San Francisco Bay Conservation and Development Commission
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Agenda Item #4

February 28, 2020

TO: All Commissioners and Alternates

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

SUBJECT: Draft Minutes of February 6, 2020 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 1:03 p.m.

2. **Roll Call.** Present were: Chair Wasserman, Vice Chair Halsted, Commissioners Addiego, Ahn, Beach, Butt, Chan (represented by Alternate Gilmore), Gioia, Lucchesi (represented by Alternate Pemberton – departed at 2:45 p.m.), McGrath (arrived at 1:17 p.m.), Peskin (departed at 2:50 p.m.), Pine, Ranchod (arrived at 1:25 p.m./departed at 3:11 p.m.), Randolph, Showalter, Spering (represented by Alternate Vasquez), Tavares (represented by Alternate El-Tawansy), Techel (departed at 3:01 p.m.), Wagenknecht (departed at 3:01 p.m.) and Governor's Appointee (represented by Alternate Holzman).

Chair Wasserman announced that a quorum was present.

Not present were Commissioners: Santa Clara County (Cortese), Secretary for Resources (Eckerle), Department of Finance (Finn), Sonoma County (Gorin), Marin County (Sears), U.S. Environmental Protection Agency (Ziegler)

3. **Public Comment Period.** Chair Wasserman called for public comment on subjects that were not on the agenda. No members of the public addressed the Commission. Chair Wasserman moved to Approval of the Minutes.

4. **Approval of Minutes of the January 16, 2020 Meeting.** Chair Wasserman asked for a motion and a second to adopt the minutes of January 16, 2020.

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

VOTE: The motion carried with a vote of 18-0-0 with Commissioners Addiego, Ahn, Butt, Gilmore, Gioia, Pemberton, McGrath, Peskin, Pine, Randolph, Showalter, Vasquez, El-Tawansy, Techel, Wagenknecht, Holzman, Vice Chair Halsted and Chair Wasserman voting, "YES", no "NO" votes, and Commissioner Beach voting "ABSTAIN".

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

a. **Commissioner.** I am pleased to report that Resources Secretary Wade Crowfoot has named Jen Eckerle, who has been the Alternate Commissioner, as the Commissioner representing the Natural Resources Agency.

b. **General Comments.** We are all learning a very important new name, the Thwaites Glacier which is sometimes referred to as the "Doomsday Glacier" because it is one of the largest ice sheets in the Antarctic and is a harbinger of what may happen. It is melting far more quickly than was previously estimated.

It had previously been reported as moving at about three feet a day. It is now reported to be moving ten feet a day. It continues to be a very major threat that is increasing.

In this morning's Chronicle there was what I took to be a very good news story from the Port of San Francisco releasing a study on a variety of alternative ways that a number of piers along the Embarcadero San Francisco Waterfront can be adaptively protected from rising sea level as part of an attempt to attract developers to make proposals to reuse those piers.

These measures range from things like sealing the bottoms to raising the floor and putting in some mini-seawalls around the perimeter which may be removable.

The point of it is that the Port is doing innovative studies, innovative approaches on ways that we can adapt. Certainly some of those are going to come out of our ART Project but it is good to see it moving forward.

I am also pleased to report that we had a good meeting last week of our Regional Shoreline Adaptation Strategy Advisory Group. It was well attended and hosted by SPUR. We had a very productive discussion and workshop and got commitments from all of our partners, supporters and agencies including non-profits and public agencies to commit time and resources to the effort that we are leading to create this regional strategy to tell all of us, and particularly our local cities how they can adapt – and note that I didn't say "we are going to do it", but rather, "they are going to do it" and we need a regional approach.

I do have some sad news to report. You have in your packets an obituary for John Kriken, a global leader in the world of architecture and good friend of BCDC's. He passed away earlier this year at the age of 81.

Mr. Kriken was a long-time chair and member of BCDC's Design Review Board, which is an amazingly talented consultancy that none of our applicants could ever afford to hire.

The Bay is much more accessible and a beautiful place due to Mr. Kriken efforts and we shall miss him along with the hundreds if not thousands of urban design students and practitioners who learned from him worldwide.

Our current DRB Chair Karen Alschuler worked closely with him for many years and we are fortunate to have her at the helm today and we will adjourn in his memory.

c. **Next BCDC Meeting.** Our next BCDC meeting will not meet on February 20th but will be on March 5th when we expect:

(1) Hold a public hearing and possible vote on the Terminal One Development in Richmond.

(2) Consider a contract for facilitation services for the Regional Shoreline Adaptation Strategy process.

(3) Possibly vote on the Bay Plan Map Amendment in West Contra Costa for which we held a public hearing in January.

(4) Consider adoption of the Commissioner's 2019 Annual Report.

d. **Ex-Parte Communications.** Now is the time for any ex-parte communications that you choose to put on the record to be done. You do need to put them in writing. You only need to do these regarding adjudicatory matters but if there are any contacts from applicants, the public and others that you wish to put on the record now is the time to do it. (No Commissioners reported any ex-parte communications)

Executive Director Goldzband will now present the Executive Director's report.

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

With baseball's spring training just days away I want to take the time to note that Babe Ruth was born on this day in 1895. In 1930 at the height of his stardom and as the depths of the Great Depression became ever more real, Ruth held out for a contract worth $80,000 annually. One sportswriter exclaimed, "But, Babe, that's more than President Hoover earns." Ruth replied, "Well, I had a better year than he did." One thing's for sure – nobody had a better year in 2019 than BCDC. I've told you before that your contributions as Commissioners to help create regulatory and planning landmarks such as Bay Plan amendments and multi-agency permitting were crucial. What I haven't told you yet, however, is just as important. Our administrative staff was just as busy creating new ways of performing our human resources, procurement and contracting functions. I am pleased to let you know that BCDC – once again – was one of the first state agencies to close last year's books while using the reviled FI$Cal budgeting and accounting tool.

We have a new staff member who started with us two weeks ago, Michael Ng is part of our legal team. Michael are you here? (Stood and was recognized) Michael now works with Marc and Karen. We also have two new staff members whom we want to start this month and next. First, you will remember that BCDC received authority to hire an Associate Landscape Architect to increase throughput through the permitting process. Ashley Tomerlin has accepted our offer to fill that position. Ashley is a registered landscape architect and certified ADA accessibility specialist. Having earned her Bachelor of Urban Studies, Planning, and Political Science from U.C. San Diego and her Master's Degree in Landscape Architecture from the City College of New York, she is both a Triton and a Beaver. Ashley has varied experience at private consulting firms doing work for clients such as the National Park Service, California State Parks, local governments and other organizations focusing on open space projects.

You also will remember that BCDC received authority to establish a full-time position to assist local stakeholders understand and work through the Adapting to Rising Tides process through our help desk. Jackie Mandoske has taken over that role and we plan to hire Daniel Hossfeld as our new Climate Services Scientist. In short, Dan will become our resident climate scientist working with all facets of BCDC's rising sea level challenges. You may remember that Dan worked closely with BCDC several years ago when we held our fiftieth anniversary celebration. Dan earned his undergraduate degree at U.C. Davis in Environmental Science and Management and his Master's Degree in Marine Science from San Francisco State University so he's yet another Aggie and a newly-minted Gator.

I am very pleased to let you know that three BCDC staff members have been chosen to participate in the Women's Leadership program of Coro Northern California. Pascale Soumoy, Morgan Chow, and Dana Brechwald have spent and will continue to spend considerable time with their Coro cohort and BCDC certainly will benefit from their participation. I also want to congratulate Andrea Gaffney and Anniken Lydon for being graduates of the program. Call me a shameless booster but I am a huge fan of Coro's training programs.

I want to make sure that you hold two dates on your calendar. First, on Wednesday, April 8th, the Regional Water Board will host a public workshop with BCDC on financing options for projects that are designed to help us adapt to rising sea levels. This workshop is coming directly out of BCDC's Financing the Future Working Group. The Regional Water Board's relatively new Executive Director, Michael Montgomery, has taken on this quest for implementable solutions head on and we are delighted to be working with the Board on this important issue. Eight days later, on April 16, BCDC will host a public workshop on adaptation principles and strategies and that workshop will be co-hosted by the Regional Board, BayCAN (the Association of Bay Area Local Government Planners) and a few other organizations participating in our strategy group. That workshop will take the place of a regularly-scheduled BCDC Commission meeting so I expect that all of you will want to attend. You'll be receiving notices about these.

I want to point out a memo that you received last month. This is a comprehensive report on BCDC's very successful work in meeting the goals of our Strategic Plan. I know that it is somewhat lengthy at a little over nine pages of bulleted items but I want to let you know that we shall agendize this report for later this winter or early this spring at the possible time for a discussion.

Also in your packets is a letter that our staff has sent to Natural Resources Agency Secretary Wade Crowfoot and Oceans Protection Council Director Dr. Mark Gold. In this letter Planning Director Jessica Fain explains the process that BCDC is using to fully analyze and revise our Suisun Marsh policies. You'll remember that even before the State Auditor's Report on our Enforcement Program the Commission asked staff to begin this process. I want to thank Rachel Wigginton and Shannon Fiala of our staff in particular for their hard work and I want to give a special shout-out to Supervisor and Commissioner John Vasquez who has provided us with much guidance and leadership as we work through the complex issues that are present in the Suisun Marsh. Also with the generous support of Commissioner Vasquez, staff will be kicking off a review of the Suisun Marsh Protection Plan with a stakeholder workshop at Solano County's offices on February 13th. Staff will brief the Commission on that planning process at our next meeting on March 5th.

I'd like to ask Chief Counsel Marc Zeppetello to give you a short update on the litigation surrounding the Bay Stewardship Alliance's motion to capture attorneys' fees and costs with regard to its Public Records Act request. Yesterday, BCDC filed its motion opposing the Alliance's proposal.

Chief Counsel Marc Zeppetello addressed the Commission: Good afternoon Commissioners. As you will recall this was a lawsuit that was filed by the law firm of Baker and Botts on behalf of the Bay Stewardship Alliance challenging BCDC's response to a Public Records Act request.

Judgment was entered in the case. We negotiated a stipulated judgment under which BCDC agreed to conduct searches for emails on its server. The Court entered the judgment last May. We have been involved in a meet-and-confer process to produce and search for a responsive record since that time.

On December 27th the law firm filed a motion to recover attorney's fees and costs. They claimed attorney's fees of $363,000 and costs of over $7,000. And then they asked the Court to apply a multiplier to their fees of between 1.2 and 2.0 so the total requested claim is for over $700,000.

BCDC and the Attorney General's Office filed our opposition brief on Tuesday making a number of arguments including that the hourly rates were not reasonable, that the hours worked were not reasonable primarily due to over-staffing, that the Court should reduce the fees because of limited success on various issues and that the Court should not apply a multiplier particularly because the award would be paid from state funds by California taxpayers.

So the law firm will be filing a reply brief on Monday and the court hearing is on February 19th in San Francisco Superior Court before Judge Shulman.

Depending on how it goes we will provide a report to you. I will answer any questions although I prefer not to get too much deeper into the discussion of the legal issues.

Chair Wasserman asked: Does anyone have the temerity to ask a question? (Laughter – no questions were voiced)

Executive Director Goldzband continued: I must report that I am a day late on this issue. I had planned to give all of you a heads-up this afternoon regarding a communication from the Department of Finance's mission-based budgeting team that is working with our enforcement team. The Department of Finance staff members who are working with us in a very positive fashion hope to interview various Commissioners including members of the Enforcement Committee to learn of your thoughts about BCDC's Enforcement Program. However, yesterday many of you received e-mails from Molly Maguire of the Department of Finance beating me to the punch. I urge you to reply to her and speak with her about your views on the Enforcement Program and its processes. Molly and the team are looking for your thoughts so that they can help us improve our processes. Please feel free to contact me if you have any questions.

Now I want to update you on the Seaport Plan Update. BCDC staff has been working with terminal operators at the Port of Oakland to review the draft terminal capacity estimates and are processing their responses. We also have had some success in contacting potential peer reviewers to provide an objective review on the draft estimates and are working with the applicant to complete these as soon as possible. We are currently targeting mid-March for the next SPAC meeting contingent on the timing of these reviews. In the meantime, staff has been working with the applicant to select a consultant to perform the Environmental Assessment for the proposed Howard Terminal Seaport Plan Amendment and expect to make a selection very soon.

Now I have some good news from the Administrative team. First, two years ago, before we were able to move our staff away from using Apple computers and back to PCs; the Biennial Electronic Security Audit performed by the state resulted in a pretty dismal score in the low 30s despite the best efforts of Andrew Chin, our crack IT lead. Two years later, as we have

transitioned about 80% of the staff to PCs, we improved our score by about 60%. BCDC is now located in the fat section of the state's bell curve on electronic security. Just as important, we shall be able to use the state's consultants to move us even farther up the ladder. I want to thank Andrew for all of his work as we improve our technological capabilities.

Second, due to the hard work of our Administrative staff you will soon receive your expense forms electronically through DocuSign. Be on the lookout! Please make sure you respond as quickly as possible.

Finally, there is some good news to report from Washington, D.C. Yesterday, on a voice vote, the House of Representatives approved H.R. 1132, a five-year reauthorization for various ecosystem restoration projects located around the country. I am happy to let you know that the bill authorizes $125 million in spending over that five-year period for restoration projects and activities to restore the ecological health and water quality of the San Francisco Bay. This is a five-fold increase for the Bay and the legislation was created by and shepherded through by U.S. Representative Jackie Speier, a former BCDC Commissioner. We'll keep you posted on further developments. The latest gossip in the halls is that this process will be amended to the next WRDA Army Corps of Engineer's bill whenever that is going to happen. We will keep you informed.

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

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

7. **Consideration of Administrative Matters.** Chair Wasserman continued: That brings us to Item 7. Consideration of Administrative Matters. We have received an Administrative Listing. Brad McCrea is here if anybody has any questions. (No questions were voiced) Thank you.

8. **Closed Session on the Evaluation of the Performance of Executive Director Lawrence J. Goldzband.** Chair Wasserman announced: Item 8 is a closed session. The Commissioners will adjourn to the Claremont Room for an evaluation of the performance of the Executive Director. I emphasize that this is a standard, annual review.

(Commissioners and staff went into closed session at 1:24 p.m. and returned at 2:27 p.m.)

Chair Wasserman announced: We are back in open session. The Commission did not take formal action in the closed session but I do want to report briefly that the Commissioners expressed that they are pleased with the job that Larry Goldzband is doing as Executive Director.

We particularly noted range of successes including improvements in the Enforcement Committee procedures which commenced before the State Audit but have continued and increased since the State Audit including the hiring of a counsel for enforcement and increasing the budget and increasing staff positions so that we can have more resources to perform the very important things that Larry supervises and the move to this building which allows us to save money for the state given the trading of spaces with the Department of Justice in the state building where we were formerly.

I also want to very briefly address the Bay Stewardship Alliance Letter which suggests that Larry should be removed. We are certainly not doing that in any manner, shape or form. The issues in that letter are issues which members of that alliance have been raising for some period of time.

We believe that those are being successfully addressed and a number of them are simply not true including the point about the move to this building costing the state more money than if we had stayed where we were. As I have noted that is not the case.

And on the enforcement side the improvements that were started before the Audit are increasing including the periodic reports that are coming to us in open Commission but many more as well.

With that we will return to the Agenda.

9. **Enforcement Briefing.** Chair Wasserman stated: Item 9 is a briefing on the Commission's Enforcement Program. Priscilla Njuguna will introduce the briefing.

Enforcement Policy Manager Njuguna greeted and addressed the Commission and began the bimonthly unit update.

Ms. Njuguna provided an overview of the presentation based on the outline. She informed the Commissioners that they could expect case presentations for Commission consideration in 2020 and that 2020 case resolutions are expected to differ from 2019 case resolutions based on enforcement program procedural changes.

In discussing the first two slides of the presentation, Ms. Njuguna explained that a lot of the Enforcement Committee discussions in 2019 were taking a two pronged approach namely: (1) building Enforcement Committee Commissioner reviewing and discussing enforcement cases; and (2) tracking case resolution progress by staff through the new case-management approaches.

In response to a comment letter received by the Commission Ms. Njuguna highlighted what the Committee members have done in response to various Audit recommendations based on matters discussed in Committee meetings.

She noted that "significant harm" was defined in October 2019 as used in statute referred to as "substantial harm" by auditors. The approved definition now must undergo the rule making process.

Ms. Njuguna then noted Committee discussions on delineating of criteria for violations which also occurred in October 2019, she emphasized the significance of the discussion because it gives defined ways in which enforcement cases are resolved building consistency in case resolution process thereby helping staff resolve cases.

Ms. Njuguna then highlighted the procedures written regarding the opening, investigation, and the closing of cases. She emphasized that previously used procedures were documented, and some improvements have been made.

She explained that case management procedures specifically address the milestone concern that auditors had raised and the procedure tracks as milestones when cases are assigned, how they are investigated, and the negotiation process and the resolution process.

She further explained that case review procedures specifically address how cases are investigated towards resolution beginning with the prioritization until the case is resolved.

Ms. Njuguna then highlighted the penalty policy as discussed by the Enforcement Committee in 2019 which addressed another Audit recommendation. She reported that an Enforcement Committee meeting for the penalty policy was held in July and two sessions in August.

She explained that because penalties are defined by statute, the Enforcement Committee discussions centered on consistency in how the law is applied to violators within the enforcement process.

Ms. Njuguna explained to Commissioners that the Enforcement Committee's work in 2019 will lead to potential action by the Commissioners in 2020.

Ms. Njuguna then informed Commissioners of enforcement cases the Commission may hear in 2020 namely Union Point Park, Middle Harbor Shoreline Park and the Richardson's Bay matter. On the Richardson's Bay matter, she highlighted the March 31, 2020, deadline for a plan for reducing the number of vessels moored in Richardson's Bay.

Thereafter, Ms. Njuguna explained that case resolution is defined to include the whole process of opening a case to when it is closed and every step in between. She then used the 2017 through 2019 case data as a visual reference point for how the case load has grown over the years and explained the things impacting case load growth. She mentioned that an increase in reported cases not evenly matched with cases closing has resulted in a year over year increase in the caseload.

She pointed out that historically the average number of cases opened in a year has been about 55 but noted 60 cases were opened in 2018 and 71 cases in 2019. She stated that additional reports may reflect greater public knowledge about BCDC's jurisdiction. She stated that additional case reports are expected in 2020.

Ms. Njuguna compared the cases closed in 2017, 2018 and 2019 and noted that the 33 cases closed in 2017 was reduced to 18 in 2018 at the time of the audit and increased to 48 in 2019 when an enforcement attorney and a program manager were added to enforcement staff.

Ms. Njuguna informed the Commissioners that among the 48 cases closed in 2019 were four cases that were opened in 1999. She noted that older cases present challenges in determining the current status and take longer to resolve but these cases are systematically being resolved. She asked Commissioners to anticipate improved case resolution rates in 2020 based on improved and newly implemented case resolution procedures.

Ms. Njuguna then noted that in fiscal year 2019, $191,383 was recovered in fines and penalties. She clarified that the amount added to the Bay Fill Clean-up and Abatement Find in fiscal year 2019 was $125,283, in response to a question by Regulatory Program Director Brad McCrea, verifying the sum did not represent the total amount of money in the fund.

Ms. Njuguna then explained the changes based on procedures that will impact 2020 case resolution rates. She distinguished case management procedures from case review procedures. Under case review procedures she explained that "Aged Case Report" is used to determine how long a case has been opened recognizing that the longer a case is open it

reduces case resolution efficiency. She then explained the combined-by-violator option in case review procedures noting two tracks: (1) grouping by violators when 15 cases are involved; or (2) pairing by violator when less than 15 cases are involved.

Under case management procedures she explained that the milestones to prevent case stagnation include time frames for case progression from assignment, to investigation, to negotiation, then to resolution. She further explained that the "Case Status Report" would enable tracking a case's movement between milestones to prevent stagnation resulting from remaining in one milestone for too long.

She then explained that "Closed Case Reports" will be completed monthly to verity cases that have been closed are shown as closed in the database, so caseload numbers are up to date.

Ms. Njuguna then reiterated cases likely to need Commission action in 2020.

Thereafter, Ms. Njuguna informed Commissioners that in mid-2020 they can expect to review internal guidance on criteria for violation delineation. She explained the criteria will allow for some violations to be combining and separating violations.

Ms. Njuguna then informed the Commissioners that they would receive internal guidance for Supplemental Environmental Projects, for review in mid-2020. She explained that this guidance would be used in negotiated settlements based on a nexus with a particular enforcement case, to reduce the penalty (by no more than a specified amount) if violators agree to do some other action within the Bay to improve the Bay as part of resolving an enforcement action.

Finally, she described an internal policy on penalties that will come to the Commission for discussion and consideration. She explained the policy will define consistent application of the statutory provisions used to assess penalties in enforcement cases.

Chair Wasserman asked for verification that the Commissioners were receiving reports on the Enforcement Committee.

Ms. Njuguna replied in the affirmative.

Executive Director Goldzband added that quarterly enforcement reports would be presented beginning in 2020 that would include an Administrative Listing of enforcement cases.

Chair Wasserman set the expectation that Commissioners will begin receiving a quarterly enforcement report sooner rather than later.

10. **Briefing on Environmental Justice Bay Plan Amendment Implementation.** Chair Wasserman stated: Item 10 is a briefing on implementation of the Environmental Justice and Social Equity Bay Plan Amendment. It will be presented by Clesi Bennett and Nahal Ghoghaie.

Planner Bennett addressed the Commission: Good afternoon Chair Wasserman and Commissioners. My name is Clesi Bennett and I am a coastal planner at BCDC I am joined by Nahal Ghoghaie our relatively new Environmental Justice Manager.

Today we are going to give you a brief update on the Environmental Justice Bay Plan Amendment implementation process. Today's presentation will focus on the implementation of the new policies, as well as some of the longer-term goals related to environmental justice. We want to note that this is just a preview of coming attractions, you will be hearing much more from us down the road.

As you may remember you all held a vote on the Environmental Justice Amendment on October 17, 2019. But what have we been doing since then?

We submitted our materials to the State Office of Administrative Law and are happy to report that on December 27th of last year, they approved those policies which means that these new policies are now in force for permits.

On January 9th of this year we submitted a Coastal Management Program Change request with NOAA's Office for Coastal Management. We should hear back from them on February 8th. This will allow us to use these policies for federal consistency determinations.

And lastly we have also updated our website to reflect the new Bay Plan policies.

We also wanted to take this time to remind you of the guiding principles that you adopted in a resolution back in October. These principles are intended to inform and shape your actions as a Commission.

Specifically, the first principle is to recognize and acknowledge the California Native American communities who first inhabited the Bay Area and their cultural connection to the natural resources of the region. And Nahal is going to touch on how we are beginning to address this.

The second principle is to maintain our commitment to ensuring that the Bay remains a public resource free and safe for all to access and use. You will also see that we are planning to involve our Design Review Board in our implementation education.

The third principle is to continually strive to build trust and partnerships with underrepresented communities and community-based organizations. Nahal is going to touch on how we are working towards this principle.

The next principle is to endeavor to eliminate disproportionate adverse economic, environmental, and social project impacts caused by Commission actions and activities, particularly in disadvantaged and vulnerable communities.

The fifth principle is to ensure that the needs of vulnerable shoreline communities are addressed as the Commission assists all stakeholders plan for current and future climate hazards.

We are working with other BCDC staff to integrate environmental justice and social equity into our efforts around regional shoreline adaptation planning.

The sixth principle is to work collaboratively and coordinate with all stakeholders to address issues of environmental justice and social equity.

And lastly, the last principle is to continually build accountability, transparency, and accessibility into our programs and processes. I will mention later how we will be including these new policies in our staff reports going forward.

We wanted to mention a few of the materials that we are creating to help the transition to using these new policies go smoothly.

Internally, we have created a step-by-step, how-to guide for our regulatory staff on how to effectively use these new policies.

We have also been working on a frequently-asked questions document that will go up on our website aimed at applicants. This will help applicants determine what policies are applicable and when and also provide them with a number of resources.

Lastly, we have been working to put our community vulnerability mapping data, developed by the ART Program, into a user-friendly, online platform. This platform will also contain an educational component to teach people about the data and how it relates to the new policies.

This morning we gave a tutorial on this new tool to the Environmental Justice Commissioner Working Group and we wanted to show you a snapshot of the tool. It will soon be publicly available to help applicants in their engagement, as well as provide information to staff, community-based organizations, and the broader public.

Specifically, this new tool will allow users to identify vulnerable communities and which social and contamination indicators are present within specific block groups.

We also wanted to remind you that with new policies comes new analysis in our permit and federal consistency application staff reports.

You may now see information on surrounding communities and existing environmental justice concerns, as well as descriptions, outcomes and analyses of meaningful community involvement and information on disproportionate project impacts in our staff reports.

We encourage you to read these sections and also to ask questions during the public hearings.

So, with that, I will pass it over to Nahal.

Environmental Justice and Community Outreach Specialist Ghoghaie addressed the Commission: Our first priority is to ensure that those involved in the permitting process are not only aware of these policy updates but also that they understand what these new policies entail.

We are focusing the training development on an initial webinar which will be presented in partnership with a member of our EJ Review Team, Nuestra Casa from East Palo Alto.

These webinars will be tailored to permit applicants. We will host two, live, lunch-hour webinars that are scheduled for February 25th and 27th. The webinar recordings will be recorded and posted on the website.

From there we have to present on these policies in person at standing meetings and would love to follow up with you all after this meeting if you have any suggestions on appropriate venues.

I want to thank the Commissioner EJ Working Group for your excellent recommendations that you provided earlier this afternoon.

We have listed the various audiences here that our anticipated engagement activities will address. These engagement events will include internal staff trainings, community and BCDC staff partnership and capacity building events which will be important opportunities for bi-directional learning and will support the ultimate goal of building trust. We will also have Commissioner briefings and workshops.

So, while the activities previously outlined relate directly to how we are implementing this work via permitting, the range of activities that we must do to fulfill the guiding principles we've set out for ourselves is much broader and will be an ongoing part of our work.

The good news is that we have a full-time person now committed to building upon the wonderful work that Clesi and the rest of the staff have already begun, and much more is already underway.

You might be interested to know that we have established a relationship with the tribal engagement staff at the State Coastal Conservancy to ensure that our tribal-engagement, policy efforts are coordinated and streamlined to the best of our ability.

We've also begun working with other BCDC staff on incorporating EJ considerations into the Seaport Plan Update as well as the regional shoreline adaptation planning effort.

I will be giving you a more thorough briefing on the specifics of this work plan and goals at a future Commission meeting.

Thanks so much. And do you have any questions for us?

Commissioner Ahn commented: I just want to thank staff for the hard work. One additional thing we have discussed at the Environmental Justice Working Group is the reconvening of the Working Group too. It will most likely be every two to three months.

Commissioner McGrath was recognized: I want to say that you should be very proud of the work you have done – I certainly am.

I would like you to reach out and make sure that the Regional Board staff is part of your target. When I first began to hear the concerns from the EJ community about a potential for flooding and sea level rise beginning to affect closed landfills I talked immediately to our Executive Officer and we began to do things to make sure that sea level rise was taken into account in all our regulatory efforts.

But not everybody appreciates that and I think you guys do a better job of understanding and communicating. I'd like to see better ties between our agency so we work together cooperatively and you help us communicate more effectively.

So, again, I really like what you are doing.

Chair Wasserman commented: Would you return to Slide 8 for a moment. Would you talk a little bit more about the schedule and outreach for the second bullet, the presentations to local governments, professional organizations and interest groups.

Ms. Ghoghaie replied: Right now, we are focusing on getting those webinars conducted. We Are creating the presentation and inviting folks to participate in the live webinars.

The presentations we are hoping will piggyback on existing agendas. We want to streamline efforts and not contribute to meeting fatigue. If you have any suggestions we would like to talk with you after or offline.

Chair Wasserman made suggestions: I have two suggestions for you. One suggestion for the educational webinars – I would make sure that you send out announcements to the planning departments of all the cities within our jurisdiction and the counties as well. And second, that audience, that is the planning departments, are one of the most important to reach because all permittees who are going to be subject to this and need to know about it are going to go through those first and it is also a part of getting at the cities to adopt by policy or some other fashion the same principles that we've adopted. And the challenge is there are some but not a lot of standing committees that will help you reach that group.

Ms. Ghoghaie replied: That sounds good.

Vice Chair Halsted chimed in: I was thinking that as a Commissioner I would really like to experience the presentation so I can fully back you up when people come to me and say, guess what they said to me?

If there is a good way for you to do that I would really appreciate it.

Ms. Bennett chimed in: Perhaps we can send you the materials beforehand, the script and the presentations. I don't know if there are any kinds of Open Meeting Act requirements if we were to host a webinar or something just for the Commission. We will find a way.

Chair Wasserman continued: Thank you very much for your presentation and your work.

11. **Briefing on the East Contra Costa ART Project.** Chair Wasserman stated: Item 11 is a briefing on the East Contra Costa ART Project. Samantha Cohen will make the presentation.

Planner Cohen addressed the Commission: I am Samantha Cohen with the ART Program. I would like to introduce Harriet Ross who is the Assistant Planning Director of the Delta Stewardship Council. She will briefly introduce DSC and our work together before I jump into the East Contra Costa ART project.

Ms. Ross presented the following: My name is Harriet Ross and I am the Assistant Planning Director with the Delta Stewardship Council. We were created in 2009 through the Delta Reform Act to advance the state's co-equal goals of providing a more reliable water supply as well as a healthy and protected ecosystem all the while protecting the Delta as an evolving place.

And we accomplish this through implementation of the Delta Plan. And the Delta Plan is a long-range, management plan for the legal Delta and Suisun Marsh.

So both the Council and BCDC have overlapping authorities and jurisdictions within the Suisun Marsh and because of that overlap our two agencies signed a memorandum of understanding in 2011 to improve coordination on policies in the Suisun Marsh as well as to coordinate on climate change planning in that area as well.

Under the MOU the Council and BCDC are to review each other's policies for the area. The Council is about to begin its involvement with the Suisun Marsh Update that BCDC is about to start.

Also part of the MOU is to establish a cohesive set of sea level rise policies. And we have begun to do that through the Council's involvement with the East Contra Costa County ART Program that you'll be hearing more about as well as BCDC's involvement with the Council's Climate Change Vulnerability Assessment and Adaptation Strategy.

So both agencies have representatives on each of our working groups to provide that input.

And also BCDC has shared their lessons learned and their various approaches on the ART program that we've used to influence our own climate change planning at the Council.

Thank you for listening to me today and we hope to continue our effective collaboration with BCDC.

Ms. Cohen continued: Today, I'm hoping you'll leave with an understanding of: The East Contra Costa Project, what is at risk in the East Contra Costa Project through hearing about the project's key planning issues and potential adaptation solutions to the key planning issues and possible implementation options.

As you know ART has been involved with various projects around the Bay. ART completed the West Contra Costa County Project in 2017.

But the project stopped short in Pittsburg because the Delta has a different hydrology compared to the Bay and so needed a separate flood model.

East Contra Costa (ECC) is unique because unlike other ART projects it's outside of BCDC's jurisdiction. However, it was funded by DSC because it is within their jurisdiction and due to our MOU and the desire of Contra Costa County we continued the project into Eastern Contra Costa County.

ART Bay Area was recently finished and we will be doing a public release within the next month or so. And this was the first region-wide analysis of sea level rise in the Bay.

ART Eastern Contra Costa completed a sea level rise study and adaptation planning effort to understand the vulnerabilities in the Delta through a collaborative, stakeholder-driven, planning process using a working group.

This project helped inform parallel processes such as DSC's Vulnerability Analysis and ART Bay Area.

The objectives of the project were to create flood maps which can be publicly viewed on our web platform by Googling "ECC flood explorer." We also wanted to assess multiple assets at various scales, consider how to integrate these findings into city plans, understand the consequences of flooding and develop adaptation responses and form a working group to collaborate with on this project.

The working group consisted of a variety of members that helped to ground-truth our work.

We held five meetings where we presented information and gathered feedback. The members could then communicate these findings to their own stakeholders.

Members of the working group included various county agencies and cities, federal agencies such as Fish and Wildlife, regional transportation authorities, water utilities and interested citizens among others.

We brought the working group along with us through the ART planning process.

First was *Scope and Organize*, where we identified sectors, climate scenarios and collective goals.

Second was *Assessing* the vulnerabilities of these sectors.

Third was *Defining* where we identified the key planning issues that face the region.

Then, in *Plan*, we developed adaptation responses.

The project area that you can see here is from Pittsburg to the eastern edge of the Contra Costa County and down to Clifton Court Forebay which is the area used for the Central Valley and State Water Project to deliver water to the rest of the state.

The sectors that we analyzed included agriculture, business and industry, community feedback from Antioch and Pittsburg, critical facilities, Delta islands including their levees, energy infrastructure, natural lands and parks, communities, stormwater infrastructure, transportation, water and wastewater.

This is the Ocean Protection Council's coastal sea level rise scenarios. In the column on the right it shows high-probability sea level rise scenarios while the middle column includes the low to extreme risk scenario.

You can see that by 2100 the low-risk scenario is 12 inches and the high-risk is 122 inches, which is quite a broad range.

So we used this information to develop sea level rise scenarios for the project.

We had five different base levels which were 0, 12, 24, 36 and 103 inches. We also modeled a 100-year storm on top of these scenarios.

It's important to note that the 100-year storm could cause temporary flooding tomorrow while sea level rise is a long, slow and permanent process.

This map was developed in coordination with AECOM and it shows how 12 inches of sea level rise from the Golden Gate Bridge translates to 11-13 inches of sea level rise in the Delta and is why we needed a new flood model for the eastern side of the county.

So from these flood maps that we used with AECOM we created the ART ECC Shoreline Flood Explorer to publicly display these flood maps. It was created in partnership with the Delta Stewardship Council, AECOM, Anchor QEA and SFEI. This tool is related but distinct from the maps and tools developed by ART for the Bay.

The slider on the left allows users to select flood level and see the threshold the area floods. You can also toggle on and off of the 100-year, storm event. Here at 24 inches we can see that facilities at this park start to be impacted. You can also see spots in red where there is shoreline overtopping as well as the depth of flooding

We developed seven key planning issues for the project which summarize the major issues faced by the region from sea level rise.

Our first key planning issue out of seven is Shoreline Industries. Seen here is the industrial shoreline near the Antioch Bridge at 12 inches of sea level rise with a 100-year, storm event.

The industrial and manufacturing sites on the shoreline are mostly concentrated in Pittsburg and Antioch and is a major source of current and future employment sites that rely on utility networks (e.g. energy, water, wastewater, power, and drainage) and roads that are vulnerable to sea level rise and storm events.

Additionally, the shoreline in the Delta is a major source of jobs is from recreation and tourism for the region which requires a functioning shoreline for marinas, harbors, boat rentals and bait shops.

The second key planning issue is vulnerable communities.

Shown here are the ART social vulnerability rankings with 83 inches of sea level rise which includes the communities of Pittsburg, Antioch, Brentwood, Byron and Bethel Island

There may be certain characteristics that can cause communities to be more vulnerable to flooding and may be less able to prepare for, respond to, or recover from flood events due to difficulties evacuating and finding resources or temporary shelter which could possibly be due to mobility, transportation, or language issues. Some of these community members may even face permanent displacement after damaging flood events.

ART defines socially vulnerable communities as low-income, linguistically or socially isolated, without access to a car, elderly, very young, or disabled.

The third key planning issue is access to services.

ECC lacks redundant transportation options (such as the Antioch, Bethel Island, and Jersey Island Bridges).

There are also a limited number of public facilities in this part of the County which may result in shoreline communities becoming isolated from critical services such as healthcare, jobs, schools, grocery stores et cetera.

Highway 4 and State Route 160 are the only major transportation arteries routes through this area and may become grid-locked during flood emergencies.

There are also critical facilities that may flood in the project area such as a fire station, police stations, retail, schools and possibly many other services such as dentist's offices and post offices that were not included in this analysis.

The fourth key planning issue is ad hoc flood protection.

Seen here is a railroad on the shoreline in Antioch.

Some communities are protected from coastal flooding by rail lines, shoreline parks and tidal wetlands.

Rail lines are typically built on earthen mounds which can act as a flood barrier.

Shoreline parks typically go from sea level and rise in elevation acting as the first line of defense for communities.

Tidal wetlands can help reduce wave height and coastal erosion.

While these built and natural areas reduce the flood risks of adjacent communities they have not been specifically designed or maintained for this function and therefore provide only ad-hoc, flood protection.

The fifth key planning issue is parks and open space.

Shoreline parks and open spaces are not only the first line of defense against inland flooding but they are also themselves vulnerable to the early impacts of sea level rise and therefore are key early adaptation opportunity sites.

However, some areas of the shoreline such as Oakley have a more concentrated area of shoreline parks that provide these benefits.

Damage or loss of these valuable parks would have significant impacts on habitat, recreation and the health of communities in the project area.

Reduction in access to parks, open spaces, bike trails, fishing piers and boat launches could affect some individuals and communities more adversely than others, for example, if residents rely on fishing piers for food or a bike trail to get to work.

The sixth key planning issue is unique to the ECC project area is about levees, reclamation and subsidence.

This map shows the subsidence in the project area, shown in red, which ranges from 0 to 15 feet below sea level.

Agriculture and land reclamation have caused significant land subsidence causing both communities and agricultural fields to rely on levees and pumps to stay dry.

Current pumping practices continue to exacerbate subsidence and many districts do not have adequate funds to properly inspect, maintain or rehabilitate these levees.

The levees are in various states of safety design standards since some protect communities and others protect agriculture.

Sea level rise and subsidence could worsen flood risks by:

Increasing the pressure on levees from rising waters;

Rising groundwater increasing the liquefaction potential during seismic events which is loss of soil strength if shaken long and hard enough;

And by increasing reliance on, and the cost of operating pumps, which are sensitive to flooding and to power outages.

A breach in levees could cause catastrophic loss of life, livelihoods and assets for communities, businesses and agricultural lands.

There could be substantial, economic impacts for the region due to losses in visitation, recreation, agriculture and gas extraction. Farmland could be ruined by salinization of soils through contact with brackish water from the Delta. Finally, if flooded, contaminants could be mobilized.

The seventh and last key planning issue of ECC is worsening water quality. Shown here is how sea level rise can contaminate well water with saline water because as the salt water rises it pushes the cone of influence further inland. And since salt water is heavier than fresh water if there is less infiltration of fresh water the salt water could move further inland especially affecting the coast.

This means that ground water could experience increasing salinity close to shore possibly affecting water supplies from wells.

Sea level rise is also likely to cause a worsening of water quality due to contaminant mobilization as well as salinity increases from the tidally-influenced Bay.

Flooding can mobilize contaminants from industries, businesses, homes, roads and farms. Surface water is used for drinking by many small communities in the Delta as well as some East Bay residents and users of the Central Valley Project and State Water Project.

This totals millions of users not to mention the many acres of farmland that use this water for irrigation.

The Delta islands also play a critical role in stopping salinity from coming up the Delta from the Bay and increasingly saline water could also cause corrosion of infrastructure that was not originally protected against salt water such as landfills, septic tanks, wells, pumps, pipes, water-treatment facilities et cetera.

Finally, habitats can be affected by contamination through salinity changes.

We then developed adaptation responses to the issues we saw. Keep in mind that these are just a few of the many that we developed.

First, what is an "adaptation response?" This includes vulnerabilities that we defined in the project as well as a series of actions to address these vulnerabilities. It also includes implementation guidance on who should lead and who should partner for the response.

These adaptation responses were developed for both the key planning issues as well as for vulnerabilities faced by each asset.

The working group expressed some initial near-term constraints that would prevent the implementation of adaptation responses. These could be considered adaptation solutions themselves, because once solved, they would open up new adaptation possibilities.

First, the County expressed to us that they do not have staff capacity to move this work forward and we are helping the County look for possible funding sources.

Second, the County also expressed that they need to establish a new authority or expand an existing authority to plan, fund, manage and maintain shoreline solutions such as a joint power authority (JPA).

Adaptation responses were split up into near, mid and long-term solutions.

A selection of some near-term adaptation responses were:

a. Initiate tidal wetland restorations that will protect and enhance the broad benefits they provide including flood risk reduction, habitat, biodiversity and improving water quality.

b. Conduct locally refined analyses to determine the sources of and potential solutions to resolve flooding that could damage or disrupt local and regional routes and nodes that are critical for emergency response and for communities to access necessary services.

c. Develop a county-wide program to identify, monitor and repair ad-hoc shoreline protection "hotspots" where erosion, bluff collapse, rising groundwater levels, or loss of tidal wetlands is likely to increase the flood risk of inland communities.

For mid-term adaptation responses, the County could:

d. Model how sea level rise and sea level rise combined with major storms will affect levee stability and update design and engineering standards accordingly.

e. Create a land trust to buy out subsided Delta islands and convert them to wetter land uses such as rice cultivation, managed wetlands or pasture by either reducing pumping or breaching the levees.

Long-term adaptations that could be done are:

f. Develop and implement a county-wide program to monitor salinity conditions including the progress of saltwater up into creeks and salinity conditions in the groundwater near vulnerable infrastructure, wells, or surface water.

g. Develop new micro-grids to create a more resilient power system less reliant on the regional grid ensuring that pump and drainage systems do not lose function if the electricity grid is not functioning.

In conclusion, some of the next steps ART will be taking are:

h. Finishing ADA accessibility and publishing the final report in the next month or so, and

i. Developing a 2020 work plan for education and outreach in Contra Costa County on sea level rise to keep the momentum going.

Finally, we have been and continue to share lessons learned from this project with Delta Steward Council (DSC) for their vulnerability assessment and we will continue to engage with DSC on how we can both stay involved with Contra Costa County to advance their education, outreach and adaptation planning efforts.

At this time we can take any questions or comments and thank you so much for your time.

Commissioner Gioia commented: Thanks for the presentation and I followed the previous Contra Costa Study more because I represent the west part of the County.

It is really important that we coordinate or combine both of the studies. The original study was done and went up to the end of BCDC's regulatory jurisdiction and then we expanded it to include the broader area, given that governance issues and just how we approach it is going to be something that is county-wide although there are unique issues on the Delta that are different from the Bay.

I do think we need to figure out how to compile these recommendations together. It doesn't make sense to have two different plans with two different efforts going on in the same county.

I know that my colleague who represents the east part of the County on the Board of Supervisors cares about the Delta issues and looks at it from a county-wide perspective as well.

So tell me what you are thinking about. I am glad to work to facilitate that along with others in the County since I represent the part of the shoreline from Pinole to the County line with Albany. What have you talked about so far in this effort?

Ms. Cohen replied: The County expressed similar interests. During our 2020 Work Plan we are still developing it and we will meet with the County.

Commissioner Gioia asked: When you say "the County" you are talking about folks in our planning department?

Ms. Cohen answered: Yes. And a lot of the adaptation solutions and vulnerabilities were copied over from the West Contra Costa Project. So there is a lot of overlap and I noted in our adaptation solutions which ones were new and unique for East Contra Costa County.

So that means that across both jurisdictions that we looked at some of the adaptation solutions would be useful for the entire County.

And so for 2020 one of the proposals that we will be giving the County is to combine the two reports and create something that is a bit more useable and streamlined for them.

Commissioner Gioia stated: Yes, that makes sense – thanks.

Chair Wasserman commented: I would echo the thanks for the job work and the presentation. It is particularly important to view this through the lens of working cooperatively and collaboratively with other agencies particularly this one outside our jurisdiction as we think about how BCDC provides leadership on these issues and how we can develop adaptation plans in cooperation with local jurisdictions without getting hung up in this wonderful question of do we need more authority.

I think this is a very, very good project and a very good example of the things that we want to try and do.

Commissioner Gioia commented further: The issue of additional authority needs to be addressed at some point. We are working on trying to build a living levee because it also a wetland not just a horizontal levee.

So, we have assembled a group of folks in the west part of the County along the North Richmond shoreline to work on a project that came out of their Resilient by Design.

And in the course of doing this because I have been calling together the public and private interests to get them involved – it is really hard trying to involve some of the entities that are adjacent or nearby who could benefit because of the multiple jurisdictions involved and I bring this up because this idea of doing this all on a voluntary basis is fine but it is just a lot harder to get everybody to the table and explain why it is in their self-interest.

And I am going to say what I say all of the time – we do need to have a discussion over some regional authority that has the ability and some statutory ability to bring people together on a regional basis. And I do think BCDC is that agency. Some of us have talked about this before years ago.

It does involve going to the Legislature and seeking additional authority outside the 100-foot, shoreline band because it is hard. I think we fool ourselves when we say we are going to efficiently solve all of this issue by all these voluntary efforts. We are going to make progress and maybe we will make incremental progress but it is not easy.

Even when we did the first study in Contra Costa several years ago much of the industry along the shoreline didn't participate even though we called them and told them it was important. I want to take us back to this idea that we need to focus a discussion somewhere here about what that regional authority looks like and who should have it if we are really going to make any tangible progress.

Chair Wasserman continued: I think this is an important dialogue. That discussion is certainly taking place in a number of different forms. One of the things that will be very important for us to do is to start cataloguing these examples where this kind of cross-jurisdictional effort has worked, where it has worked or working but there are very major difficulties and where it has not worked because it is that information that will give us the tools and ultimate leverage to define and put the limits on the kind of additional authority we may need and the ammunition to deal with the Legislature over it.

I think as staff is participating in learning about these efforts they need to be listed in some point with the data that includes who the participants are, what the primary problem or issues are and levels of success and barriers to success so we are not left to purely anecdotal circumstances.

Commissioner Vasquez chimed in: John were you talking about working together in the Delta?

Commissioner Gioia replied: I was less talking about the Delta area because I think that has some unique issues. I was talking about San Francisco Bay and the area that we have jurisdiction over. The structure may look different in the Delta than it does in the Bay.

So from Pittsburgh Bay Point West in Contra Costa is within BCDC's regulatory authority. The Delta has a different set of issues. I am speaking for the Bay and the Central Bay issues.

Commissioner Vasquez pointed out: And one of them is trying to figure out who is in charge.

Commissioner Gioia opined: For the Delta I think it is a lot more problematic.

Commissioner Vasquez continued: You have the Delta Protection Commission, the Delta Conservancy and the Delta Stewardship Council.

Commissioner Gioia noted: At least for the Bay there is already an agency that has the shoreline band jurisdiction. Folks came together back in the 1960s and led to the Legislature creating this agency to save the Bay from being filled.

Now we are dealing with the opposite situation. Instead of the Bay becoming smaller it is about the Bay becoming larger.

Commissioner McGrath commented: John I am intrigued but a little intimidated by your idea.

Commissioner Gioia observed: But it is not something that we haven't talked about before.

Commissioner McGrath responded: You know I worked for Paul DeFalco who was the first regional administrator of EPA and later went to volunteer for the League of Women Voters and pursued regional government. Paul has passed away and wasn't successful and then one of my other great mentors, Joe Voinovich tried to look at regional governance.

And there are issues beyond just sea level rise. Do you think it is time to revitalize those kinds of discussions about regional governance?

Commissioner Gioia answered: Having been on ABAG and now being on the Air District and BCDC I think regional government would be a great thing but I am prepared just to focus on sea level rise and just address it here because BCDC already has pretty specific authority. We have the shoreline band jurisdiction and this is a very similar call to action that happened in the 1960s when Save the Bay called to say we need some regional agency that has a sort of land-use jurisdiction or some more regional authority with regard to permits on Bay fill around the Bay.

I think this is a similar situation. I think we would be more successful just focusing on this. The conversation about larger, regional government which is important and can happen at another time and place but if we hitch our wagon to that we will never get this issue solved.

BCDC has a very good track record of protecting the Bay from becoming smaller. Where we have built up a lot of goodwill is the work we have done under our planning authority not our regulatory authority because all of this work that we are doing on sea level rise with these studies is our planning folks not our regulatory folks.

I don't know what that authority looks like but I am saying we need to have that discussion. It came up right before you were appointed Chair Wasserman and remember that it was what led to your appointment. I just think we should revisit that.

Commissioner Pine was recognized: I have a question for you John. What authority are you suggesting?

Commissioner Gioia replied: Simple. Right now we did a Bay Plan Amendment that gives us the ability to look at some of these issues in the 100-foot shoreline band.

But remember that Bay Plan Amendment was going to include some policies that addressed issues outside the 100-foot, shoreline band because there is development that happens outside the 100-foot shoreline band that impacts sea level rise or needs to have some resilient components.

So, I would start with how we look at our ability – right now our authority is pretty limited about permitting and what we can look at in the 100-foot shoreline band. We should broaden that to include issues to address sea level rise and how we require developments to have resiliency on some regional basis.

I know we did that with Treasure Island because that was a unique development for the whole Island and I thought we did a pretty good job of coming up with how that development would be resilient to sea level rise because that was all within our jurisdiction.

It would deal with expanding authority within the 100-foot shoreline band and some additional authority outside the 100-foot shoreline band in an appropriate way respecting cities and counties because there will always be that tension.

Commissioner Randolph chimed in: We've done a lot of pretty heavy lifting in terms of laying jurisdictional ground work over the last six or seven years around this adaptation issue and it has been pretty painstaking around developing more consensus between business and government and local jurisdictions around what needs to be done and helping them go in that direction so I think we have been moving deliberately but cautiously in that direction.

Voters did vote to fund the Bay Restoration Authority not many years ago so it does suggest to me that there is a public appetite or openness for addressing Bay-related issues that could be done in a way that stops far short of regional government.

We are not anywhere close to regional government.

Commissioner Gioia interjected: It is a mistake to say "regional government" because that gets into a whole other sort of perception. We are already here. We are a type of regional government but we are focused in one area around the Bay – on Bay issues.

I would look at it more of how to take a successful model like BCDC and expand it in a thoughtful, cautious, careful way. We are not talking about creating a new agency.

In fact, there has been some polling done which shows that people seem to have faith in this agency. There was some discussion of whether it should be the Restoration Authority. I don't think so because that is focused on just wetlands.

Commissioner Randolph explained: I only used that term because Jim brought up the topic of regional government. I don't think that is what we are talking about. We are talking about some incremental expansion of authority based on a lot of consensus building over the last five or six years.

Commissioner Gioia continued: We've danced around this. Why is it that we just don't sort of have more thoughtful discussion here about it? Frankly we keep shying away and dancing around it. Why don't we just have that discussion to be thoughtful about it? Let's look at the different alternatives that help us achieve what we are doing in these great ART plans.

We need to work with cities and counties in a cooperative effort as we consider this.

Executive Director Goldzband weighed in: There are a couple different answers to your questions because when I was on the Commission during the Bay Plan Amendment process, and I was not part of the negotiating team, the one aspect of this that just stuck out at me like a sore thumb was that the original intent of the Amendment or the original result of the Amendment whether one believes intent or non-intent would have been to expand BCDC's jurisdiction and that came from BCDC.

D-O-A; the fact is that the only way BCDC is going to expand its jurisdiction is if the idea comes from outside of BCDC because that the issue behind local control and regional government is so fraught with tension and has been forever and will always be – that any regional body that wants to expand its jurisdiction is going to have a real hard time defending that unless it is regulates and it is stakeholders asking for it.

It is really, really important to make a distinction between self-generated proposals and proposals that aren't self-generated.

Number two; if BCDC were to expand its jurisdiction in some way, and I don't know how that would happen and I don't know what that jurisdiction would be and I don't know what that authority would be, you would essentially be shifting the way BCDC works in ways that I can't imagine because if you increase authority that means you are going to be doing more things.

You are going to be doing more things in more places where people don't have BCDC now. And so if you want to expand a regulatory agency or expand any kind of jurisdiction with some kind of planning authority then you are going to create a need for an awful lot larger staff that is going to have different and more types of strengths which is not a value judgement – that is just a statement of fact.

So those two things have to be combined together to then understand and forecast what the new BCDC would be.

Commissioner Gioia chimed in: The first point is the most important. The second point is more of a process issue.

The second is something – I like to think outside of a bureaucratic box. I'd like to think that the three women who led the effort to found this agency were visionary and they developed bipartisan support in the Legislature and in the region to protect the Bay with some regional authority.

I think what is happening now is similar to what happened then. The only way we are going to solve sea level rise just like back then we were going to solve a shrinking Bay is to have a regional approach.

I am not saying that we just have a discussion and then go out and do it; we have representatives here and the majority are from city or county governments. So most of us sit on other boards in our home jurisdictions and we can look at how best do we foster or facilitate a discussion with local government as well as those organizations that are stakeholders and who understand the importance of addressing sea level rise on a regional basis. So I am not saying that we are going to sit up here and have a discussion.

Your second point can be solved because once you figure out how this agency would change if it had different jurisdiction, remember this agency started from scratch. We can surely adapt.

I mean we didn't exist in the 1960s until this agency got formed because of three women, the advocacy of a great, environmental movement.

So to say that we can't adapt to new staff after we expand our authority – it will take time and we can do that. The bigger issue is this discussion with the stakeholders and local government about how to do this in a cooperative way.

Executive Director Goldzband expanded his discussion: Let me expand on my second point. You sit on the Air Resources Board. We share this building with MTC and with the Air District and the like.

They can grow by increasing fees which they keep. And they have tolls. And they do not rely upon the Legislature and the Administration to approve budgets much less to increase them.

And that is really the issue here with regard to that second point because I would argue that the Newsom Administration over the past three months has done more to try to provoke discussion about adaptation than has been done in the past seven years for which I am tremendously grateful.

Anything BCDC wants to do I would argue needs to be in alignment with that. And that is going to be really, really hard.

Commissioner Gioia assented: I agree with everything you said and all of that becomes the issue on the table but we have to start somewhere in the discussion about that.

Commissioner McGrath had questions: Let me ask a tactical question because I agree with you but Larry makes the important point that this is not like an agency which has a culture of statewide, land-use authority and those things change only with difficulty.

I have watched the state struggle with a housing crisis before us and not shake lose any of that culture.

On the other hand I came in here a week and a half ago to the BARC meeting and I looked up at the panel up here which included Zach and it included Anne and I was very impressed. I saw a lot of people up there and I saw the governor's budget with a big chunk of money for homeless and somewhere between 2.7 and 4.8 billion for adaptation and I wondered tactically – and I am going to pose this to the Godfather on my left here – are we better off approaching this incrementally with a non-crisis issue?

I am unconvinced John that anything happens in California without a crisis.

Commissioner Gioia responded: All I will say is look back at the history of this agency and what it has done to protect the Bay. Everything you have mentioned are all issues to address but instead of saying, let's have some vision and understand how we can come together as a region, everyone is putting up obstacles on why we can't do it where if the three women who founded and helped lead to this organization did what you did – we wouldn't exist, the Bay would be a river and it's like; have some vision folks, don't put up the bureaucratic obstacles which will always be out there. Let's figure out and have a discussion.

There are elected folks here who go back to their jurisdictions who can also help facilitate discussion. I think every obstacle you put up is a bureaucratic obstacle and yes it is a real obstacle but every single issue has that.

Chair Wasserman commented: We are facing that crisis and my remarks at the beginning about the Thwaites Glacier say it is there. The problem is it is far away from our doorsteps and it is not going to hit us tomorrow. It is going to hit us in 10 to 20 to 30 years but the methods of adaptation to meet it in 10, 20, 30 years take 10, 20, 30 or 40 years to plan and build.

So if you look at it rationally the crisis is here. On the other hand the crisis is here in the midst of a whole range of other crises including housing, including homelessness and including some transportation issues.

I actually think we are making more progress than may appear to Commissioner Gioia. Through the workshops that we have been having, through the regional, shoreline, adaptation strategy that we are in the process of developing, through the ART Bay Area Project Report which will be released by MTC and Caltrans sometime in the next 45 days – 700 pages.

The elements are there. We've had three Regional Adaptation Strategy Advisory Group meetings. The first one went pretty well. The second one came close to an abject failure. Staff doesn't like it when I say that. It came close to a failure for two reasons.

The first reason was we forgot that you have to keep retelling the story. The second reason was we at BCDC gave into the concept that we need to start thinking about approaching the Legislature, about authority.

And that scares people who are thoughtful, knowing, sophisticated regionalists. And we had people in that meeting who started sabotaging the meeting largely because of that.

Our third meeting was much more successful because even though we made some reference to the Legislature because there are some legislatures who were talking about bringing bills forward it was not us.

I think to get to where you were talking about and I agree we need to get there – we need to focus more on the "what" than we are prepared to do so at the moment rather than "we need the authority."

So when I talk about gathering this information I am not talking about doing it over years and years but putting it together and saying, here is where pure cooperation and leadership worked and here is where it didn't and because of this analysis of where it didn't – this is the authority we need but we are not there yet.

And I agree with Larry particularly if "we" BCDC start talking about expanding our authority and our jurisdiction whether it is within the 100-foot band and/or outside of it, we are going to go back to the kind of storm of protest and fears and opposition that existed 10 years ago.

We need to get there – it is how we get there. And we need to accelerate the pace of getting there. I think we are actually doing that. But I do think we need to keep talking about it and as we bring back reports on the project we just heard about on the regional, strategy efforts we should continue talking about it but I don't think we should try and seize the lead now in talking about authority.

We are seizing the lead by getting out there and doing it. So we will come back to it. It is not off the agenda.

I would entertain a motion to adjourn.

12. **Adjournment.** Upon motion by Commissioner Gilmore, seconded by Commissioner Vasquez, the Commission meeting was adjourned in memory of Mr. John Kriken at 3:53 p.m.