

San Francisco Bay Conservation and Development Commission

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June 14, 2019

TO: Environmental Justice Commissioner Working Group Members
FROM: Shannon Fiala, Planning Manager (415/352-3665; shannon.fiala@bcdca.gov)
Clesi Bennett, Coastal Planner (415/352-3613; clesi.bennett@bcdca.gov)
SUBJECT: Draft Meeting Summary of May 2, 2019 Environmental Justice Commissioner Working Group Meeting

1. **Call to Order, Roll Call, Introductions and Approval of Agenda.** The meeting was called to order by Acting Chair Ahn at the Bay Area Metro Center, 375 Beale Street, Claremont Room, First Floor, San Francisco, California, at 11:07 a.m.

Present were Group Members: Commissioner Eddie Ahn.

Not present were Group Members: Chair Teresa Alvarado, Commissioner Sheri Pemberton and Commissioner John Vasquez.

BCDC Staff in attendance included Planning Manager Shannon Fiala, Planner Clesi Bennett, Planner Megan Hall, Planning Director Jessica Fain, Shoreline Development Analyst Yuri Jewett, Permit Analyst Walt Deppe, Chief Deputy Director Steve Goldbeck and Enforcement Analyst Matthew Trujillo.

Also in attendance were former Mountain View Commissioner Pat Showalter, Bay Planning Coalition Senior Policy Associate Roman Berenshyteyn and Brightline Defense Associate Vanessa Suarez.

(Since a quorum was not present Approval of the Agenda was not executed.)

2. **Approval of the April 4, 2019 Environmental Justice Commissioner Working Group Meeting Minutes.** (Since a quorum was not present Approval of the April 4, 2019 Environmental Justice Commissioner Working Group Meeting Minutes was not executed.)

3. **Environmental Justice and Social Equity Bay Plan Amendment Timeline Update.** Acting Chair Ahn announced: Let's launch into Item 3, Environmental Justice and Social Equity Bay Plan Amendment Timeline Update.

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Ms. Bennett commented: We spent the last year on these first three items on the timeline. On January 17th, we had our most recent public workshop where the rest of the Commission was also participating and then last month we had a presentation by the EJ Review Team which is a group that is funded by the Resources Legacy Fund to participate in the process and is made up of several environmental justice organizations and community organizations around the region.

We have also included a public comment letter that they have written with recommendations as part of the materials for today's meeting.

We are working now on how to address these recommendations. Right now we are doing internal review with the draft policies workshopping them with our regulatory staff, our legal staff, planning staff, senior staff – all of the staff. We are hoping still at this point to make that May 17th date which would provide a 60-day public comment period from May 17th to July 18th, however you will see asterisks by the mailing as well as the public comment period. There is a chance that we may need to push that mailing back.

We realize that the internal review and drafting of the policies is taking a bit longer than originally anticipated, so there is a chance that it could be pushed back. And at this point we wouldn't need to change our hearing on July 18th because the regulations only stipulate that we need a 30-day public hearing. So we actually have until the third week of June to technically publish to make that 30-day public comment period for the July 18th public hearing but as we have said before we are trying to publish earlier and give a longer period for folks to engage with the draft policies.

We will be giving short briefings to the full Commission at the next Commission meeting on May 16th. At that meeting, you will hear about this Bay Plan Amendment as well as the Fill for Habitat Bay Plan Amendment as well.

Ms. Fiala added: But because we won't have published yet we probably won't get into much more detail than we've been getting into in these Commissioner Working Group meetings. It may be new news to Commissioners who are not on these working groups.

We are trying to publish the Fill for Habitat Amendment by May 17th and that one has to go out by May 17th because the hearing is on June 20th. The Bay Fill Policies Working Group is working on this.

Ms. Bennett continued: On the next slide you see potential dates for us to meet. However, this is going to be difficult given the fact that we are missing most of our Working Group today.

I can follow up with them later. We could add a meeting on May 16th if we feel we need it. That would be before the Commission meeting.

We have cancelled June 6th and we did this several months ago. We could add that back in if we need it.

We had considered trying to reschedule that meeting for June 20th which would be right before the June 20th Commission meeting. The Bay Fill Working Group is not meeting that day. That would allow us another opportunity to check in before the public hearing and to perhaps explore some of the public comments we may have received by then.

We cancelled the July 4th meeting. And July 18th would be the public hearing. I will send an email out to the Working Group to try to get some feedback on what dates may work.

Acting Chair Ahn stated: The June 20th meeting does seem important to do. I am pretty flexible on May 16th and June 6th as well.

If the other Working Group Members feel a need to do those meetings I can join but I think everything has been running smoothly as far as I have observed.

Ms. Fiala stated: I don't think we will have too much new news by May 16th. We will probably be in the same position as we are today.

Ms. Fain commented: The important thing will be to meet after the public hearing to discuss the feedback that we get at the public hearing with this group to discuss what changes we might make.

Ms. Bennett noted: I didn't project out so far because August seems far away in my mind.

We will have to figure it out depending on how that public hearing goes.

Ms. Fiala chimed in: I do not understand yet what we can say. For example if we were to meet with the EJ Commissioner Working Group on August 1 I guess we could talk about the comments that we received at the public hearing but it really seems like once we enter a public forum we should kind of like keep it in the public forum.

If the Commissioners decide that we need to continue the public hearing to a future meeting; is it appropriate to have EJ Working Group conversations on the side? I don't know.

Chief Deputy Director Goldbeck stated: I don't see why not. There are a number of conversations that will go on and it isn't like we can't keep talking.

Just because there is a public hearing, these wouldn't be a part of the public hearing but that doesn't mean that we couldn't have discussions.

Acting Chair Ahn suggested: We can play it by ear perhaps depending on how much the public differs from what is presented too.

Ms. Fiala continued: If Commissioners have recommendations for how we should change the recommendations on July 18th – is it appropriate to essentially refine those in this meeting? It just seems like it is starting to blur the lines of what we can discuss.

Mr. Goldbeck chimed in: I don't see why not. We are going to be discussing internally about what we want to do and it is just another area of comment. We are not circumventing the public hearing or anything like that.

Acting Chair Ahn added: And there are minutes published too.

Ms. Showalter stated: I would think what really is important is what is helpful to staff. It is not clear until you've done the briefing and received some comments. You might feel like you would like a lot of input or you may not.

That is what we are here to do is to help you.

Ms. Fiala mentioned: I guess keep August 1 in your calendars.

Ms. Bennett continued: I will send a follow-up email about that to the rest of our Working Group who are not here.

So the next thing that I wanted to get some feedback from anyone in the room about – is recommendations on how we roll out these policies and it is not just the policy changes we will have a background report that is all the research that supports those changes.

And the policy changes will be within a staff planning report that contains a number of items that are stipulated in our regulations which I presented to this group a few months ago but they are items like a brief bit of background information, consistency with the McAteer-Petris Act, an environmental assessment – things like that.

So I wanted feedback from this group about who do you think we should reach out to? Are there certain messages you see that are important to tell or story lines about this policy that are important to tell as well as any suggestions about various media outlets that we should be using?

Does anyone in the room have any suggestions as we move forward in rolling this out?

Acting Chair Ahn commented: So the list of organizations that I saw in the past, I thought were very good actually.

Do you have a point-person for each organization that you just rely on in the mass email instance?

Ms. Bennett answered: For some organizations, yes, we do have a point of contact or someone that we know or has worked with BCDC before. For other organizations, we do not specifically have someone who we have worked with. So, it is kind of a mixed bag.

Acting Chair Ahn suggested: So as there are holes maybe let the Commissioners know and then I would personally, for instance, be willing to do some work to go research who is the point person for such-and-such organization.

There are a couple of major professional advocates and also service providers should be plugged into this process.

Ms. Showalter asked: Are we going to have a presentation that you can use and take out to people? Could you use the one used for the briefing about the amendment?

Ms. Fiala stated: We can use a fact sheet or an email blast that could be useful.

Ms. Bennett continued: I think the briefing that we will give on the 16th will still be very broad in nature because we won't have published yet. It will probably be similar to this presentation that you are going to see today.

But I think we could probably put together either something like a fact sheet or a PowerPoint that we could send out that people could read through. I think that this is probably doable.

Ms. Showalter mentioned: In my area the communities to talk to would be East Palo Alto and Alviso. Alviso has a group that meets very regularly and it would be very easy to get on their agenda and give a 10-minute presentation.

I could do that or Teresa could do that. And East Palo Alto, there are a number of organizations that might be appropriate too. It is kind of walking-the-walk and we want to make sure that we get this message out to those vulnerable communities.

I would want to know if people think that we should go to that much trouble or if that is a good idea or not.

Acting Chair Ahn opined: I think if we do that we should have it recorded to show – I don't think it hurts at a bare minimum. Is there a concern that it is not going to the right audience in doing that presentation?

Ms. Showalter replied: No I just don't want to overstep my authority here.

Acting Chair Ahn continued: When are we doing the hiring for our chief information officer?

Ms. Fain responded: It would be in the next fiscal year.

Acting Chair Ahn emphasized: We need all the help we can get. (Laughter) That goes for media outlets too. I have a number of ideas but I think they are only realistic if we have someone who works communications all the time.

But we can talk more offline like what publications will be easier going. The SF Examiner would be one.

Each publication has its own different standard for getting on their platform.

Ms. Showalter added: The League of Women Voters Monitor is a Baywide publication.

Commissioner Ahn stated: And they mail that out to their constituents for free. The Sierra Club Newsletter is another one.

Ms. Fain suggested: Maybe we can follow up offline with getting a little more specific.

Ms. Bennett asked: Anyone else have any ideas or thoughts about maybe different audiences that we haven't perhaps discussed so far, other media outlets, other ideas in general about research or outreach tactics?

Ms. Fain inquired: I have a question about messaging. The message that we have been using thus far has been – the starting point has been sea level rise and the fact that rising seas are going to affect different communities differently.

But as we have been reflecting on what are the actual proposed changes that we are going with. Sea level rise is a bit of it but it is much broader than that. It really has to do more with how BCDC is conducting its business. How we are engaging with the communities. How we are thinking about public access writ large and so we haven't quite put our heads together about what the kind of headline is for this.

Should it continue to be that sea level rise headline or is there a different message that we should be thinking about as we put this out?

Ms. Fiala chimed in: I would be curious to see how the State Lands Commission and the Coastal Commission roll out their similar EJ. I don't recall too many headlines but maybe I just missed it.

Ms. Bennett observed: The definitely had press releases. I can look at for those.

Ms. Showalter noted: It just seems like the backbone responsibility of BCDC is to make sure there is adequate public access. I would think we would want to make sure to include that message because I think a lot of people don't know what BCDC does.

Ms. Bennett stated: The approach that the Coastal Commission took was, how do we tie this to the agency's overall mission? Public access is not stated out front in our mission, it is much broader.

So thinking about just a having healthy, thriving, enjoyable Bay for all people and all future generations is kind of the gist of it. So how we even talk about this from a 30,000-foot-view might be tying it to the mission.

Enforcement Analyst Trujillo commented: Back to media outlets; have you looked at or thought about non-English, speaking mediums?

Ms. Bennett answered: I have thought a lot about it but from what I have been told is we just currently do not have the funding to translate.

Ms. Fiala added: We can explore our options.

Ms. Bennett continued: I don't know if we would – perhaps we could for this specific document. I know specifically the Coastal Commission translated their whole policy. I don't know if we would be able to do that. The background report is running over 100 pages at this point. And the staff report probably almost 50 – so it may be too much to do the entirety of both reports but we do need to think about key points or a fact sheet or something.

Mr. Trujillo stated: That is what I was thinking press releases to those just to raise awareness in those communities. And you can deal with hardcore translations a little later.

Ms. Bennett asked: Do we think we have resources to do something like that?

Ms. Fiala stated: We can look into it.

4. **Environmental Justice and Social Equity Preliminary Policy Outcomes.** Ms. Bennett continued: I am going to move into some of the potential outcomes of the policy changes. I am going to give them with a couple of caveats.

So this is still in the internal review process. As I had mentioned before we are still shopping this around with all of the different units of our staff. So what you see is subject to change.

I also wanted to point out that not everything that we have talked about in this group and not all of the suggestions that you will see in the letter from the Review Team or that I even presented will be included because of the nature of the Bay Plan. It is not a policy where things specific to meeting access or workforce development or strategic planning lie as it is very specific to our regulatory work.

So most of the policies are around issues related to our regulatory program however that doesn't mean that we can't address some of the other recommendations.

Right now as part of the Background Report, we included a section about other ways to implement environmental justice and social equity principles. And this includes things like amending our regulations, creating staff training programs, working with our HR department on our workforce development and hiring practices.

It includes things like just rethinking how we run our meetings and where our meetings are and what not. And that isn't necessarily captured in some kind of policy but can be done outside of the Bay Plan Amendment.

So those will be flagged as either implementation steps or as next steps in this process.

In the next couple of slides I am going to start with the environmental justice and social equity section. This section will probably come before these three other sections and perhaps at the beginning of the second half of the Bay Plan. The first half is the natural resources policies. The second half is more on development. So it will probably be in the beginning of that section.

And then I will dive into public access, shoreline protection and mitigation.

So some potential outcomes of the new section on environmental justice and social equity would be recognition of BCDC's role pertaining to environmental injustice around the Bay Area as we are one of many agencies that approves development.

Some definitions around environmental justice, equity, vulnerable communities, disadvantaged communities and potentially, guiding principles. We are still working out whether the principles should be in their own document as some kind of resolution or if we should even have principles at this point. So that is something that we are still trying to work out.

And then some kind of required community outreach and engagement for certain projects. And that is another issue we are still working out what that threshold would be and what projects really should require some kind of engagement and outreach.

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Some other potential outcomes of this section would be an analysis of environmental justice or equity impacts of projects and what actions the project proponents would need to take to account for any kind of adverse impacts on disadvantaged or vulnerable communities.

And we will also most likely be including some kind of policy around encouraging coordination and collaboration with local governments and other regulatory agencies so we can really address environmental justice holistically. This will try to get to the heart of the issue that BCDC often is late in the process of development approval and some of these steps in community outreach and what not need to happen in the beginning. So how do we coordinate well with our local government partners and other regulatory agency partners in implementing these policies?

Mr. Goldbeck inquired: What do you mean by late in the process? It means that local governments have to give their discretionary permits first and BCDC comes later in the process and not that we take our time or anything.

We have to do it within 90 days of when it is complete and one of the requirements is getting all your local permits.

So that puts us at the end of the game.

Ms. Bennett added: In addition to the local permits also in our filing requirements are your environmental review document, a Water Board certification if you need it, a biological opinion from the Department of Fish and Wildlife if you need it, and more – so often we are at the end of all of the rounds of permits as those are included in our filing requirements.

So because of that some of these items may need to happen earlier than BCDC. So how can we best account for that?

So for public access we are considering looking at studies on public access gaps if they are available for required in-lieu public access.

Again looking at when and what projects should include community involvement in the planning or design of public access, encouraging public access to be inclusive and contain elements of the multicultural and indigenous histories and presences of the area where the public access is.

Signage being in the appropriate languages or icon-based is another potential outcome of this policy and that has an asterisk on it not because we are debating whether it needs to happen but we are debating whether it should be in the Bay Plan or whether it is more appropriate for our Public Access Design Guidelines as we have a specific set guidelines on signage.

So, trying to figure out where some of these policies belong is still up in the air.

Also just generally echoing the sentiment that public access needs to be inclusive for a broad range of activities and for a broad range of people.

So, for shoreline protection one of the outcomes is the consideration of adjacent impacts of a protection structure. So to account for any potential increased erosion or flooding that would occur adjacent or nearby a shoreline protection structure.

Again the community involvement piece. We are still working on what projects should have community involvement.

Also strengthening and recognizing that we still have a commitment to public access with shoreline protection and how do we best realize that?

And then, requiring that contamination remediation projects are looking at the best science around sea level rise, storm surge, and any associated groundwater impacts in the design of these projects.

And lastly for the mitigation policies, determining again what the community involvement should be for these types of projects.

So as of right now those are our major policy outcomes. Like I said this is all still in internal review. So it could change. We are still trying to work out the details.

Most things BCDC staff agrees should happen. A lot of it is what goes in the Bay Plan versus what goes in the regulations versus what goes in guidelines? So that is still being worked out.

But does anyone have any questions or thoughts about any of these outcomes? Any ideas of how BCDC could potentially do any of these things? Or any glaring absences?

Ms. Showalter commented: We talked about the required community outreach and engagement for certain projects quite a bit. I have been mulling over that over time and I really do think that we should require in the application that the community do community outreach that they feel is appropriate. Like we have said, BCDC is kind the last agency in the line and if it hasn't happened by the time they get to us, it is not going to be meaningful.

But by just putting out there that it is a requirement, I think that does a lot. And of course it is important to see how it meshes with other agency's requirements.

I don't know what other agencies like the State Board or Fish and Game are requiring. But I do think just going with the community – the staffs, the city or town's staff knowledge is reasonable; but having them make an analysis.

Ms. Bennett stated: One of the options that we are trying to figure out is: if there has been meaningful outreach done in the local process or in the CEQA process, perhaps even at the Water Board level, that those outcomes could be used for this requirement because we do recognize that local governments are trying to address this generally or at least the ones I have spoken to they all see this as an important issue. So allowing those processes to be used for this type of requirement and also really thinking about this last one – how can we coordinate and collaborate best with the local governments to ensure that this happens long before it comes to BCDC?

Mr. Trujillo stated: I've long felt that I think it does matter when we are talking about EJ, when we are talking about environmental injustice it is not enough to just say necessarily in the Bay Area. When we are talking about creating public access or development because there are the issues of sourcing and disposition, recognizing the fact that we are a huge region in terms of bringing in goods from areas of the world that are facing graver issues of injustice.

So I feel like with recognition, we need to think on that global level of how and where things are sourced and how and where these things are disposed of – I would like to see that somewhere.

Ms. Showalter asked: You mean the construction materials? Is that what you are saying?

Mr. Trujillo replied: Construction materials, public access and the materials that go into building our public access and things like that.

Ms. Showalter stated: That is a good idea.

Mr. Trujillo continued: For example if you are throwing out a bench and replacing it with a new one where is that going to end up? It is going to end up probably in the ocean somewhere or on some beach in Southeast Asia.

There needs to be some really active thought about that supply chain and the closed-loop aspect of that activity.

Mr. Berenshyteyn inquired: Looking at that third bullet what kind of projects would be exempt from that required outreach?

Ms. Bennett answered: That is something that we are still figuring out internally. But I think I would feel comfortable saying that very small-scale repairs, like routine maintenance probably anything like a single-family home's deck or peer or what not, I would imagine that those things would probably be exempt.

But we are still trying to figure out that fine line of what should and shouldn't. Is it just larger projects or just major permits or is it some of the minors? That is what we are still trying to work on, but we also know that we don't want to burden small applicants with a process that would be too much of a lift for them especially if it is a public access project where they are replacing a trash can, they probably don't necessarily need a whole public engagement process on that. (Laughter)

Any other questions or thoughts around any of these potential outcomes?

Ms. Showalter chimed in: But following up on your question, in terms of letting the local jurisdiction decide. I think let them use their judgement about what is appropriate to trigger a public outreach program and who would be involved because they know their community.

Mr. Goldbeck emphasized: We want to make it clear to the local governments that we are expecting that kind of thing because there is very uneven amount of public outreach we found amongst the various local governments.

Ms. Bennett continued: Again I think that comes back to our ongoing relationships with local governments and one of the things that we have talked about in the implementation phase of this is going around to local governments and kind of training them on what these policies are, how can we best work with them and like Steve said it will depend on the city or the county, as San Francisco has a lot more resources than Pinole for example.

So it will really be dependent I suppose on the resources and the staff capacity of local governments as well.

Any other thoughts or questions about any of this, anything you see missing, anything that stands out? (No further comments were voiced)

Ms. Bennett continued: Like I said we are trying our best to get this out by May 17th.

Ms. Fiala chimed in: Just to elaborate on what is going on internally. The most important piece of all of this is our preliminary staff recommendation on the actual changes to the Bay Plan and then the Staff Report will provide the analysis of those changes. And then the Background Report will provide essentially just more background than we can fit into the Staff Report.

And so all of it is drafted and now we are just trying to finalize the policy changes which then could trigger – it has more of a cascading effect on the other documents. So once we settle the policy changes then we need to revise the Staff Report and then we may need to revise the Background Report. And so we are just trying to settle all of that down as soon as we can but no later than June 18th.

Ms. Bennett reiterated: We are really trying for that May 17th date or just shortly after if we need. You can definitely expect the other amendments materials to go out that day.

Acting Chair Ahn stated: The earlier the better but obviously understanding that you have a lot on your plate.

Mr. Berenshyteyn asked: You mentioned and listed a number of ways you would be addressing environmental justice outside of the Bay Plan Amendment. Have you considered webcasting Commission meetings as one of those things?

Mr. Goldbeck answered: We have. We don't have the resources to do it right now but we are looking to try to get them. And we are going to be moving into this building this year and it has webcasting capabilities built in – we just have to find the money basically to pay for the staff to do that work.

Ms. Bennett added: I think we have explored the topic of meeting accessibility from every angle. Such as, can we hold meetings at other places? Can we webcast meetings? Can we translate all the materials? To more simple things such as, how do we just talk in language that is more accessible? How do we be cognizant of how many acronyms or how much jargon we use? And can we do things like make the meeting process just more clear to someone who hasn't been to a meeting before?

So we have really thought deeply about some of those things and have started conversations on the more low-hanging, inexpensive fruit on that.

But some of these accessibility items have an expense with them and so translation and webcasting are ones where we are trying to find the resources.

5. **Public Comment.** Public comment was given throughout the meeting.
6. **Adjournment.** There being no further business the meeting was adjourned at 11:49 p.m.