one of the items. I just want to suggest that if the intention is to consider that addressing issues of social justice as a mitigation strategy; I'd really second that idea. There is some other context where we are talking about how mitigation is being used. I would suggest that if we expand it beyond just moving dirt from here to there and think about more creative ways to mitigate some of the impacts beyond simply physical mitigation. I think it would be really great.

Chair Wasserman continued: Keep that in mind. We are going to come up with one that utilizes that but not at this meeting. In the discussions about public access to keep in mind that one of our goals is to make public access more attractive and more active. At some level that general principle should be addressed in this language or somewhere in this amendment.

As well to think about what that means to the particular, vulnerable and discriminated-against communities that this policy is really intended to benefit.

Any other comments or questions?

Commissioner McGrath complimented staff: I want to thank the staff and the Commissioner Workgroup for this. This is really important stuff. We need to make sure that communities are not displaced and then to the degree that we can or encourage those policies and that measures such as flood control don't exacerbate flooding in areas that are already at risk. It is important stuff and I thank you for doing it.

Commissioner Gorin commented: I want to add my kudos. This is really important work. And especially as we move forward and thinking about all the initiatives that BCDC is involved in I am always faintly amused when I look at the map of the Bay Area and look at all of the disadvantaged communities and then there is Sonoma County with this great, big, blue swath that has significant flooding in the future.

Our disadvantaged communities are not along the Bay. They are further inland but yet you do see some red dots there. It is really important to note that. I pay particular attention to that.

What I really wanted to talk about briefly is the fact that there is a four-county effort to really work on Highway 37 both expansion and elevation. It is going to be hugely expensive. This was the state highway that was identified by BCDC as the most vulnerable to Bay level rise. And it is a critical, transportation corridor that Caltrans really pointed out how vulnerable it was and how critical it was.

The discussion is, how can we afford the enormous cost of expansion and elevation; a shade of things to come for the rest of the Bay Area.

And the other important discussion is around social equity and public access. The folks who spend way too much time on Highway 37 we all just want expansion. We really need to think about the public access along there for the bird watching and marsh areas and the public transportation parts of that project.

And of course, we are always thinking about expansion of the Smart Train eventually going east. Many disadvantaged community members will be struggling with the tolls as they do in the rest of the Bay Area and it most likely will be toll driven. How do the disadvantaged communities get to where they need to go for their jobs? We are talking about Sonoma County, Marin County and Napa County and having to deal with the tolls and having frequent, public access that they need to get to their employment.

It is not only just the shoreline access that is important – it's also the transportation element in that. A great job everybody. This is definitely going to be a work in progress.

Commissioner Ahn spoke: Thank to staff for spending dozens of hours talking to groups that matter to me most which is environmental justice groups, advocates and community members. That is painstaking work that Commissioners don't have a lot of time to do in the first place. And so we are very appreciative of Clesi in particular doing that on-the-ground work.

To signal another level in which this Commission will be engaging which is in Sacramento. I serve as the Assembly Speaker's appointee. Speaker Rendon has his own environmental justice background and is heavily interested in these conversations as well as the San Francisco Legislative Delegation. I know Assembly Member Phil Ting is also interested in the Commission delving more into these issues. I am looking forward to furthering this conversation.

Chair Wasserman stated: No further action is needed at this time. I echo everybody's comments in thanking staff and all of those who have contributed very much.

**11. Commission Discussion Concerning the Reconstitution of the Citizens Advisory Committee.** Chair Wasserman announced: Item 11 is a discussion concerning the reconstitution of the Citizens Advisory Committee. Executive Director Goldzband will introduce the topic.

Executive Director Goldzband addressed the Commission: Section 666.36 of the McAteer-Petris Act requires that the Chair of the Commission, “in collaboration with the Commission shall appoint a citizens' advisory committee to assist and advise the Commission in carrying out its functions.”

This Citizens’ Advisory Committee was last constituted back in 2001. And the last time that this was actually discussed at BCDC was approximately seven and a half or eight years ago and before that about ten years prior to that.

BCDC has not had a functioning CAC for approximately seventeen or eighteen years.

To ensure that the Commission was able to perform significant, public outreach back in 1965 when the McAteer-Petris Act was created the legislative drafters created the CAC and set up a framework for its composition; that is, one member shall be a representative of a public agency having jurisdiction over harbor facilities, another shall represent a public agency having jurisdiction over airport facilities. The advisory committee shall also include representatives of conservation and recreation organizations, at least one biologist, one sociologist, one geologist, one architect, one landscape architect, one representative of an industrial development board or commission and one owner of privately-held lands within the Bay.

In addition to those 11 individuals the Advisory Committee may consist of as many nine more individuals.

There is only one file at the Commission headquarters concerning the CAC. It contains notes from one meeting that occurred on October 3, 2001.

According to the staff reports in 2009 and 2011 the CAC at one point reviewed and commented on all BCDC planning studies. It was revived in the late 1990s to advocate for resources.

While it is not required by law the Commission also at one point set up a scientific and technical advisory committee.

With that being said I will say that at the first time that Chair Wasserman and I met after I was selected as your executive director, but prior to the time that I actually was an employee, we had lunch at Max’s in Oakland. I remember specifically three parts of that conversation, one of which the Chair just referenced with regard to environmental justice when he said, we need to activate public spaces.

The other of which was that we need to include the public and we need to be strategic about how we move forward with our policy issues.

This discussion was held in 2012 not long after the climate change amendments to the Bay Plan were approved. This Commission has done an incredible amount of public outreach compared to what previous Commissions have done prior to 2013.

Since my appointment and certainly since Chair Wasserman's appointment the strategic planning process has become far more visible and publicly inclusive. Commissioner working groups have been created that have engaged publicly, formally and informally. There have been a series of very well attended workshops. There are workshops coming up on Bay Plan amendments. The planning division's outreach has really, really taken off as part of the Adapting to Rising Tides program. The regulatory division's approach to figuring out how we are going to deal with rising sea level as you will see in the next item is definitely far more transparent.

With that being said the question that staff poses to the Commission is whether 2019 is an appropriate year to reinvigorate the Citizens' Advisory Committee.

It is apparent that numerous members of the CAC as listed in 2001 either have retired or passed away or may assume that the CAC actually has been disbanded.

I have received two emails from Rush Robinson who at that point was the vice chair of the CAC asking whether the CAC will actually be reinvigorated.

With that the staff's recommendation developed with Chair Wasserman is to:

- a. Revitalize the Citizens Advisory Committee.
- b. Solicit nominations.
- c. Discuss various ideas about the CAC's purpose.
- d. Ask the Chair to nominate three Commissioners to act as liaisons to the Citizens' Advisory Committee.
- e. Include on a March or April agenda an announcement that could list the new members of the CAC with a proposed first meeting date organizational date.

That could be a heavy lift. To do so we posed a list of five questions for you all to discuss. They are as follows:

- f. What is the appropriate role of a CAC?
- g. Should there be a formal application? What should it include?
- h. Can or how should the CAC supplement or complement current outreach efforts?

- i. What is the optimal “mix” of CAC members?
- j. What is an appropriate method to provide the Chair with recommendations?

With that I leave it to the Commission because I think this merits discussion to give the staff some direction for how we can take this and whether we should take this forward.

Steve and Brad were both here when the Citizens’ Advisory Committee was actually in existence although it didn’t really act very much. They may have a little bit of history in context should you have questions. And John Coleman was certainly a part of the former CAC.

With that I leave it to Chair Wasserman.

Chair Wasserman commented: It probably won’t surprise any of you having heard Larry’s summary that I don’t think we really need this in today’s environment. I am in particular concerned about adding more time and effort burdens to our staff which while doing yeoman’s work is over-burdened already and part of the reason that some of the things that need to be done are not being done as quickly as some of us would like is precisely that issue.

Having said that, it is in the law. Despite the fact that the agency has for a good number of years managed to ignore that; it has been brought to our attention. I’m not sure we can simply ignore it.

If we were going to the Legislature with a number of changes to McAteer-Petris we could easily include this but we are not at the current time. We may in the future.

As Larry said in his summary and in the staff report; the shift for a variety of reasons over the last six years has given the general public and the affected public and public agencies many opportunities to participate in our deliberations and in our policy discussions and many people have taken advantage of that.

I would suggest, if we are going to do this, we really focus primarily on what is the scope of activities of the Citizens’ Advisory Committee in the context of what we’re really doing?

And make very clear to the people who may be appointed to this position that, that is what we are doing. And if we do revive it in some way, which I think we’re sort of obligated to do for better or worse, that we encourage them to participate in our workshops which are going to continue in a variety of ways because our need for change is not going away but perhaps the scope would include a couple of meetings where they get to discuss because there may be things that fall between the cracks, things that the workshops don’t cover that would be good to hear from the public about.

In our discussions I would urge focusing primarily on that scope. Any of the questions or any of the other thoughts are welcomed.

Vice Chair Halsted commented: I share your perspective of this. I am trying to remember what happened at that time. I think it was some kind of lack of purpose that caused to stop having meetings with the CAC.

One of the thoughts that occur to me is that we have several advisory committees. We have Engineering and we have the Design Review Committee and they have a number of people who are already very knowledgeable about different aspects of the organization as well as those who are involved in the workshops that are in the different committees that we've already had.

I wonder if we can try to find people among those groups who meet these qualifications so that they wouldn't have to come up to speed. They would come to the table with already existing experience.

I agree with your idea of finding the gaps where we are missing things which could be a very important scope.

Commissioner Alvarado opined: I actually think it is a great idea given that I am new on the Commission here and just with your comments Larry in talking about how much has been accomplished in the past several years and how important it is for the public to understand the role of BCDC and the Bay Plan amendments that we are continuing to work on.

I think it is a really valuable opportunity for us to extend our reach to develop relationships with people who would not normally come here in the middle of an afternoon on a work day and perhaps meet them where they are. That, of course, would be a great imposition on staff of BCDC that has to be considered. In the course of our work with the Environmental Justice Working Group that question of access is extremely important.

Going forward and helping to clarify and amplify our message in the community is nothing but positive. The question of composition of the body would then have to be addressed as well as what kind of formal role, if any, they would have other than it being an information sharing body for us.

There are a lot of things to consider but I strongly support the idea and would like to get some feedback on what the right way would be to design such a group and address the question of just the logistics and the activity and the responsibilities and composition.

Commissioner Zwissler commented: I have a number of thoughts and some experience. I share the Chair's general concern about adding workload and really the need for focus and purpose.

I did experience in my previous life as the executive director of the Fort Mason Foundation working with a citizens' advisory committee with a GGNRA; great concept, convened for all the reasons that were just beautifully articulated. But the effect was not one that was well received or effective.

I would also harken back to the comments you made earlier Chair Wasserman about the great work that is happening in terms of the BRRIT. There is an example of removing bureaucratic barriers. I really fear this is creating one.

While there may be a law and we've ignored it for 17 years – I think this is a solution in search of a problem. I would be very hesitant. I think this warrants deep study for an extended period of time. (Laughter)

Commissioner Showalter shared some observations: It seems to me at the workshops I have come to in the last couple of years that I see a lot of familiar faces. Those are the people that we should be asking to be on this. I think we should declare them that. They are the CAC.

The other reason we should do that is because in my experience running a non-profit, the San Francisquito Creek Watershed Council which was a 23-signatory group – I found that the people who really came were all self-selected. They were the ones that cared. They were the ones that showed up. They were the ones that did the homework. We have those people who sort of identified themselves by looking at the sign-up sheets from the past two years of workshops.

We should be very fluid about who we welcome to this and not make it be very much more than – the goal should be to have people who take part in the public workshops on a regular basis because then they bring the knowledge that they learned in the previous workshops to the next one.

That is valuable for BCDC because that means that we are having a group of stakeholders that we continue to educate. I don't think we need to make a big deal out of it. We just need to thank those people that we've noticed have stepped up and give them the title and move on with our lives.

Commissioner Ranchod commented: I share a lot of the views that were expressed already about the in a world of limited resources and so much already on the plate of the Commission and existing working groups that are involving members of the public and staff's limited capacity that before we even start talking about questions 2, 4 and 5 here and getting into logistics, we should be very clear about, besides the fact that the statute requires it, what is the objective of doing this and what is the desired outcome for the Commission from constituting a citizens' advisory commission and inviting and asking and expecting people and everyone seems to agree that if we are going to this we should use as an opportunity to involve additional folks who are not already involved in Commission activities although you need to have some engagement already so they are actually adding value and understand what the Commission and all these entities already are doing.

We need to be really clear about what the desired outcome is before we get into the other questions. And maybe there is a way to draw from people who are already involved in the Commission in various ways or stakeholders who we wish would be and maybe focusing on identifying gaps that can then be identified and recommended to the Commission for further action is a good place to start.

I haven't heard anything actually significantly compelling articulated yet beyond, we should have this because it is required by statute. And that doesn't mean there isn't a compelling case for creating this and giving it a scope but I think we should be very clear about what that is before we ask people to involve themselves in it.

Commissioner Randolph commented: I remember years ago when this came up the last time for those of us that have been around long enough to have these conversations. (Laughter) It was kind of similar. We looked at the kind of institutions that might serve on it and this and that and came to a conclusion that there really was no identifiable purpose or need at that time to go forward and do anything about it. It has been sitting on the shelf for a reason.

I share Commissioner Zwissler's concern about creating something that creates additional staff burdens without a clearly, beneficial and impactful purpose.

If there was to be something done it is important that the level of public interaction right now and outreach is phenomenally greater than it ever was. It was always there but it is orders of magnitude greater especially as we take on more broad issues with more public impact across the communities.

I think we've done a good a job as we could as a Commission so far in really making extra effort to reach out. A lot of what was originally perceived as a need and a gap when the legislation was passed, we've covered that intent.

If there was to be a purpose maybe one could be around the Commission's processes and procedures especially as they relate to public engagement and outreach. And every so often issues do come up about how we interact with and engage and listen to the public. I wouldn't call them technical issues but they do relate to how we interact with the public constituencies and maybe there is a very targeted advisory input we could receive on that.

If we did go forward, I know there are a lot of people who show up on a regular basis and are committed and knowledgeable on what we do. It is also true that you see a lot of the same people again and again. If we wanted to go forward, we would want to think also about actively bringing in new people and new points of view just so we continue to enrich the conversation.

Commissioner Gilmore was recognized: I just wanted to say that I agree with a lot of what my colleagues have already said. In my true fashion I am going to be really blunt and say that unless we come up with a very specific purpose for this, and I haven't heard one yet, I am really not in favor of this. The only pro in terms of having this is people are saying well we need to have this because it's the law.

Okay, if we need to have this because it's the law then we also need to follow what has been specified in terms of the people or types of professions that are in here. I don't know about you but if I were any of these professions, geologists, biologists, architect; I would be very leery of volunteering my time to an organization that I did not know what my purpose and my time was going to be given for.

I really, really believe that if the consensus is that we need to go forward with this because it is the law then we spend a lot of time defining the purpose and scope before we get to any of these other things and if we are not going to do that I would suggest that maybe we fast track this for some of the things that we want to change on the legislative end and maybe there are other things in the Act that could go along with that package.

But as I sit here today, I can't say that I've heard an overwhelming reason except that it is the law because a lot of the good things that people brought up that could potentially come out of this, I feel that through our outreach efforts we are already doing a lot of that right now.

Commissioner McGrath commented: I share the mixed feelings of many of the Commissioners because I pulled up the language and it is an example of some of the most unartful legislative wording that has come before my eyes recently.

The purpose is very broad. It gives the Commission advice but it has no authority. It has this thing of balance – somebody from the aviation side, somebody from the harbor side, biologists; but it doesn't have a purpose. With that said and sharing Commissioner Gilmore's sense that we shouldn't do something unless there's a pretty good idea for it; I would remind the Commission that we are embarking on about three Bay Plan amendments. It may well serve a purpose.

The most difficult thing that I did was planning for the reuse of the old Fleet Industrial Supply Center in Oakland and the tension between how much of it should go to maritime purposes, how much of it should go to habitat restoration and how much should go to a park.

One of the key things that really helped deliver amicability among the different stakeholders was, in fact, a citizen advisory group where citizens were systematically listened to. I kind of share the sense that we shouldn't do this unless we have a very specific purpose but we maybe should think about whether or not this might help us in scrubbing through some of the policies in the Bay Plan amendments so they go down smoother.

I am reminded of the last Bay Plan amendment and the many weeks of meetings that I put in afterwards because we had not done enough outreach. I was part of that problem so I became part of the solution.

Rather than dismiss it out of hand maybe we should think about whether or not it has a role in getting to yes on our Bay Plan amendments.

Commissioner Techel commented: With our flood control project we created a technical advisory panel that had certain skills that could look at the designs and come back and reflect on them and that seemed to make sense.

This doesn't make sense to me. When they wrote this, we didn't have cell phones. We couldn't communicate the way we can communicate now. We can get information out in new ways. So rather than trying to figure out how to make an old way work I'd rather spend the energy figuring out new ways.

Vice Chair Halsted added: MTC has an advisory committee which has had a great deal of trouble figuring out how to be effective. If we were to create a new advisory committee, I think that those people who might be chosen for it would feel they had a great, new responsibility and I think that creates expectations that are unrealistic.

If we move to do anything it has to have a specific and limited purpose and have a specific and limited process. I do feel we have a bunch of advisory committees that are out there some of which are very enthusiastic about BCDC but have very knowledge of what BCDC does overall or how their committees could be more effective.

I think we should consider that as a resource if we move ahead with a limited perspective and a limited purpose and a limited timeframe.

Commissioner Butt chimed in: I concur with the Chair's original remarks that we ought to seek a fast track way to have a legislative solution to this. As you said, this was passed back in the days when we didn't have all the media and communications we have now. It is a different world.

People have a way of making themselves known about things. Another thing that happens is that a lot of people out there that are not interested in being garrulous in this. We just heard a bunch of people get up and talk a hotel in Alameda. People tend to be issue oriented. And those people who have knowledge about issues tend to self-organize and show up and write letters and send emails and do research and that kind of thing.

I have been personally just amazed at the level of outreach that staff has organized for all the workshops we've had in the last couple of years. I think they have done an extraordinary job of pulling people in and giving a people an opportunity.

I just don't see the need for it. I think we ought to figure out a way to dismantle it as fast as possible. (Laughter)

Commissioner Gorin spoke: We have been having more conversation on this than anything else in recent history because we all have opinions on it. (Laughter) I don't disagree with a number of the folks who have spoken and my comments are exactly as Mayor Techel really talked about.

Interestingly I recognize a number of names coming out of the League of Women Voters from the previous CAC. I come out of that model as well. I probably would have just jumped right on here to say, oh yes, I want to be on this if I were not on this board. And there are other good folks who would do that.

But the transportation challenges to get to any central location I could say personally are very onerous. I agree that we have many, many different ways of involving the community and letting people know about the good things that we are doing.

What I would like to see whether we work on changing the legislation instead I would like us to put our focus on, what can we do to have an e-newsletter to talk with a broader community about the important issues and policy working groups that we do have so that if people are interested they could come to those meetings and be involved.

If you took a poll, I think you'd get a handful of people who have actually heard of BCDC unless they were a developer and then, oh – they really don't want to know about BCDC. (Laughter) The important stuff this board and the staff is doing can we get that information out in different ways?

Commissioner Sears added: I really see this as a public engagement issue. I think it is a good reminder for all of us and staff is doing a terrific job but we have to make sure that we are getting the word out and that we are getting input in on all of the projects that come before us.

And I think the Bay Plan amendments process is going to be a terrific opportunity to make sure that we are broadening that scope of public engagement.

I also think our working groups have been tremendously successful because they really focused on issues that we have all identified as important to what we are doing right now and not at the time that the statute was created suggesting that we create an advisory council. I'm also wondering if in particular the Public Education Working Group might be a good venue for consideration of how we do public engagements better. Are there areas that we are missing that may have been a stimulus the idea of having a community council of some sort?

I'm with the sceptics. I don't see the value of creating additional structures just to have them. I think the people who we would ask to serve on them are going to have that concern about why.

Commissioner Nguyen had questions: How did this resurface itself now and are there any ramifications since this is a matter of law? This has been sort of overlooked a few years.

Executive Director Goldzband replied: The easy answer to your first question is that I, out of the blue, received an email from Russ Robinson that said, I admire what you are doing – is there going to be a citizens’ advisory council? So I then walked over to Steve and I said, well – this is interesting. And we had a conversation about it. And then we spent weeks trying to find anything at BCDC about the citizens’ advisory committee.

Grace Gomez our executive secretary finally found something in a file that was almost unmarked.

I am not an attorney and I don’t play one on TV but if we haven’t had it for 17 years and there’s been no legal issue I don’t know if there would be in the future. It is a risk that BCDC simply takes and I would simply go to Sheri and to John to expound on that if they feel necessary.

Chair Wasserman interjected: But not at this meeting. I think you are leaving something out. I think there was an agency that I’m not going to name who was concerned it might not be listened to enough who raised the issue. But I got that information from you.

Commissioner Randolph chimed in: I have a very small correction to Commissioner Gorin’s comment that this was the most robust conversation in a while. (Laughter) I think we had an equally robust one not long ago about toilets in Marin County. (Laughter)

Chair Wasserman continued: I certainly have not looked at the legislation or the legislative history of the McAteer-Petris Act on this issue. But it is not uncommon when you create a new agency – particularly when it has taxing authority which we do not – that part of the checks and balances and frankly part of selling it to whomever needs to approve it is you create a citizens’ advisory committee.

In my life as an attorney where I’m counsel to a county transportation commission that has always been part of the selling piece to get the tax passed. I would note when the city of Oakland put Measure AA for K-12, education funding from parcel tax they did not do that. Had they done it, it might have passed with two-thirds. They are having an interesting debate whether they needed two-thirds in retrospect or not.

I think there are some reasons why it might have existed that are no longer there. My suggestion is to have staff go back, think about this but I would sort of direct the efforts in the sense of saying, it may have had this purpose – don’t spend huge time on looking at the legislative history.

But, in fact, here’s what is happening now. And essentially lay out the case we would have to make if we wanted to go back to the Legislature. I’m not sure I am a fan of that. I think we may if we lay out that case say that let it sit on the shelf for a while longer.

But anyway, put it back to staff with sort of the collective thoughts here in that direction.

**12. Discussion on Use of Ocean Protection Council Guidance in Permits.** Chair Wasserman announced: That brings us to Item 12 which is a discussion on the use of the Ocean Protection Commission guidance in permits and Erik Buehmann will introduce this topic.

Executive Director Goldzband chimed in: You will remember that Erik and Andrea did a real, deep dive into the OPC Guidance in early December or November. Erik is going to give you a very brief description of that and then he is going to end with three questions for the Commissioners to think about and discuss with regard to the actual, regulatory process that BCDC uses.

Mr. Buehmann presented the following: On November 15th our Bay Design Analyst Andrea Gaffney and I gave a long presentation updating you on how we've been implementing the climate change policies in the San Francisco Bay Plan and how we've incorporated the State Sea Level Rise Guidance adopted by the Ocean Protection Council, both the old guidance and the new guidance adopted by OPC in April 2018.

We've mailed you the presentation so I won't go over all of it again but it is a resource for you. I'll just do a brief overview of what we covered but we want most of the time to be for you to discuss. There is no action or recommendation proposed for this item.

At the November 15th meeting Jenn Eckerle of the Ocean Protection Council gave us a brief update on the OPC Guidance adopted in 2018. This slide here shows the steps recommended for using the guidance on the left and the projections for San Francisco Bay Area on the right.

I gave a brief overview of the climate change policies. Basically, larger shoreline projects must be resilient to a mid-century projection of sea level rise and storms and if the project lasts beyond mid-century it must be adaptable to end-of-century. BCDC's jurisdiction in the shoreline band is limited to ensuring public access is viable to the sea level rise and flooding from storms.

I summarized how BCDC has approached conditioning permits for larger projects. I used Treasure Island and the Oyster Point Redevelopment Project as examples for how we attempt to provide a flexible adaptation pathway approach to requiring adaptation beyond mid-century. We may not necessarily require a particular adaptation approach by, for example, requiring the construction of walls of a particular height. We are also providing for the possibility of updated better information in the future and incorporating that into the planning process for adaptation.

Next Andrea, our Bay design analyst, walked through some examples for how we've applied the policies and guidance in the application process. Here you can see an example of a spreadsheet she helped create that helps permit analysts see how proposed elevations of project elements would function with projected sea level rise elevations using the 2018 Sea

Level Rise Guidance. The spreadsheet uses project elevations for, in this case, a Bay trail and a water street for a hotel project. And the blue shows when the project element would flood under a particular scenario.

We also look at section drawings that can provide context to sea level rise projections while trying to illustrate different scenarios for flooding. This example is for a hotel project already approved by the Commission and recently reviewed by the Design Review Board (DRB). The exhibit shows the response to the development's public access to multiple different types of risk – you can see the Mean High High Water (MHHW) at 2050, the MHHW at 2100, and the 100-year storm event today and under future sea level rise projections. The exhibits also show hypothetical adaptation approaches.

We also have our new Flood Explorer which you can find a link for on our website. The Flood Explorer is unique in the world of sea level rise viewers in that it includes ground-truthed overtopping information. It is not only about elevation but also where the water will come from.

Finally, we talked about existing public access and the risk of existing required access to flooding. The purple lines on this map show rough representations of public access required in existing permits.

Here is a breakdown by county of miles of public access required by BCDC permits that would flood with sea level rise. This comes out of some great analysis by Todd Hallenbeck and Heather Dennis of our staff. And more figures like this are available in the presentation materials from November 15th. At about 5.5 feet of sea level rise the majority of required public access along the Bay would be flooded in a 100-year storm event. The grey bars show miles of public access flooded.

This public access is required to be maintained by your permits and yet we will have a serious issue in the future with so much at risk.

The state guidance provides a decision-making framework for the risk aversion analysis – basically which probabilistic projection to use. You review the consequences of the impact: What is the disruption? What is the scope and scale? Look at the adaptive capacity: Can people respond or is the flexibility limited or is the threat to public safety too great? You determine who or what is affected but considering the number and type of communities, but also the importance of the infrastructure or natural systems. Finally you consider the economic impacts to determine where on the continuum of risk you'd fall.

This guidance was created for the entire state, for all state agencies and to advise local governments across the entire state. So it is designed for projects of all scales and contexts. The San Francisco Bay is an urbanized estuary where we have development often constructed up against the shoreline. If you read this chart, you could think that a number of

developments could be subject to the Extreme Risk Aversion. The issue with that is that extreme risk aversion, the H++ scenario involves 10 feet of sea level rise and would result in extreme measures along the shoreline.

As of yet, BCDC has not applied the H++ level to an application. Rather we've incorporated an adaptation pathway approach to modify projects and plan over time after mid-century.

These are questions that we've been asking ourselves as we continue to refine our approach to applying the climate change policies and to incorporate the new guidance in our regulatory work. And I don't want to limit your discussion because if you have other feedback or other things you want to talk about then you should feel free to do that.

The guidance provides projections under low-emissions and high-emissions scenarios for projects beyond mid-century. Are low-emissions scenarios worth considering right now for adaptation planning?

The other larger issue facing us is the probabilistic projections. How do we define the risk aversion for a particular project?

The Guidance provides some general examples for the different categories. For example, an "unpaved coastal trail" could be low-risk. A coastal housing development could be a medium-high risk. And a power plant could be an extreme risk (H++).

But for BCDC a coastal trail may not be low risk in terms of adaptive capacity and impact to the region. For public access required as part of a development, should the risk associated with the access be reviewed on its own as public access or should the underlying project's risk criteria determine the risk to the public access?

What about restoration projects, which are critical to the ecological health of the Bay Area yet may not necessarily be designed for a project life beyond mid-century?

Does it make sense to request development at the shoreline and leave room for adaptation to account for uncertainty? Many developments are built up to the shoreline with a public access between the development and the Bay. The public access is the first line of defense. But when the development is built so close there is less space to adapt. Does this mean the project should be analyzed at higher-risk aversion? As a result, is it more important to provide more details on how you adapt the project over time compared to a project with lots of space to adapt over time along the shoreline?

And finally, as I keyed up in the last slide, how do we analyze H++, especially in our region?

In future meetings we hope to discuss the issue of maintenance of required public access as well as whether financing structures should be something to consider in conditions to permits. So I will leave it to you. (Laughter)

Executive Director Goldzband added: I didn't say they were going to be easy. These are specifically the questions that Erik, Ethan and their team members think about on a daily basis as they look at permit applications.

We specifically put them in this order because the way you look at that permit application one step sort of determines the next step. There is a chronology there. There is an internal system there.

That is why we think you ought to start with emission scenarios. That is simply going to tell us a lot if you take a look at the state guidance chart about what numbers to use to begin with. So that is where we want you to start.

Commissioner Wagenknecht had a suggestion: I say we give it to the Advisory Committee. (Laughter)

Commissioner McGrath commented: I am going to go to the H++ question. I have been working on public access since 1976. I have been working on funding for infrastructure, particularly for parks, pretty intensively in Berkeley.

There are people in Berkeley who want to start planning for H++ right now. I think that is nutty. But more than nutty it is counter-productive. We have infrastructure which in many cases has reached the end of its useful life and needs to be renewed. And it will probably need to be renewed again before we face H++.

There is probably 100 to 200 years of sea level rise cooked in the planet already. The best science that I've seen coming from Scripps is there is so much heat stored in the ocean that we're facing a very long period of sea level rise and we don't know how much; probably by 2030 we will know a lot more.

If you start by an unreasonable assumption and not a consideration that we need to provide infrastructure for our generation and our children's generation you'll be paralyzed.

I think you need to recognize that you're going to have to revisit a lot of this stuff around 2030 or 2040 and you'll know more provided that somebody keeps measuring stuff. And I know that the current Administration is trying not to but I also know that a lot of other people are measuring things.

And the models get better and better and they will have greater predictive capacity.

Except in the case of something like maybe Highway 37 where we know that we are going to have it for 100 years I think the use of H++ is counter-productive to providing infrastructure including public-access infrastructure for our children and our grand-children. And I think that is what we have to do.

Commissioner Randolph was recognized: I would agree with Commissioner McGrath staying on the H++. When we first launched into our Bay Plan amendments around sea level rise there was a lot of misunderstanding about what we were talking about and a lot of people leapt to the conclusion that we were talking about abandoning the shoreline, abandoning whole communities because they saw potential flood maps and thought, well everybody has to move out.

I think jumping to that right away risks a similar kind of reaction. Whereas if we build in the expectation for a period of time there the opportunity for planning and adaptation and taking it step-by-step. We need to be cautious.

We've done a good job the last several years and we would like to bring the community with us and the need to go in a certain direction. If we can keep it on a steady keel and keep everybody in the conversation and not scare them off right away it would probably be a good thing.

Commissioner Sears concurred: I agree with those comments – kind of. (Laughter) There are two things that matter. One of them is the phrase, “on the horizon” and the other is the question that precedes the H++ which is, should the amount of space available to adapt be considered in risk aversion?

I think the question of that is absolutely – yes. That gets you on the track to considering H++ projects. If you assume the change is happening faster than anyone has anticipated you think about what that horizon is.

I would agree with Commissioner McGrath; we're going to have a lot more information by 2030 and that is not very far in the future. It is only 11 years out and I was calculating my longevity and whether I would make it to that additional information on not. I hoping I do. (Laughter)

I do think the issue there is the horizon. The issue is not do we necessarily plan for H++ next week – it's how short our horizon is. And I think our horizon is fairly short.

Vice Chair Halsted stated: In projects such as Treasure Island where the infrastructure improvements were intended to last 100 years or so the nature of the consideration is a bit different from smaller projects. We do need to look at the anticipated life of these improvements that are proposed when we consider whether H++ should be used.

Commissioner Zwissler sought clarification: What are you asking when you are asking is it worth considering low-emission scenarios? What is behind that question?

Mr. Buehmann replied: The Guidance provides lower numbers for low-emissions. Before mid-century it doesn't matter so they just use a high-emission number but after you get the choice between low-emissions and high-emissions.

Commissioner Zwissler continued his inquiry: These are nominal numbers. I mean look at 1.3 versus 1.7. What's the difference other than 10 inches? (Laughter) Is it a big deal?

Mr. Buehmann explained: It may not be but I think for some projects it is. For some projects they are very sensitive about the amount of water that they are showing that is going to happen to the site. And in some cases 10 inches can matter. It can matter whether you are getting flooded in a big storm versus when you are getting flooded at a medium storm or at the end-of-century.

Commissioner Zwissler questioned staff further: Is this total water or is this just sea level rise?

Mr. Buehmann answered: This is just sea level rise.

Commissioner Zwissler noted: So there is a lot more water to be calculated into this. So there are so many other variables; I mean – if you are asking for direction, take the high one, what the hell. (Laughter)

Executive Director Goldzband interjected: I want Brad to step in. One of the things that goes on at BCDC when the regulatory team meets with project applicants is they want to know a number, other times they are scared of a number, other times they don't want to show you a number. Brad that is all fair is it not?

Mr. Brad McCrea explained: That's right – especially the last part. As Erik said, the policies call for an adaptation strategy after 2050 – between 2050 they don't have to build it right now but we need to know what they are going to do.

Sometimes if we are talking about higher scenarios; we are talking about more water – when you create a cross-section and you show those water levels it is scary and it just doesn't look good. Well, the truth hurts sometimes and what we want to do is bring to you the facts. But there is some resistance and so we start getting into conversations like – well, the lifespan of this project is only to 2070. And so we have these conversations around the table about that.

What we are continuing to do is encourage people by saying; we have a very reasonable Commission that understands the state of play here. And we will work together.

When you have more room to adapt that 2100 question is easier to deal with. We will figure it out. But when you have a development, a building, a hotel, an office building or a residential sub-division that's 45 to 60 feet from the shoreline suddenly that 2100 adaptation question – how are you going to adapt when the water gets higher is far more important. And we have longer conversations about that.

I appreciate the comments from Commissioner Sears asking, should the amount of space available to adapt be considered in risk aversion? Similarly you could ask, should the amount of space be available to adapt for future sea level rise be taken into consideration when factoring in maximum, feasible, public access?

Now we have sea level rise policies, adaptation policies that we just discussed around public access but as it pertains to, what is maximum, feasible, public access – that's an existing, current-day, sort of analysis. How much space, quantity and quality, how much space do you need and what is maximum, feasible, public access for this project?

But we rarely ask developers to provide more public access maybe even outside of the Commission's jurisdiction so that we have more flexibility to adapt for future sea level rise.

Commissioner Zwissler stated: And I would just add one other caveat to that. When you talk about outside of the jurisdiction it goes back to when we approve islands – in other words; how do people get there? I don't know if that is part of the question here but it is so important to consider the broader impacts and effects on access et cetera.

Mr. McCrea added: We are much more limited because the project is the project and it has property lines.

Commissioner Butt had an observation: It just strikes me that this process is way too complicated. I think you have to boil it down to the point where you give somebody three numbers – low, medium, high; and the requirement is that it has to be built today to accommodate the low-emissions scenario but you have to show that you have sufficient space to accommodate the other scenarios in the future.

On the slide with all the numbers my eyes just glaze over with that. And I'm an architect and I'm supposed to understand stuff like this. There may be a lot of great scientific thought that went into this and it may be the best information that we have but I just don't know how you work with something like this.

Commissioner McGrath commented: Let's stay here for a moment because my eyes don't glaze over. I've been trying to get Berkeley to grapple with this and so I understand the practical reality. In much of the east shore the Interstate 80 provides effectively a dike that protects Berkeley until at least six or seven feet of sea level rise.

So there's no reason to panic until six or seven feet of sea level rise. Just to stay with that issue for a minute if we hit 10 feet and we lose I80 the scope of changes in this society that we are going to be dealing with just staggers the imagination. They are much greater than the loss of one apartment building.

Eventually some property is going to be devalued. It is not going to be cost effective but that may be in 70 years or it may be in 120 years. I don't feel as a 70-year, old man that it is my responsibility to adopt a definitive plan out beyond 50 years for a societal change of that magnitude.

It is outside of our authority. Our authority for denial is only if it's either in the Bay or it's not sufficient for public access. I think we should worry about public access and worry about making sure that it is sustainable but to try to get too complicated – I mean, the 2050 scenario recommended by the Ocean Protection Council has a sea level rise that hasn't much band around it and then a pretty good, based on pretty good engineering and what happened in the 1983 storms, and that is a pretty good set. Beyond that – are we going to lose some apartment buildings? Yep. When? No way to know.

And our banks, our insurance companies, our governments at much higher levels than us are going to grapple with that beginning in about 20 years.

Commissioner Sears responded to Commissioner McGrath: I have to respond to Jim because I think he hasn't been over to Marin County lately and I'm on hoping that on Monday when it's raining and there is king tides you'll come over and drive through Manzanita Pohono and just get your mind off of that eight-foot dike that you have over there in Berkeley.  
(Laughter)

Chair Wasserman inquired: Roughly speaking what is the difference between the low-emission and the high-emission standard? I think this discussion has been very important. The questions are very important. My suggestion would be that we revisit this relatively soon leaving a fair amount of time for it with it being applied to three or four specific examples because as eye-glazing as this may be, when we are dealing within the abstract it is hard, but as somebody pointed out – these questions may be answered appropriately very differently if we are talking about an apartment building that has a 30-year life. A bridge that hopefully has a 100-year life. A transmission station that probably has a 75-year life. And in the discussions, if we do this when we talk about projected life, a little bit of probing and discussion on that on what the standards are and what reality is because many of our buildings and structures far exceed their projected life.

I think if we do it in that context then it can become a little more meaningful for us and our guidance to staff on how to apply these to the projects that are coming through the door.

Mr. Buehmann replied to Chair Wasserman's question: The difference between the two emission scenarios; I pulled up the Guidance here. The high-emissions scenario is called our representative concentration pathway 8.5 and it is based on the Inter-governmental Panel on Climate Change Fifth Assessment Report; the IPCC- Fifth Assessment Report and it is basically is business as usual.

Chair Wasserman noted: So basically no reduction from where we are now.

Mr. Buehmann answered: Yes. And RCP 2.6 is the low-emissions scenario. And that is based on California's emission reduction targets through Assembly Bill 32 and reducing GHG emissions to 1990 levels by 2020 and some other sources.

Executive Director Goldzband added: I think that the low-emission scenario is if the world would adopt what California did you would get the low-emissions. However, under the existing emissions, under the existing scenario – business as usual – you get the high-emissions.

Chair Wasserman interjected: So neither of them is particularly likely.

Mr. Buehmann added: The low-emissions scenario corresponds to the aspirational goals of the U.N. Framework Climate Change – the Paris Agreement.

Chair Wasserman continued: That's helpful. If we take the approach I'm saying let's see because the reality is going to be between those. And it is probably not going to be a true median or average. It's going to be slightly higher than that but it is not going to be at the high level.

Ms. Debra Halberstadt commented: I am the Executive Director of the California Ocean Protection Council. I just want to clarify on the difference between the high-emissions and low-emissions scenarios. As Erik explained the high-emissions is based on business as usual and that is current. That is what is happening now. If we continue to do what we are doing now we will see those high levels.

If miraculously the world cooperates and we get to the Paris Agreement we could see the low-emissions scenario post 2050. Up to 2050 the numbers are baked in. There is nothing we can do to change what we have up until 2050.

Commissioner Vasquez asked: What is it that BCDC is looking to resolve or solve? I mean the whole world is going to flood.

Mr. Buehmann replied: What we are trying to do – we are always trying to improve how we implement the climate change policies.

Commissioner Vasquez continued his questioning of staff: And then in the end if we do make a recommendation to a developer or development – whose responsibility is it to adapt afterward? Is it theirs or is the public going to pay for all of it? At the end of the day who is going to pay for all of this?

Chair Wasserman answered: The answer is in between. The developer is going to have to pay assuming the structures survive for the adaptation at that site. But to get back to Jim's observation – if I80 floods that is on the public. And in various places there will be some struggles over that.

But as we are approving projects which is different from some of our planning activities it's the developer's obligation.

Commissioner Vasquez posed a hypothetical: So we lay the risk out and if the developer is going to take a 20-year window or 30 or 50-year window; is it really on them or is it on us?

Chair Wasserman opined: I think there is a policy question for us. And this is primarily in the maximum, feasible, public access arena of what we are prepared to approve. The simplest comparisons are narrow band between building and sea and solid development on the first floor versus bigger band and the first two floors are fundamentally flexible and could flood but for what you need to do to protect the mechanical and electrical.

In an ideal world if costs didn't have any impact you'd want that second scenario all the time. That is not the world we live in.

This was an excellent presentation, thank you. And we will look forward to the next one with models that will be sitting out here.

**13. Chief Counsel Report.** Chair Wasserman announced: That brings us to Item 13 which is comments on Chief Counsel's Report that Larry will lead off on.

Executive Director Goldzband presented the following: We don't expect you really to comment on this today as much as we want to make sure you read it. Marc Zeppetello, who is on vacation until next week, wanted to make sure that you saw a couple of things.

First of all to remind you that BCDC's new enforcement attorney Karen Donovan is going to start on Monday. The purpose behind this report is to let you know that this will, over what we hope is a short period of time, relieve Marc of many if not most of his enforcement responsibilities, which will allow him to actually become a chief counsel which is something we really haven't had at BCDC in about five and a half years.

In doing so he wanted to make sure that you understand what he is planning to do. He is going to finish and implement a comprehensive review of our regulations. Most of them haven't been reviewed or looked at in any systematic way for upwards of 30 years. He believes that there are a number of potential regulatory changes that may well alter the way we work.

He wants to let you know that he is going to be looking at that, providing analysis and you will this year be presented with probably a number of changes that he will want you to analyze and to provide recommendations on.

The first one will be a permit application-fee change. You will remember that a year ago the Commission held a public hearing and recommended to commence the rule making process that would double existing permit fees. That rule making package is almost complete. We assume that will be complete within the next six weeks and you will see that it will be issued for review and then there will be a public hearing on it.

And then there will be a number of different process-oriented regulation changes that he will want you to take a look at.

And there is no doubt as well that one of those or two of those packages will actually deal with enforcement that will be based upon Marc's experience and John's experience dealing with the enforcement program as well as suggestions made by the state auditors.

I encourage you to take a look at this and as you move forward in your role as Commissioners and as you take a look at what is handed to you by staff to review and analyze – any suggestions that you have for Marc with regard to such changes would be gratefully appreciated.

I am certainly happy to answer any questions I possibly could in his absence.

Commissioner Ranchod commented: I support bringing those proposed changes in multiple packages as opposed to try to bundle it all into one big one.

Commissioner Butt had an announcement: The ferry from Richmond launches next week on the 10th. The public events start at 1:30 at the crane way in Richmond. You are all invited.

Executive Director Goldzband added: I will also ask you please in addition to completing your ethics training to remember that in two weeks we are going to be meeting across the way for the Environmental Justice Social Equity Workshop.

We are going to have a short, Commission meeting first to deal with the brief descriptive notices assuming that those come to us in the way they need to in the next couple of days from the applicant. And we want you to invite your Alternates as well. Or if you are an Alternate please invite your Commissioner. The more people we have the better.

**14. Adjournment.** Upon motion by Vice Chair Halsted, seconded by Commissioner Randolph, the Commission meeting was adjourned at 3:29 p.m.