

# San Francisco Bay Conservation and Development Commission

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**TO:** Bay Fill Policies Working Group Members

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**SUBJECT: November 15, 2018 Commission Bay Fill Policies Working Group Meeting Summary**

**1. Roll Call, Introductions, and Approval of Agenda.** Chair Barry Nelson called the meeting to order at the Bay Area Metro Center, 375 Beale Street, Ohlone Room, First Floor, San Francisco, California, at 11:04 a.m., and asked everyone to introduce themselves. Bay Fill Policies Working Group (Working Group) members in attendance included Commissioners Katerina Galacatos, Sam Ziegler, Barry Nelson, and Patricia Showalter. BCDC staff in attendance included Shannon Fiala, Jessica Fain, Brenda Goeden, Megan Hall, and Anniken Lydon. Also in attendance was John Coleman of the Bay Planning Coalition, Shani Krevsky with the Exploratorium, and Kelly Malinowski of the California State Coastal Conservancy and San Francisco Bay Restoration Authority.

**2. Approval of June 21, 2018 Minute Minutes.** Chair Nelson asked for a motion to adopt the minutes of June 21, 2018. The Working Group members approved the draft minutes.

**3. Review Bay Plan Amendment Work Plan and Timeline.** Chair Nelson stated the timeline was delayed due to staff changeover. Megan Hall, BCDC Coastal Scientist Project Manager of the Fill for Habitat Amendment, reviewed the updated Bay Plan Amendment Work Plan and Timeline chart (Fill for Habitat Project Schedule), which was included in the meeting packet. She referred to the Engage with Key Stakeholders item under the Scope and Organize section of the Fill for Habitat Project Schedule and stated she is in the process of setting up interviews with stakeholders. She stated the stakeholder interview process will continue into January of 2019. Ms. Hall briefly walked through the tentative goals of upcoming Working Group meetings on January 17, March 21, and April 18, 2019.

## **Questions and Discussion**

Chair Nelson asked if a PowerPoint will be presented to the Commission, and whether there was a slide that shows how the Fill for Habitat amendment fits into the other amendments. Ms. Hall stated she will present a PowerPoint at the Commission meeting today, and that the presentation did contain a slide showing the timeline of all the amendments. Chair Nelson stated not all items listed on the Fill for Habitat Project Schedule chart are within the scope of the Working Group but a number of them are.

Ms. Hall displayed the PowerPoint slide depicting the Six-Year Upcoming Amendments chart that would be presented to the Commission. The chart came out of the series of public workshops on rising sea level. It is meant to chronologically lay out how various efforts - legislative policy amendments, guidance changes, and planning efforts - were planned for the next six years. The chart is outdated as it was created in July of 2017, and staff is waiting to have a more comprehensive discussion about that before formally addressing the schedule. Other Bay Plan Amendments that will need to be addressed were depicted on the chart, including the Mitigation, the Beneficial Reuse, the Adaptive Management, and the Fill for Flood Protection Bay Plan Amendments.

Ms. Hall noted that public access would also likely be a separate amendment process. The public access piece was not added into the Six-Year Upcoming Amendments chart that will be presented at the Commission meeting. Staff wanted to ensure that it was introduced properly prior to sharing the timeline with the Commission. She stated the Working Group and the Commission will need to discuss in greater detail where the public access piece will best fit. Chair Nelson suggested a discussion on that prior to drilling down into the details of the Fill for Habitat Project Schedule chart.

Chair Nelson asked Ms. Hall if she spoke to the Working Group members about the public access shift. Ms. Hall stated she spoke to Working Group members about moving it to a separate amendment and all members were in agreement to do so. She stated she did not discuss where it would fall in best because this kind of schedule is decided based on much input. She stated the need to gather input and have the right discussion about it first.

Commissioner Showalter stated one of the things of concern about the scheduled amendments is having fill for flood protection looked at separately. The Bay fill for habitat and the Bay fill for flood protection have many things in common. She stated it would also be a stretch to disconnect them in terms of the new information related to sea level rise and the need for the marshes to be restored by 2030. She suggested combining the Bay fill for flood protection with the Bay fill for habitat, and asked Commissioners for input on how to incorporate fill for flood protection. She stated they are inextricably linked, especially in the South Bay, and that the fill for habitat amendment cannot be allowed to go forward until the flood protection component is determined. Much of the fill for flood protection comes from inland, whereas the raising of the levels for marsh plane elevation where vegetation begins to form is expected to come from the water.

Chair Nelson stated the salt pond restoration projects could equally and legitimately be called habitat projects or flood protection projects because they are so connected in that location. Other Bay Plan Amendments such as Beneficial Reuse are directly connected with both flood management and habitat issues, and Adaptive Management is also difficult to separate. There is a paradox here. The issues are difficult to separate, but, at the same time, advice from staff is that all Bay Plan Amendments cannot be done simultaneously, even though they are connected.

Commissioner Showalter stated one of the things the Working Group needs to do is to figure out why they cannot be done simultaneously. If they cannot be done simultaneously because intellectually one needs to be done before another, then that is that, but if they cannot be done simultaneously because of a lack of resources such as short staffing, the recommendation is to staff up so all Bay Plan Amendments can be done simultaneously. It is the Commissioners' job to advocate for the money so the BCDC has the funding to do the job that Commissioners know needs to be done. Commissioner Ziegler agreed. He stated he is curious to hear why they cannot be connected or what would be required to connect them. It is hard to know where to draw the line.

Commissioner Galacatos stated her understanding of Bay fill and why it was narrowed down to habitat last April was that it is based on the broader perspective of what is going on in San Francisco Bay, not just regionally where there are flooding issues. In a robust discussion about including projects with similar components and development projects that incorporate mitigation that have restoration aspects, the Working Group decided to narrow it down to habitat projects across the Bay with the rationale that they were the most applicable. She stated the amendment is a substantial change to how staff will enact and implement it.

Chair Nelson stated it would be worthwhile to review the minutes from the April meeting. He stated his recollection that the Working Group discussed which projects would be completed soonest. The salt pond projects are on the front end. Commissioner Showalter asked how many projects were approved.

Brenda Goeden, BCDC Sediment Program Manager, stated there are two salt pond projects: the South Bay Salt Pond Restoration Project and the South Bay Shoreline Project. She noted that the South Bay Shoreline Project also had a significant salt pond restoration component. Ms. Goeden described that the South Bay Salt Pond Restoration Project is an intentionally-phased project to adaptively manage the restoration project with the California State Coastal Conservancy and the California Department of Fish and Wildlife's perspective and plan. The project progressively restores while doing studies and adjusting restoration based on the results so the food base or wildlife structure of the South Bay is not radically changed. The San Francisco Bay habitat is important because it is part of the bird migration route to Alaska. She stated the need not only to consider restoration of the area but to consider its broader uses. The South Bay Salt Pond Restoration Project is being thoughtfully done and the Commission has approved the South Bay Salt Pond Phase Two. Both the South Bay Salt Pond Restoration Project and the South Bay Shoreline Project are primarily habitat with some flood benefits. The South Bay Shoreline Project, which has the major flood levee, has been approved for phase one. According to the Army Corps of Engineers, it is a flood risk management project with restoration benefits. Ms. Goeden estimated that the next piece of the project will come before the Working Group in April of 2019. She reminded Commissioners that salt pond projects have a different set of tests for fill than the open Bay.

Ms. Goeden stated one of the challenges is barriers in flood protection. Many people want to put tide gates on all bodies of water as they build up levees near their areas, which is significant for the region. The barrier issue is controversial. Commissioner Showalter stated she visited the Thames Barrier, which has a chart that shows the way the Barrier must close more

often over time. She recognized the need to do as much restoration as possible by 2030, and advocates for the horizontal levee or the ring levee with the salt marsh development on the outside.

Shannon Fiala, BCDC Planning Manager, stated the Bay Plan Shoreline Protection Policies were included in the Fill for Habitat Bay Plan Amendment. Staff is interested in exploring what that means and whether it should be included at this time. She stated this will be discussed in Agenda Item 4, below. Anniken Lydon, BCDC Sediment Program Analyst, stated the Commission has permitted flood control projects that include restoration in the past. If they have nature-based solutions, they will not be left out of being permitted.

Chair Nelson stated the Fill for Habitat Project Schedule is phased the right way. The projects that are not ready are stand-alone barriers. Salt ponds are easier to restore but, as they become restored, they become open Bay, which creates more and more places where this will become an issue. Maximizing the potential to reuse material is an important source for habitat recovery. He stated the beneficial reuse piece will be important to follow the habitat piece.

Mr. Coleman asked if there is enough staffing to be flexible for the work, and Ms. Fiala replied there is not. Chair Nelson stated there is not enough funding to do so. He stated there could be conversations about gathering resources to increase staffing.

Commissioner Ziegler stated the schedule is aggressive and should be separated out. The most important question is whether the Commission would inhibit restoration projects with a flood component. As problems become more severe, people will turn to hard solutions. There might be a way to connect habitat restoration to sea level rise more. He did not see a scientific basis to incorporate that in issue papers. His role will be to facilitate communication on this issue.

Chair Nelson emphasized that habitat restoration projects have broader flood benefits. Commissioner Showalter stated messaging to the public needs to push that hard. Habitat restoration is not being done just because; it is good for the habitat and ecosystem, but it also has important economic benefits for flood protection. To bring the electorate to support this issue, they must understand that the two are the same thing. There has not been nearly enough clarity on this in communication to the business community. Kelly Malinowski noted that, in the polling before Measure AA passed, people were interested in habitat and water quality. However, she agreed with the need to communicate that habitat restoration projects do have flood protection benefits. She pointed out that there is now funding for these projects as long as they include a habitat component. In the near term, there is a habitat focus before the flood protection amendment is used for levees and walls.

Chair Nelson stated he heard two different themes: the first is to have a discussion with Commission leadership about staffing and resources and what can be done to accelerate this, and the second is Commissioner Showalter's thought about messaging to ensure that the Working Group is careful when talking about shoreline/flood protection in habitat projects to capture the broader benefits.

Chair Nelson suggested that Ms. Hall test-run that at the Commission meeting during the discussion of these two items by emphasizing that fill for habitat includes the salt pond restoration projects and that the fill for flood protection is more focused on the narrow gray infrastructure issues, such as barriers, that will not rapidly come before the Working Group.

Ms. Hall stated she wanted to ensure that the Working Group is on the same page. She stated her understanding that, at the April Working Group meeting, the decision was that this amendment would be for projects where habitat restoration was the primary goal as opposed to those where shoreline protection was the primary goal even if it was a project with habitat components. She asked to confirm that this was characterized correctly. Ms. Fiala stated nothing said today changes what was said at the April Working Group meeting. The project goal is still to facilitate the construction of projects where the primary purpose is habitat improvement. She stated the point that Commission Showalter was making is to ensure that the public is aware that these projects have multiple benefits that go beyond the intrinsic value of ecosystem protection. Commissioner Ziegler stated most of the projects coming forward will be multipurpose. He stated the need to make them technically and functionally the best multipurpose they can be as opposed to just multipurpose to get funding to check boxes.

Chair Nelson referred to past discussions about the sort of applications that would be seen in the real world. The projects that will be seen sooner are more likely to be the salt pond-style projects that can be fairly described as habitat projects with flood benefits. There may be projects in the gray area but there have not been problems with the gray areas.

Ms. Goeden stated the gray areas are currently being dealt with. Some projects are more challenging than others; there are projects that fit in habitat and others that do not. The primary thing staff anticipates seeing right now is continued marsh restoration projects. The April Working Group meeting also included a conversation about living shorelines. That was part of the conversation that led to having habitat projects because living shorelines can have multiple benefits. So far, the Working Group has seen eelgrass restoration projects, an oyster reef construction and implementation project, and a combination of the two, but has not seen other types of projects yet. What is expected to be seen in the near future is the idea of putting coarse-grained sands or cobble onto mudflats to prevent erosion of marshes. She has reservations about that practice because of the interruption of physical processes. Another practice that is expected to be seen in the near future is strategic placement of sediments. Instead of directly placing sediment in the dry areas to build restoration sites, such as was done at the Hamilton project, it is the idea of placing sediment in the near-shore environment to be washed up onto marshes over time, or bringing a pipe up to the mouth of an open restoration site and increasing the sediment concentration in the water. Ms. Goeden stated staff has been participating in conversations about these things that are currently being piloted.

Ms. Malinowski noted the California State Coastal Conservancy is planning to host living shoreline workshops for individuals in local government. She would be happy to invite the Working Group to attend. The Bayside Living Shoreline Workshop will be held on March 1<sup>st</sup> at the Bay Area Metro Center. The Coastside Living Shoreline Workshop will be held on April 2<sup>nd</sup> or

3<sup>rd</sup>. The workshop will go over the state of the science, what is different on the East Coast versus the West Coast, and perspectives from regulatory, local government, and habitat entities on living shoreline approaches. The California State Coastal Conservancy has been administering a nature-based adaptation program with the Marin Community Foundation, which is now in its second year. Next year, the plan is to test nature-based adaptation pilot projects in Marin County. The hope is that the model will be replicated in other counties as well. The Marin Community Foundation can feed their funding through the Conservancy, and the Conservancy can administer the grant and do testing and workshops to bring individuals together.

Chair Nelson stated there are three takeaways from this discussion. The first is for the chair to talk with Commission leadership about gathering resources to increase staffing. The second is the messaging challenge to ensure that the Working Group is properly capturing the full range of benefits from habitat. The third takeaway is direction to staff to think about phasing, which means figuring out where public access fits in here and, while thinking about this phasing, ensuring that the Working Group did not agree to do something different with regard to habitat beneficial reuse and flood protection. The Working Group has expressed concerns about accelerating and trying to connect the Bay Plan Amendments that are logically connected.

Commissioner Ziegler reiterated that there is radical acceptance of the approach and the understanding that it must be piecemealed. He stated there is a good working understanding. Ms. Fiala pointed out that, once the first two Bay Plan Amendments are completed, it would be worth revising the timeline with all Commissioners and seeing what still makes sense and if the next amendment pursued should be beneficiaries of sediment or another priority that has risen above the others. Chair Nelson suggested leaving the big-picture timeline, and revisiting the Fill for Habitat Project Schedule.

Chair Nelson referred to Mr. Coleman's question about where the economic impacts for this discussion would fall on the Fill for Habitat Project Schedule chart. Mr. Coleman stated it is important to have that discussion. He asked where it should fit in and in which of the workshops. It is important to get the business community to understand the importance of why they need to be involved and what the costs are, and, if there is going to be any appeal to get funding, there has to be an economic basis on why something is being done - not an environmental basis but an economic basis. It is important for scientists, economists, and the business community to agree that it is important and understand why it needs to be done. Ms. Hall and Ms. Fiala agreed that an economic analysis would be a useful component.

Mr. Coleman stated that legal implications should be addressed also. The Bay Plan Amendments have legal implications to the legislation that formed BCDC. That is important to talk about that as well. Chair Nelson stated that is connected with suggestions he was going to make. He recommended, in terms of the research phase, going back and reviewing not only the minutes of meetings but the presentations that guests have presented at past meetings. He stated past presenters are a good starting point for outreach to stakeholders.

Chair Nelson stated that to ensure economic issues are addressed, the timeline should be changed. Mr. Coleman agreed and suggested that this topic gets embedded in the workshops. He stated the timeline should not be slowed down, especially with the recent report on how quickly the ocean is warming. Commissioner Ziegler asked how to close the loop on what Mr. Coleman is saying. He stated it sounds like it is a missing piece that needs to be considered. Ms. Goeden suggested adding it as a discreet task not to be separated out but to be incorporated. She also suggested adding time for it because it is not currently on the Fill for Habitat Project Schedule chart. She stated Ms. Hall is one person and if she has to reach out to individuals on economics and do an economic analysis, which is a valid point, she should not be expected to do that in the same timeframe that she was planning to do everything else.

Mr. Coleman stated the Working Group fortunately has Commissioner Randolph, whose institute has worked with some of that data. Mr. Coleman stated the analysis should be a justification of why it was being done and looking at the amendment from a habitat as well as protection standpoint. The most receptive audience can be found in Washington, D.C. Another part of the analysis for the business community is protection of assets in doing this.

Chair Nelson stated it is not clear to him whether the result of staff's work would be a product different from the Staff Report. Ms. Goeden stated she did not think so. It is a section that needs to be included. Commissioner Showalter stated it could also fit into background research or in draft policy changes. Ms. Hall agreed and stated Mr. Coleman would be a good first interviewee for that topic.

Chair Nelson closed with one thought about public access. There are very important questions about public access as the work is done with salt ponds and other projects around the Bay. The Working Group has already been wrestling with that issue before the Commission. That issue will not necessarily slow projects down. There is a completely different set of issues for shoreline landowners. Everyone who has received a permit from the BCDC in the last many decades has committed to maintaining public access in perpetuity. That means something different in the future than it did in the past and has huge implications. These are important issues to consider as the Working Group starts thinking about what that means as things change in the future. That issue is completely different from the Fill for Habitat issue. Mr. Coleman stated for the next several years there will be challenges caused by sea level rise about how to adapt to public access and accommodate. Chair Nelson stated there are already policies for projects that come before the Working Group now to ensure that public access is adaptable. He stated there is an enforcement/policy problem with regard to all of the decades of permits the BCDC issued before. He suggested considering the public access question in the latter half of this multi-year piece. He stated he wanted to flag that public access issues go way beyond what to do with public access as salt ponds are restored.

**4. Discuss Fill for Habitat Policy Challenges.** Ms. Hall reviewed the background, questions for the Working Group to consider, and discussion materials in the Staff Report, which was included in the meeting packet. She stated Working Group discussion will help her to create a framework to move forward with deeper research issues. She suggested meeting on December 20<sup>th</sup> for further discussion or to communicate via email due to the short time left for discussion at today's meeting. She stated the memo lays out issues, policies, and research questions that

could potentially be relevant to the Fill for Habitat Bay Plan Amendment. She asked Commissioners if they felt that the list was comprehensive or if there were items that should be reframed, added, or removed. The three broad categories under the Discussion Materials section of the Staff Report beginning on page 2 are the categories in the July 20, 2017, Staff Report to the Commission that first put forward the suggestion of adopting the brief Descriptive Notice to start this amendment.

Commissioner Showalter stated the Staff Report was interesting and thought-provoking, but she was struck by the fact that it was negative in that it listed the harms but not the benefits. Commissioner Ziegler suggested thinking about the regulatory process and the acknowledgement that there is an effort to try to put the pieces together better. He asked to what extent, as these policies change, there should be an eye toward fitting them as best as possible with the other regulatory agencies to avoid conflict to meet the goals. Ms. Hall stated she plans to meet with the Water Board during the initial round of interviews and will eventually meet with all agencies to discuss coordinating goals.

Chair Nelson stated he was available to meet on December 20<sup>th</sup>. He asked Working Group members about their availability for the December 20<sup>th</sup> meeting since it is close to the Christmas holiday. Commissioner Showalter stated she also was available. Commissioner Galacatos stated she will be unable to attend the December 20<sup>th</sup> meeting.

**5. Adjournment.** There being no further business, Chair Nelson adjourned the meeting at 12:31 p.m.