

# San Francisco Bay Conservation and Development Commission

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November 9, 2018

**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 November 1, 2018 Commission Meeting**

1. **Call to Order.** The meeting was called to order by Chair Wasserman at the Bay Area Metro Center, 375 Beale Street, Board Room, First Floor, San Francisco, California at 1:11 p.m.

2. **Roll Call.** Present were: Chair Wasserman (departed at 2:49 p.m.), Vice Chair Halsted, Commissioners Addiego, Ahn, Alvarado, Butt, Chan (Represented by Alternate Gilmore – Departed at 3:00 p.m.), Cortese (represented by Alternate Scharff), Lucchesi (represented by Alternate Pemberton), McGrath, Peskin, Pine (arrived at 1:45 p.m.), Ranchod (arrived at 1:21 p.m.), Sears, Showalter, Tavares, Techel (departed at 3:07 p.m.), Wagenknecht (departed at 3:07 p.m.) and Commissioner Zwissler.

Chair Wasserman announced that a quorum was present.

Not present were Commissioners: U.S. Army Corps of Engineers (Bottoms), Department of Finance (Finn), Contra Costa County (Gioia), Sonoma County (Gorin), Secretary for Resources (Jahns), Governor (Randolph), Solano County (Spering) and U.S. Environmental Protection Agency (Ziegler).

3. **Public Comment Period.** Chair Wasserman called for public comment on subjects that were not on the agenda. There were no public speakers present to comment.

4. **Approval of Minutes of the September 20, 2018 Meeting.** Chair Wasserman asked for a motion and a second to adopt the minutes of September 20, 2018.

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

**VOTE:** The motion carried with a vote of 17-0-0 with Commissioners Addiego, Ahn, Alvarado, Butt, Gilmore, Scharff, Pemberton, McGrath, Peskin, Sears, Showalter, Tavares, Techel, Wagenknecht, Zwissler, Vice Chair Halsted and Chair Wasserman voting, "YES", no "NO", votes and no abstentions.

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

- a. This is Commissioner Tavares' first meeting. Welcome to your position and this Board. Commissioner Tony Tavares acknowledged the welcome: Thank you.

Chair Wasserman continued: You were always well represented even when you were not here. Is there anything you would like to say to us?

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Commissioner Tavares commented: I appreciate that and Dan is my right hand and I appreciate everything that he has done up to this point and will continue to do so. It is a pleasure and honor to be part of the BCDC Commission. I am looking forward to participating actively on this Commission in my role. I look forward to working with all the Commissioners here as well. Thank you.

Chair Wasserman continued: Thank you. And Caltrans participates actively in our efforts almost every day.

I would now ask Commissioner Alvarado to report on the Environmental Justice Working Group meeting that was held this morning.

Commissioner Alvarado reported the following: We had a very, robust conversation about the status of the Commissioner Working Group to date. Staff has done an incredible job of researching other models determining what would be an applicable path forward for BCDC. And we are looking forward to presenting at the December 6th Board meeting. We have had very, active participation from the Commissioners who are on the Committee and we are really very pleased with the progress to date. I look forward to sharing that with the rest of the Commission.

Chair Wasserman continued: Thank you. We periodically convene a group of people we call the, "Wise People" and these are folks involved in our area to give a report of where we are and get their input.

One of them whose primary focus for a good number of years has been climate-change education basically said in terms of his primary effort over the last 10 years – he doesn't need to do it anymore. In this area people understand that it is a real issue.

While I am sure there may be doubters amongst us they are mostly afraid to raise their voice or put their head up which is a good thing.

He is wrong of course because there is a lot of education needed on what we need to do in terms of adaptation as we have talked about a lot and will be talking about in terms of how we are going to do it, what specifically we are going to do, how we are going to balance priorities and how we are going to pay for it.

There is a lot of education that is still needed. And that is the fourth wave of our working groups and community efforts which we are in the process of revitalizing. We had a little slowness from the summer and extending into the fall partly because of staff issues but we think there is good news on the horizon. The news from Sacramento overall is good.

**b. Next BCDC Meeting.** Our next meeting will be on November 15th. That will be a longer meeting. On November 15th we will be packing a lot in. We will:

c. Hear a staff briefing and learn about next steps and answer questions about the two Bay Plan Amendments – Fill for Habitat and Environmental Justice.

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d. Participate in a briefing and discussion about how BCDC staff is using the new Ocean Protection Council's rising sea level guidance as staff analyzes projects in and around the Bay.

e. Hold an interesting workshop to assist staff and Commissioners to better prepare staff reports for the Commission.

f. **Ex-Parte Communications.** If anybody has some they want to put on, again – these are truly only necessary for matters where we are adjudicating not policy matters and you need to put them in writing in any event. If you wish to report any conversations or visits you have had outside you may do so now. (No ex-parte communications were voiced)

**6. Report of the Executive Director.** Executive Director Goldzband reported: As you could tell if you were in our neighborhood yesterday or perhaps in yours, yesterday was Halloween. We distributed a fair amount of candy and saw some great costumes. What many of us don't think about today, however, is that Halloween exists due to the three-day celebration that starts today with All Saints Day. As you may have figured out, I'm no expert on saints, including the ones who play on Sundays in New Orleans. But despite any theological or liturgical differences, I hope that we can all agree that Theodore Melfi, the award-winning movie director, who was right when he said, "To me there are saints every day. They stand up and help others and live for others and do things for others." May we all live that lesson during the upcoming holidays and beyond.

Executive Director Goldzband commented: I now have to take a great risk and correct our chair because of a mistake we as staff made. We just changed the discussion on the Environmental Justice Social Equity Bay Plan Amendment to December 6th. Next week we will have the discussion on the Bay Fill or the Fill for Habitat Amendment and then the next meeting will be the EJ Amendment.

Chair Wasserman clarified: The next meeting not next week. You are compounding mistaken. (Laughter)

Executive Director Goldzband continued: I am. In two weeks from today, November 15th, Fill for Habitat, December 6th five weeks from today is Environmental Justice; so staff apologizes.

a. **Budget and Staffing.** Just when our ranks were looking quite thin, we have three new staffers with us today and more coming on during the next couple of weeks. First, I want to introduce to you our new Planning Program Director, Jessica Fain. (Stood and was recognized) Jessica started with us about a month ago and, I'm happy to report, she and her family have not decamped back to New York, so we must be doing something correct. She's drinking from the proverbial fire hose at this point and learning more and more every day and we're thrilled she's here. Next up is Dana Brechwald (Stood and was recognized). Dana is our new Planning Program Manager working primarily on the ART, Adapting to Rising Tides Program. You'll remember that Dana comes to us from ABAG where she's worked with BCDC's planning staff consistently over the past few years. Today is her first day and I'm hoping that she'll return to us tomorrow despite the fact that her first day involves being introduced to all of her bosses!

Finally, yesterday we added Anissa Kotey, our new HR staffer. (Stood and was recognized) Anissa is a Highlander from the University of California, Riverside and so she may be the first U.C.R. alum to work at BCDC. She comes to us from Southern California and previously was with the Department of Corrections.

I'm also happy to report that we have other new staff coming on board just as we've lost others. Of course, all of these appointments are subject to your review and assent.

First, our Chief Counsel Marc Zeppetello has selected Karen Donovan as our new Enforcement Attorney who you will remember is being paid from the Bay Fill account. Karen is a Cavalier – or a Wahoo – from the University of Virginia. She earned her J.D. at Notre Dame (one of the Fighting Irish) and her Master of Laws in Environmental Law from the George Washington University so she was also a Colonial – a triple threat. Karen has 25 years of experience practicing environmental, water and administrative law at both private law firms and a number of public agencies including the San Francisco City Attorney's Office, East Bay Municipal Utilities District, the United States Department of the Interior, and most recently, at the Metropolitan Water District in Los Angeles. We hope that she will be starting in early January.

In the Planning Division, we'll gain two individuals whom we as staff know well because they have been part of the ART team. First is Nick Sander, a Tiger from Colorado College. Nick's been a BCDC intern for us since the beginning of the year and is an invaluable member of the ART team. He also earned a Master's Degree in Environmental Studies from Albert Ludwigs University in Freiburg, Germany.

Second, Jackie Mandoske who is here somewhere. (Stood and was recognized); Jackie earned her B.S. from U.C. Santa Barbara and a Master of Advanced Studies in Marine Biodiversity and Conservation from Scripps Institution of Oceanography, which means she's a Gaucho masquerading as a Triton or vice-versa. She has been BCDC's California Sea Grant Fellow, also working on ART Bay Area, since February 2018.

On the budget side, I am pleased to let you know that our senior staff had a very substantive discussion with representatives of the Department of Finance yesterday as a follow-up to the meeting that Chair Wasserman and I had with the Department of Finance a few weeks ago and we are cautiously optimistic.

b. **Policy.** Every now and then getting validation is a good thing. Last week the staff of the Georgetown Climate Center, a leading climate change research group, reviewed the new Bay Shoreline Flood Explorer and determined that it has better information on levees around San Francisco Bay than is available through any federal database. So, one of the Center's mapping experts will be meeting with our staff to improve the accuracy of their database. Congratulations to all concerned at BCDC and SFEI.

Speaking of climate change, we put into your folders today a 1986 memo to the Commissioners. According to the memo, BCDC's consultant – Philip Williams, a standout for sure – estimated that we could see two feet to eight feet of rising sea level by the end of this century. Of course, that's just about exactly in line with the most recent State of California Science report. Of course, the Bay Plan had rising sea level policies for 22 years before the Commission updated them seven years ago in October 2011. Indeed, we were all prescient.

But just because we were prescient doesn't mean that it's been solved. Also, in your packet is The New York Times article describing the latest IPCC report that details how, if greenhouse gas emissions continue at the current rate, the atmosphere will warm up by as much as 2.7 degrees Fahrenheit (1.5 degrees Celsius) above preindustrial levels by 2040 instead of decades later, inundating coastlines and intensify droughts and poverty even sooner than we think.

And, to give you a preview of coming attractions, BCDC has received the Solano County Local Protection Plan Amendment and we're get a staff report on that issue to the Commission very soon. As required by our regulations we'll distribute the submittal to a host of agencies and schedule the Amendment for a public hearing as soon as possible thereafter; perhaps in January but certainly, I would hope, by February.

Finally, a few housekeeping reminders.

First, six of you have completed your ethics training so far. At this point we shall not publicly shame but I do want to remind you that I attached BCDC's conflict-of-interest code to that e-mail that I sent to you, so please review that as well.

Second, and this is about the meeting in two weeks, I want to let you know that our next meeting will likely be a relatively long one. After the Commission's business has been completed, I expect the Chair to adjourn the meeting and then open up a workshop on a very interesting topic – how can the staff improve staff reports that we send to you prior to each meeting. The workshop will be led by Dr. Bonnie Johnson, Associate Professor at the University of Kansas' Urban Planning Department and before that a practicing city planner. Professor Johnson's research is focused on revamping staff reports. And she will enable us to assist us in the decision-making process. And part of that is asking decision-makers like you to examine what is — or what is not - working well with staff reports. To help make the workshop a success, we ask that you read the materials we will send you in preparation and to think about think about your experience with BCDC staff reports and come with one or two suggestions. Since most of you are also on other boards or commissions, think about the other staff reports you read and how much better they may be than ours.

And then, third, understand you will be asked for your consent to participate because this is part of an academic research program and she is going to want you to sign a form as a release. We will be including all of that in the next packet. We expect the workshop to last as long as 90 minutes so please be prepared.

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Chair Wasserman added: Two things on that; one, we hope it may help you with staff reports in other bodies on which you sit. And the other is, I would urge you to take a couple of minutes and all of us have read staff reports here and elsewhere that we really didn't like. It didn't make sense and it may have been too long ago to remember but if it has been in the recent past try and see if you can pull that up or remember something or even call Larry or staff members to do that because that will help you come up with specific examples that will help everybody.

Executive Director Goldzband continued: And I want to give a shout-out to Ethan Lavine who has worked with Dr. Johnson and did the research to find out that there is actually somebody who specializes in this because Ethan and Erik who is sitting next to him, our two chiefs of permits, are very, very concerned – they want to make sure that the staff reports that they and our staff send out are manageable, readable and digestible. We ask for your help.

I want to throw it over to Supervisor Peskin for just a second, please.

Commissioner Peskin addressed the Commission: Thank you Larry. So I have the dubious distinction of not only serving on this body and I like to say that being a supervisor is like a gateway drug to get on the Coastal Commission and BCDC and the Bay Restoration Authority, the troika, and for the first time in the better part of a decade the Coastal Commission will be meeting in San Francisco November 7th, 8th and 9th. To that end I saw an opportunity to bring all of our agencies and Commissioners and staff together. And you are cordially invited on Wednesday, November 7th at 6:00 p.m. to come to the Dolphin Club at 502 Jefferson Street – you need not swim – but if you would like to bring a bathing suit we will put you in the Bay (Laughter) and if not you can eat and mingle and imbibe with your colleagues at the Coastal Commission and the Bay Restoration Authority/the Coastal Conservancy and BCDC.

If you want to come I just need a head count and you can either email Larry, myself or [Jeff.steben@coastal.ca.gov](mailto:Jeff.steben@coastal.ca.gov) and we will have a great time and I look forward to seeing you.

And it is open to the public and all the public needs to do is send an email to that email address to that we can make sure we have enough food and drink.

Executive Director Goldzband continued: And you each received an email from me last week with that invitation specifically.

Chair Wasserman asked: And Aaron, why are we meeting at the Dolphin Club?

Commissioner Peskin replied: I am a 26-year member of the Animal House next door known as the South End Rowing Club and I figured that we should probably meet at the nicer place. (Laughter)

Executive Director Goldzband: Finally, Chair Wasserman, I have some sad news to report. Bob Batha, BCDC's long-time Chief of Permits, passed away last month after vacationing at Sedona, AZ – one of his favorite places. There are very few places along the Bay that Bob's expertise and commitment did not touch and all of the places that he did help conserve and develop are so much better for it. You may remember that a broad swath of the conservation and development community attended his retirement party several years ago and we all acknowledged then that the Bay and its shoreline looks like it does and is as productive as it is due in large part to Bob's 37-year tenure. We shall miss his smile, his humility and his gentle humor at our holiday party next month and beyond. And, I ask that the Commission adjourn today in Bob's memory.

That concludes my report, Chair Wasserman, and I'm happy to answer any questions you may have.

Chair Wasserman asked: Any questions for the Executive Director? (No questions were voiced)

Commissioner McGrath commented: Reported in the Washington Post and re-reported in the East Bay Times was a brand, new publication in Nature dated today by Dr. Keeling who I remember. It is titled, "Quantification of Ocean Heat Uptake from Changes in Atmospheric O<sub>2</sub> and CO<sub>2</sub> Composition." The gist of it is that they now have much more accurate techniques to measure the outgassing of those from the ocean waters and that missing heat that people were talking about with the arguments about the hockey stick and all of those things – they found it.

The ocean is at the higher rate. I would expect that probably every four or five years we are going to routinely update our estimates of sea level rise. It is a very important study. I just wanted to make sure that everybody was aware of it.

**7. Commission Consideration of Administrative Matters.** Chair Wasserman stated: That will bring us to Item 7, Consideration of Administrative Matters. Brad McCrea is here to answer any questions.

Commissioner McGrath had a question: The item here for Myron Myra Partnership does not indicate anything about public access and I noticed that usually that is indicated whether public access is already available, it's not feasible or what. So I just wanted to kind of close the loop on that. What is the story on access?

Permit Analyst Walt Deppe responded: The area where the sheet – pile wall will be going in is already closed off to the public, so there is no public access that will be affected.

Commissioner McGrath inquired further: And it is not feasible to require it as part of this project?

Mr. Deppe answered: We didn't believe so.

**8. Commission Consideration of a Contract with CalHR.** Chair Wasserman announced: Item 8 is consideration of a contract with CalHR (California Department of Human Resources) and it will be presented by Peggy Atwell.

Director of Administrative and Technology Services Atwell addressed the Commission: About a month ago the State of California Human Resources Department known as CalHR sent a notice to all departments and agencies stating that they were going to change their process as far as training goes.

We send our staff to required and optional training as part of their development which relates directly to our strategic goals.

They are asking that we no longer – well they are not asking, they are telling (laughter) – we are no longer going to be able to send somebody to these classes and then pay after the fact. They are asking for all the departments to create a contract that they can bill to or paying 10 days in advance.

Well sometimes classes come open at the last minute and we only have one accounting officer who may not have time to pay them 10 days prior or we may get notice less than 10 days that there is room in the class. So we are asking the Commission to approve a recommendation to allow us to start with a three-year contract that will allow us to send our employees to CalHR required and optional training with ease.

It does have an extension for more years beyond the three years but the three years is a start.

We are looking for \$25,000 over the three years. So that averages just over \$8,000 a year. Any questions?

Chair Wasserman continued: No questions. I would entertain a motion to approve.

**MOTION:** Commissioner Zwissler moved approval of the staff recommendation, seconded by Commissioner Showalter.

**VOTE:** The motion carried with a vote of 18-0-0 with Commissioners Addiego, Ahn, Alvarado, Butt, Gilmore, Scharff, Pemberton, McGrath, Peskin, Ranchod, Sears, Showalter, Tavares, Techel, Wagenknecht, Zwissler, Vice Chair Halsted and Chair Wasserman voting, “YES”, no “NO”, votes and no abstentions.

**9. Briefing on Budget Information.** Chair Wasserman announced: Next is Item 9 a briefing on our budget. Cheneé Williams, the Chief Budget Officer for BCDC will provide the briefing on prior year FY17/18 and current year FY 18/19. This is her first time in addressing the Commission and we will all be very gentle with her. (Laughter)

Chief Budget Officer Williams reported the following: Good afternoon Commissioners. Larry has asked me to review this information with you. I am definitely looking forward to sharing this information with you about our budget. (Laughter)

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I am the Chief Budget Officer with BCDC. Here on this slide we see a little bit about our funding sources; basically what incomes come in as far as we operate.

First we have the General Fund which is approved with the Department of Finance. Part of our budget you will see an item where we have the relocation to MTC which I will talk about later.

Second we have our Special Funds which are our Bay Fill Clean-Up and Abatement Fund which you have heard about plenty of times throughout the year. We also have the Greenhouse Gas Reduction Fund in this category as well.

Lastly we have our Reimbursements which is the combination of grants and contracts monies.

I will give you a little bit of background for the fiscal year 2017-2018. During that time we had a spending authority of \$8.57 million. Contained in this \$8.57 million is the General Fund Spending Authority of \$5.9 million and our Special Funds Authority of \$791,000 which is a combination of our Bay Fill Clean-Up and Abatement Fund at \$291,000 and then we also had our Greenhouse Gas Reduction Fund of \$500,000.

Now you see in the parenthesis for the Bay Fill Clean-up monies BCDC for the last fiscal year spent about \$99,000 as far as these funds were concerned. We had to make some adjustments because of other items.

We had approval for the Bay Fill Clean-up and Abatement Fund of \$500,000 however BCDC was expecting to receive this fund in November/December but we were not able to use it until March/April. That is why you see on this slide that we only spent \$99,000 of these funds pertaining to the Bay Fill Clean-Up and Abatement Fund and with the Greenhouse Gas Reduction Fund we only spent about \$79,000 because of when we received the monies.

Lastly we have our Reimbursements where Finance gives us an approval, our spending authority of \$1.88 million. During the last five years BCDC has only charged a high of \$1.4 million. Although we have the authority to do \$1.88 million we average at \$1.4 million.

At the last fiscal year we had \$1.15 million.

Commissioner McGrath asked: Could you explain what a reimbursement is?

Ms. Williams explained: When I was talking about our funding sources and I mentioned Reimbursements I was talking about our grants and contracts. We have the NOAA 306 and the NOAA 309 with our grants and then with our contracts we have the example of the Department of Wildlife monies.

On this slide you see the spending authority for this fiscal year 2018-2019. Currently we have a spending authority of \$11.65 million. As part of that we have our General Fund at \$8.92 million. And then part of it is our Relocation to MTC at \$3.02 million.

That funding is specifically for our relocation. That is pending right now but that \$3.02 million is there for our relocation and our relocation only.

We have our Special Funds Authority at \$1.24 million. We told Finance that we would be using \$322,000 from the Bay Fill Clean up fund this year. And then for our Greenhouse Gas Reduction Fund we have the authority of \$920,000 which I mentioned earlier. Because of the timing when BCDC received these monies we are rolling over the majority of it over to this year.

From the previous fiscal year we rolled over \$420,000. And then along with the authority for this year it is \$500,000.

Commissioner Zwissler asked: What is the source of the Greenhouse Gas Reduction Fund?

Executive Director Goldzband replied: Cap and Trade funds. So the Cap and Trade funding historically has only gone until last fiscal year to mitigation. But due to amazingly, great efforts by Steve on behalf of BCDC and by his colleagues at the Coastal Commission and the Coastal Conservancy they were able to persuade the Legislature that \$3 million, in total, out of Cap and Trade should go for adaptation.

So BCDC over the last two years has received \$500,000 meaning last fiscal year in which we were only able to spend \$80,000 or so and \$500,000 for this year which is why it totals \$920,000.

The Coastal Commission receives \$1.5 million primarily for their local Coastal Program Update Program and the Coastal Conservancy receives the balance of \$3.0 million for their Climate Ready Grant Program for their grant programs for adaptation.

Ms. Williams continued: With the Greenhouse Gas we had a roll-over from the previous year and then this year.

Lastly we have the reimbursement at \$1.49 million. We will see how that amount comes. Sometimes it goes up a little higher and sometimes it goes lower. Everything is depending on how different projects and assignments play out.

On this slide you see a breakdown of our expenditures and where the money is going. Salaries and wages take up 55 percent at \$6.49 million. Part of that would be our 43.9 baseline positions and then we have eight positions in the blanket.

The Department of Finance reviews our numbers and they give us a baseline number of positions. Based on the previous years they give us a baseline of positions. And then from that research, with adjustments or not, they give us a baseline. Anything outside of that baseline would be in the blanket which means that would be taken out of our budget.

Executive Goldzband added: And the reason it is called the blanket is because we can cover those positions with existing funding even though there is not necessarily a permanent box in an organization chart to which that person or staff member is actually assigned to.

Ms. Williams continued: Last we have the staff benefits at \$1.96 million, which staff benefits went up this year.

Operating expenses and equipment is at 15 percent at \$1.24 million. Rent takes up the bulk of it along with our transits and Commissioners.

We have our grants and contracts anticipated expenses which are around \$640,000.

And then lastly as I was mentioning before; our relocation – the \$3.02 million is specifically for our relocation and that is what we can use for relocation only.

Executive Director Goldzband clarified: We are just as cautiously optimistic about moving as we are about getting increased funding from the state. When the elephants rumble the baboons go into the trees. We are up in the trees while MTC and the Department of Finance are negotiating what would be some kind of new lease if one can exist for us to be able to pay a certain amount of rent.

In addition, because we know we're not going to be on the fifth floor this fiscal year MTC was able to lease that space to one of its current tenants, Twilio, for a rather hardy sum which allows MTC to be able to pocket dollars that it otherwise would not be able to pocket.

That \$3.02 million because it is not going to be spent this fiscal year, at least most of it, if we get the signal that we are going to move we can start spending some of it in preparation.

That money will be transferred into what is called an, ARF account which stands for architectural revolving fund and it is a lock box for those dollars to encumber them so they are not taken away from us.

We are hoping that in January or February we will have some good news for you all.

Chair Wasserman added: Just for the record, that is not \$3 million to move us.

Executive Director Goldzband explained: It includes \$2.5 million for the tenant improvements for the fifth floor.

Commissioner Scharff asked: Twilio is in there but we still need a lot more improvements?

Executive Director Goldzband answered: No. They are in there and it is fine and they will clean it up when they leave.

Commissioner Scharff continued his inquiry: So we need then to put an extra 2.5 million in?

Executive Director Goldzband replied: No, no, no. This is to pay – the improvements are in May. That is to pay for the improvements.

Chair Wasserman added: This is all negotiation. The improvements have all been made. We could move in today.

Commissioner Scharff replied: Oh, so MTC wants the 2.5 million?

Executive Director Goldzband clarified: Yes. They are going to get the \$2.5 million plus they get an extra million for renting out the space now. So they are up to \$3.5 million. And MTC says, it took us \$5 million to actually make those improvements.

So that is why there is a negotiation going on between MTC and the Department of Finance.

Chair Wasserman added: The Department of Finance used a different and unrealistic estimate of what tenant improvements should cost. And that was all they were willing to pay. This money plus the Twilio money plus tweaking the lease a little bit makes up the difference.

Ms. Williams continued: I will move on to our fees – our permit fees. We show you here the fees collected in the last 10 years. For the years 2014/2015 and 2015/2016 you will see a little spike and I am going to have Brad McCrea talk a little bit about that.

Regulatory Director McCrea commented: The spike in those fees is from large projects. Fees collected are part of permit applications and they are based on total project costs. When the total project cost is high the fee that is charged for that permit application is also high.

In 2015/2016 the Treasure Island Redevelopment Project came before you. The maximum, application fee for BCDC is \$600,000. The Treasure Island Project was that - \$600,000. There was also WETA; the Downtown Ferry Terminal for the Water Emergency Transportation Authority came in at about \$100,000. In the other years we also had the Port of Oakland come in with some changes at the airport and that was about \$425,000.

It was just a function of a good economy and large projects at the same time.

Executive Director Goldzband added: One of the things to notice about the permit fees is they are not necessarily predictable; they are highly variable. And, our permit fees do not come to BCDC. They go to the State General Fund unlike every other regulatory agency in the state of California. And third, you will see in the upcoming agendas a public hearing that you will hold at the request of the Department of Finance to double BCDC's permit fees.

You will remember that three, fiscal years ago BCDC received a one million dollar budget augmentation to stabilize our budget. As part of that the Department of Finance requested that BCDC double its permit fees.

I looked at the Department and said, I cannot do that because the Commissioners have to decide that. They said, would you please schedule a permit-doubling, public-hearing process. And I said, we will do so as soon as we get a chief counsel who then has time to do so. Marc is finishing the regulatory notice that is required and you will see that on an agenda in early 2019.

Commissioner Scharff asked about justifications: Is there going to be an analysis of why they should be doubled other than that the state would like more money?

Executive Director Goldzband answered: That is why they will be doubled.

Commissioner Scharff continued: Just because the state wants them doubled.

Executive Director Goldzband replied: Correct.

Commissioner Scharff continued his commentary: So will there be any nexus between – normally when we do fees in other places I have been we do a nexus study. We justify it. I don't quite just see voting, frankly, personally, to say; yes, we will just double the fees. I probably won't do that.

Executive Director Goldzband replied: Don't prejudge anything. I appreciate that Commissioner. You will see in Marc's memo that there is an analysis with regard to outside world, with regard to how BCDC does things and that will be part of the public hearing and part of your questioning.

We will not schedule a vote on that matter for the same day. We would look forward to your reaction to the memo and to the analysis. We will make sure that we broadcast it as loud as we can so that the general public knows it as well.

Commissioner Addiego inquired: Brad mentioned a \$600,000 cap on permit fees. How long has that been in place?

Executive Director Goldzband answered: Since the last time BCDC looked at its permit fees which was in 2008. BCDC under its regulations is supposed to look at its permit fees every five years. Candidly, we did not do that in 2013. There was no reason for us to do that in 2013 because we were bleeding. I had other things to deal with so I take responsibility for that.

Now that the bleeding has stopped and we stabilized a few years ago. And now that we have a chief counsel which we did not have for at least two years; we have the ability to go back and give you the data that we need.

Commissioner Addiego continued: So it seems that maybe the cap should be revisited?

Executive Director Goldzband responded: Those are all questions that you will hear and see and will talk about during the public hearing.

Chair Wasserman added: We will also talk about the comparative agencies and how their fees are treated and a little bit of politics in terms of what makes sense because as Larry and I have said, we are cautiously optimistic that we are going to get some decent increases in our funding so that we can increase our staff; it will not be enough. That will also launch a discussion of some of those issues.

Commissioner Gilmore commented: The Chair just obliquely answered my question as to, where will all these fees be going?

Chair Wasserman replied: Well, today they all go to the state.

Commissioner Gilmore responded: Well, I know. I'm talking about if in the future we are going to double it --

Chair Wasserman explained: That will be part of our discussion.

Commissioner Gilmore continued: -- so you answered my question.

Commissioner Pemberton was recognized: This is a great briefing and really informative. Has there been any thought about ways to update BCDC's website to have more transparency about the budget? I'm talking about an open-government concept relating to budget information.

Chair Wasserman fielded the question: It is certainly something that we can evaluate. We haven't done it because we have very little control over this budget. This presentation is very important and I will comment as to why I think it is important. But we don't adopt this; the state does.

Unlike most of your cities and counties where the transparency is very important because you adopt them; we don't, which is not to say there shouldn't be something there about it. There are many reasons for that.

The reason it hasn't been there is because we don't do it; the state does.

Ms. Williams added: And even if we were to do that, you can't really nail down a number with reimbursements. That varies and it goes up and it goes down. The Department of Finance gives us an authority of \$1.8 million but on the average BCDC does \$1.4 million per year. That is a \$400,000 difference which is huge for our agency.

Executive Director Goltzband chimed in: But we will post Chenee's presentation as well as the governor's budget as part of this presentation.

Ms. Williams added: And Larry will probably put this handcuff on me annually to come here and present the budget.

Chief Deputy Director Goldbeck commented: Our Annual Report includes budget information as well.

Commissioner Peskin commented: I realize that this a very, volatile, funding source whether it goes to us or not. To what do you attribute in a robust economy in 2018/2019 that as of October 5th we are at an all-time low in fees. And if you were to extrapolate that it would be like \$165,000.

Ms. Williams explained: Our fiscal year starts in July. Right now you are only seeing about two months of data. That is why it is like that. I promise that at the end of the year you will see a different number.

Executive Director Goldzband added: And if not, Chenee will come and tell you why not.

Commissioner Peskin inquired: And then on a related but different subject; fines from enforcement, where are they?

Ms. Williams answered: On this slide you see our data as far as what our Bay Fill collection was from 2009 to currently. You will see for 2015/2016 it was at \$100 and I am going to let Larry talk a little bit about that. (Laughter) But that might also be due to staffing along with other things.

Executive Director Goltzband spoke: The interesting part about this is that you know that at this point BCDC is working with the state auditors to ensure that the audit of BCDC's Enforcement Program is able to tell a transparent story about BCDC's Enforcement Program.

The reason that you see \$100 in 2015/2016 is two-fold. First of all, enforcement the way BCDC has done it takes a long time in each case because we work with people for up to a decade to get them into compliance without sending out a violation report which means that negotiations can go on while people come in, retire and otherwise work at BCDC.

The process sort of skipped over 2015/2016 because if you look at 2016/2017 and you talk to your colleagues who were on the Enforcement Committee they saw a revitalized Enforcement Committee in 2016/2017 and 2017/2018 which is really the subject, to some extent, of the audit that is going on now by the state auditor.

So you see an uptick in a big way because cases finally made it to the Enforcement Committee and decisions were handed down.

Remember also that the fines that are collected go to the Bay Fill and Abatement Fund which can only be spent on projects that improve the Bay or the staff of BCDC that does enforcement.

You will remember that as part of the funds that BCDC uses we used \$99,000 of the Bay Fill which sits at about \$1.2 million for BCDC staff. We do that to save General Fund because General Fund is valuable. And if we can use \$99,000 without hurting the General Fund we will do that and save \$100,000 worth of General Fund.

The reason you see in the Cleanup and Abatement Fund \$291,000 in authority for last year and now even more authority this year is because under the budget that we are operating under this year the governor approved the ability for us to hire Marc's new attorney which increases the amount that we have to spend out of the Bay Fill and Abatement Fund because that is how the attorney will be paid.

In addition, next year we will be hiring a manager for the program. That person would be paid out of the Bay Fill and Abatement Fund.

Commissioner Zwissler was recognized: When it says, "fines collected" it is indeed collected and not levied?

Ms. Williams answered: Yes.

Commissioner McGrath inquired: This is a question about the budget proposal which I found to be very interesting. I did not know that we had funds for greenhouse gas reduction. That is exciting. How are those allocated?

Executive Director Goldzband answered: They are allocated based upon an incredibly, complex formula. There is an algorithm that takes about three or four lines to explain and it says, Steve Goldbeck, Coastal Commission and the Coastal Conservancy. Essentially we looked at each other and said, how much could we strategically ask for and how should it be apportioned.

Commissioner McGrath interjected: No, no – that is not the question.

Executive Director Goldzband replied: Are you asking how is it spent?

Commissioner McGrath responded: Yes. The Legislature always does what it does in --

Executive Director Goldzband explained: Okay, fine. So how it is spent is those funds are essentially allocated to our planning staff, about 80 percent of them, which will be used for the Adapting to Rising Tides Program and a couple of other planning functions all of which have to do with adaptation.

Commissioner McGrath offered a hypothetical: So if San Rafael wanted to do something, the entrée for that would be the ART Program.

Executive Goldzband continued: Except and just remember that these funds are to be expended by BCDC. They are not to be granted. We don't have a grant program.

If they want a grant they go to the Coastal Conservancy.

Mr. Goldbeck added: But if we work with them as a part of the Adapting to Rising Tides program.

Commissioner McGrath interjected: It would cover your costs.

Mr. Goldbeck continued: -- yes, the ART portfolio where we have a help desk and we would charge to the Greenhouse Gas Reduction Fund but they have to be for adaptation and adaptation measures that are going to help local communities – mostly what ART does.

Executive Director Goldzband agreed: Right. And so that took some work. One of the reasons why it took so long to get the funds in is the state had issues but also during the time the state had issues, Steve and his colleagues at the other two agencies were working with the Air Resources Board which does have an incredibly complex way to measure the effectiveness of the GGRF funds which has nothing to do with what the three agencies do because it is about mitigation.

So they had to work through that process.

Commissioner McGrath added: I think this is a great idea. The risk is not the same in all communities. And I would tend to hope that those communities most at risk are highest on the priority list.

Executive Director Goldzband explained: A lot of these funds are actually going to the first, regional vulnerability analysis as well. The other thing I would say is that, in addition, the regulatory program that Brad runs also uses some of these funds.

As they go through permits and the like dealing with rising sea level and risks and figuring out how rising sea level works they can charge against this program as well.

Commissioner Ahn inquired: Also there are specifications in state policy frameworks about channeling toward so-called, disadvantaged communities. Are you measuring that right now?

Executive Director Goldzband replied: We will.

Mr. Goldbeck added: We are actually working with the Air Resources Board on how we are going to do that and the reporting on the expenditures of the Greenhouse Gas funds – so, yes.

Ms. Williams chimed in: So this just got started in fiscal 2017/2018.

Commissioner Ranchod had a follow-up question: I have another follow-up question on GGRF. Do we actually expect to spend \$900,000 in this fiscal year or do we expect a chunk of that would have to be rolled into the next fiscal year because of timing?

Ms. Williams explained: The allocation for fiscal year 2017/2018 is for two years. So it goes into 2017/2018 and 2018/2019 and then we also have an allocation for fiscal year 2018/2019 that goes into this year along with 2019/2020.

Executive Goldzband asked: Steve, how much do we expect to spend this year? It is not all of it but it is a whole lot of it.

Mr. Goldbeck agreed: Right. We will be spending more because we don't have enough staff working on this. Although the Department of Finance said, this is not baseline funding because it is year-by-year so we can't get these as baseline positions but we did hire two additional staff in the blanket as limited-term staff to help the ART team get a little bit more traction and firepower going.

Ms. Williams chimed in: To give a round-about number we are projecting \$670,000.

Commissioner Ranchod had another question: The \$99,000 that was referred to in a different slide; why did we stop at \$99,000 if there was more left? Maybe I am missing something.

Executive Director Goldzband explained: The key here is the most valuable dollars you can have are General Fund. So you want to reserve as much General Fund as possible. But at the same time I want to reserve as much Bay Fill as possible. So it is a balancing act.

If I know that I could take \$100,000 out of \$1.3 or \$1.4 million to pay for staff that is less than eight percent. That is okay by me if I can save \$100,000 in General Fund and apply it to other things like training, Commissioners' per diems or whatever it is which allows us to balance that out.

We could go farther down the ladder. We could go in more and spend more but the more we spend the less we have left. I want to make sure that we have enough funds for both the attorney and the program manager for at least three years.

Commissioner Ranchod replied: I see. So the difference between \$291,000 and \$99,000 is being rolled forward?

Executive Director Goldzband answered: Correct. That is just the authorized level of expenditures. So we have one-hundred and some-odd million dollars – almost \$200 million in headroom.

Commissioner Pine commented: On that same item, the \$99,000; as many are aware, that has led to some controversy amongst some legislatures and some permittees that it creates some tension in that when we collect fines and we are putting it against enforcement personnel and that has definitely caused some concerns. I personally think that it does not look right. It does seem to create a conflict. And I don't think it is the best way to fund our staff.

Executive Director Goldzband agreed: And I have said publicly that I totally agree with that. I would rather have General Fund pay for enforcement. But that is not the offer that we were given by the Department of Finance. The Department of Finance called up and said, I know you have asked for General Fund to hire these two new people – you are not going to get it. We will say you can take it out of Bay Fill; take it or leave it – and so, I took it.

Commissioner Pine replied: I understand. I think we should ask them again.

Executive Director Goldzband replied: I think that asking them again you'll get the same answer. The question is whether the Legislature decides to do something about it in the next budget bill.

Chair Wasserman commented: I don't think we can as a practical and strategic matter go back to them on this particular issue. For the overall issue – absolutely we can keep dealing with the Department of Finance and the Legislature.

One additional reason we presented this and have gone into the detail and will have it posted is that as we move forward on pending requests to the Department of Finance as well as some future requests we are going to be reaching out to localities represented here and some of your constituent cities and others for letters of support on these funding issues. It is all part of that large, educational campaign.

Thank you very much.

**10. Briefing on Boating and Marinas in the Bay.** Chair Wasserman announced: That brings us to Item 10 which is a briefing by Josh Berman, Chair of the Bay Planning Coalition Marinas & Boatyards Committee, on the evolution and trends of the boating industry and marina operations. Brad McCrea will introduce the topic.

Regulatory Director McCrea addressed the Commission: Thanks Chair Wasserman. We are going to move from budget to boating. We all know that boating on the San Francisco Bay has a long history and tradition. BCDC's support of recreational boating is as old as the agency itself.

I am holding up a staff report here from July of 1982. It is a report on recreational boating facilities. This was written 36 years ago as a background report when BCDC updated its Bay Plan policies on recreation.

I will read the opening sentences because it is quaint. San Francisco Bay is one of the most exhilarating places in the world for a boater. Its vast size and enormous diversity challenge a wide variety of sailors; deadly serious racers, youngsters managing El Toros, agile windsurfers, hardy rowers, wily fishermen and more.

They all enjoy a unique relationship to the Bay – a perspective and knowledge that only the closeness to water and ever-changing winds and currents can bring. (Laughter)

For better or for worse it is not the summer of 1982 any longer. And today you are scheduled for a briefing on the evolution and trends of the boating industry here in the twenty-first century.

Today's briefing was proposed by the Bay Planning Coalition. We were thrilled that John Coleman suggested it. The Bay Planning Coalition has seven, different committees, one of which is the Marinas and Boatyards Committee formed in 2016.

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Committee members include stakeholders who recognize the importance of marinas and boatyards for their economic and social values.

Our speaker today, Josh Berman, is the chair of the Marinas and Boatyards Committee and in his day job Josh is the principal, environmental planner at the engineering and environmental consulting firm AnchorQEA.

Dr. Joshua Berman addressed the Commission: Thank you for having me. Brad did a good job of introducing the Committee. The Marinas and Boatyards Committee was formed in 2016. A big reason of forming the Committee was to make that Committee a partner to BCDC in particular and also the other regulatory agencies when issues relating to recreational and commercial boating and boatyards and their related services might come before the Commission in different ways.

Many, many years ago issues related to what is the trend in the boating industry, where is boat ownership going, the size of boats, the economics of boating; a lot of big projects came before the California Coastal Commission. I was involved with them when I was with the Corps of Engineers.

And a lot of energy was spent educating the Coastal Commission on why are we seeing the applications for regulatory applications that look like this? Why are people trying to change the way these marinas look and function? There was a tremendous amount of conflict.

We became aware through the Committee that BCDC through the regulatory program might be seeing some applications for some larger projects and we thought, maybe it's a good idea to kind of present some of this information in more summary fashion and give the same information that was given to the Coastal Commission.

We gave that presentation to BCDC staff about a year ago and then the suggestion was made that we bring it here to the Commission.

This is an outline of what I am going to talk about. I am going to go briefly over an overview of some interesting metrics on U.S. and California boating and get from there to where the San Francisco Bay fits in. I will talk a little bit about industry size, demand, some interesting data and throughout the presentation the big threat is, what is relevant to BCDC and a lot it is going to particular to regulatory matters. And then I have a little bit at the end on some other things that the Committee is doing.

I do want to give credit to one of the stakeholders and members of the Committee, the Marina Recreation Association (MRA). They collected the data that I'm going to be using today. I am not an economist so if there are very detailed questions about where the numbers came from you are going to get, I will get back to you as an answer.

The U.S. is about half the world market in boats, \$121 billion in economic benefits and many of hundreds of thousands of jobs and businesses. We have 1.2 million boats sold annually in the U.S. I am guessing this was a 2017 statistic. Of those sold, 250,000 were new and 95 percent of all new boats are made here in the United States.

There are more than 800,000 registered boats in California with almost \$9 billion derived from that. This creates many thousands of jobs and businesses. There were 8,000 new boats sold in 2016. There is also a big boom in the personal watercraft area right now. We are talking about kayaks and those sorts of things that don't require a motor and this is an expanding business. Many of the marinas are looking for ways to work with that industry and capture that interest by providing launching facilities and concessions and things of that nature to be a part of that.

In California we have our major points like Dana Point, Newport Beach, Lido Island within Newport Beach, San Francisco Bay, San Diego and some of these locations experience extremely high rates. Some areas and some marinas have waiting lists as long as 20 years to get a slip depending on the size of the boat.

In southern California most of the marinas are independently managed, privately and independently managed. There is a little bit more public ownership here in the Bay. Some of the benefit of the private ownership is maybe kind of a different perspective on some of the planning horizons. There is definitely a trend towards private ownership.

San Francisco Bay is a premier, boating region. At the time this data was collected there were 57 marinas in San Francisco Bay with many of them being over 50 years old. The design life for most of the infrastructure in a typical marina afloat be it concrete or wood is typically 50 years.

Once those structures start to decline occupancy starts to decline and income starts to decline and dredging starts to get put off and the whole cycle of bad things starts to happen.

There have been some marinas that have closed in the last year. The statistic I have is that five marinas closed in the last 10 years. In the South Bay a couple more may close soon. When marinas close related services close. Bait shops don't get money. Boatyards don't have business. Fuel docks don't sell fuel and vice versa. When a marina closes there is a bit of a ripple effect on the local economy and vice versa.

We will talk about how many slips there are in San Francisco Bay and who is using them. There are 17,700 wet slips with about 80 percent occupancy in 2017.

Demand increases with size. There are far, far fewer large slips. The closer you get to the Bay and to the Bridge you tend to see an increase in demand as well. The main take-home message from this slide is the abundance of small slips and few large slips.

And when these marinas were built 50 years ago that made sense. What is interesting and perhaps a little counter-intuitive going back to some of the issues the Coastal Commission had even 10 years ago is that this is actually not the trend of the boats that are in the water at this point.

Smaller vessels are increasingly trailered. It is a lot cheaper to keep the boat in your driveway. It costs a lot less. You don't have to deal with bottom paint. People are becoming very aware of all the regulations and issues with bottom paint that are out there. It costs less to maintain the boat. You also have an increase in dry stack and dry storage.

Another interesting thing is that people who are intending to buy boats or intending to buy bigger boats. Over time if you look at the Department of Boating and Waterways information boats are just getting bigger and getting fancier. People want more toys.

The net result is while it may have been great 50 years ago to have a lot of slips under 35 feet it is not so great now if you are trying to maintain those marinas. There simply is a lack of demand.

There was a public project, Alameda's Bay Project which is the city of Long Beach in southern California; they had almost no occupancy in their small slips at the time that they finally went before the Coastal Commission and said, hey, we need some relief from this because we are losing money.

Keeping that in mind on one hand that we have an abundance of small slips and an increasing decline in the use of those small, wet slips at the same time we have kind of a double whammy here in San Francisco which is that San Francisco Bay actually has the lowest berthing rate in California. In other words, the cost to put in the water is the lowest in California which is ironic given our housing costs and other costs.

Berthing fees are based on the square footage of your slip not necessarily the length although length times width so it is still part of the calculation.

Market demand has an impact on costs. The MRA collects all of this data and they do this every year. They track it by region. They track it by marina. They send out a big survey to every marina in the state and say, if you are willing to give us the data we will share it back to you so everybody can see how they fit in.

Here you see a graphical representation of per-foot costs in the Bay. It usually ranges from \$8 to \$15 per foot. In Newport Beach the rate is more like \$30 to \$40 per foot.

In San Francisco Bay we have an abundance of small slips that aren't being used. For the slips that are being used very little revenue is created for the operators. Those two things together pose a problem when you want to be updating your infrastructure or building a new marina that is going to be financially viable.

As marinas become not-viable we start to see more applications for things like emergency repairs, dredging that needs to be planned for not on a routine cycle and so they fall behind. We start having problems with these sorts of things. If a business is running in the Bay it would be better for everyone if it were viable. A combination of low occupancy and low rates can be deadly.

What led the Committee to come to BCDC is running through everything that we have seen here. We have rates that are about one-half to one-third less than the rest of California and at the same time we have an over-abundance of slip sizes that aren't being used. Marinas and boatyards are starting to decline in number mostly because of this combination. Operators can't afford to build or maintain marinas without adjusting their slip mix to the market especially when they are already facing low fees.

So what does this mean for BCDC particularly the regulatory program? As applications for marina modification or new marina development roll in, things like Alameda Marina, Treasure Island and others that you may have seen already or will see, they are likely to reflect what we would call a slip mix which has a different curve than what the marina had 40 or 50 years ago. What the members of the Committee wanted to bring forward is that is not necessarily driven by the desire to have the biggest and fanciest boats sitting in their marinas. It is a basic need to adjust to the market. They want to put in slips that people want to use. When you are talking about the very, very large yachts you are still only talking about one percent but what drove a marina to be laid out the way it was in 1960 is not the same as it is today.

The point we were trying to make with staff when we provided this briefing was just that; to consider applications that may come before the Commission in that light and understand that there are some very real, economic factors and market factors in San Francisco Bay particularly with the low slip yield or fees driving these changes in slip mix.

There are other things that our Committee has been working on in trying to generate momentum on. We are focusing on how we can expand the use of administrative, region-wide, general permits trying to cover more agencies than just BCDC. Any way that we can capture simpler, routine activities and more general permits and not have to spend a lot of applicant time or agency time mulling things over is always good.

The request that I, John Coleman and the Committee has and the reason that we formed the Committee is to see this Committee as a resource and a partner. The stakeholders are very diverse. We have shipyards, private marina operators, public marina operators, consultants, dredgers, contractors and there is a whole universe of people on the Committee that have a lot of experience.

John's vision and my vision is if there was a serious and complex question facing the Commission would it be reasonable to reach out to this Committee and say, what do you think? And that was certainly our goal in forming the Committee.

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That is all I have in terms of slides.

Commissioner Pemberton had questions: Does the presentation encompass recreational and commercial vessels?

Dr. Berman replied: I am going to say it encompasses anybody who is renting a slip in a marina. Yes, there are certainly some marinas that are renting slips to small, fishing, charter operations and things like that. It certainly is not covering ferries or ferry operations but to the extent that there might be a small, charter-boat operator who takes people out fishing who is renting a slip and they might be considered commercial. I think when we are counting the slips just think of a generic marina. It is anybody who is renting one of those spaces from whoever the operator is.

Commissioner Pemberton continued: My second question is do you have any data or something to consider for another briefing on abandoned vessels?

Dr. Berman replied: The Committee does have a lot of data on abandoned vessels. I don't have it in this presentation. Bay Planning does the expert series seminars at least twice now on abandoned vessels and the Abandoned Vessel Fund and the status of that fund and how can Bay Planning and BCDC and others work together to get more money in that fund and use it better. That has actually been a very popular topic within the Committee.

If that was of interest that could easily be the subject of a separate briefing because it is a very important subject. The members of our Committee are very, very interested in seeing abandoned vessels removed from the Bay and interested in seeing those funds get more money because the folks that come to our meetings are very environmentally responsible. They want to see clean boating as much as anybody else. That could be the subject for a different briefing. There is a lot of information on that.

Commissioner Pemberton stated: I would be interested in more data on that. Thank you.

Commissioner Showalter chimed in: I wondered about any addition of marinas or boat launches associated with restoration. I know in the South Bay we are adding boat launches typically for really, small boats or kayaks. How are they counted? Are you seeing any trends of there being a nexus between increased restoration and increased recreation?

Dr. Berman answered: I'm not sure I have any data myself on a nexus between restoration and recreation but I will tell you that I have seen an increase and interest in public, boat launches and kayak launches and things of that nature particularly as the increase in things like stand-up paddle boards and kayaks has increased.

A lot of folks that we work with have applied to the state with agencies like the Department of Boating and Waterways grants for non-motorized launch grant to build things exactly like that. My general sense is that there has been a very healthy increase in the interest for providing those kinds of facilities and even with the marinas that we have seen that are redeveloping many of them are trying to include public-transient docks so that people can carry their kayak down to the water.

In a general sense there has been increased interest in launches particularly for non-motorized launches. But I am not sure how that correlates with restoration projects. In my mind those two things could easily work together particularly if the shoreline is being restored.

Commissioner McGrath commented: Thanks for the presentation. I think it is very valuable. For full disclosure I also sit on the Parks and Waterfront Commission in Berkeley. And Berkeley's marina has some serious fiscal issues. It is one of those more-than-50-year-old marinas that didn't create any kind of sinking fund and the docks are in really sad shape. And how do you fix them or can you fix them is the question. I appreciate this presentation. Will this presentation be up on the BCDC website?

Mr. Goldbeck replied: We typically put the PowerPoints from our briefings up. So we will do that.

Commissioner McGrath continued: The key thing here is there are many, non-motorized boats that don't pay fees and we don't really have a good track on how many there are and whether or not we can or should monetize them. This is the most, comprehensive presentation I've seen of the marinas, the wet slips and what it means. So I really appreciate it.

Dr. Berman commented: At our last expert briefing we actually did have a segment on the growth of the non-motorized market. The question you just raised is, what qualifies as a vessel and what needs to be registered and how that trend is going to go was raised – I don't think there was a good answer. It is certainly out there.

Commissioner Zwissler asked: Is it implicit in your presentation that we have the lowest rates but we have 20 percent occupancy and there is a disconnect between the size of the slips; are you trying to tell us that if we had larger slips the economics would go into balance? Are you saying that these marinas would become viable? Is there an analysis of that?

Dr. Berman replied: I think the implicit in the presentation is – kind of the bottom line I was trying to achieve is essentially what you said without qualifying how large I thought the slips needed to be. I still think the supersized boats, the mega-yachts are still going to represent a small percentage of the total and actually many of those vessels tend to be transient too because their owners like to move them around the world.

But I do think experience has shown particularly over the last 10 to 15 years in looking into other regions and other jurisdictions and some of the things that went before the Coastal Commission; where there is permitted vacancy in certain slip sizes which is usually the boats under 30 to 35 feet the owners and operators are going to try to shift their slip mix to have more vessels between the 35 to 50 foot range so that they have more revenue and so that they are serving their customers.

I am not an economist. I don't know whether that would also cause the rates to go up and be more similar to Newport Beach. I don't know how we would get there. In a fundamental sense if you have nobody in the slip you are not making any money.

What I am trying to get to is essentially that as you see new applications come in to modify or develop new marinas the slip mix is likely to be shifted from what those marinas were historically constructed at. So when staff are looking at it and saying, why in 1960 was it this and why in 2018 is it that? It is important to recognize that people are simply not using the very small slips anymore.

Commissioner Zwissler asked: Do we care? Is there a policy on the size of slips that people are trying to achieve?

Mr. McCrea replied: I didn't bring the San Francisco Bay Plan but from memory there is a policy in the recreation policies in the Bay Plan that govern marinas. And the policy touches on social justice and it states that recreational facilities including marinas should be available to people of all income levels, et cetera.

And we have asked ourselves the question that we have asked Josh Berman to have a conversation about whether some percentage of slips in marinas should be smaller in size for smaller boats so that people who can afford smaller boats have a place to park their boats.

And one of the answers that we received is that the smaller boats are actually on trailers sitting in peoples' driveways. So maybe it is not an issue, but it is a question that is still on our minds.

Dr. Berman commented: In the Long Beach example that went before the Coastal Commission the result was not the elimination of slips; it was simply a shift in the percentage.

One of the projects which was Channel Islands Harbor was sort of became the golden rule which was 20 to 25 percent of your slips under 35 feet not 40 to 45 percent. And that wasn't law anywhere that is just sort of the things that take hold as one big project goes through and then some precedents form.

I don't think anybody is going to propose zero in those categories. I would say it is going to be more of a shift to a slip mix graph that looks more like a bell than something that is shifted as far to the left as what I showed you. But I don't think I have seen any projects that were proposing no slips under those sizes – just less.

Commissioner McGrath commented: I think it is a good question that has been asked about how we or should we care or whether or not we do. There are a couple of different ways to achieve greater accessibility. One is to improve the landside so people can come and picnic and watch boats and that is probably the biggest portion of our market.

Another excellent mechanism is what are called, community sailing centers which are cooperative arrangements. One that you may know about is Cal Sailing Club but they exist throughout the country. They are the teaching venues and they do get a lot of people into boating. Some stick and buy their own boats.

When we have this discussion I think we want to think about the different ways to improve access for all kinds of people and broaden our thinking.

Commissioner Scharff was recognized: I don't recall marina projects coming to us with the slip size issue.

Executive Director Goldzband commented: In the six years of my tenure we have not had a marina come before us for a major permit regarding slip size.

Ms. Goeden replied: Brenda Goeden, BCDC. The one project that we did have in the last several years before the Commission was the San Francisco West Marina. We did actually have a conversation about the size of the boats because it was reconfigured to have more slips for larger boats.

Executive Director Goldzband continued: That's right, I had forgotten. During the first couple of years that I was Executive Director we had something come before the Commission in Supervisor Pine's county – Blue Harbor, which was the closing of a marina in order to develop a mixed-use project with a new marina attached to it.

That is the only other time we have had something in the past few years.

Commissioner Scharff continued: What I wanted to say about it was it is concerning the notion that marinas would close because no one has access. I do think we need to make sure that we set up a regulatory framework in which they are profitable and which gives people enough profits to reinvest because clearly it seems that they are not reinvesting. That is concerning to me.

Dr. Berman replied: Part of the goal in coming here today was actually because of what you said as we know that this hasn't yet come before the Commission but we anticipate that it might be at some point in the near future because we know the age of the marinas – so the idea was exactly what you are saying; to generate a conversation before there was controversy.

Commissioner Scharff added: My gut judgement initially would have been smaller slips – more access, more people can use the marina. And you have given me a lot of food for thought about to rethink that a little bit. And I thought Commissioner McGrath’s comments were good as well about access and I would agree with those.

And also it seemed to me that access providing kayaks and non-motorized vehicle really does provide a lot of access to people. I think this has been a really helpful discussion.

Mr. McCrea added: Erik Buehmann of our staff just reminded me that we do have applications come through; it is not uncommon for applications to be handled administratively from time to time to take a portion of a marina, one dock that has many slips, say 30 or 40 and convert that from small slips to large slips. And the fill amount isn’t such that it would come before the Commission, so we handle it administratively.

So these changes are happening on a somewhat, regular basis.

Commissioner Scharff had another question: Do we need to clarify the Bay Plan? When you talk about open questions for staff on some of this I guess that really is the question. Do we have in the Bay Plan a regulatory framework that is not working and therefore we should amend the Bay Plan?

Mr. McCrea replied: I will tell you that we amended the recreation policies which govern marinas in 2005. So it has been 13 years since we’ve amended them. If the Commission wanted us to take another look at this it is not my unit it is Jessica’s. (Laughter) I am sure the planning staff would be happy to look into that. (Laughter)

Commissioner Scharff clarified: I want to take a look at it if we need to take a look at it. If we don’t need to take a look at it then now we don’t need to take a look at it.

Mr. Goldbeck stated: The staff will take a look at it. In addition to the policy language that Brad referred to that directs that we should provide for boating opportunities for all income and – “all races, cultures, ages and income levels.” There is also in the same policy it says that periodic assessments should be made of future needs and changing, recreational preferences.

I think the Bay Plan already is looking to the fact that we may be moving to different slips sizes, we might have more non-motorized boating. So my reading of that policy doesn’t say that it is out of synch, that we just need to have folks coming to us asking for different slip sizes.

Vice Chair Halsted commented: This was very helpful and very interesting and very educational. I think it would be great if we could a parallel presentation on the non-motorized or the smaller boats and the numbers and the access for them to the Bay because what this is all about is about providing marinas which provide the most access for the most people and however it should be done.

But I do think there is a proliferation of all kinds of small vessels and boats and we should be talking about integrating that into this concern because the same places where there are marinas are likely the same places where some of those smaller boats would be.

Commissioner Pine was recognized: If there was a presentation on the non-motorized vessels it would be a good opportunity to get an update on the Bay Water Trail and all the efforts that are underway to expand that.

Chair Wasserman commented: Clearly there is an appetite to discuss this further. I would encourage staff to think about how to do that while being concise in a comprehensive way. There is the Water Trail. There are the non-motorized. There are the smaller-vessels issues. What does the use really mean? What does all of this truly mean to the number of boats out on the Bay?

At some level that is the issue that I am most concerned with. We need to look at it in a more comprehensive way.

Second, I would urge that this slide not simply be part of the minutes but be up there so that it is a little bit more visible if you are going on to our site.

Thank you very much for the presentation and thank Bay Planning Coalition for doing it.

**11. Briefing on Sand Mining Permit Compliance and Progress on Studies.** Chair Wasserman announced: Item 11 is a briefing on the status of sand mining permit compliance and progress on studies. Although not at this moment, I am probably going to have to sneak out and turn the gavel over to Vice Chair Halsted.

Sediment Program Manager Goeden addressed the Commission: As you might recall, in 2015 you issued three permits for sand mining in the San Francisco Bay. They were located in three general areas, Central San Francisco Bay between Alcatraz, Angel Island and the Golden Gate Bridge, in Suisun Channel, and at Middle Ground Shoal, which is also in Suisun. As part of that authorization the total mining that you authorized was 1.426 million cubic yards each year for 10 years.

In issuing these permits, questions were raised regarding some of the potential impacts to the biological and physical systems of San Francisco Bay. As a result of those questions, you required some studies and monitoring of sand mining activities and progress reports from the miners themselves. Today we have one of those progress reports. Bill Butler from Lind Marine and then Tina Lau from Hanson Marine Aggregates will present the progress report; I'm going to turn the presentation over to them.

Executive Director Goldzband commented: Before you leave, Brenda, I want to remind the Commission that when the Commissioners looked at the sand mining issue in 2015, one of, if not the major remarks, that came from every Commissioner's mouth was, "We need more data." Ms. Goeden: Yes, that's true. Executive Director Goldzband: And we get that, we know it, and so Brenda has been working along with Pascal and Anniken and the gang to get as much started as soon as possible so that the next time you all see a permit coming to you that there will be more data and more relevant data. Of course, as we all know, and I told this to our new staffer Megan Hall a couple of weeks ago, you will never have enough data. And we all know, you will never have enough data, but we will endeavor to get you far more than we had before. Ms. Goeden: That is correct. Thank you, Larry.

Mr. Bill Butler addressed the Commission: Good afternoon, Vice Chair Halsted and Commissioners. My name is Bill Butler; I am vice president of Lind Marine. I am here with my colleague, as Brenda said, Tina Lau from Hanson Marine Operations, to update the Commission on the status of the sand mining permits and the studies that are required by those permits. Here is a brief agenda of what we are going to cover. I will be giving a summary of the mining activity on behalf of both of the permittees, covering the easy part, and then I'm going to turn the tough part over to Tina to finish up and cover the status of the various studies that are associated with those permits.

Just as a quick reminder and background and as Brenda mentioned, here are the general areas where sand mining was permitted and is taking place. If you look down in the lower left-hand corner of the map, those are the Central Bay lease locations. Hanson exclusively mines those lease areas and that's where most of the volume of sand is mined in the Bay.

Up in the upper right of the map is the Suisun Bay area. The first area is Middle Ground Shoal, that's where Lind Marine mines exclusively. The long skinny one there on the right in the Suisun Channel is the Suisun Associates, which is a joint venture between the two companies. The existing permits, as Brenda mentioned, were granted in April 2015 and continue through April of 2025.

This graphic illustrates the actual volumes mined by Hanson in the Central Bay leases. This is for calendar year 2017. The dark blue area represents the actual mined volumes, about 627,000 cubic yards, and it is shown against the average annual permitted volume, the total of 1.141 million cubic yards, which is the yellow shaded area. And then the red shaded area represents the peak annual permitted volumes of 1.395 million cubic yards. Those peak volumes could be mined in any given year so long as the average annual volumes are not exceeding 1,140,000 cubic yards. As you can see, for Hanson in the Central Bay, they are at about 55 percent of the permitted volumes in 2017. We are going to talk about where we are at in 2018 in just a minute.

This graphic is similar and is for the operations up in Suisun Bay. As you can see the one on the left, Lind only mined about 23,000 cubic yards on the Middle Ground lease site against a permitted volume of 100,000 cubic yards. The reason for that really is the lease is very small and the area that is deep enough to actually be mined is smaller yet so that makes it difficult for the operations there. On the Suisun lease, however, Lind mined about 157,000 cubic yards in calendar 2017 or about 85 percent of the annual average permitted limit.

This chart shows what has been happening over the last three years, including 2016, 2017 and the 2018 volumes are projected. As we indicated to the Commission back when we came for permit approval, the demand for Bay sands is increasing. As you can see in Central Bay the volumes are projected to increase from about that 627,000 cubic yards in 2017 to about a little over 800,000 cubic yards this year in 2018. Lind's volumes are increasing as well, we are projecting we will be at about 175,000 cubic yards this year.

There are really a couple of different reasons for that: First of all, as we all know, the economy is pretty robust right now. Home building is happening again and that is causing an increasing demand for this product. The other thing is, that since the permits were granted in 2015 - giving the company some regulatory certainty for the business over the next ten years, we were able to invest in some of our mining equipment and our land side operations, which made this resource more valuable to our customers. With that I will turn the rest of the presentation over to Tina Lau.

Ms. Lau reported the following: As Bill said, I will walk you through the studies. The first study I will talk about is the bathymetric trend analysis.

We did our multi-beam bathymetry survey in spring of 2018. We had eTrac, a very reputable company, collect the information and prepare the report and we submitted the report to BCDC in October of 2018. The report included surveys of all the lease areas and the surrounding reference points, an analysis of changes in the bathymetry from the previous study, and it also included a quality control analysis that was completed by an independent third party. The next several slides have some visuals from that report. The first one shows the change analysis in the Central Bay, the next one is for Suisun, and then the third one is for Middle Ground.

When we looked at the data from 2008 to 2014 we saw in the West-Central Bay and Suisun there was a net trend of accretion. Whereas when we compare the 2014 and 2018 data in both the lease boundaries and also the surrounding areas we see in the Central Bay and Suisun Bay a net trend of erosion; and within Middle Ground a trend of accretion. That just confirms to us that this system we are operating in is very complex. We do have more data, as Mr. Goldzband said, but we are hoping that the next survey in 2023 will provide even more data and help us further our analysis in comparing the Bay floor trends.

The next study is the benthic study. We formed the Benthic Technical Advisory Committee, the BTAC, and the members include BCDC of course, California State Lands Commission, U.S. Army Corps of Engineers, the San Francisco Water Board, National Marine Fisheries Service, California Department of Fish and Wildlife, U.S.G.S. and Hanson Marine and Lind Marine. It was a pretty big party and you should have seen our meetings. We convened the BTAC in October 2015 and from October 2015 through 2016 we met on multiple occasions to establish our study objectives. What is it that we are trying to do? What sorts of information do we need to provide so that we can inform the Commission?

In March 2016 the TAC developed and approved a request for proposal (RFP) to develop a sampling plan and to complete the study, and distributed it to qualified entities. In

June 2016 the TAC reviewed each proposal and as a group we selected NewFields to perform the benthic study, and authorized them to proceed.

In July 2016 NewFields developed a Sampling and Analysis Plan (SAP) per the RFP. The SAP outlined the study design, the sampling schedule, how we are going to process the data, how we are going to analyze the data and other elements of the project. Within the TAC there were lots of conversations about making sure we got good data so that adequate statistical analyses could be completed, so we have made sure that the data that was collected would be robust enough to support such analyses. In August 2016 the TAC members reviewed the SAP and we approved it to commence.

The benthic study was performed over the next two years. In October 2016 the baseline sampling was conducted; in October 2017 the second year round of sampling was conducted. The draft final report was completed in April 2018 and that was distributed to all the TAC members. The current status is that the draft final report is still being reviewed by the TAC members. We will be preparing to have some discussions within the TAC about the report.

The next study was our water quality monitoring study. This study and the analysis have been completed. We had two seasons of sampling, once in August 2015 and once in April 2016, and we sampled at Central Bay, Middle Ground and Suisun Channel. As part of the study we collected effluent water samples and we analyzed them for a set of parameters that we had worked out with the Water Board and this happened in September 2016. We submitted the draft report to the Water Board and to BCDC and it was reviewed. Earlier this year we received comments and then revised the report and resubmitted it to the San Francisco Regional Water Quality Control Board in September 2018.

The study conclusion did not change from our last update to the Commission, which is:

“Overall, the monitoring results from both surveys show that effluent from sand mining operations do not adversely impact the water column with regards to chemical concentrations or toxicity, and that any physical effects related to plume turbidity are spatially limited and ephemeral in nature.”

The last study is the sediment transport study. This is led by BCDC and formed the Sediment Technical Advisory Committee, the STAC. The members are BCDC, California State Lands Commission, U.S. Army Corps of Engineers, NOAA National Marine Fisheries Service, San Francisco BayKeepers, State Coastal Conservancy, California Coastal Commission, the Greater Farallones Marine Sanctuary and then the sand miners. The miners have deposited three of the four funding installments to the State Coastal Conservancy who is holding the funds for the studies.

The management questions were developed by the TAC. The study questions and the design approach will be developed by an independent science panel (ISP) and then that ISP will make recommendations to the TAC and will help oversee some of the studies that are going to commence.

In May 2017 the Sediment TAC had the first meeting. In June 2018 the Sediment TAC finalized multiple management questions. In September 2018, with input from the TAC, BCDC and SCC selected the Science Study Coordinator, which is RevellCoastal. The Science Study Coordinator will help drive the process forward and help guide the studies and help with some of the coordination that we are going to need.

Our target is for BCDC and SCC to select and convene the first independent science panel meeting in January of 2019. Our goal is to have studies completed to inform both the CEQA and the permitting efforts. Are there any questions?

Commissioner Alvarado asked: Can you provide some more context? What are the historical baselines to compare this to? This is very detailed and very interesting, but it is hard to tell. If you could provide a little more context, or perhaps Larry or someone else from the Commission can, that would be very helpful. Are there baseline conditions that we are measuring against? Acting Chair Halsted commented: Could I just a comment from reviewing this before? I think the biggest question in my mind was, are we depleting the sediment, and that is going to come from the next study. Commissioner Alvarado stated: That is why I asked if there were baselines.

Ms. Lau replied: Yes, exactly correct. This is part of our efforts to answer that very question so we are collecting this data to really have a better understanding. Commissioner Alvarado continued her questioning: So this is baseline? I am new on the Commission; that is why I am asking for the historical. Ms. Goeden chimed in: So just a quick summary. We have records for sand mining from about 1973, previous to that we do not have records of what mining activities have taken place. Between the 1970s and the early 1990s we saw very little sand mining. In the early 2000's mining up to nearly two million occurred in the dot-com

period. If you think about the early 2000s everything was really being built up, and then we saw a significant decline of mining activities through the recession. Because if you think about construction, there are needs for concrete and trench filling activities - basically what these materials are used for. So as construction builds up we see more mining, as construction goes down we see less, generally speaking.

One of the challenges that we have is we did not really start studying sand mining in any degree at all until around 2004 when we started to get some understanding of what the bottom looks like. Prior to that we just did not have the capability to really understand it. A lot of this activity happens at 75 feet under the water, so even the studies that we can do today are still very challenging because of the environment. There are any numbers of baselines that you could draw depending on what period you want to consider. In the the benthic study we looked at what areas had not been mined previously and are comparing them to what they might look like after they were mined. One of the targets is what happens to the critters that live in the sand. Does that help? Commissioner Alvarez answered: Super helpful. In fact, I will not be attending the next Commission meeting, but the feedback I would give is provide context, please for the new Commissioners because that is extremely helpful, thank you. Ms. Lau added: And then also keep in mind we went through a CEQA process as part of the previous permitting so we are building on another foundation of science and studies that were done as part of the process.

Commissioner McGrath was recognized: I had intended to provide some of that context. First of all I think this is a nice, robust set and it is a good check-in and I want to give a shout out to Brenda and the applicants working together on a contentious issue which I think is being looked at smartly here with the right people. I did note with interest that there is some pretty high quality bathymetry that has been done. You can see the features that we expect to see and you have got a conclusion there that there is a slight amount of net deposition.

The context for our concerns, or my concerns, I'll just personalize it, was we know that sand is still coming down from the Sierras, there is still a bedload coming through this area, we want to make sure that we don't take so much of that sand that we interrupt the processes. We know the Bay beaches along the city front along Crissy Field are stable, they have hung in there, but there was an unresolved question to what degree circulation of sand to the ocean beaches into the Presidio Shoal and back is affected by this and that was the purpose of the study. The fact that there is a net deposition does not resolve the question, 'Is some of that sand coming from the ocean beach?' It is there? This should be robustly studied, and I see that the Coastal Commission is represented. Their representative is an old classmate of mine who went on to get a PhD so I have absolute confidence that they will ask the right questions. So that is a little bit of the context. I just wanted to make sure that the new Commissioners understood this was a very contentious issue. Ian [Wren, BayKeeper] still talks to me, but I am not sure that he is happy about it. But I think this was kind of the right kind of studies to put in place and that's the context.

Commissioner Peskin commented: By way of background and further to Commissioner McGrath's point, I think it was the early 2000s – Commissioner Halsted would remember this, and it seems like we are in a much better place - when we actually fined Hanson a lot of money, I think it was the largest settlement the Commission had ever entered into. It is so far in the recesses of my mind, Brenda, that maybe you can just regale us with that history? They were outside of the lease area?

Ms. Goeden explained: Yes. There were two things going on. It was in 2004, I believe, when we fined Hanson. So just a little bit of more historical context: There were a number of sand miners in San Francisco Bay, Olin Jones, Tidewater, Morris Tug and Barge and a few more that are leaving my mind at the moment. They had been mining individually on their own permits. When Hanson came into sand mining activities in San Francisco Bay they purchased many of the leases - I think that's the right term – from the other miners and took over their activities and continued the activities as they were for a period of time. What we discovered, partially through the Attorney General's Office's fraud unit looking at onshore and offshore company activities, and what is being reported as royalty to State Lands Commission and what is being charged by the companies – the miners operated two companies onshore and offshore – one for mining and one for processing and selling the sand, I don't know that it was necessarily Hanson's intent to do that but that was the practice that they sort of inherited. And as you all know the permits run with the land and if you take over a permit you take over whatever activities and potential fines that have been incurred. So there was one legal case regarding not reporting royalties properly to State Lands Commission; that was not BCDC's issue. I believe there was a lawsuit with the Attorney General's Office, I think that was settled outside of the courts.

And then for us, you are correct the issue was the mining off of the lease areas and potentially underreporting because of that mining off of the lease areas. I believe we worked with the Attorney General's Office as well. The fine I think was around \$374,000, which was the largest fine we had ever received at that time. Ms. Lau chimed in: And if I could add, subsequent to that, I think part of the issues that were there in the past was they did not have some of the technology that we have now. So our unit, our barge, now has a GPS unit so it can track exactly where we are and our lease boundaries are also marked out in GPS, so instances like that very rarely occur now because we have the technology that shows us where we should or should not be going.

Commissioner Peskin asked: And then those permits expired and were renewed in 2015 for a period of ten years? I missed that chapter. Executive Director Goldzband responded: If I remember correctly, they actually expired before then, did they not? Ms. Lau agreed: Correct. Executive Director Goldzband continued: And they were renewed on an annual basis while negotiations were going on and then we were able to get the permit actually amended in 2015; or am I wrong? Ms. Lau replied: Correct, the permits were finalized and issued in 2015. The old permits had expired; I believe, in 2008, 2009, in that time period. During that time, we were going through the CEQA process, we were doing a lot of the studies and the science

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collection to inform that process. Just as we continued on with those studies and with the negotiations, we were getting annual extensions. Commissioner Peskin inquired further: What is the term of the leasehold with State Lands? Ms. Lau answered: The lease is set to expire in 2022. Commissioner Peskin continued: So, the length of the permit exceeds the length of the leasehold? Ms. Lau explained: Correct. Because the way the process worked was the leases were issued, and once we had the leases in hand and the CEQA process completed then we were able to apply for the permits. There is a certain timeline for getting the permits in a certain order, they just sort of dominoed each other.

Commissioner Scharff recalled details: I also remember this as not only contentious but extremely frustrating because it is the one decision we made where I still do not know if we made the right decision. We did not seem to have the science, we did not seem to have the studies to tell us whether or not what impact this has on the Bay and how harmful it is. Frankly, I remember Commissioner McGrath saying that he also was concerned about it and was not sure where we were on some of the science on this stuff. And that is why we came up with all these studies and that was the basis. It was really the compromise of, we don't know if this harms the Bay or not. It is an important economic activity, which is balanced off of that, but let's get the science so next time we look at this permit let's actually know what we are doing. So that is really my first question is; are we on track to have all the data we would need by the time we next look at the permit? That is really the key issue for me is that we set this up so that you can answer all these questions. Are we harming the beaches? And I also remember – if my facts are a little off you can let me know – but I remember the issue was there is a lot less sediment coming into the Bay, dramatically less. So we continue to take more sediment out of the Bay, what is the impact of that? It was basic questions like that that we could not answer so I guess for the next permit are we on track to answer them all?

Ms. Lau replied: Most of the studies that were required in our permit we have completed or are well on our way to completing. I think the questions you are looking for are the focus of the Sediment TAC. That is something that as a group we are very aware of what the questions are and what the concerns are and that is the focus of the TAC to try to answer that, to develop the science in a robust way to answer those questions. Commissioner Scharff continued: Great. But do you think we will be able to answer them before the next permits? When do you think they will be answered? That is the question. What is the timeline? Ms. Lau responded: Currently the Sediment TAC's timeline is to have studies completed 2023. That was the timeline that we talked about at the last meeting. I think there is always a push and pull for how quickly we can go versus how carefully and how cautious we should be when we proceed with something that is such a big question. Personally, we are pushing very hard to get the information that we need for the next permit round. It is in all of our interests.

Commissioner Scharff asked: So the permit expires in 2025?. Ms. Lau answered: Correct. Commissioner Scharff continued: So when do they start reapplying for a permit? My concern is they don't apply the day it expires usually; it comes to us before then. I am not feeling 100 percent comfortable that you are telling me that, yes, we are going to have all the studies completed, we are going to have the information and that we are moving forward and that we will, in the next permit, have this information that we need. And that is my question. Ms. Goeden stated: I am just going to say you are probably not going to have all your questions answered even in 2023. I want to set that expectation because San Francisco Bay sediment processes are one of the most complicated things out there as far as the science goes. There is a small group of amazing scientists who work on this question and they don't know all the answers. There is a combination of empirical data that you can collect and then there is modeling that you can do to try to predict some of the changes, so we are doing our best to set up questions for scientists to try to answer. We are doing directed studies for sand mining here on this particular issue, so we have \$1.2 million to spend on some studies. That is really not very much even though it sounds like a huge number it is not very much for this kind of work. At the same time the sediment science in San Francisco Bay continues to improve along the way. For example, I think, Commissioner McGrath, you may have this paper but if you don't I should get it to you, there is a recent study that regarding sediment supply, not necessarily just specifically sand but it does include sand discussions, from USGS [US Geological Survey] and the San Francisco Estuary Institute, of a synthesis of all the sediment supply information that they know for San Francisco Bay that just came out in June. So that will set context for the region that these studies can be applied within. Having read it I do know that we continue to be very concerned that the sediment supply to San Francisco Bay, particularly both suspended sediment and sand, are lower than we would like to see for not only sand mining activities but also marsh restoration. So, there is a context here that is greater than these permits but the studies can be looked at in that context. We are hopeful that we get the right scientists - we have a really good list of scientists who have said 'yes' to our independent science panel. We are working to set up the questions well so that we can get research that will answer those questions. But it is still an incredibly difficult environment to nail down exactly what is happening. So, I don't want to set your expectations too high that we will be able to say, 'Yes, this is the right number. Yes, this is exactly what happens.' Because I am not sure that we will get there but we will get as close as we can.

The other thing I just want to add, particularly for Commissioner Pemberton, we have had State Lands at the table every time during the meetings and we have been talking about how these studies also will work into the CEQA document and making sure that we can get information to State Lands that they need and so we can be collaborating as we move through that process and talked a little bit about timelines along the way as well. But I cannot say for sure that we are going to be able to answer every one of your questions and that is because it is just a really hard set of questions.

Commissioner Scharff stated: That was a good answer. Executive Director Goldzband added: Can I put a fine point on that? I am going to predict that staff will not be able to answer every one of your questions. Commissioner Scharff replied: I do not need every one of my questions answered. Executive Director Goldzband interjected: But the goal that Brenda is well on her way to achieving with everybody else is that you will all have far more information than you had in 2015. The information will be far more timely, it will be more accessible, and through the process getting to 2015 we will have stuff that is just as important, which is knowing specific questions we are not going to be able to answer and getting those to you and figuring out if there are work-arounds around that. Is that fair, Brenda? Ms. Goeden answered: Yes.

Commissioner Scharff continued: That was a great response, I appreciate that. I did want to say that on the benthic study the report does not really tell us what the conclusions were from the draft report, because I guess they are still looking at it. I find that a little frustrating so I am hoping we will get an update that tells us, 'Okay, you did the report, it's great, and you have the draft final report in April.' It is now November, and nothing has come out of that. There is a little explanation that I would like as to why it has taken so long and why this shows no conclusions as opposed to the water quality one which is a great conclusion. This is not damaging water quality, that's great, we can sort of move on regarding the water quality issue, that is how I read that. Ms. Lau concurred: Right. And I think part of a learning process for us, the sand miners, is when you work in a TAC with numerous agencies things do tend to move a little slower. The report was completed in April and we are just pending review of all the different agencies. We are not ready at this time to discuss those results just out of a courtesy for everyone involved so that there can be more discussion and just give time to review and discuss.

Commissioner Scharff continued his inquiry: So it has been like seven months, when do you anticipate coming back to the Commission with those responses? Are we going to set a timeline like five months from now, six months from now? And if the agencies don't respond can we at least hear the responses because I would hate it to be longer than six months. Ms. Lau replied: Yes, we can talk with Brenda and figure out the best way to relay the information back to the Commission. Commissioner Scharff stated: All right, that would be great, thanks.

Commissioner Showalter had a suggestion: I'm looking at the list of TAC members and it is very thorough but there is one that I hope that you would reach out to; they might not be willing to take part but if they would it would be good and that's NASA. NASA is doing a lot of work with satellite imagery to analyze reading sediments. They are right in Mountain View, so we talk to them from time to time and one of the things they are beginning to be able to do is see through a little bit of water. It would be good to make as many connections with the sediment world and the satellite world as we can so we can use some of their techniques when

they get available, which should not be all that long. Ms. Lau replied: Yes, we will talk about it with Brenda. BCDC is leading the Sediment TAC and I think it is up to her discretion who she wants on the TAC but I am sure we can definitely reach out to NASA. Executive Director Goldzband added: And if it is all right, Commissioner Showalter, we will use you as a connection.

Acting Chair Halsted announced: We did not schedule a public hearing on this matter but if anyone from the public would like to address us or ask questions please come forward now. I do not have any cards or anything. (No public comment was given) Thank you. That was very interesting and exciting report. We will look forward to more; obviously, there is a lot of interest in this.

**12. Adjournment.** Upon motion by Commissioner McGrath, seconded by Commissioner Alvarado, the Commission meeting was adjourned at 3:24 p.m. in honor of Bob Batha, former BCDC Chief of Permits.

Respectfully submitted,

LAWRENCE J. GOLDZBAND  
Executive Director

Approved, with no corrections, at the  
San Francisco Bay Conservation and  
Development Commission Meeting  
of November 15, 2018

R. ZACHARY WASSERMAN, Chair