San Francisco Bay Conservation and Development Commission

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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: Approved Minutes of August 1, 2019 Commission Meeting

1. **Call to Order.** The meeting was called to order by Acting Chair Halsted at the Bay Area Metro Center, 375 Beale Street, Board Room, First Floor, San Francisco, California at 1:06 p.m.

2. **Roll Call.** Present were: Acting Chair Halsted, Commissioners Ahn, Alvarado (represented by Alternate Showalter), Butt, Chan (represented by Alternate Gilmore), Cortese (represented by Alternate Scharff), Gioia, Resources (represented by Alternate Eckerle), Lucchesi (represented by Alternate Pemberton), McGrath, Ranchod (arrived at 1:12 p.m.), Sears, Spering (represented by Alternate Vasquez), Tavares (represented by Alternate Nguyen), Techel (represented by Alternate Hillmer), Wagenknecht, Ziegler and Governor's Appointee (represented by Alternate Holzman). Senator Skinner, (represented by Alternate McCoy) was also present.

Acting Chair Halsted announced that a quorum was present.

Not present were Commissioners: Association of Bay Area Governments (Addiego), U.S. Army Corps of Engineers (vacant), Department of Finance (Finn), Sonoma County (Gorin), Governor (Randolph, Wasserman), City and County of San Francisco (Peskin), San Mateo County (Pine)

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

No members of the public addressed the Commission.

Acting Chair Halsted moved to Approval of the Minutes.

4. **Approval of Minutes of the July 18, 2019 Meeting.** Acting Chair Halsted asked for a motion and a second to adopt the minutes of July 18, 2019.

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

VOTE: The motion carried with a vote of 16-0-1 with Commissioners Ahn, Showalter, Butt, Gilmore, Scharff, Gioia, Pemberton, McGrath, Sears, Vasquez, Nguyen, Hilmer, Wagenknecht, Ziegler, Holzman and Acting Chair Halsted voting, "YES", no "NO", votes and Commissioner Eckerle abstaining.

5. **Report of the Chair.** Acting Chair Halsted reported on the following:

a. **Next BCDC Meeting.** We will not hold a meeting on August 15th as staff will be busy moving our offices from the state building to here on the fifth floor of the Metro Center. Our next meeting will be held on September 5th, where we may:

b. **Third-party contracted.** To assist BCDC with website accessibility protocols and issues.

c. **Caltrans project.** To provide shorebird roosting habitat.

d. **Project proposed.** For the Terminal One site in Richmond.

e. **Public hearing on Bay Plan Amendment 3-19.** Regarding a map note for the Middle Harbor Project at the Port of Oakland.

f. **Ex-Parte Communications.** In case you have inadvertently forgotten to provide our staff with a report on any written or oral ex-parte communications, I invite Commissioners who have engaged in any such communications to report on them at this point.

Acting Chair Halsted moved to presentation of the Executive Director's Report.

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

It was 238 years ago today in 1781 Lord Cornwallis and his British troops occupied Yorktown, Virginia. Is it a coincidence that exactly 200 years later – on August 1, 1981 – MTV began broadcasting and created the market for music videos? You may think that these two events have nothing in common. But, if you have seen "Hamilton," the musical that opened on Broadway in August 2015 – 34 years to the month after MTV began broadcasting and 204 years after the beginning of the Yorktown occupation – you know the connection. Alexander Hamilton led one of the two final assaults on the British troops at Yorktown and Cornwallis surrendered. That prompted the negotiations that resulted in the Treaty of Paris. And the musical – a direct outgrowth of MTV's original purpose of demonstrating new ways to view music, dance, and stories – tells the tale well.

a. **Budget and Staffing.** While BCDC staff may not be heroes of Alexander Hamilton's stature, I want to recognize five individuals who will soon leave BCDC after providing the Commission with outstanding service. We need to thank four interns – Emily Mann of Planning, Taylor Knecht and Mitchell Barraza of Legal and Dylan Sollfrank of Admin – whose energetic work assisted us mightily. And, fifth, I want to thank Christine Nutile, our Records Manager for the past three years or so who has accepted a job and a promotion at the California Public Utilities Commission. Christine has helped us move from the 20th century into the 21st in many ways. And while there is still much for us to do her work in organizing our office has been of great utility.

Speaking of staff, many of you know that BCDC and other Coastal Zone Management agencies often hire Sea Grant Fellows to augment permanent staff. I think that the greatest advantage to doing so is that we can evaluate whether we want to hire those individuals as official BCDC staff members if a job opens up. I am happy to let you know that, unless I hear differently, we plan to hire Rachel Wigginton (stood and was recognized) to be part of the BCDC's planning unit. Why would we hire her you ask? Well, she recently completed her Ph.D. in ecology at U.C. Davis for which she conducted field research in Suisun Marsh. So, Rachel and

her boss, Shannon Fiala, are primed to begin the planning process to potentially update the Suisun Marsh Protection Plan and review Suisun Marsh laws and policies holistically as Commissioner Vasquez requested last March. And they plan to begin that process by working with Supervisors Vasquez and Spering. Rachel earned her Master's and Bachelor's degrees in Biology from Long Beach State University and Western Kentucky University respectively. So, she's an Aggie, 49er, and a Hilltopper, all in one, and we look forward to having her on board.

b. **POLICY.** You will remember that the final briefs were filed in BCDC's lawsuit against the U.S. Army Corps of Engineers in federal district court in June. I'd like to ask Chief Counsel Marc Zeppetello to give you an update on the very slow grinding of the gears of federal justice.

Chief Counsel Marc Zeppetello addressed the Commission: As you will recall the case against the Corps. has to do with the Corps.' refusal to comply with certain conditions that the Commission imposed on the Corps.' Operations and Maintenance Dredging Program regarding beneficial re-use and also reduced topper dredging to protect endangered fish species.

BCDC joined by Baykeeper who was allowed to intervene in the case – we filed a motion for summary judgement earlier in the year, but the Corps. of Engineers filed a competing motion for summary judgement. The final briefs were submitted on June 18th and oral argument had been scheduled for July 18th.

Also on June 18th the Western States Petroleum Association filed an amicus brief in the case and WSPA took no position on the legal issues but they said they wanted to provide the Court with additional information on the evidence related to the Corps.' decision to implement this alternate, dredging program in the Outer Richmond and Pinole Shoal Harbor. They filed a motion because while BCDC and Baykeeper had no objections the Corps. of Engineers would not agree.

The federal government filed what they call The Response and argued that WSPA was attempting to introduce new evidence and also to make new arguments.

WISPA responded to that and denied all that. So there are now four motions on the Court's calendar – the two cross-motions for summary judgement on the merits, BCDC and Baykeeper have filed a motion to supplement the record related to the fact that the Corps. had funding to dredge both of those channels back in 2017 and decided to change course and then the WISPA motion to file an amicus brief.

So, the case was scheduled for oral argument on July 18th - the Court has twice continued or postponed the oral argument first to August 21st and then to August 28th.

The speculation on my part is that the Court or the law clerks need more time because of the number and complexity of the issues. But at this point all counsel have indicated they are available, and it is likely the oral argument will go forward at the end of this month on August 28th.

Thank you.

Executive Director Goldzband continued: Any questions for Marc? (No questions were voiced) I was in Sacramento last Thursday for three meetings each of which I want to describe to you briefly. First, I met with our new Department of Finance Program Manager, Millie Yan, to introduce her to BCDC. I let her know that we want to meet with her and other Finance staff in August to begin discussions surrounding the Governor's, next, budget proposal. While I can't be specific with you please be assured that staff have discussed various proposals with the Natural Resources Agency two of which respond to the Enforcement Audit holistically and accelerate our rising sea level and other planning work.

Next, I was fortunate to spend an hour with Dr. Mark Gold, the new Director of the Ocean Protection Council and Commissioner Eckerle's new boss. Dr. Gold has a Ph.D. in environmental science and engineering. He led Los Angeles-based Heal the Bay for twenty years. And he comes to OPC from UCLA where he was Associate Vice Chancellor for Environment and Sustainability, so he is a Bruin. We had a great discussion and he is eager to visit BCDC and the Bay to learn more about how we work and what we need to succeed. Just as important, we almost overcame his dogged insistence that the Dodgers will win the World Series this year.

Before I talk with you about the third meeting and give each of you a short task I want to let you know two things. First, in September we plan to provide you with a budget and strategic plan update.

Second, I want to remind you that BCDC will begin to move into this marvelous building two weeks from today and our office will be closed on Friday, August 16th. Peggy and our admin team have been incredibly busy working on the move and we should thank them for all they have done so far. In addition, last Friday we had a full staff office clean-up and throw-out day and we'll have another next Friday. And many of us will be working through the weekend of the move to get BCDC up and running by Monday, August 19th. Due to the move, it's likely that our ability to communicate with you and the rest of the public will be somewhat limited during the couple of days before and after the actual move. So, feel free to contact me on my cell phone if you have any issues to discuss.

And now for something completely different. I represent BCDC as a member of the California Delta Stewardship Council's Delta Plan Interagency Implementation Committee. That Implementation Committee has 18 members from throughout the state that initiates and reviews scientific progress within the Delta. I am a member of that Subcommittee of its Subcommittee on Governance whose role is to help the Stewardship Council communicate scientific information to non-scientists. That Subcommittee met last Thursday. I am the only non-scientist member on the Subcommittee and perhaps the full Committee; we could play a complete game of Scrabble with all the MSs, PhDs and other graduate degree abbreviations associated with the Council's members and staff. Our Subcommittee's most immediate task is to help determine exactly what new scientific knowledge is required during the next 5-10 years that will assist policy makers as they work to protect and save the Delta over the next 50 or so years. So, I now have for each of you a request. Please now take one of these pieces of paper and pass it on. Now please make sure you have a pencil or a pen. Each of us on the Subcommittee is asking our colleagues (or, in my case, my bosses) to answer this question in

ten words or less: "What science-based question concerning San Francisco Bay's relationship with the Delta is the most important one for the State to answer in the next 50 years?" We'll take a minute or two and you only have 10 words or less and write down the answer.

Commissioner McGrath commented (off mic): With all due respect this deserves a little more introspection.

Executive Director Goldzband replied: No actually it doesn't. It is exactly why Commissioner McGrath we are doing it this way. The key to our success in the Governance Subcommittee is to be able to explain very clearly to people who are not scientists what science is necessary.

Executive Director Goldzband continued: And so, if you can explain in 10 words or less what you think science needs to figure out that is the way to answer the question. (Commissioners took time to script their responses)

And for those of you that are worried about the Public Records Act Request we are keeping these, but we will aggregate them. If anybody actually asks for them we will make sure that they are available.

When you are done please fold your pieces of paper and pass them to me. Thank you very much for participating in this totally unscientific survey. Finally, we are now passing around two copies of the Delta Stewardship Council's updated Delta Science Plan. Feel free to fight over the hard copies and I'll include a link to the Plan in my meeting summary tonight. This was just published about a month and a half ago and it is the latest way that scientists are thinking about the Delta and how to proceed to protect the Delta and its co-equal goals of water supply and ecological restoration.

That concludes my report Acting Chair Halsted and I'm happy to answer any questions.

Acting Chair Halsted asked: Are there questions? (No questions were voiced)

7. **Commission Consideration of Administrative Matters.** Acting Chair Halsted continued: Next we have on our Agenda Consideration of Administrative Matters. Ethan Lavine and Brenda Goeden are available to answer questions regarding the Administrative Listings sent to you on July 19th and 26th. Are there questions? (No questions were voiced)

8. **Public Hearing Possible Vote on the Alcatraz Ferry Embarkation Project, BCDC Permit Application No. 2018.007.00 and Federal Consistency Determination No. C2017.005.01.** Acting Chair Halsted announced: Item 8 is a public hearing and possible vote on the Alcatraz Ferry Embarkation Project along the Port of San Francisco. While this is a single project we will be voting on both a BCDC-issued state permit application and a federal consistency determination. Morgan Chow will introduce the project.

This presentation is a new format and it is a consequence to some degree of the workshop we had on how to improve presentations. I think it is a terrific change and presents the project in a much livelier and more understandable way. Thank you very much and we are really pleased that you have taken the initiative to move on with the results of that workshop.

Shoreline Development Analyst Morgan Chow presented the following: Good afternoon Acting Chair Halsted and Commissioners.

On July 19th you were mailed a summary of the proposed Alcatraz Ferry Embarkation Project to renovate and expand a ferry and excursion boat terminal at Piers 31, 31½ and 33 on the San Francisco Waterfront.

This photo shows you the embarkation facility as it exists today. It has been located at this site since 2006.

The project involves expanding the facility into the Pier 31 and 33 bulkhead and shed buildings, improving the open-air facilities on the wharf deck, and replacing the in-water infrastructure to allow for berthing of up to three ferry boats at a time, an increase up from the current capacity of two boats.

A note on procedure: As Acting Chair Halsted mentioned, today the Commission is considering both a major permit application submitted by the Port of San Francisco and the Golden Gate National Parks Conservancy as well as a federal consistency request submitted on behalf of the National Park Service. The three parties are partners in the project, but given the parties involved — NPS as the federal sponsor the Port as the property owner, and the Conservancy as the developer of the facility — two separate Commission votes are required for the project.

Here is a short animation to orient you to the site which is located north of the cruise terminal at Pier 27 and 29 and south of Pier 39.

Zoomed in you can see the existing facilities on the Pier 31½ marginal wharf deck. Pier 33 is on the left and Pier 31 is on the right. As I noted before the project expands the facilities into the Pier 31 and 33 bulkhead and shed buildings.

The project raises issues related to Bay fill, public access and views and flooding and sea level rise which I'll highlight briefly before turning it over to the project team to get into the details on the proposal.

On Bay Fill: This diagram shows you the proposed berthing facilities which would replace the single floating dock and gangway that exist currently. The expansion results in net-fill in the Bay which is for a water-oriented use which the Commission can approve provided the public benefits outweigh the detriment. Please note that the Application Summary provides a slightly different calculation of the net fill than what's shown here. This is because the applicant provided revised, project information following publication of the Application Summary. The correct numbers are shown here and are included in the Staff Recommendation.

This slide shows you a rendering of the proposed project. Beneath the concrete canopies are queuing areas for passengers and most of the rest of the wharf deck is proposed to be dedicated as public access.

The project would result in the construction of approximately 0.8 acres of new, public-access areas and improvements including a large, civic plaza shown at the center, several seating areas, bike facilities, accessible parking, public restrooms and interpretive and informational displays.

Among the historical, interpretive elements is the construction of a new segment of the Bayside History Walk within a retail shop inside the Pier 33 bulkhead building. The Bayside History Walk was established in the Commission's Special Area Plan for the San Francisco Waterfront and includes exhibits at renovated piers all along the Embarcadero.

In terms of views and visual access as you can see on this rendering the canopies would be located behind the bulkhead buildings where they wouldn't block views to the Bay from the Embarcadero.

The project's general design was reviewed by the Commission's Design Review Board at two meetings in 2017 and 2018 where it was favorably received and the design before you incorporates refinements as a result of those discussions.

One item you will see in your Application Summary is a proposal for special events. The applicants propose limited closure of the public-access areas to allow for special events some of which may be open to the public and some of which may be private. I highlight this simply because the approach to special events here is a bit different than what the Commission may have seen with regard to other projects.

The majority of these events or up to 12 a year—would occur after normal operating hours within the portion of the site shown here inside the dotted, black line. The Civic Plaza and the rest of the public-access areas would remain open and available to the public during such events.

What this next slide shows is that the applicants also propose is that on 2 occasions each year the entire site would be closed for a period of up to 24 hours. One such closure might be to allow for the influx of people who take the ferry each November to commemorate the American Indian occupation of Alcatraz Island. What the other special event day would be used for is undefined at this time, but the applicants have indicated they would like the allowance to do so for flexibility in planning and programming.

I go into this level of detail for this relatively limited closure of the public-access area which would total 48 hours during each calendar year because in the past the Commission has generally not approved, in advance, the full closure of a shoreline, public-access area for an undefined event. Instead, closures have been allowed on a case-by-case basis at the discretion of the Executive Director who would make a finding that a proposed event took appropriate measures to limit disruption to shoreline access and overall, would bring people to the waterfront. This is a difference albeit for a relatively small site and for a very limited duration each year.

Finally, for sea level rise and flooding the project is not anticipated to experience regular or storm-driven flooding during its lifetime. The project lifetime is anticipated at 30 years or roughly to mid-century. The in-water facilities float and would rise with rising water levels. The improvements on the deck are high enough above sea level that flooding is not anticipated to cause an issue during the life of the project based on the state's projections for sea level rise.

That concludes the staff presentation. To present the project I would like to introduce Brian Aviles, the Chief of Planning and Environmental Programs with the National Park Service; Claire Mooney, the Senior Director for Projects & Design with the Golden Gate National Parks Conservancy; and Dan Hodapp, the Senior Waterfront Planner with the Port of San Francisco.

Brian Aviles addressed the Commission: Good afternoon Commissioners. We are honored to bring this Public Welcome Center Alcatraz Island before you for a consistency determination and permit approval.

My distinguished colleagues presenting today are Claire Mooney, Senior Director for Projects and Design at the Golden Gate National Parks Conservancy (which is the park's nonprofit partner) and Dan Hodapp, Senior Waterfront Planner at the Port of San Francisco, the co-applicants for the permit. Behind them are many other teammates some from other public agencies like San Francisco City Planning who have shared their talents and creative, problem-solving abilities to put together this remarkable, civic project.

Through deliberative public processes this project has gained support at the highest levels of the National Park Service, U.S. Fish and Wildlife Service, NOAA Fisheries, the City and County of San Francisco, its Planning and Historic Preservation Commissions, the State Office of Historic Preservation, the State Water Board, Army Corps of Engineers, and the City of Sausalito. The project has benefitted from a tremendous amount of input from the public as befits a place that is conceived and designed to serve them. And we are grateful for the advice of your staff and the Design Review Board who have worked with us diligently over the last years.

Through much substantive iteration we believe the project is consistent with the Bay Plan and ready for permit approval.

The National Park Service's goals for the project have grown out of our mission to preserve historical and natural resources and to help this and future generations to enjoy them.

The Park Service has been bringing people onto the Bay, to and from Alcatraz Island since 1973. Approximately 1.8 million people visited last year or nearly 1 out of 10 of the 18 million visitors to the Golden Gate National Recreation Area. The Island is a national landmark signifying it as one of the most important to preserve and interpret the history of this country. We along with our partners (the Parks Conservancy, Port of San Francisco; and our ferry transportation concessioner, Alcatraz Cruises) take great pride in delivering an outstanding experience to visitors.

The vision for creating a similar high-quality experience in San Francisco on the mainland for visitors and the public-at-large goes back to former Superintendent Brian O'Neill. He initiated this project after seeing certain disruptions when we moved ferry operations in 2006 from Fisherman's Wharf (where they had been for decades) to Pier 31½.

This project provides that distinctive National Park Service quality welcoming experience. We believe it is a gracious invitation to enjoy the waterfront, the Bay and to understand many dimensions of the Port, our shared parks and open spaces and Alcatraz Island whether or not you have a ticket. It will allow us to demonstrate how historic buildings can be respectfully repurposed to serve the public in new ways, help our Rangers tell the Island's

stories of fortification, labor, incarceration, occupation and transformation into a park. And it will be a great, new, civic space to engage people in other issues like rising sea levels that challenge us as residents of San Francisco Bay. We believe this project accomplishes the public goals established years ago.

I will turn the presentation over to Claire Mooney who will present the role of the Parks Conservancy in this project.

Claire Mooney presented the following: The mission of the Parks Conservancy really echoes that of the National Parks Service – our partner. We are here to preserve the national parks. We are here to enhance the visitor experience across the Parks 80,000 acres in over three counties. And we are here to build a community dedicated to conserving the parks for our future best exemplified in the 25,000 visitors that come through our park each year.

We hope as well that the work that we are advancing at Alcatraz Embarkation is in keeping with what Brian said – that we are really working to welcome visitors to the Park and to the Port; that we are looking to engage and interpret at every opportunity and that we are looking to rehabilitate and to steward our public spaces.

One of our favorite and best examples of the Park's conservancy's commitment to restoration of our natural and cultural resources is at Crissy Field. Here we truly feel we have done an exemplary job of welcoming visitors to a well-loved corner of the City and sharing stories of our parklands and our public, open spaces and to providing access to touch the Bay.

Park-wide the Parks Conservancy works closely with the National Parks Service to provide opportunities for folks to experience our parklands over 150 miles of trails and to learn new stories, to gather with friends and to make sure those are as accessible as possible through public transit and through alternative transportation.

Our partnership extends beyond our National Park Service partners where appropriate including partnership with the Golden Gate Bridge Highway and Transportation District here in another well-loved park site.

Through our work with the Park Service and the Golden Gate Bridge District we were able to offer a site that had a lot of goals similar to what we are advancing at Alcatraz Embarkation – to have clear circulation, to make sure that it was safe and a warm place for visitors to gather to learn about the Park as well as to use our welcome centers.

The Park Conservancy operates in partnership eight welcome centers such as this one at the Golden Gate throughout the parklands. These offer places for visitors to be welcomed by park staff both NPS, Park Service and the Presidio Trust et cetera to orient and plan their day for visiting the parks and to learn about more stories.

Our work stretches throughout park lands including ones like Lands End where we have worked to restore trails and overlooks as well as to open this LEED Platinum Visitor's Center.

And more recently this opening of the Presidio Visitor Center which is a great example of our work to not only open visitors' centers and to welcome the public but to do so in ways that rehabilitate and restore our historic resources.

Throughout we worked to integrate a lot of creative opportunities to engage visitors to make sure that those are maps and exhibits that tell them the story of our parklands and offer them new experiences and that help set them on a greater day.

With that I would like to turn the mic over to our colleague Dan Hodapp who will walk you through the design.

Mr. Hodapp addressed the Commission: Good afternoon Acting Chair Halsted and members of the Commission; Dan Hodapp with the Port of San Francisco. The Port of San Francisco is proud and excited to be a partner with the National Parks Service and the Conservancy in bringing forward a project that responds to so many of the public values that we hear over and over. For the next few minutes I will provide a brief description of the project and how it functions, its architecture and intend to show how people will perceive it.

As you are walking along the Northern Embarcadero the bulkhead buildings are quite large, imposing and opaque. When you come to this site it is barely a glimpse in there.

Our challenge was how do we invite the public in there? What are we going to do with this kind of small opening?

The Design Team set out with the goals of access to the Bay while recognizing that the program of the site is a place to gather to get to Alcatraz. What is this site about? What are the concepts we would use in exploring it?

We looked at three, primary concepts – access to the Bay, something that you don't feel on the site presently, the historic port – how do we showcase this National Register Historic District with this project as we renovate the site and provide new opportunity? And then the National Park Service' role of improving the quality of the visitor experience.

Here is when you are standing at the entry and you can see that the view to the Bay has opened up. There is no longer a vehicle entry in this place. There are no longer the barricades and instead there is a public, seating area that welcomes you in and there aren't structures in the way.

It is meant to say this is a pedestrian place, come on in.

The concept that put this forward was as you are walking along the Embarcadero Promenade let's create a big, central space that invites people to go all the way out to the water's edge.

And it is a space for everybody. It is not necessarily just a space for those who are going to Alcatraz.

The public access is greater than just that plaza. It goes around the edges of it and allows to people to circulate around the functions of the place.

Pier 31 will have the café out at the Embarcadero and has some public restrooms and functional spaces in the Pier 31 area.

In the Pier 33 bulkhead will be the Visitor's Center and also some other functions of the operation.

The Embarkation where passengers are going to go to when they enter the site – well first of all they are going to go into the Civic Plaza and that is the main space you walk through.

Most people will be moving to the left of the Embarkation and that should be very clear. Some of them will go to the right for the café.

There are two, light-weight, concrete structures here. Here you see a pedestrian view of those structures. The roofs are tilted or angled so that as you are standing back in this place the view through is really of the Port's historic structures.

They aren't curved roofs. They aren't roofs that block. The roofs provide grounding for the functions that take place in those.

If you are coming back on a boat the structures are again at the right angle, so you understand the program of the site. You can see where you took off for your embarkation. You get a great view of the central, public space and you can see through further to the left where the food is.

This was very finely tuned with the help of our project architect CHDD and landscape architects CMG. They set these so that they could serve the program yet preserve the views and the function of what we wanted to bring to the site.

Out at the end of the public space another public seating area with ample opportunity to spend a little more time and rest.

The plantings will be mixed throughout the deck. They will be either native to the Bay environment, the Bay Area or some of the historic plantings from Alcatraz Island.

Interpretation is a big role of the Park Service here. It is one of the things they do so well. There will be three main themes of interpretation.

The center one as you walk in is about the Port and to the left you will see the story of prison and protest. It is getting you ready for that tour of Alcatraz.

As you return it is about protection and about GGNRA's role of conservation of the Bay and protection of its resources.

And so, the three different stories are told. And all those numbers represent where the interpretive may be occurring on site.

Here you see the menu of options that the team is looking at currently to provide that interpretation for the visitor and public experience.

Many of these they have had experience with and using it at some of the other park facilities.

Here you see examples of the public seating that is going to be on site. It pulls from some of the other successful along the waterfront. It is very simple and made of sustainable materials and this project will apply for a very high level of LEED accreditation.

It is the existing wharf that is at a good elevation. There will be a topping slab on it for aesthetic purposes and also to create appropriate drainage.

We show the railing here because on all the Port projects we take the bottom foot of these railings and make it solid so that we control wind-blown debris from going into the Bay.

That concludes my talk on this, but I do want to thank Morgan Chow and Ethan Lavine for taking a number of very complex issues and making it so that hopefully we could present a very simple presentation to you. They have resolved a lot of the problems that we have been able to go forward on and we like the new presentation format as well.

Mr. Aviles continued: I wanted to convey to you that after a long process we really are ready, with your approval, to move forward with this project.

We have not established the specifics of the schedule, but we are ready to start with rehabilitation of the Pier 31 bulkhead which would be the café.

Along with the bulkhead we would make commensurate, public-access improvements. The Park's Conservancy would be taking the lead on the Pier 31 bulkhead.

As we bring aboard our other partner, the new concessioner or ferry boat service we would bring them into this working team.

We are dedicated to committing to completing this in five years. Thank you.

Acting Chair Halsted announced: I think now we can move to a public hearing and take comments from the public and questions from Commissioners.

I will open the public hearing. Are there speakers who would like to address the Commission? (No public speakers came forward) We have no speakers for the public hearing. May I have a motion to close the public hearing?

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

Acting Chair Halsted continued: We would now entertain questions from Commissioners.

Commissioner McGrath was recognized: I have a simple question. During the events the sidewalks and the Bay Trail in front of the site would remain open so there is no disruption of access along the waterfront?

Mr. Lavine explained: That is correct. In the Embarcadero the special events would not go past the edge of the bulkhead buildings.

Commissioner Butt chimed in: I have a question for the Park Service. Over the last several years there has been talk off and on about Richmond providing an alternate or accessory link to the ferry to Alcatraz. Is that just talk? Is there any possibility of pursuing that in the future?

I think the idea being that the Embarcadero is pretty crowded and there is no parking there. Richmond has a lot of capacity.

Mr. Aviles replied: Commissioner you are right in that the Park Service is interested in helping to provide non-car-based access to park sites. And there has been some discussion about potentially serving having access to Rosie the Riveter which is the site that is adjacent to the new ferry terminal in Richmond.

That is not necessarily contemplated within the scope of this project. But that is an active consideration.

Acting Chair Halsted inquired: Well my question is I'm not sure why we should move away from our traditional approach of seeking approval of special events that completely shut down the access.

I think that the applicants we have before us are the highest quality we could have. It is not that I don't trust them per se, but I question why we – it doesn't seem to me that the burden of requesting Executive Director approval twice a year should be very great.

And I think it may be a mistake to change that pattern not because I don't trust them but because it is a standard we have that applies to other places as well. And it may be important to those who want to use that access.

Mr. Lavine responded: It is a judgement call. Maybe it would be worthwhile to hear from the applicants on why they requested it. Perhaps they could explain why they think two days is appropriate.

Mr. Aviles explained: Our experience stems from holding these commemorative events around the Native American occupation of Alcatraz Island.

We've controlled access to that site mostly so we could manage crowds. Those have been free events. We've brought in special guests. We've had programs on that. And just to manage the size of the group we have done things like requesting reservations or distributed tickets through different groups.

That is the nature of what we are looking for. These events would be non-commercial. They would be free and open to the public, but they might have – we need to kind of manage that site a little bit more carefully or collectively.

That is our intention. They would also be educational in nature and related to Alcatraz Island or the Port. So, there would not be events that don't have a connection to the site.

Acting Chair Halsted chimed in: I completely agree with all those ideas although I don't think they are expressed in the permit per se.

And so, I just don't quite understand why it would be burdensome to just express those to the Executive Director each time you needed that rather than having to put it in the permit which becomes a standard for other permits.

Mr. Aviles replied: We can understand that.

Commissioner Scharff commented: I think this is really an interesting question. On the Middle Harbor thing we just sent out a cease and desist order for people not providing us with notice to do these kinds of events.

We have a backlog of some 300 cases and it's climbing on a daily basis. One of the things I wanted to ask the Executive Director is one of the things we at BCDC are going to need to do if we are going to catch up with our backlog of cases is be more efficient and ask ourselves – should staff be spending time on certain things?

Now I don't know if the Executive Director gets – does the Executive Director go out and do this or does he ask staff to put together a report and all of that?

And then obviously the Park Service would need to go ahead for their two events and write up what they are going to be doing.

I am sort of agnostic of whether or not we should agree on doing this. But I do think we need to change the way we do business to be more efficient otherwise we will simply not be able to keep up.

And if the Park Service for some reason and you are not here; they don't submit it and then they have the event and the event goes fine – what is going on in the other places? The event did not go fine and there was lots of damage.

Do we want to go after people for the damage and not supporting all the other conditions they have in the permit? We are talking about things like you need to keep the landscaping up and you need to do this, and you need to do that.

I just raised that because I am not so sure I see the harm here in trying this. But I want to hear from the Executive Director. If this is not a lot of time and effort I am not sure what goes into asking for these exemptions.

And so, if it is a lot of time and effort I think we should try this with someone like the Park Service for an event like honoring the Native American Occupation. I think that is something I feel is a good event and we should go forward on that.

But I really want to ask our Executive Director.

Executive Director Goldzband explained: It is a real good question. I am going to look at Ethan and right behind him is Andrea Gaffney. Andrea is our Bay Design Analyst and is the person who is responsible for most of the plan review that goes on at BCDC.

And thankfully in the budget this year we are actually able to for the first time in BCDC history hire a second Bay design analyst because much of the bottleneck with regard to how the shoreline activities happen run right through Andrea and she is only one person. And it is great that we now have two.

I will be the first to admit that I am not the person who goes out there and does the site visit. And I am not the person who reviews the plans. You should never have Larry Goldzband do that because that is not my core competency.

But I want Ethan to talk about that process and talk about the options that are available to the Commission at this point which would be accept the Staff Recommendation as written, it could be amend the Staff Recommendation to include one event which we all know about or stay the course which is to have each of those two events go through plan review knowing that there is going to be finally a second person helping Andrea.

Mr. Lavine commented: I would say that at the staff level we certainly recognize that it creates some work for us, and it creates some work for the permittees. But we think in the other locations on the waterfront where we do have these plan review requirements to look at special events before they occur that they work pretty well.

And they work the best with permittees who are on top of their game in planning ahead and submitting those materials to us in a timely manner.

We would allow for a period of about 60 days prior to an event during which we would approve the plans and that would happen through Andrea or Andrea's new colleague.

And in terms of the Commission's options the one option would be to accept the recommendation before you today which is to allow for this limited closure for two days a year.

And the basis for that recommendation is that it is a very limited closure in terms of the period of time that this would be shut down. It would be shut down to the public 0.005 percent of the year.

On the other hand, the condition could easily be modified to require that the permittees submit for plan review a request for these events in a timely manner before they occur.

And what we would do is we would look at the event and make sure that on the whole it is a benefit to the public experience and that all the measures that it could take to limit the closure are included.

So instead of being by right that the area could be closed for two days we would review and try and tighten that up to see if we could get it down to 12 hours, 18 hours or whatever.

Commissioner McGrath was recognized: It is an interesting discussion and I am glad the Acting Chair raised it. I think there is a benefit to establishing at the permit stage standards.

And I will use Middle Harbor as an example because it was my idea and I am a little irritated about what happened. (Laughter)

And I remember the findings that were adopted by this Commission and the strategy that we went forward in working with West Oakland to provide a park. It was described in the set of findings as a generous public access and the standard was maximumly feasible, but we were looking for community involvement and engagement.

And with that as a finding I don't think there would have been any problem at the time establishing a process for partial closure for events that didn't disrupt access unduly.

But the advantage of having it come to the Commission instead of the Executive Director is you can establish clear standards.

And this is an example that still irritates me even more and that's the use of Crissy Field for the America's Cup and the initial proposal to use it all and privatize it and make a bunch of money and then – okay, well maybe not so much but there was a certain amount of damage done.

And so, the issue to me is not the closure so much as a set of standards that are transparent to other users that assure that there will be accountability.

And then on a final note – I'm also the chair of the Parks and Waterfront Commission in Berkeley and I've talked to Phil Ginsberg; it is really tough to maintain parks. I wish we were in a world where we didn't have to have events and parks to maintain them but that is not the world we are in.

If we are going to do that and we have to accept that let's have them work and really benefit the parks and not leave the parks damaged.

In this context I don't see two days as unreasonable as long as we understand that rethinking this it probably ought to come to the Commission to set standards. So those are my thoughts.

Executive Director Goldzband commented: So here's another question for Ethan and the staff which is that should the Commission approve the Staff Recommendation as written would it be possible for the staff to come back to the Commission say in three years and provide to the Enforcement Committee just a little report on what happened on those six days. They could also provide the Commission with some kind of knowledge about whether if it is going to propose to do this differently there is some kind of thought process about how that worked so that the Commission can learn from it.

Mr. Lavine replied: Yes, we could do that. One thing to consider might be that if the Commission hears in several years the types of events and thinks that there are modifications that should be required this permit wouldn't allow for that re-opener.

So, if you want to take the cautious approach it would be maybe prudent in that case to modify the condition to require the review on that limited term. And then possibly after a few years the permittees could request an amendment to their permit to establish this by right.

Commissioner Nguyen commented: I was going along similar lines in the context of ongoing authorization. Would there be lessons learned from prior or other cases where you built in the preconditions or the standards as mentioned as part of the ongoing authorization?

And also, maybe a notice of before the event and also after the event report and this way at least we know how it went and whether everything was closed out properly for each event.

Mr. Lavine replied: On many permits for larger, shoreline spaces that have a special-event, programming package we require a bit more in terms of reporting. And that can include a yearly calendar where we look ahead to see what is proposed and that is oftentimes augmented through the year. And sometimes it requires reporting at the end of a certain period of time to see how it affected the public experience.

Commissioner Ranchod commented: I had the same question and concern as Acting Chair Halsted on this issue. I first want to say that it is a fantastic project and thank you for the applicants putting all of this together for us and I appreciate the new style of the presentation. It is helpful for us to quickly digest.

And I think there is a balance between efficiency and increasing our efficiency going forward with permit conditions and keeping in mind the enforcement experience of the Commission and also making sure that when we are changing things there is some precedent associated with that. It would make sense in this case there is an annual, specific event that is appropriate to close and have the whole site on a 24/hour closure for and this is the annual commemoration of the American Indian occupation. It makes sense to authorize that upfront because it is an established event. We know what it is about. And it is managed in an appropriate way.

I am less comfortable with this second one just because it might be more efficient to do so without any standards in place. So, I would suggest amending the special condition to allow for that single, annual, 24/hour closure for that specific event and then continue to have subsequent events that require a whole-site, 24/hour closure to come to the Executive Director. And I don't think it is too much of a burden to continue that process and not create additional reporting requirements around this.

I think that strikes the balance between providing what is being asked for regarding a specific event and entirely appropriate use without creating a precedent for other applicants who will then say – well, why should we have an upfront, whole-site closure because we promise you it is going to be for an appropriate purpose? So that would be my suggestion for an amendment.

Commissioner Gioia had questions: Can you put up the slide that shows the whole area? So, a total closure is a closure of all the public access through this site?

Ms. Chow answered: Yes, except the Bay Trail that is along the Embarcadero. It would still be open.

Commissioner Gioia continued: So, the Bay Trail would still be open. Please show me that.

The only reason I am raising this and this is something that Mayor Butt is probably familiar with – the whole issue of the Crane Way in Richmond; so you have the Crane Way, the Ford Building and you have a very wide area of which for a while the Crane Way was using all of the public access for certain private events when they leased out the Crane Way. And that was interfering with the public access. And there was an enforcement action and all of that was to address that so you would have a – and I think they separated it out now so the public-access component is roped off or marked off and there is the portion of that pier that can be used for the private events. So, the whole purpose was making sure that meaningful, public access was through there. So, I want to understand it.

The value we are trying to achieve here is making sure that there are not a lot of events that interfere with the public access of that space. That is what we are trying to get at here. And this has a lot more space than the Ford Building. So, you've got the Bay Trail still accessible all the time even during the event, but the rest of the space is public access as well. So, it is not private space that is dedicated to the use of this facility – it is meant to be public-access space in addition to the Bay Trail.

I want to make sure I understand this.

Executive Director Goldzband responded: If you take a look at the picture on the bottom, horizontally is the Bay Trail which is the Embarcadero that one walks from Oracle Park all the way to Fisherman's Wharf.

Commissioner Gioia stated: So, the Embarcadero is the Bay Trail.

Executive Director Goldzband replied: Correct. So as you are walking north along the Bay on your right are the historic piers and what this demonstrates is that you will simply during the two days during which that space is essentially blocked off from the general public but which will be available on some kind of ticketed way you can simply walk right by 31, 33 and the like and you may look in but you're not going to take a right and go in.

Commissioner Gioia noted: Unlike the situation with the Ford Building where the private events prevented you from getting through.

Ms. Chow answered Executive Director Goldzband's question: Yes, that is correct. The lighter color on this slide is the public access that is open all of the time and the darker color is what is closed at night. And the majority of the site is public access.

Acting Chair Halsted added: I would just point out the Bay Trail does not run beside the Bay there. The Bay is on the other side of the public-access space. And they are talking about two events a year. If we had a standard by which we measured this other than saying – we think that is a great event. What does that mean?

If we are setting this as a standard for other places how do we communicate that? I don't really know how to think about that other than asking that the staff come up with some standards to apply what would allow us to have an ongoing, 100-percent closure twice a year.

Commissioner Gilmore commented: The one comment I would have about this is I look at this as being crowd control as opposed to an event where it is closed to the public and it is for financial gain.

To me that seems to be a real kind of bright line. And I would also venture to guess – it is an issue of public safety. So, in other words you have this popular event commemorating the Native American occupation and you don't want to have so many people there that it becomes

a public-safety issue. You could have too many people in one, small spot. And if all of the events are of that nature, basically a crowd control kind of thing and it is free to the public and we are only talking about two events a year – then I think I might be able to see my way to letting them have what they want as long as we would specify that these are the reasons this is happening.

Acting Chair Halsted replied: I could understand that and as long as we set a standard for the reasons we are making this judgement I would feel more comfortable with it.

Commissioner McCoy commented: I have the same concerns you have with it. I like the compromise that was suggested where it is by right for the Native American event as they have specified it but the other event which seems to be a little more nebulous and not defined yet that at least for a period of time that this would require review. And that would give the Commission the control to make sure that it does meet the standards that you want to have because if you give it by right forever you've given it by right forever.

Acting Chair Halsted continued: I would be willing to go along with that as long as we can build in the standards by which we have made that decision.

I think the question has been called then. Has the question been called? The motion is on the floor.

Commissioner Butt was recognized: I am trying to sort out who the parties are here. There are three parties named in here – the Port of San Francisco, Golden Gate National Parks Conservancy and the National Park Service. Who is the actual permittee or permittees?

Acting Chair Halsted replied: I think it is the Conservancy. Is that correct?

Mr. Lavine explained: It is a complicated site and it gets more complicated because of the nature of the review you have to do under the Federal Consistency Program and our permitting program.

The National Park Service is the project sponsor. We have to review them under the CZMA (Coastal Zone Management Act). The Conservancy is the operator of the site. The Port is the landlord.

Commissioner Butt asked: By operator you mean the lessee?

Mr. Lavine answered: They are the Port's lessee.

Acting Chair Halsted stated: They would be the ones that would have to conform with this. Is that correct?

Mr. Lavine replied: Yes. All the parties are responsible but yes.

Commissioner Butt continued: If there was an action to review a closure – who would actually be submitting that, the Conservancy? You told me the Conservancy is the permittee.

Mr. Lavine explained: Any of those parties could submit it and all would be...

Commissioner Butt interjected: Well are they all permittees?

Mr. Lavine answered: They are all on the hook. Yes, they will jointly submit the request.

Commissioner Butt stated: I am trying to figure out who the permittee is. I keep thinking about the Scott's at Jack London Square thing where there were joint; I can't remember – the Port of Oakland was the permittee, maybe they were joint permittees.

Mr. Goldbeck chimed in: Just to be clear for the state permit it is the Port of San Francisco and the Golden Gate National Parks Conservancy. But there is also the federal consistency which is the Park Service.

Commissioner Butt continued: That's a processing thing but the people who are actually named on the permit are the Conservancy and the Port of San Francisco.

Mr. Goldbeck replied: Correct.

Commissioner Butt continued: You know this whole discussion about two days a year which are probably going to be in the evening because the ferry is going to run during the day – it just seems like micro-managing to have to submit and let staff review it and that kind of thing.

I mean you are not closing the Bay Trail. You are closing it for a few hours, two days a year; I would just recommend that they provide some kind of notice beforehand so there is public notice about when they are going to be closing it.

But to have somebody review the activities – I mean these are public activities and this is not a private owner who is doing this for profit. These are public agencies and non-profits. They are the good guys. And they are presumably do the right thing. I just wonder if we really need to build all this review into it.

Acting Chair Halsted replied: I think that is a reasonable question. Are there other comments or questions?

Commissioner Ranchod added: I support the motion that was made that was seconded and I think there is a little confusion about the facts here that it is a request for full closure of the site for 24 hours. It is not a few hours a night.

I think there is an established, existing annual use for the commemoration of the Native American occupation of Alcatraz that is entirely appropriate to authorize up front.

So, I support the motion that was made.

Acting Chair Halsted stated: I do too. I would like to add to that motion that the reason for doing that is because it's a great, public benefit. It is free and it is for public safety and crowd control reasons so there is some kind of standard as to why we are doing this that we could use in other cases.

Would the maker of the motion accept that as an amendment?

The Reporter (off mic): Acting Chair Halsted, for the record – what was the motion made?

Acting Chair replied: The staff recommendation.

The Reporter (off mic): The staff recommendation has not been read into the record.

Commissioner Scharff added: We should wait until after the Staff Recommendation is read and then you should amend the Staff Recommendation.

Acting Chair Halsted continued: I thought we had called the question and the recommendation was on the floor. But let's go back to where we were and ask Morgan to make the Staff Recommendation.

Mr. Lavine stated: We will make the recommendation that we mailed to you and we can augment that.

Acting Chair Halsted agreed: Yes, absolutely.

Commissioner Ranchod chimed in: So, I thought that the motion that had been made was to adopt the Staff Recommendation with the amendment to it that I had proposed which was one day...

Acting Chair Halsted interjected: I did too but apparently the staff had not yet

presented it publicly to us.

Ms. Chow presented the following: On July 26th, you were mailed two separate staff recommendations, one for the major permit application and one for the Consistency Determination request. The content of each are largely the same, including the overall recommendation in support of the project with the addition of special conditions.

Staff recommends conditions to avoid and minimize adverse impacts to the Bay, including construction best management practices and a requirement to mitigate for loss of Bay surface area by removing an equivalent amount of derelict fill or debris.

In terms of public access, staff recommends conditions to allow for occasional, limited closure of the public access areas for special events. Staff also recommends conditions to ensure that queues and concessionaire operations are conducted so that they don't spill over into the public access areas. Finally, a condition is included to allow for construction of a future segment of the Bayside History Walk through the Pier 31 shed building, should the remainder of the pier be renovated in the future.

Finally, while the terminal is not anticipated to be in place longer than 2050, the project includes a requirement that a sea level rise adaptation plan be prepared when flooding begins to affect the site should it remain in place longer than currently anticipated.

With these and other conditions outlined in the staff recommendations, the staff believes that the project is consistent with the Commission's law, Plan policies, and approved Coastal Management Program. With that, we recommend that you adopt the two recommendations before you.

Acting Chair Halsted added: And we need to have two separate votes regarding this project. The first is for the major, state permit and the second for the federal consistency determination.

Commissioner Ranchod stated: So I will move adoption of the staff recommendation with an amendment to the special condition for the public access to provide for a single, 24/hour, whole-site closure for the annual commemoration of the American Indian occupation of Alcatraz with guidance that was articulated earlier around the reason for the whole-site closure and authorizing the permittees to apply for a second, whole-site closure on a second, non-consecutive day to be determined by the Executive Director.

Acting chair Halsted asked (off mic): Is there a second to that motion?

Commissioner Scharff replied: I'll second the motion.

Mr. Lavine chimed in: We can read some language which would support that, the recommendation. So here are the modifications that the staff would suggest you make to the recommendation we put before you in the report that was mailed to you.

On Special Condition 2.B.10 for the major permit and the corresponding, Special Condition for the consistency determination – The special event condition that relates to the whole site would be changed to read the following: A special event may occur each year that would restrict public access for the entire site for up to 24 hours in association with the annual commemoration of the American Indian occupation of Alcatraz Island within the area generally depicted on Exhibit C and labelled, "Whole Site." Another event requiring restriction of the public-access areas on the whole site may be allowed upon a finding that such an event provides a public benefit and that appropriate measures have been taken to limit the period

during which the public-access area would be closed. Such an event must be reviewed and approved by or on behalf of the Commission according to the plan review process established in Special Condition 2.A and for the consistency determination Special Condition 2.B.1.

Likewise, the findings would be revised to reflect these changes. In particular the paragraph No. 2.C.I of the major permit and 3.I of the consistency determinations would be modified to read: In addition, limited, partial and full closure of the public-access areas for special events is envisioned and permitted as described in Special Condition 2.B.10. Special events would be allowed to occur up to 12 times a calendar year within a portion of the site east of the Civic Plaza as shown on Exhibit C. Additionally, the full, public-access area could be closed for special events for a period of up to 24 hours within a calendar year. The 24/hour event would include the activities associated with the commemoration of the American Indian occupation of Alcatraz Island held every November. For this event tickets are distributed to the public through Park partners and community organizations. Closure of the public access required for this event would be limited to a period not to exceed 24 hours and would be confined to a relatively small area on the shoreline. When such closure is required public access to the shoreline is still available at locations nearby on the shoreline along the Embarcadero and in close proximity to the project site.

Acting Chair Halsted stated: It doesn't quite incorporate what I said. Commissioner Ranchod is that acceptable to you?

Commissioner Ranchod replied: That is acceptable to me because I understand the basis for the single event and the request for the second one requiring authorization and approval by the Executive Director.

Commissioner Scharff (off mic): It is acceptable to me. I feel it is good language.

Acting Chair Halsted added: We were saying that the reason for accepting the Alcatraz event is because it is free to the public, of great, public benefit, it is crowd control and a safety issue and that would be in the findings.

Commissioner Vasquez chimed in: I have a question before I offer a different motion. So, the conditions on the first one, the Native American event, the one that this motion currently wants to do by right – wouldn't those same conditions apply to the second?

Mr. Lavine asked: What was originally proposed in the Staff Recommendation?

Commissioner Vasquez replied: Yes, in the Staff Recommendation.

Mr. Lavine answered: Yes, in the Staff Recommendation was to allow the closure of the site...

Commissioner Vasquez interjected: But the same conditions would be on the second one that they would have to come back to us for.

Mr. Lavine explained: No actually it is as recommended by staff in the original recommendation and no additional review would be required.

Commissioner Vasquez noted: There is an additional review then?

Mr. Lavine answered: Exactly

Commissioner Vasquez continued: The first one is by...

Mr. Lavine interjected: The first one is by right and this one requires staff review.

Commissioner Vasquez asked: And that is in the Staff Recommendation?

Mr. Lavine replied: Yes.

Commissioner Vasquez added: Right now – not with the amendment to that.

Mr. Lavine explained: As it stands right now those two days are allowed by right and don't require any additional staff review. That is the request and that was mirrored in the recommendation.

Commissioner Vasquez continued: Okay but I am still asking about your recommendation.

Acting Chair Halsted added: The motion on the floor.

Mr. Lavine replied: The motion on the floor is...

Commissioner Vasquez interjected: No, no, no – staff's recommendation was that these two events be by right. Correct?

Mr. Lavine responded: Correct.

Commissioner Vasquez continued: But the same conditions that are on the first one we are trying to give by right would also apply to the second one.

Mr. Lavine explained: For one day and not for two days. Just for the day of the American Indian occupation.

Commissioner Vasquez re-emphasized his point: No, no, no. So, to approve the second one you would apply the same conditions would you not? That is why you are recommending it in the Staff Recommendation.

Mr. Lavine replied: Yes, subject to plan review. Yes, the idea is that up to two days are allowed subject to plan review.

Commissioner Vasquez stated: So that would be my motion to move staff's recommendation and if I don't get a second we'll see.

Acting Chair Halsted asked: And that is a substitute motion?

Commissioner Vasquez stated: That is a substitute motion, so it goes first.

Acting Chair Halsted continued: And would that incorporate the findings by which we made the determination?

Commissioner Vasquez replied: No, the staff's recommendation – straight.

Acting Chair Halsted continued: Okay, is there a second to that motion? (No second was voiced) Then I guess we fall back to the first motion if there is not a second to this one.

I should ask the applicants whether they have reviewed this Staff Recommendation and whether or not they could agree to it.

Ms. Moonet stated: Yes, Claire Moonet with the Conservancy is comfortable with the amended recommendation.

Mr. Hodapp was recognized: Dan Hodapp with the Port of San Francisco – we are comfortable with the Staff Recommendation and the conditions presented in the amended condition as well.

Mr. Aviles addressed the Commission: Similarly, we are comfortable with the recommendation. And we appreciate the thoroughness of your discussion.

Acting Chair Halsted stated: We have a motion and a second on the floor.

Commissioner McGrath chimed in: As the first effort by the new staff member, I just want to appreciate the staff work. I read this last night and all the questions I had were very clearly laid out. I really appreciate the new style. I wanted to make sure you didn't get out of here without kudos.

Commissioner Showalter commented: I have a comment not related to what we have been discussing but related to the flooding and adaptation. I was really pleased by this because you described this in terms of doing the evaluation in terms of an episode, a flooding episode. And that is so smart because that is the way flooding occurs. It is an episode.

So many times in permits it is laid out – we are going to look at it every five years, we are going to look at it every 10 years and that is not how Nature works.

So, I am really happy to see that you did this on the basis of an episode, and I hope going forward we will continue with that.

Acting Chair Halsted continued: It is time to call for the vote. I would instruct Peggy to call the roll on the state permit. Thirteen votes are needed to approve the application. The federal representatives cannot vote on this motion.

MOTION: Commissioner Ranchod moved approval of the major state permit portion of the staff recommendation, seconded by Commissioner Scharff.

VOTE: The motion carried with a vote of 17-0-0 with Commissioners Ahn, Showalter, Butt, Gilmore, Scharff, Gioia, Eckerle, Pemberton, McGrath, Ranchod, Sears, Vasquez, Nguyen, Hilmer, Wagenknecht, Holzman and Acting Chair Halsted voting, "YES", no "NO", votes and no abstentions.

Acting Chair Halsted continued: then we would like a motion and a second on the Staff Recommendation as amended regarding the federal consistency determination.

MOTION: Commissioner Ranchod moved approval of the federal Consistency Determination portion of the staff recommendation, seconded by Commissioner Scharff.

VOTE: The motion carried with a vote of 17-0-0 with Commissioners Ahn, Showalter, Butt, Gilmore, Scharff, Gioia, Eckerle, Pemberton, McGrath, Ranchod, Sears, Vasquez, Nguyen, Hilmer, Wagenknecht, Holzman and Acting Chair Halsted voting, "YES", no "NO", votes and no abstentions.

9. **Public Hearing and Possible Vote on Issuing a Brief Descriptive Notice to Initiate San Francisco Bay Plan and San Francisco Waterfront Special Area Plan Amendments, Bay Plan Amendment No. 4-19.** Acting Chair Halsted continued: Item 9 is the Commission consideration of a Brief Descriptive Notice for a proposed Bay Plan Amendment on whether or not to initiate the process of considering a proposed amendment to the San Francisco Bay Plan and San Francisco Waterfront Special Area Plan to change the boundary of the Park Priority Use Designation at India Basin along the San Francisco waterfront. Shannon Fiala will present the staff recommendation on this item.

Planning Manager Shannon Fiala addressed the Commission: Thank you Acting Chair Halsted. My name is Shannon Fiala, BCDC's Planning Manager filling in for Cody Aichele-Rothman, who is on vacation.

BUILD, Inc./India Basin LLC (the "Applicant") has applied to the Commission to amend the San Francisco Bay Plan and the San Francisco Waterfront Special Area Plan, an element of the Bay Plan, to change the boundary of the Waterfront Park Priority Use Area to remove approximately 18 acres of the designation to allow for the construction of the 700 Innes Avenue Mixed-Use Development Project at India Basin.

This is the first in a four-step process. So, the question before you today is whether or not to initiate staff analysis of this Bay Plan Amendment. So, we have not actually conducted any analysis to date.

If you vote to initiate then we will publish the notice announcing that we are starting this process.

The second step would be for us to publish our Preliminary Staff Recommendation and we will have a public hearing on this item.

And then third you would vote and fourth our permit staff would come back to you with the recommendation on the permit application for this project.

Bay Plan maps are an integral part of the Bay Plan and they show the Commission how to apply Bay Plan policies to specific areas. The maps also identify the shoreline Priority Use Areas which reserve shoreline areas for water-oriented uses to minimize the need to fill the Bay in the future for such uses.

Bay Plan Map 5 shown here shows the Waterfront Park Priority Use Area at India Basin extending inland from the Bay shoreline beyond Innes Avenue.

The San Francisco Waterfront Special Area Plan is an element of the Bay Plan that applies Bay Plan policies with more specificity for the Port of San Francisco's jurisdiction along the San Francisco waterfront. Special Area Plan Map 7 shown here is proposed to be modified to reflect the change in the Waterfront Park Priority Use Area boundary outside the Port's jurisdiction.

The 700 Innes Avenue portion of the project is a proposed, mixed-use development located outside of BCDC's 100-foot, shoreline-band jurisdiction. The proposed site plan can be seen on the right and the existing uses on the project site can be seen in the aerial photo on the left. They are primarily industrial including truck and construction equipment storage.

The remaining portion of the project site is proposed to be retained for enhancement and expansion of the existing India Basin Open Space shown in the photos on the left. The India Basin Open Space portion of the project, shown on the right, will include public amenities such as a new recreational beach, a public boat launch, wetland habitat enhancement, stormwater retention features that serve the proposed mixed-use development at 700 Innes Avenue and a network of trails and gathering spaces. The Applicant, the Port of San Francisco and the City of San Francisco Recreation and Parks Department will seek a BCDC permit for this project.

The area proposed to be removed from the Waterfront Park priority use designation is shown on the left outlined in yellow. Prior to reducing or eliminating a Priority Use Area that had been designated because of contemplated acquisition necessary to implement the priority use the McAteer-Petris Act requires that the Commission must first make a finding that there is no substantial probability that a public agency will be committed to acquiring the Priority Use Area within a three-year period.

In 2008 BCDC staff inquired if the City and County of San Francisco intended to purchase the property comprising the 700 Innes Avenue project site and to build a waterfront park extending inland from the shoreline to Innes Avenue. In response the City staff confirmed that the zoning at the site was industrial and that it was privately held.

The City's zoning districts shown on the right include a "public" designation covering the area that is currently developed as the India Basin Open Space and the interior of the site was

zoned for "light industrial" uses. In 2018 the City amended the Planning Code and Zoning Map to create the "India Basin Special Use District", which is not shown here, to allow for the construction of the mixed-use development at 700 Innes Avenue approximately in the area shown in grey.

If the Commission votes to consider the amendment application the amendment request will be reviewed for consistency with the McAteer-Petris Act. The staff will distribute a report on the proposed amendment with the staff's preliminary recommendation and environmental assessment for the specific changes to the Bay Plan to all Commissioners, Alternates and interested parties at least 30 days prior to the public hearing. Upon conclusion of the public hearing and after submission of the Executive Director's Final Recommendation the Commission can vote upon the proposed map changes.

That concludes staff's presentation. The applicant is here to give a more detailed description of the project.

This is Jillian Blanchard representing the applicant.

Ms. Jillian Blanchard addressed the Commission: I am representing BUILD, the applicant for the Bay Plan Amendment for the India Basin. We thought it would be helpful to give you a little bit of an overview of the history of the land-use approvals and the CEQA approval process and a little more context on the project at issue.

Here you see the existing area. The map on the right shows the India Basin as a whole and it shows that there are four projects that are highlighted: India Basin Shoreline Park, 900 Innes, 700 Innes which is the Mixed-Use Development Project and the India Basin Open Space.

Back in 2015 BUILD in conjunction with the city of San Francisco did a lot of community outreach to discuss this project and they set up an India Basin Working Group. They had discussions with tenant associations, neighborhood groups, prepared workshops and a task force to discuss with the community what it is they wanted to see in India Basin and how to enhance the existing parks, how to improve and create new parks and also what kind of mixed-use development would be appropriate for the site.

They did a total of 152 meetings, but it was probably a lot more than that when they got to the CEQA approval process.

In 2015-2016 BUILD ended up sponsoring the CEQA document with the San Francisco Planning Department to cover all four of these projects for India Basin.

It is the India Basin Open Space Project which is 11.6 acres and it is being proposed by BUILD as a co-applicant with San Francisco Recreation and Parks and the Port of San Francisco.

Then there is a small 900 Innes Project that is being proposed solely by the Recreation and Parks and the India Basin Shoreline Park which is also being proposed solely by Recreation and Park.

And then the 700 Innes Project which is the mixed-use development adjacent to the Shoreline Waterfront Parks that will actually create a Community Facilities District to fund the long-term management and maintenance of these waterfront parks.

The removal of the 700 Innes Project from the Waterfront Park Priority Use Area is necessary to allow for the mixed-use development which will then thereafter fund the three waterfront parks at India Basin.

All four projects were included in the CEQA document which was certified in November of 2018. That approval also included all of the General Plan amendments, zoning amendments and the creation of the Special Use District to allow for the construction of these projects.

Ultimately our goal is a l.5 mile, continuous shoreline along India Basin with the four different projects combined.

Commissioner McGrath chimed in: Go back to that for a second because I am having a little bit of trouble physically locating which exactly is the property.

If you look at this map right above Heron's Head and right to the right of Hunter's Point shoreline – that is the property in question?

Ms. Blanchard replied: Right and the very next slide will help make it a little clearer.

We want to talk about the site amenities that are proposed that would be consistent with the Waterfront Park Priority uses. You can see there is a proposed boat launch, there are picnic facilities, there are hiking trails, biking trails, a shoreline boardwalk and a number of overlooks and viewpoints.

This slide shows the access and circulation that we are proposing which will extend the Bay Trail across the site as well as a shoreline boardwalk and additional hiking trails.

Here you see the mixed-use development portion of the site, the 700 Innes Project, which will have residential, commercial and a public market, as well as some additional open space.

And it has been designed to connect the hiking trails together with the India Basin Open Space Project. We will be working with staff when we submit the BCDC permit application on the exact design of the India Basin Open Space.

Ms. Victoria Lehman is with BUILD and much more familiar with the project site.

Ms. Lehman spoke: Evans isn't necessarily on any of these maps and it is north of India Basin Shoreline Park. India Basin Shoreline Park is also north of the subject property.

Commissioner Scharff was recognized: So right now under the Bay Plan the 18 acres are designated for waterfront park; and how big is the other piece that is going to be left for the Waterfront Park?

Ms. Blanchard explained: The India Basin Open Space portion will be 11.4 acres.

Commissioner Scharff continued: So right now, all of it – 11.4 acres plus the 18 acres – is in the Bay Plan as Waterfront Park.

Ms. Blanchard answered: Correct.

Commissioner Scharff expanded his inquiry: And your proposal is to remove 18 acres of that from park designation and build a mixed-use project.

Ms. Blanchard replied: It is 18 acres of the inland portion of the site to build the mixed-use development.

Commissioner Scharff continued: Right. And the reason we should support this is because it will provide a funding mechanism to build the other parks. Is that correct?

Ms. Fiala replied: This is just the first step of whether or not to initiate the process and we will do our staff analysis and present that to you for your consideration in our staff report and we will discuss it at the public hearing.

Commissioner Scharff asked: Why as a Commissioner who believes in parks and recreation – why would I vote to initiate a Bay Plan Amendment to remove 18 acres of park? I mean that is the question before me.

Why would I do that? I understand if it is for a funding mechanism to fund the rest of this and I have to weigh whether or not that is worthwhile.

Other than that, why would I do it?

Acting Chair Halsted noted: It is not expressed in what is before us and so that is the question. I think we all understand that this is what is being intended but it is not presented to us that way.

Ms. Fiala stated: And I can provide a preview of the analysis that we will get into that we have not fully gotten into yet.

This site was originally zoned in 1971 perhaps in the first zoning map for the city of San Francisco as an open space. I think the parcel has always been privately held and so somehow an open-space designation went on to a privately-held parcel and we will investigate that and how that happened in the first place. But that was the map that BCDC based its Bay Plan Maps on when the Bay Plan Maps were created in 1971.

In 1985 the City Parks and Recreation Department allowed the 700 Innes Avenue parcel to be sub-divided and development to be proposed there. It appears as though the development never happened because it is currently a vacant parcel for the most part.

So essentially what we would be doing through this process is bringing our Bay Plan Maps up to speed with the City Zoning Maps. Formerly this parcel was zoned industrial and an industrial park was proposed there at one point. As Jillian said as a part of their project they have gone through a zoning map change and General Plan amendment to change the zoning of the site to the "India Basin Special Use District".

And we would cover all of this in our staff analysis, but this is a case where BCDC's Bay Plan Maps are simply out of date with the local maps.

Acting Chair Halsted stated: I think the reality is that we are just approving initiating the review. That review should include the rationale. So, there will be presented a rationale for a change if we review it.

Commissioner Scharff acknowledged the input: Right I understand that. I haven't seen where we remove park land and I have never seen this before. And so, the question is – do we just automatically say; yes, go do this and we'll then make the decisions based on the information you come back with.

Do we normally approve these perfunctorily or do we normally say – well, I don't know, does that make sense, you need to have a better reason or what are your reasons? I mean what is the standard for that?

And then the other part in McAteer-Petris Act it says prior to reducing or eliminating a Priority Use Area we need to make a finding that there is no substantial probability that a public agency will be committed. It doesn't just say the city of San Francisco – it says, "a public agency." There are a lot of them out there that buy properties.

And so, what does that mean? Do we have that finding before we do this analysis? Or will this analysis come back to us and will you ask all of the agencies in the Bay Area that acquire land for public, open space and they say yes or no on purchasing of this land? Or does it mean you just contact the city of San Francisco?

Mr. Goldbeck replied: You are correct – we have not done very many of these kinds of deletions of park priority use areas designations.

What typically would happen is that analysis would be done as a part of the staff analysis that is going to be part of the document that we would mail out to you and you would have 30 days before the public hearing to review it. And so it would include that analysis of whether anybody else was thinking about purchasing the site for a public park.

Right now, we did some initial analysis and found that the main folks who put this designation or told the Commission that back in the day that they wanted this designation and have determined that they do not plan to purchase it for a park. But we would go and cast the net further to see if somebody else is willing to do that before we mail out the staff report.

So, this really is if there is something that is just such a non-starter then the Commission might decide not to do it. But typically, most of the analysis is done in the staff report.

Commissioner Scharff asked: Would I be correct to say it is a really low bar for us then to say – yes – it is no indication that we like the project and that we would be willing to vote for it?

I would have been much more comfortable if the applicant came forward and said – this is a good project because we're doing X for the community and it is worthwhile to make this trade-off and I didn't hear that argument. I didn't hear why I should vote for this. All I heard is I am removing 18 acres of park. I mean I could come up with a bunch for you. If a number of benefits were given to us then I would be more comfortable in initiating this and I haven't heard that. I was really wondering what the standard is – do I just vote for these things?

Ms. Blanchard replied: I didn't get into too much of the substance because this is just a vote to initiate. But I would be very happy to tell you about the benefits of the project in that the entirety of India Basin with the CEQA document that was approved will result in 24.5 acres of open space and an enhanced and new expansion of the existing parks which we have noted are very blighted.

The areas that are being proposed as the mixed-use development are mostly part of what was zoned light industrial so it is not actually the areas that are currently being used as park and they have been designed in close connection with the community for over four or five years to figure out what it is they want.

So, we have a public market there that has been designed. There are a lot of extra corridors. There is seating and a boat launch. All of these things were not part of the original design but have been added with the help of community input.

We have had extensive input and discussions with the local community.

Acting Chair Halsted stated: I have heard from the locals and they have a great deal of enthusiasm for this, but this didn't come forward in what came to us today. Please understand that we are looking at why we should initiate this review.

Commissioner McGrath commented: I share the concern about losing park land. What is missing in this is the context. I am well aware that there has been a blue-green way effort that has been underway for many years. And I am also aware having been down to this with one of the two activists both of whom have passed away who have been trying to get this area open that a designation on a BCDC map is not yet a park.

But I think there needs to be a context to make sure as the statutory basis for our decisions is maximum, feasible public access. So, what is feasible? What does the community really want? What does the blue-green way designate?

I appeared at one of the workshops for the kick-off of the blue-green way and that seems to be the context. What can the City require in terms of open space as it redevelops this area? And what is really feasible?

In moving forward to allow the process to go forward I'm not committed to voting for it. I am committing to figuring out whether more or less is feasible, but I am also aware that this area hasn't had the waterfront access that I think It deserves. And so, I think we need to keep both of those things in mind.

Acting Chair Halsted announced: I would like to open the public hearing and then come back to the Commission for a vote after that.

I am now opening the public hearing on this matter. Is there anyone from the public who would like to address us on this issue? (No comments were voiced)

Seeing none is there a motion to close the public hearing?

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

Commissioner Butt commented: I am trying to understand the context of a park priority area. I really understand port priority areas. (Laughter) And I understand that an area designated as a port priority area on the Bay Plan that a local jurisdiction cannot adopt a general plan or rezone it for something else and ignore that.

Does the same thing follow with a park priority area?

Mr. Goldbeck explained: The way that the priority use areas were set up were to take areas that were needed for uses that otherwise could be allowed for filling the Bay and Wildlife and Parks was a part of that but the thought always was that this had to be voluntary and you couldn't force local folks to acquire or keep a place for parks. And that is why the language was put into the McAteer-Petris Act to make a finding as to whether somebody was willing to buy that for a park.

And if nobody was willing to buy it then the Commission should remove that designation from the site. So, what you are really doing today isn't deciding whether it is a good or bad project but to say – are you willing to listen and let staff do the analysis as to whether somebody is willing to buy it for park use.

Commissioner Butt continued: I get that and so as I understand it the protection of a park priority area is sort of down below that of a port priority area. It is more of a voluntary thing rather than a hard-and-fast rule.

Mr. Goldbeck replied: Yes. It was set up so that before somebody could turn a place into something other than a park that the Commission would have to look around and see if somebody is willing to preserve it as a park but not just keep it regardless of whether anybody is willing to do that.

Acting Chair Halsted stated: So that will be done in the next process ahead of us.

Commissioner Eckerle was recognized: I am still trying to get my head around where our authority is, given that the portion for this project is outside our jurisdiction even though there is a Bay Plan Map designation for a park. And I don't know if it would be helpful – are we operating under other constrictions or things that we should be aware of as we consider this?

Mr. Goldbeck replied: Yes, that is correct. Outside of the 100-foot shoreline band these designations are advisory under state law, but the interesting thing is if there is federal funds under the Federal Coastal Management Act you can and have looked at those because they would potentially affect the coastal zone.

But if you allow a federal agency to grant something that would then require Bay fill going down the line you could object to it on that standpoint.

So, we actually have done that before. I am not sure if that applies in this case or not. So, in the 100-foot band these things are mandatory and outside the 100-foot band they are advisory.

Commissioner Ahn commented: I appreciate Commissioner Scharff's comments on the broader context. I think the applicant and the staff have heard loud and clear that it would be nice to have more explanation and although we haven't passed the Environmental Justice Plan Amendment yet, there are a lot of touch points here as well that we need to be mindful of.

Acting Chair Halsted asked: Is there a motion and a second on the staff recommendation?

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

Commissioner McGrath commented: I think the boundaries of the Commission's authority need to be clear. We are all a little confused up here.

In the discussion as we go forward, if this motion passes, I want to understand what the limits of our authority are. But I also want to understand and underscore what I said earlier – I want to see the planning context that the City has gone through, particularly the blue-green way and how this is either consistent or implements it or in whatever way and I want to know the views of the community. I want a summary of what they have said because I know they have been very active in trying to improve access. I want us to understand how they see that working.

VOTE: The motion carried with a vote of 18-0-0 with Commissioners Ahn, Showalter, Butt, Gilmore, Scharff, Gioia, Eckerle, Pemberton, McGrath, Ranchod, Sears, Vasquez, Nguyen, Hilmer, Wagenknecht, Ziegler, Holzman and Acting Chair Halsted voting, "YES", no "NO", votes and no abstentions.

10. **Adjournment.** Upon motion by Commissioner Gilmore, seconded by Commissioner Gioia, the Commission meeting was adjourned at 3:04 p.m.

Respectfully submitted,

LAWRENCE J. GOLDZBAND
Executive Director

Approved, with no corrections, at the San Francisco Bay Conservation and Development Commission Meeting of

R. ZACHARY WASSERMAN, Chair