

San Francisco Bay Conservation and Development Commission

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March 29, 2019

TO: All Commissioners and Alternates

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

SUBJECT: Draft Minutes March 21, 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, Yerba Buena Room, First Floor, San Francisco, California at 1:06 p.m.

2. **Roll Call.** Present were: Chair Wasserman, Vice Chair Halsted, Commissioners Addiego, Ahn, Butt, Chan (represented by Alternate Gilmore), Gorin, Resources (represented by Alternate Eckerle), McGrath, Ranchod (represented by Alternate Nelson), Spering (represented by Alternate Vasquez), Tavares (represented by Alternate Nguyen), Techel (represented by Alternate Hillmer), Wagenknecht, Ziegler, and Zwissler (represented by Alternate Holzman). Senator Skinner (represented by Alternate McCoy) was also present.

Chair Wasserman announced that a quorum was present.

Not present were Commissioners: Senate Rules Committee (Alvarado), U.S. Army Corps of Engineers (Bottoms), Santa Clara County (Cortese), Department of Finance (Finn), Contra Costa County (Gioia), State Lands Commission (Lucchesi), City and County of San Francisco (Peskin), San Mateo County (Pine), Governor (Randolph), Marin County (Sears)

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

Ms. Therese McMillan addressed the Commission: I was the Deputy Executive Director for the Metropolitan Transportation Commission (MTC) for 25 years before I left to go work with the Obama Administration. And then I was at L.A. Metro, the third, largest, transit agency in the country for the last three years. Now I am back as the Executive Director for MTC and for ABAG with the consolidation of staff and the continuing work with the two governing boards to tackle transportation, housing and with view issues of our beautiful environment that we need to preserve.

I just wanted to introduce myself and say that I am eager to work in partnership with all of you on issue where our interests intersect. There is a lot of work ahead.

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BCDC MINUTES
March 21, 2019

We've been doing significant work on climate change and resiliency here in the Bay Area which is a major focus of what is happening ahead of us.

You are probably familiar with the long-range planning work that we are doing, Horizons. I am learning about it. We are looking at some broad futures including taking an aggressive look of what would this region look like with sea level rise and a number of other things that we very often try not to think about as much. And now we are saying well what if this really happened and what impacts would it have in decisions we make today?

I will stop there and I am happy to answer any questions but welcome the opportunity to be with you and to work with you going forward. Thank you.

Ms. Eva was recognized: When I was a young girl my mother taught me about Ishii and my father taught me about Pericles who said, we are called a democracy for power rests in the hands of the many and not the few.

Today our leaders exhort the populace merely to vote but those in authority actively discourage the more important process of citizen participation in the very decisions that will determine their fates. Such anti-democratic processes are perhaps best exemplified by BCDC, Commissioner Kate Sears.

Two weeks ago as the president of the Board of Supervisors of the most racially inequitable county in the entire state and one of California's most economically inequitable Sears sent out notice of a special meeting of the Board. In defiance of the Brown Act Sears omitted all meaningful information about the substance of the meeting in violation of common decency.

Sears held the meeting in a mountaintop location that was inaccessible to the handicapped and barely accessible by public transportation.

As a result only two members of the public were able to attend, myself included, for which I used four hours of vacation time from work. Of all the attendees I was the only one who didn't drive to the remote location.

If BCDC is truly committed to curbing change why is its Commissioner holding public meetings in places most will have to drive to?

In Sears own district black Marin residents lost twice as many years to premature deaths as white Marin residents. Black Marin babies are twice as likely as white Marin babies to have a low birth weight. And white women in Marin are still receiving mammograms at twice the rate of black women in Marin.

I note that by 2013 the public, high-school, swimming pool in Sears district was racially segregated under Sears' so-called leadership. And in 2017 black children had no access at all to that same pool which had been racially integrated and affordable for over five decades.

A full 10 percent of the parents charged in the recent nationwide, F.B.I. bust of the college, bribery scandal where white parents hailing from Marin. At least one of the parents charged Bill McGlashon has strong ties to Kate Sears.

And underlying all of this is a housing market that continues to reward white families like Sears and her supporters while punishing black and Latino families. Underlying all of this is a justice system that allowed Sears, the former prosecutor, to escape even a negligible, three-thousand-dollar fine for a criminal, conflict-of-interest with regard to Royal Dutch Shell.

Kate Sears now serves on approximately 12 separate boards and commissions in addition to her role as president of the Marin Board of Supervisors. It would be anti-democratic enough to have so much power held by one individual who continually and belligerently evades the law is totally unacceptable.

Truly had Sears perverted the credo of Pericles. Instead of serving the many she nakedly serves the elite few for her own profit. Thus do I urge the more ethical Commissioners of BCDC to disassociate themselves from Sears and her corrupt practices for the many and not the few. Thank you.

Mr. Guy Hollins was recognized: Over the course of my career doing project management, program management I've been lucky to be able to work on some really big, transformative, interesting projects on the waterfront here in San Francisco.

I am here today to speak on behalf of what the A's are looking to do over at Howard Terminal in Oakland at the Port of Oakland.

In all of my years in terms of seeing these big projects develop and understanding how complex these projects can be I really think the A's are doing an incredible job in terms of community outreach specifically with the community in western Oakland and in terms of their commitment to open space, access, environmental justice and really having a place that is an incredible benefit to the community.

I just want to speak on behalf of that project and talk in support of what they are doing out there. Thank you.

Anish Musugu was recognized: I am from Hollins Consulting working on the Seawall Project with Jacobs Engineering and the Port of San Francisco. This was my first project when I came to California in 2018.

With the A's team I have learned a little bit about the project where they are trying to work on the health point of view. They are trying to mitigate the health problems and this project is really going to help and benefit the city of Oakland.

Kali Futnani gave public comment: I am a resident of Oakland. I also wanted to state my support for the Oakland Stadium Project. I live pretty close to that area and notice that there is a disconnect because of the freeway between the areas along the waterfront and the rest of the City and the rest of the residents.

I feel they have done a good job of trying to connect; the concept is trying to connect the rest of the City to that waterfront area which has beautiful views.

I just wanted to voice my support for the project.

Josh Barde addressed the Commission: I wanted to voice my support for the A's Project at Howard Terminal. I think it is a great opportunity to have a private investment to clean up that area and revitalize the neighborhood.

I just wanted to voice my support and thank you for your time.

Derrick Cooper was recognized: I am here in support of the Oakland A's. I am an Oakland native but now I live in San Francisco. I don't want to see any more of our teams leave.

I am also a former, Port of Oakland employee, an engineer with the Port of Oakland so I am very familiar in the maritime division with Howard Terminal, the contamination out there and I am in support of keeping the A's in Oakland. I am in support of cleaning up Howard Terminal. I am in support of revitalizing and creating jobs in Oakland. I am in support of what the A's are doing out there.

Cathy Adams spoke: I am the Charter President of the National Coalition of Black Women. I've been in Oakland for over 30 years. I am here to support the Oakland A's.

I work with several non-profits that represent a diverse community and the A's have been there to support them. By keeping this project here it will create jobs but also help them to continue to reinvest in the community.

I strongly urge you to support the Oakland A's.

Chair Wasserman moved to Approval of the Minutes.

4. **Approval of Minutes of the March 7, 2019 Meeting.** Chair Wasserman asked for a motion and a second to adopt the minutes of March 7, 2019.

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

VOTE: The motion carried with a vote of 14-0-2 with Commissioners Addiego, Ahn, Gorin, Eckerle, McGrath, Nelson, Vasquez, Nguyen, Hilmer, Wagenknecht, Ziegler, Holzman, Vice Chair Halsted and Chair Wasserman voting, "YES", no "NO", votes and Commissioners Gilmore and Butt abstaining.

5. **Report of the Chair.** Chair Wasserman reported on the following: There are three headlines that I want to bring your attention to that have appeared in the last few days.

One is citing the U.S. Geological Survey Study predicting devastation in the Bay Area by 2100 if we do not take action to protect ourselves.

Staff is looking at that and we expect a presentation on that at a future meeting.

The good news is that it is getting attention. The bad news is the real projection is a very ugly one.

The second headline comes from the B.B.C. a multi-country study which talks about muddy, coastal marshes being the sleeping giant of climate protection that carbon is sequestered in those marshes today.

And one of the results of rising sea level will be to better cover those and better protect against the release of that carbon.

If we do our job well and expand marshes as part of our protection of our natural and built environment we will then extend that for even more marshland to capture that carbon.

One of the things about this was really a silver lining in this that our action in expanding marshlands which we need to protect ourselves will have that additional protection.

And the third headline last week was the children marching out of school to protest climate change or to be more accurate to protest the lack of action and commitment to address climate change.

You have heard me speak before about the next wave of our workshops which is underway but is slowed down is the education campaign. And that is exactly the kind of action we hope to prompt because it is educating our children to compel us and our other elected leaders to do what we need to do responsibly and to do it today because it should have been done yesterday.

As always the headlines are a mixed group but the attention continues and that in itself is important.

a. **Fill for Habitat Commissioner Working Group.** There was a Fill for Habitat Working Group meeting this morning and I would ask Commissioner Nelson, the Chair, to make a report on it.

Commissioner Nelson addressed meeting participants: This morning we discussed the timeline for the Bay Plan Amendment process that we are in the middle of right now. We spent the bulk of the meeting previewing the posters that we are about to take a look at during the workshop and just making sure that the members of the group are ready to look over your shoulders and listen in to the discussions on the most challenging issues that we are wrestling with.

And our meeting next month we will be discussing the input we get from you all so say interesting things. (Laughter)

b. **Financing the Future Working Group.** Chair Wasserman continued: I will make a brief report on the Financing the Future Working Group meeting which also occurred this morning at the State Building. It was a very good and lively discussion. It began by focusing on four projects that were part of the Resilient by Design competition where Resilient by Design has identified those as having some strength in sponsorship and reality and is looking to the Financing the Future Working Group to help them figure out how to finance those projects.

One of the things that is happening for those projects and others of the R.B.D. projects is they are moving from the consulting team that came up with the ideas and presented them to the public agencies that will have to sponsor them.

That fed into a discussion about a potential, new, funding source for this as for many things and that is opportunity zones. We will continue to hear more about these. They won't fit a whole, lot of public infrastructure projects but they may well fit some and can be a very useful tool. There are a large number of opportunity zones throughout the Bay Area.

Staff is now doing a matching of the opportunity zones and BCDC jurisdiction and then going down to a potential, project level. That further fed into an analysis of the beginning of a matrix that will help us analyze sources of funds, potential uses of funds, costs of funds and how they can be done. It is a way to take what is going to come from the R.B.D. analysis and present it in a scalable way.

We are looking forward to our first Financing the Future Public Workshop hopefully early in the fall.

And that concludes my report.

c. **Next BCDC Meeting.** Chair Wasserman continued: Our next meeting will be held in two weeks, on April 4th, where we expect to:

(1) Hold a public hearing and potential vote on the proposed new fireboat station along the San Francisco Waterfront.

(2) Hold a public hearing and possible vote on Reach II of the South Bay Shoreline Project.

(3) Hold a briefing on BCDC's Adapting to Rising Tides Program.

d. **Ex-Parte Communications.** Chair Wasserman announced: If anybody wishes to make a report on this you can now; a reminder that they need to be done in writing as well.

Commissioner McGrath reported the following: This week I had a conversation with Jerry Cerbini about updating the Seaport Plan and the ideas that we should consider during that. Jerry was chief engineer at the Port. We worked together in re-purposing the old Naval Base and the various different dredging projects and, of course, my favorite project out there – the Middle Harbor Shoreline Park.

He also was the project engineer who built Howard Terminal. I sought his ideas about the issues we should look at in that planning process. I will try to get those ideas to the staff so they can be made available to the full Commission.

Chair Wasserman asked: Anybody else? (No further comments were voiced)

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

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

Just when you thought it was safe to go outside without an umbrella yesterday happens and on the first day of spring no less. Thankfully, baseball season has started, albeit in Japan, tulips are in bloom and the poets are writing about love, once again instead of melancholy. So, perhaps this weekend will be the last soaking we get during this rain of terror.

a. **Budget and Staffing.** I want to take this opportunity to introduce you to our two newest staff members. You'll remember that we have hired two new people for our Adapting to Rising Tides staff – Emma Greenbaum and Rachel Wigginton. (Both stood and were recognized)

b. **Policy.** Steve Goldbeck and I spent last week in Washington, D.C. We attended the annual Coastal States Organization meeting and NOAA's Coastal Zone Managers meeting. They were far more productive than any I have ever experienced but I want to tell you of a couple of highlights and what has occurred since we last met.

From a national, federal, budgetary perspective it is sobering to note that the two-year, federal-budget deal that led to small increases in funding for NOAA's Coastal Management Program ends at the end of this fiscal year. Absent a budget agreement, the federal government will be faced with sequestration once again. During our visits to various Senate and House offices we and our cousins from the Coastal Commission requested a slight increase in NOAA funding and recognized that any funding level will be affected by whether there is some kind of agreement or not. As a result, I've asked our Chief Budget Officer, Chenee (who is sitting in for Peggy Atwell today while she is on vacation) to run a few different scenarios for our next fiscal year budget that include varying levels of federal funding.

I am happy to report that Steve and I – along with our colleagues from the Coastal Commission – were treated very well on the Hill as we visited with members and staff. While each agency only spent three to five minutes describing our activities to ensure that we had plenty of time to answer questions, I started BCDC's section of the presentation by showing this picture of the new ferry terminal being constructed close to the older Agriculture Building on the San Francisco Embarcadero. I noted that the ferry terminal was permitted by BCDC when the state's guidance forecast three feet of rising sea level by 2100 and that helps account for the difference in elevation between the two buildings. However, I continued by saying that the ferry terminal would actually be higher in elevation if the permit had been approved during the past year under the new state guidance – perhaps by as much as an additional three to four feet. That got their attention.

During the Monday afternoon portion of the CSO meeting, NOAA released an Advanced Notice of Proposed Rulemaking. This is an advanced notice of proposed rulemaking in the Federal Register. It is very boring to read these but they are very important because this one proposes to examine whether and/or how to change the Coastal Zone Management Act's federal consistency determination process vis-à-vis the oil and gas industry to make it more "efficient" due to the "unpredictable" nature of the consistency determination process.

You will remember that you approved permits within our jurisdiction as well as consistency determinations. And the consistency determinations are handled a little bit differently and they are handled under the Coastal Zone Management Act. This proposal would change the way we do Coastal Zone Management Act consistency determinations.

While Jack Ainsworth, the Coastal Commission and I plan to ask this Commission and his Commission to comment on the proposal and, Marc Zeppetello will propose a draft letter for the Commission consideration in April, I am happy to say that Jen Eckerle and the staff at the Natural Resources Agency are hard at work analyzing this ANPR as are we and will soon come out with an analysis that we can all use to figure out how we are going to respond by April 25th.

We don't expect that oil and gas exploration will come to the Bay any time soon. However, we are concerned that this regulatory poke at the CZMA's consistency determination process on which BCDC and other coastal zone management agencies depend could well be the proverbial, camel's nose under the tent of CZMA changes under this Trump Administration. Therefore, I suspect that the comments that you will see from us and perhaps from the Resources Agency will oppose changing the existing process without any data that demonstrates that it is broken.

As someone who in a previous life was paid very little money to read the Federal Register every day I can assure that things like this don't ordinarily pop up as obvious as it did and we are very thankful that it happened while we were back in D.C.

Finally, with regard to Washington Steve did a great job representing BCDC on a panel that explored different ways that coastal zone management agencies are progressing on environmental justice and social equity issues. His talk and his answers to questions asked of the panel were very well received and provoked further conversation. I do want to share with you one very thought-provoking take-away from that panel. One of the participants described how her research reserve organization started an outreach program for deaf students. Of course, what they and I hadn't considered is that many of the terms that we use as BCDC staffers use on a regular basis are not included in American Sign Language. For example: geohydromorphologist. (Laughter) So, this individual began a campaign to create A.S.L. signals or signs for such terms. So, she taught us the new A.S.L. movement for estuary which I am going to teach each of you today. I would like you each to raise your hands like this. (Arms were raised horizontally and fingers were wiggled with left hand on top then right hand on top while crossing back and forth in front of one's body) That is the new A.S.L. sign for estuary which makes all the sense in the world.

A little closer to home, many of you probably read one or more e-mails that you have received concerning the City of Berkeley's plans for a parking lot within BCDC's jurisdiction at the Marina. I'd like Morgan Chow of our Regulatory Division to give you some background on this topic.

Ms. Chow presented the following: We'd like to provide you some explanation regarding the city of Berkeley's proposal to re-purpose a portion of a public, parking lot at the Berkeley Marina for use by the city of Berkeley police department.

This is an item that you all received an email about on March 12th. And your staff has since responded to a handful of inquiries from Berkeley residents that are concerned with the proposal.

First what we know about the proposal is that we have not yet received an application for the proposed work. I have gotten in touch with the City's Parks and Recreation and Waterfront Department and they informed me that the police department is considering moving into a vacant office space owned by the City and located adjacent to the parking lot.

City staff tells us that the crime at the Marina has been on the rise and that they hope a police presence would help prevent and better respond to these incidents.

The City also told us that the police department would require a fence around the portion of the lot that they would use for their vehicles which you can see on this slide.

What issues does this raise and what have we heard from the public? Related to the fence the main issue to consider would be the potential impacts to Bay views and fencing off a parking lot so close to the shoreline.

Second would be the impact on public parking at this lot and potentially at nearby lots if Marina tenants are displaced.

In terms of the process the next step will be for the City to brief the staff so that we can have a fuller picture of their proposal and its potential impacts.

The City has a BCDC permit for the Marina and that would need to be amended to accommodate any such proposal. And doing so would require that the plan be designed to be consistent with your laws and policies on public access and views.

The City is fully aware that they must apply for a BCDC permit and proceed with the proposal and plans to do so. In fact we are planning to meet with the City in the next few weeks.

Additionally, we've become aware that the City is looking to implement a suite of changes related to management of parking at the Marina which would also require a BCDC review.

In short, this item is on our radar and will come back to keep you informed as needed should the City decide to propose the Commission allow their proposal.

And I'd be happy to answer any questions at this time. We also have a representative from the city of Berkeley here in our audience who can also answer your questions. Thank you.

Commissioner Nelson was recognized: I will try to put together to what you have just described with the photograph above. So is the City proposing to fence off a portion of the parking area or a portion of the public access?

Ms. Chow replied: It could potentially be one and the same. The City has told us that it is very early in the process and they don't actually have a set design or plan. They said they would share it with us when they have it.

This just shows you the Berkeley Marina and then the specific lot that has been referenced in the public inquiries. And there is public access on the shoreline.

Executive Director Goldzband continued: Also last week you probably read about the federal Environmental Protection Agency's determination that Cargill's Redwood City salt plant site is defined now as "non-jurisdictional fast land" under federal law. This means that the EPA does not believe that the salt ponds are part of the "waters of the United States" for purposes of the Clean Water Act. Many of you likely will remember the discussions and debates during this century's first decade over Cargill's and its partner's desire to develop this area for housing. Certainly, we may be coming around again to that debate. For now, however, Marc is examining the EPA's federal jurisdictional determination and will provide the Commission with a summary of it as well as a briefing and analysis on BCDC's jurisdiction and authority under the McAteer-Petris Act in the near future. Cargill's outside counsel already has contacted BCDC to discuss the issue. Please be assured that staff will remind that counsel of the agency's interpretation of our jurisdiction and authority and will ultimately request direction from the Commission regarding this issue after Marc presents his briefing. Meanwhile, we have provided you with a copy of the EPA's letter.

Speaking of the federal EPA, I am sure that Commissioner Zeigler is happy that the application period for EPA's Wetland Program Development Grants is now open. You have in your packets an e-mail from Sam that details how local governments can submit their applications. Those applications are due on April 29th and they must be submitted through the Federal Grant Applications website. I am sure that Sam can answer any questions that you may have, so please feel free to contact him.

Finally, BCDC was pleased to co-sponsor earlier this week one of the first meetings of the Bay Area's chapter of the American Society of Adaptation Professionals – a national group whose members live and breathe rising sea level and other climate change challenges as part of their professional lives. At least 50 or so interested individuals participated in a series of exercises that, thankfully, were accompanied by what were called, "adaptive refreshments". Our Planning Director, Jessica Fain and Heather Dennis were very involved in the planning for the meeting.

I also want to note that Shannon was highlighted in the Northern California Chapter of the American Planning Association's recent newsletter as Planner of the Month. We will send that link as well. It was a really good interview.

Finally, I have two lists in my hand. The first list is Commissioners and Alternates who have not yet completed their ethics training. The second list is new. It is those who have not completed FPPC Form 700 due on April 2nd. I leave it to the Chair to discuss further and I will answer any questions.

Chair Wasserman continued: I am going to address the two slightly differently. On the ethics – just get it done. It is not that much of a pain. There are people on the Commission sitting at those tables who have not completed the ethics. It is significantly overdue. Just go on and do it troops.

The other one which is actually a bigger pain for a number of us – you are not yet overdue and I haven't done mine yet. But April 2nd is coming up fast. Get these done please.

Executive Director Goldzband stated: Two things; if you do need assistant from the FPPC they actually have a very, very good system to help you with that. You can call and/or email and they are very responsive.

And second, if you have questions about the actual process you all can contact Reggie Abad of our staff who will help you through the process.

Commissioner Gorin noted: We have two state agencies; the Restoration Authority and BCDC requiring different forms and formats. We are not sure why. She had to fill out four different kinds of forms. Maybe we can figure that one out.

Chair Wasserman asked: This is the Form 700?

Commissioner Gorin answered: Yes.

Chair Wasserman advised the following: There is a difference between agencies which has to do with their jurisdictions. The form itself should not be different. The simplest thing to do is to take the form with the biggest jurisdiction and file it for all of them.

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

8. Adjournment to Commission Workshop. Upon motion by Commissioner Nelson, seconded by Commissioner McGrath, the Commission meeting was adjourned at 1:50 p.m.