

San Francisco Bay Conservation and Development Commission

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May 1, 2020

TO: All Commissioners and Alternates

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

SUBJECT: Approved Minutes of April 16, 2020 Virtual Commission Meeting

1. **Call to Order.** The virtual meeting was called to order by Chair Wasserman at 1:07 p.m. The meeting was held online via Zoom.

2. **Roll Call.** Present were: Chair Wasserman, Vice Chair Halsted, Commissioners Addiego, Ahn, Alioto-Pier, Beach, Butt, Chan (represented by Alternate Gilmore), Cortese (represented by Alternate Scharff), Eckerle, Gioia, Gorin, Lucchesi, McGrath, Peskin (joined after roll call), Pine, Ranchod (represented by Alternate Nelson), Randolph, Sears, Showalter, Tavares (represented by Alternate El-Tawansy), Techel (represented by Alternate Hillmer), Wagenknecht (joined after roll call) and Ziegler. Senator Skinner, (represented by Alternate McCoy) was also present.

Chair Wasserman announced that a quorum was present.

Not present were Commissioners: Department of Finance (Finn), Solano County (Spering).

Chair Wasserman made introductory commentary: Before I open the public comment period for items not on today's agenda let me thank everyone again and especially the public for taking the time to join this first online and teleconference meeting.

This is a new experience for all of us at BCDP and we appreciate your support as we work together in this new medium.

I want to share some instructions on how we can best participate in this meeting so that it runs as smoothly as possible.

First, everyone please make sure you have your microphones or phones on "mute" to avoid background noise. For Commissioners if you have a webcam please make sure that it is on so that everyone can see you.

For members of the public, if you would like to speak during our open-forum, comment period or during a public comment period that is part of an agenda item you will need to do so in one of two ways.



If you are attending on the Zoom platform, please raise your Zoom hand. If you are new to Zoom and have joined our meeting using this application click the “participants” icon which may be at the top or bottom of your screen and find the small hand to the left. If you click on that hand it will raise your hand virtually.

Second, if you are joining our meeting by telephone you must press “Star 9” on your keypad to raise your hand in order to be heard.

We will call on individuals who have raised their hands in the order that they are raised. After you are called on you will be unmuted so that you can share your comments.

Remember you have a limit of three minutes to speak on an item.

Please keep your comments respectful and focused. We will mute anyone who fails to follow those guidelines or who goes on too long or, at worst, dismiss you from the meeting.

Every now and then you will hear me refer to the “meeting host.” Our BCDC staff is acting as hosts for the meeting behind the scenes to ensure that the technology moves this meeting forward smoothly and consistently.

Finally, Commissioners, you received an email from Marc Zeppetello our general counsel yesterday with instructions on how to participate in the closed session. Please have that information available when we move into the closed session after Item 7.

If you cannot find that, please email Peggy or Marc and they will send it to you again.

BCDC has also established an email address to compile public comments for our meetings. Its address is publiccomments@bcdc.ca.gov. That is all small letters and two of the letter “c” in the middle of public comments — no space.

We have received emails from six parties that have been shared with all of the Commissioners prior to the meeting and posted on our website. If we receive any emails during the meeting they will be shared with the Commissioners and also posted on our website.

Now, before I move to the Public Comment Period, I would like to welcome a very distinguished guest to our meeting. We are honored to have attending this meeting the Secretary of the California Natural Resources Agency, Wade Crowfoot.

Secretary Crowfoot, the virtual floor is virtually yours.

Secretary Crowfoot commented: Thanks so much Zack. Can you hear me?

Chair Wasserman answered: Yes.

Secretary Crowfoot continued: Excellent. Thanks to all of you. It’s quite something to see you all in this, the first, virtual BCDC meeting via Zoom. Thanks for having me and allowing me to say “hello” and share a few thoughts in this remarkable moment in time.

Larry and I had talked about me joining a BCDC meeting in-person this spring. Given your leadership on the front lines of climate resilience and when this Corona Virus crisis hit, we decided to follow through with that commitment via the internet. So, I do look forward to being with you in person at some time in the near future.

It is a bit of thrill to me to come back and address BCDC. I actually started my engagement with state government as an Alternate Commissioner at BCDC on about 2000 to 2003 as the City and County of San Francisco's Alternate when I was working for Supervisor Peskin. And at the time I had remarkable mentors like Anne Halsted and Supervisor Gioia who are still with you helping to lead BCDC.

Also, a special welcome to Michela Alioto-Pier another mentor of mine who served on the Board of Supervisors when I worked at City Hall and who Governor Newsom is excited to appoint as his most recent appointee to BCDC.

I originally wanted to talk about your leadership on climate resilience but let me first address this COVID crisis that we are collectively navigating.

I want to first of all thank your team led by Larry on your staff who really was among the first entity within our broad Natural Resources Agency to really help flatten the curve by moving all of the BCDC staff out of the office and creating a virtual workplace to protect BCDC staff and to do its part to abide by the stay-at-home orders within San Francisco and keep the work moving forward.

The fact that you-all are meeting remotely today and doing important work including permitting is proof-positive that your staff has really effectively pivoted to this virtual workplace and I want to thank you for that.

I imagine most people are following the news and know what the state of California and Governor Newsom are working to do. And that is to surge our medical capacity to provide care for those who need it and protect our most vulnerable Californians from the virus, and then taking action to flatten the curve or limit the spread of the virus.

At our Natural Resources Agency we are engaged on a daily basis in these activities primarily on that third component of flattening the curve.

As you know, State Parks, which is a department of our Agency, has changed its operation and access to parks and beaches to ensure safe, physical distancing.

Just yesterday our Fish and Wildlife Department modified or gave itself the authority to modify the opening of fishing season in some parts of the state to protect rural counties from being overwhelmed by an influx of urban visitors.

Across our Agency leaders have stepped up to help us meet this moment as the governor likes to say.

You all are doing that. You are part of a movement towards continuing our work on this new, electronic format. I am pleased to report that as a result of this crisis 26 entities and our Agency have moved to electronic signatures through DocuSign in a matter of weeks. The progress has been impressive.

Now the governor and state leaders are starting to think about under what criteria we can resume some economic activities that have been put on hold. The governor earlier this week talked about six criteria he and the Department of Public Health would use to identify how we can move back to normalcy.

I think the governor explained this won't be binary where one day we just return to normal but we are going to focus on moving back to regular activity as we can in order to get the economy going again but then also protect Californians.

So thanks for all that you are doing and, most importantly, thanks for doing your work today. It is critical that we keep California's economy and our communities moving forward. And you all spending time virtually in this meeting are doing just that.

Let me share that a large priority for the governor and for me is building our climate resilience and adapting to the impact of climate change. When I was on BCDC as an Alternate climate adaptation was perceived as a bit of a conceptual planning exercise for future decades. And what we know now is the impacts of climate change are upon us. And that is nowhere more visible than in the Bay Area. You all are leading an effort to figure out and think through and take action around sea level rise and how to adapt our communities physically to sea level rise.

Larry let me know that just this morning there were over 200 participants in a virtual workshop on sea-level-rise adaptation which is remarkable.

I am also really excited to watch the progress of your BRRIT Initiative that is a one-of-a-kind effort to bring six permitting agencies, three from the state and three from the federal government, together in the same place to expedite the work on wetlands restoration that Measure AA is allowing. I am really excited to see how that permitting process is going to work.

We've kicked off an initiative within our Agency called, "Cutting Green Tape." And this is how can we get the environmental restoration done more efficiently and cost-effectively. Your efforts are really a poster child of that broader initiative. So, thanks to your leadership on that and let us know how we can be helpful moving forward.

I am hoping that over the next two and a half or three years during the governor's term we will make visible progress preparing our state for these climate-change impacts. Certainly, sea level rise, flooding and wildfires are included in this. The governor and I recruited Mark Gold to lead this work at our Agency. Mark joined a remarkable team led by Jenn Eckerle. And with Mark Gold as our Deputy Secretary for Ocean and Coasts and Jenn Eckerle leading our Ocean Protection Council we are in a really good position to drive forward. So, a big thanks to Jenn for serving in the Secretary's seat on BCDC.

Lastly, I will say — let us know how we can be helpful at the Agency level. My goal in this position is to help leaders lead. We are a vast agency. We have departments as large as CalFire with over 7,000 employees and as small as the San Joaquin River Conservancy with just three employees.

And our mission is broad and quite diverse across our Agency. So do let me know how our Agency can support your work protecting the Bay Area and helping it adapt to the impact of climate change and ultimately becoming more resilient.

And thanks for the opportunity to be here with you. I look forward to getting there in person sometime very soon.

Chair Wasserman continued: Thank you Secretary Crowfoot and we look forward to seeing you in person as well.

If anyone is in the meeting for Item 13, Pending Legislation — we have postponed that to our next Commission meeting.

3. Public Comment Period. Chair Wasserman announced: Our next order of business is the Public Comment Period. If anyone wants to address the Commission on any matter on which the Commission has not yet held a public hearing or is not on today's agenda you will have three minutes to do so.

Mr. Robbie Powelson addressed the Commission: I would like to thank Secretary Crowfoot for framing the importance of Covid during this time. I would encourage the Commission to consider how COVID affects the communities that are directly impacted by the Commission policies. I believe that whatever policies do get implemented during this crisis which is going to be an ongoing effort and that is going to be a part of the picture.

I believe today's action item on the Galilee Harbor is an example that we have to consider how does COVID-19 affect that community. We know that things can't be "Business as normal" while this is going forward.

And if an action that has been in the planning process for a while is now putting people's health in jeopardy in the context of COVID-19 you have to delay the implementation of those policies.

Health is the number one priority, thank you.

Ms. Chika Mezie commented: I am an APRI youth member here in San Francisco in the Bayview Hunter's neighborhood. I serve as a voice for the youth in other generations of residents that reside here.

For years community members have been diagnosed with health issues like asthma, heart failure, hypertension, diabetes and the list goes on. But beginning the project of the 900 Innes Remediation Project I am in support of that project. It is definitely needed.

We can't fix what happened in the past, but we can take action to fix what is going to happen in the future. I am in high support of the 900 Innes Project. Thank you.

Executive Director Goldzband reminded Commissioners: All Commissioners please make sure your video is on throughout the meeting. The public needs to see your face and see that you are a part of the meeting. So all Commissioners, please put your video on throughout the meeting.

4. **Approval of Minutes of the March 5, 2020 Meeting.** Chair Wasserman asked for a motion and a second to adopt the minutes of March 5, 2020.

MOTION: Commissioner McGrath moved approval of the Minutes, seconded by Commissioner Wagenknecht. The motion carried by a virtual hand vote with no abstentions or objections.

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

As we are demonstrating by this meeting, we are still open for business. This terrible health crisis cannot stop and does not stop the work of this agency and other agencies in dealing with other vital issues including climate change and rising sea levels as well as our normal regulatory activities.

Among the activities we will discuss, we had an April 3rd virtual meeting of the local advisory group or BayAdapt, the platform to create the basis to move forward on our strategy to adapt to rising sea levels. It was well attended. It was active participation and we had a number of productive discussions. The minutes will be posted very shortly.

This morning we had a very, very successful public workshop on BayAdapt with over 160 participants from the public as well as BCDC staff. It included active participation through Zoom workshops and it is quite amazing and effective. We will also post the minutes on those as well.

We had set a six-month goal before the Virus hit. This six-month goal was to complete the effort of BayAdapt which does not mean the whole plan but basically a platform on which local agencies and regional agencies can agree. We are going to try to hold to that as close to that as possible but we are not going to make it six months. We are going to be realistic and things have been slowed down to some extent, but we are moving forward because the rising sea levels are not taking a pause in their activities and their increase in height as they approach a number of people and built and natural environmental areas.

a. **Next BCDC Meeting.** Our next meeting will be in three weeks on, May 7th. It is likely that meeting also will be held virtually. We expect the agenda will include:

(1) A briefing on the Commission's Enforcement Program, and a possible advisory vote on the direction taken to implement the enforcement audit from last year.

(2) A public hearing and possible vote to initiate a Bay Plan amendment to the San Francisco Special Area Plan regarding berthing the Klamath as a historic ship at Pier 9.

(3) A briefing on a possible Waterfront Special Area Plan amendment and permit amendment regarding the Exploratorium on the San Francisco Embarcadero.

(4) A briefing on progress on the Commission's Strategic Plan.

(5) A briefing and potential vote on pending legislation.

b. **Ex-Parte Communications.** That brings us to the point in the agenda where any Commissioner as an ex-parte contact which they have not reported through the portal or in writing may do so now. This is on adjudicatory matters. It does not need to be made on policy matters. You do need to make it in writing as well. If anybody wants to make an ex-parte report please raise your hand. (No hands were raised) That brings us to our Executive Director's Report. Larry you are on.

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

It is good to see all of you even if it is virtual. Before I say anything else I want to thank Brad McCrea for taking over this chair so well during my absence. When I entered the operating room I had no idea that the next three weeks would pose such challenges to leading an organization. I wasn't surprised that Brad and the rest of our BCDC staff rose to the occasion. I never even had a chance to go back to the office – BCDC staff bugged out of our 375 Beale Street office starting on March 16th and never looked back. And we were able to do so because our staff worked together as an allegro of action as my musical friends might say. Laptops were distributed. Zoom was purchased. TE*AMS was brought into our Outlook world, and; voila, our next full staff meeting was held virtually.

Most important, we are ensuring that our staff members are healthy and safe. We may have actually over-communicated options available to them. We spent the first few weeks of our new working world becoming adjusted to our new normal but BCDC is definitely open for business. There is no reason to expect that we shall pause in our mission absent a specific COVID-19 link to a specific BCDC issue. And I want to thank Secretary Crowfoot and Mark Gold for leading all of CNRA into this new world – their leadership has been superb.

As we move forward in our virtual meeting that nobody foresaw happening seven weeks ago I want to thank our crack administrative staff and our audio-visual team for making this possible. Speaking of that staff; Peggy Atwell and her administration and audio-visual teams have assisted our friends from the Coastal Conservancy and the State Lands Commission as they think through how they plan to hold their initial virtual meetings next month.

a. **Budget and Staffing.** At some point you will see our new BCDC staff member Monique Dennis in person. Monique is our new receptionist and while we are working virtually she is becoming an expert at making our documents ADA accessible. Monique started the week after BCDC staff left the office so many of us haven't met her either!

I also want to let you know that Sam Stewart of our permitting team has left BCDC and he has been replaced by Schuyler Olsson who has been a backbone of our enforcement team. Schuyler will work under a transition plan so he'll be handling both enforcement cases and permitting issues for the time being.

Now for the budget: While we were excited that the Governor included a resilience bond in his January budget proposal and supported many of the California Natural Resources Agency's initiatives we know that his January budget is now inoperable – those are his words. I expect that the budget for this upcoming fiscal year will be a workload budget at best; the

General Fund will be under pressure, the revenue picture is cloudy, and it is too early to forecast how much federal funding may or may not be coming California's way. Therefore, this is the kind of scenario that likely will require two or three temporary state budgets to be approved throughout the summer and into the fall. To be prepared for what may happen I have instructed our budget officer to plan for three or four separate scenarios for the upcoming fiscal year and the next. We'll share our budget plans with you when we have more information.

I would like Steve Goldbeck to take a minute to explain the legislative goings-on and explain why we pulled Item 13 off today's agenda.

Deputy Director Steve Goldbeck commented: The State Legislature has been on recess due to COVID-19 and sheltering in place like the rest of us. And while there have not been committee hearings during the recess, Senate and Assembly informational, budget hearings on COVID have now been scheduled.

The Legislature is currently set to end the recess and reconvene on May 4th. However, this is dependent on the success of sheltering in place and could well change.

The session would be abbreviated and there is discussion about limiting the number and subject matter of bills, perhaps only to those addressing the crisis and things like drought and wildfires but we don't have any hard information on that and we will keep you informed.

We thought it is best to wait and see what was actually going to be moving forward in the Legislature before we took up your time with briefing on bills and so that is what we will do and that's my report.

b. **Policy Issues.** Thanks Steve. As a matter of fact the first, COVID, oversight hearing is either today or next week.

As I mentioned we are not letting the changing circumstances slow down our pace. This morning's BayAdapt Rising Sea Level Regional Adaptation Workshop was a tremendous hit. It went off without a hitch. I'd like to ask Planning Director Jessica Fain to give you a short update on the meeting itself.

Planning Director Jessica Fain reported the following: As was mentioned earlier today we held our first, public workshop for BayAdapt our regional strategy effort for a rising Bay.

I saw 206 people joining at one point and it was really a great interactive event. We showed that we can still do something meaningful in this new world that we are in.

I know several of the Commissioners were able to join and I thank you for that.

For those who were unable to attend Zach kicked us off with some really inspiring words which was followed by a panel discussion featuring Liam Garland from the city of Alameda, John Coleman from the Bay Planning Coalition and Melissa Jones from the Bay Area Regional Health and Equities Initiative or BARHEI and OPC's Director Mark Gold provided a response to those in a statewide perspective.

We spent the rest of the time, after an overview of what BayAdapt is all about, spending time in break-out group discussions and brainstorming ideas for what should be included in this Regional Adaptation Strategy.

I want to give kudos to the BayAdapt Team especially Nahal Ghoghaie who took the lead on the workshop, our facilitators and technical gurus at the Consensus Building Institute who are working furiously behind the scenes. They are an army of volunteers who helped organize the break-out group discussions. I thank everyone who was able to make it and participate in making the event a success.

I also wanted to draw your attention to a new website that we've launched for this. It is www.bayadapt.org and check it out. It just went live today. You can go there to look for updates and learn about upcoming events. Thank you.

Executive Director Goldzband continued: Thank you Jessica. And even before this morning's workshop we were excited to finally release the ART Bay Area Report. It was all 700 plus pages and the 25-page, condensed, Reader's Digest version. They can be found on the ART website or through a link on the BCDC Home Page.

Despite the media's wall-to-wall coverage of COVID-19, BCDC has received some good coverage on the ART Project and its ramifications in the San Francisco Chronicle, the Marin I-J and earlier on NBC Bay Area. In addition, both the LA Times and CalMatters are interested enough in the issue to have covered this morning's workshop. I want to thank Jessica, Dana, and all the ART staff for a tremendous piece of work. No less an authority on such reports as OPC Director Mark Gold (himself a Ph.D. environmental scientist and engineer) said this morning that it is one of the best that he's read. I think he said it was state of the art or something along those lines. We are very proud of the ART Program.

On a more prosaic note, BCDC's legal case against the U.S. Army Corps of Engineers continues. On April 1st BCDC and Baykeeper filed a joint notice of appeal. The 9th Circuit has established a briefing schedule. We will brief by July 10th. Briefing is to be completed by August 31st. We'll keep you updated when it comes to oral arguments.

The Regulatory staff is working remotely in something like 19 different locations is still working to move projects forward. Our staff is handling almost 125 separate projects including with project developers who will present to the Design Review Board and Engineering Criteria Review Board this summer. So DRB and ECRB will be meeting virtually this summer if necessary. The DRB has a full agenda this summer. Some of the projects we will see are new plans for China Basin Park, a residential neighborhood and waterfront park in Richmond, a proposal to dock the Klamath (a historic ship) at Pier 9 and the Oakland Athletics' proposed ballpark at Howard Terminal.

We've all become familiar with the public health orders that are forcing us to do this virtually. While we've seen some limitations and closures of shoreline public access the Bay Trail and the public shoreline remains open for the most part with signs reminding folks to maintain the proper social distancing measures. I do want to give a shout-out to Commissioner John Gioia who worked closely with BCDC and Contra Costa County staff and with state and

federal officials to close Craneway Pavilion from the public so that it can be used as a health facility. Supervisor Gioia called me during that meeting and we ensured that the appropriate signage was placed on the Bay Trail to redirect the public around the building at a safe distance.

Finally, both ten years too late and just in time, BCDC has entered the social media sphere. Please look us up on Facebook and Twitter and follow us, retweet us, and tell all of your friends and neighbors.

The great John Gardner, LBJ's Secretary for Health, Education and Welfare and the founder of the Corporation for Public Broadcasting and Common Cause once wrote, "History doesn't seem like history when you're living through it." All of us as we work through this turbulence are creating history together. You may want to ask what a "new normal" that develops in the months to come will bring. I think that we all have lots of ideas about that and we'll talk about them together as we move forward.

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

Chair Wasserman continued: If any Commissioner has a question for Larry please raise your virtual hand.

Commissioner McGrath was recognized: I am known as a very hard grader. I wanted to give a shout out to BCDC staff. I talked to Tim Eichenberg who was also in the virtual meeting this morning and we agreed that the quality of organization that went into that meeting was just sensational. I wanted to say "thank you" and make sure that everybody recognizes the quality of that work.

Executive Director Goldzband replied: Thank you very much.

Chair Wasserman continued: Thank you Larry, Steve and Jessica for your reports.

7. Consideration of Administrative Matters. Chair Wasserman announced: That brings us to Item 7, Consideration of Administrative Matters. Brad McCrea is virtually present if you have questions regarding the Administrative Listing that was mailed to us on April 3rd. (No questions were voiced)

8. Closed Session on Pending Litigation. Chair Wasserman announced: We'll now move to Item 8, which is a closed session. The Commissioners will go offline and convene by telephone. You will see a sign that we are in closed session. We will make this as brief as we can.

Executive Director Goldzband added: The closed session is on pending litigation regarding the 1849 Alliance versus BCDC case. We have emailed each Commissioner a one-pager that you have in your in-box which includes a telephone number for each of you to call to join the teleconference. Please put yourself on mute here and make sure you are on mute. The email came from Marc Zeppetello. Be sure to put yourself off-screen so you are not videoing and call in please.

(Closed session from 1:52 p.m. to 2:23 p.m.)

Upon returning from the closed session Chair Wasserman stated the following: With regard to Item 8 on our agenda, we have completed our closed session regarding the pending litigation matter and we did not take any reportable action.

9. Vote to Remove the Bay Plan Water-Related Industry Priority Use Designation from a Site West of Pacheco Creek Near Martinez; Bay Plan Amendment No. 5-19. Chair Wasserman announced: We now will turn to Item 9 on the agenda, which is a Commission vote to remove a priority use designation from the Bay Plan Maps from a site in West Contra Costa. Cody Aichele-Rothman will provide the Staff Recommendation. Cody, please share your screen and make your presentation.

Coastal Planner Aichele-Rothman presented the following: Good afternoon and welcome to the Final Recommendation and Public Vote for Bay Plan Amendment 5-19, regarding the Water-Related Industry Priority Use Area Designation at Pacheco Creek near Martinez. My name is Cody Aichele-Rothman and I am a Coastal Planner here at BCDC.

Today I will be giving a presentation about the requested amendment followed by a final recommendation, a possible Commission discussion, and the public vote.

As a reminder, the Commission voted to initiate this Bay Plan amendment on November 21st, 2019 and the Descriptive Notice including the public hearing date was published the following day. The Staff Report was published on November 27th, 2019. On January 16th of 2020 the Commission held a public hearing. No comments were provided by the public or Commissioners at the hearing or in writing. The Final Staff Recommendation was published April 3rd in advance of the Commission's potential vote today. The proposed project for the site will also require a permit from BCDC.

As a reminder, Bay Plan Priority Use Areas reserve shoreline areas for water-oriented uses to minimize the need to fill the Bay in the future for such uses. Priority Use Areas inland of BCDC's shoreline band are advisory only. The subject site shown here with a red star is currently designated as a Water-Related Industry Priority Use Area. It is one site in a much larger North Contra Costa Priority Use Area currently comprised of five separate sites.

In 1969 the North Contra Costa Priority Use Area was reserved for water-related industry because the features of the sites were seen as desirable for that future use based on other similar sites around the Bay. These features included easy access to intermodal transportation, existing pipelines in the vicinity and the deep-water channel in Pacheco Creek leading inland to Walnut Creek.

In 1986 BCDC staff evaluated the continuing need for Water-Related Industry Priority Use Area designations around the Bay. While the site still had good access to intermodal transport and existing pipelines, the deep-water channel had silted in and the soft soils made the area unsuitable for heavy development. However, the north end was being used to store sand mined from the Bay and so the designation, while reduced in scope, was retained for the current site.

In 2003 the Contra Costa County Flood Control and Water Conservation District purchased most of the site for restoration and flood control. The last parcel to be purchased was the northernmost portion of the subject site that had been previously used for drying dredged sediments. The District received Measure AA funding for the restoration project in June 2019 and purchased the last parcel in December 2019.

Because wetland restoration would not be consistent with the water-related industry priority use area designation, the District has requested that BCDC amend the Bay Plan Maps 2 and 3 by removing the subject site from the North Contra Costa Water-Related Industry Priority Use Area Designation. A detail of current Bay Plan Map 2 is shown here on the left and the proposed amendment to Map 2 is shown on the right.

And here is Bay Plan Map 3 as currently seen on the left, and with the proposed amendment on the right.

With one exception the features of the subject site have not changed since staff's Baywide Water-Related Industry Analysis in 1986. Sand mining activities at the northernmost parcel ended about ten years ago. According to BCDC records there have been no proposals in the last 10 to 15 years to expand water-related industry uses at any of the North Contra Costa Priority Use Area sites. However, this amendment would not affect the other parcels in the priority use area.

Although the District requests to remove the Priority Use Area Designation from the 172-acre subject site, the Lower Walnut Creek Restoration Project extends beyond the boundary of the Priority Use Area. This would enhance and restore approximately 386 acres of coastal marsh habitat along Walnut and Pacheco Creeks. The overall project would create migration space for tidal wetlands expansion and provide opportunities for future, public-access amenities on the site.

The Lower Walnut Creek Restoration Project is currently in the permit filing process here at BCDC. You will see it on a Commission agenda in a few months.

For Bay Plan Amendments, BCDC prepares an environmental assessment which is considered the "functional equivalent" of an EIR (Environmental Impact Report). There have been no changes to staff's initial environmental assessment.

Although there would be no direct, significant, adverse environmental effects from the Priority Use Area Designation removal, there were secondary or indirect effects identified in the environmental assessment that would be reduced to less-than-significant levels with mitigation. Most of the potential impacts of the proposed Lower Walnut Creek Restoration Project would be temporary, short-term, and site-specific due to construction related activities and then possible maintenance of the project. These impacts would be localized to the proposed Lower Walnut Creek Restoration Project sites and may include limited adverse effects during the construction process. However, compliance with applicable local, state, and federal standards as well as incorporation of mitigation measures and best-management practices would result in less-than-significant impacts.

One difference between the staff's Preliminary Recommendation and staff's Final Recommendation is the inclusion of consideration of environmental justice. On October 17th, 2019 the Commission adopted Bay Plan Amendment 2-17 which added new policies and findings regarding environmental justice and social equity. Although these new policies and findings were not yet in effect when staff published the Preliminary Recommendation for this amendment, they were approved by the State Office of Administrative Law on December 27th, 2019 and are now in effect for local and state actions. Bay Plan Environmental Justice Policy 1 states that "The Commission's guiding principles on environmental justice and social equity should shape all of its actions and activities." In the report on page 3 you can see staff's analysis provided for Commission consideration including an assessment of the community vulnerability, a description of community involvement efforts of the proposed project and possible disproportionate impacts. Staff found that although this project is located partially in a census- block group with moderate social and contamination vulnerability, the project did include extensive outreach and public input and that it would result in improved, public access to a part of the Bay shoreline that is relatively inaccessible.

Therefore, I am here with staff's Final Recommendation, which is:

- a. Amend the Bay Plan Maps 2 and 3 by removing the Water-Related Industry Priority Use Area Designation from a 172-acre project site at Pacheco Creek to the east of Martinez that is a portion of the North Contra Costa Water-Related Industry Priority Use Area;
- b. Make necessary findings regarding environmental impacts outlined in the environmental assessment; and
- c. Make necessary findings that the Bay Plan Amendment conforms to all applicable policies of the McAteer-Petris Act.

Thank you for your time and attention during this presentation.

Once again, Jill Sunahara and Paul Detjens are here representing the Lower Walnut Creek Restoration Project and I am available if anyone has any questions.

Chair Wasserman continued: Thank you Cody. I would welcome anyone from the public who wants to comment on this matter to raise your hand to be called upon. (One hand raised was for another agenda item and one other hand raised was not able to be unmuted)

At this time I would like to entertain Commissioner's questions and comments. Please raise your virtual hand if you have a question or comment on this presentation. (No hands were raised)

I would ask for a motion on the Staff Recommendation. We need 18 affirmative votes to approve this motion. The federal representatives can vote on this motion.

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

VOTE: The motion carried with a vote of 24-0-0 with Commissioners Addiego, Ahn, Alioto-Pier, Beach, Butt, Gilmore, Scharff, Eckerle, Gioia, Gorin, Lucchesi, McGrath, Nelson, Peskin, Pine, Randolph, Sears, Showalter, El-Tawansy, Hillmer, Wagenknecht, Ziegler, Vice Chair Halsted and Chair Wasserman voting, "YES", no "NO" votes, and no "ABSTAIN" votes.

10. Public Hearing and Possible Vote on the 900 Innes Remediation Project by the San Francisco Recreation and Park Department in the City and County of San Francisco; BCDC Permit Application No. 2019-003.00. Chair Wasserman announced: That brings us to Item 10 which is a public hearing and possible vote on the remediation of the property at 900 Innes Avenue in San Francisco. Anniken Lydon will introduce the project.

The Commission's Bay Restoration Regulatory Integration Team (BRRIT) Representative, Ms. Anniken Lydon, presented the following: My name is Anniken Lydon and I am the Bay Restoration Regulatory Integration Team or BRRIT representative. As Secretary Crowfoot mentioned this morning this group is an interagency team formed to improve the permitting process for multi-benefit, habitat restoration projects in the Bay Area. Today I will be presenting to you the India Basin 900 Innes Voluntary Remediation Project being conducted by the San Francisco Recreation and Parks Department. This project received Measure AA funding and is the first BRRIT project coming before the Commission.

On April 3, 2020 you were mailed a Staff Summary of the application for the voluntary remediation the 900 Innes Property located in the City and County of San Francisco. The project site is a 3.38-acre site located along the shoreline of India Basin in the southern portion of the San Francisco Waterfront. This site is located within a San Francisco Bay Plan-Designated Waterfront Park, Beach Priority Use Area and a San Francisco Waterfront Special Area Plan-Designated Park Priority Use Area.

Approximately 3.08 acres of the project activities are within the Commission's jurisdiction. The Commission's Bay jurisdiction is shown on this figure as the white dashed line along the shoreline and the 100-foot shoreline band is shown by the bold-black, dashed line running through the 900 Innes Property. The upland portion of the project site is bounded by the India Basin Shoreline Park (IBSP) to the northwest, San Francisco Bay to the northeast, India Basin Open Space (IBOS) located to the east, the 700 Innes property owned by BUILD, Inc. to the southeast and Innes Avenue to the southwest. The project includes voluntary clean-up to remove sediment and soils with elevated concentrations of contaminants of concern and to prepare the site for future construction of a public park, which will be the subject of a future Commission action.

More specifically, the proposed project involves:

1. Removing contaminated sediments over approximately 0.88 acres of the Bay and backfilling this area with clean sediment, which will likely be a mixture of sand and silt.
2. Capping two mudflat areas near India Basin Shoreline Park that total approximately 0.4 acres. The sand caps are shown on this image in the hatched areas;
3. Removing soils from approximately 1.8 acres within the 100-foot shoreline band and backfilling that area with clean fill to raise the site elevation back up to pre-project elevations.
4. Additionally, this project includes removing marine debris and structures currently located on the site.

This figure shows a zoomed-in version of the site and the Commission's current jurisdiction. The Bay jurisdiction here is shown by the orange Mean High Water Line which runs along the shoreline and around these two wharf structures. The wharf structures were constructed prior to the Commission's establishment. The 100-foot, shoreline band is shown here in the pink line across the site. This figure also shows the locations of the marine debris and structures on the site that would be removed as part of the proposed project. This will include some piling areas, some floating docks, pile-supported structures and some debris along the shoreline and portions of marine rails.

The project will modify the existing shoreline through the removal of the two wharves and other structures on the site. The modified, post-project shoreline is shown on this figure with the light dashed line along the shoreline and this figure also shows the limit of our jurisdiction and then this outer line shows the 100-foot shoreline-band jurisdiction. This figure also shows the alignment for the interim, public-access path that would provide temporary access across the site until such time that the future public park is constructed and would provide permanent public access. The applicant anticipates beginning construction on the public park in late spring or early summer of 2021. The interim path associated with this remediation project would only be constructed if the time between the completion of the remediation activities and the beginning of the park construction exceeds six months.

The relevant Bay Plan policies for Commission consideration when evaluating this permit application include the policy sections related to water quality, fish, other aquatic organisms and wildlife, tidal marshes and tidal flats, water surface area and volume, and public access. The primary issues raised by the proposed project are whether the fill associated with the project is the minimum amount necessary as required by the McAteer-Petris Act and whether the project is consistent with the relevant Bay Plan policies by including appropriate protections for the natural resources of the Bay and providing maximum feasible public-access.

Before I turn the presentation over to the applicant, I would like to point out that the estimates of work in the Commission's jurisdiction have changed between the Staff Summary and the Staff Recommendation. These estimates were modified because the quantities in the Staff Summary reflected quantities below the high tide line and not below the mean high water line which is the Commission's Bay jurisdiction limit on this site. All quantities have been updated in the Staff Recommendation.

Here to present the details of the project is Charlene Angsuko the Project Manager for the San Francisco Recreation and Parks Department.

Ms. Angsuko addressed the Commission: My name is Charlene Angsuko and I am a project manager with the San Francisco Recreation and Parks Department (Department). I am here to present on the 900 Innes Remediation Voluntary Clean-Up Project. I am joined by General Manager Phil Ginsberg of the San Francisco Recreation and Parks Department, Mark Johnson, Case Officer with the Regional Water Quality Control Board, Steve Capellino, Michael Whelan, and Nick Kennedy, Engineers with Anchor QEA, and Ms. Christine Boudreaux our permitting agent.

I will walk you through the background and goals for the India Basin Park Project and describe some of our history and context here and step you through the proposed, remedial design. The team will be happy to take questions afterwards.

In 2014, the Department acquired 900 Innes with the goal of transforming a brownfield site into a Bayfront Park that fills a critical gap in the Bay Trail Network.

The property is in a spectacular location surrounded by existing parks and open space.

Since 2014 we've been engaging the community to understand the needs for the recreation amenities, programs and in general how the collective open spaces could serve as a beacon for place making, cultural celebration, and capacity building.

Prior to the Park's development we knew we had to embark on clean-up of the site. And the Remediation Project is the first phase of the larger India Basin Parks Initiative.

The site history is important to understand the contamination present, the clean-up goals, and the remedy itself. 900 Innes and the Shipwright's Cottage was home to skilled, European migrants known as shipwrights. Between 1875 and the 1930s the shipwrights constructed shallow-bottom boats called Scow Schooners which were integral to the economy and goods movement within the Bay and its tributaries during this time.

Over time with the completion of the Bay and Golden Gate Bridges the schooners became obsolete with the growth of the automobile industry.

900 Innes however remained an operating boatyard constructing and repairing vessels for several decades. And this took place well into the 90s and early 2000s.

So that legacy of boat building and repair has led to the contamination of the ground surface and near-shore sediments. Work associated with boat building and repair caused spillage and deposition of boat-related materials such as paints, putty, oil and debris into the surface thus resulting in the presence of heavy metals such as lead, copper, mercury, and nickel in the ground surface. There are also petroleum-related compounds from diesel and motor oil and some portions of the site contain PCBs from hydraulic equipment, coolant, and lubricants.

Before the remediation can begin, the project will remove abandoned marine structures along the shoreline including these remnant piers, docks and piles that you see in the photo. Along the shoreline crumbled concrete and existing hardscapes will be removed to access underlying soil and sediments.

Historic elements such as the marine rails pictured here will be removed and preserved for incorporation into the future park. All creosote-treated timber like those associated with the marine rails and those associated with the fence posts in the back will be removed and disposed of. And the proposed activities will also clear and remove the site of any dumped debris and remnant building parts which have accumulated along the Bay Shore.

Along the shoreline historic boat ramps and slipways will be cleared to improve native mudflats. The tidal areas will be dredged to approximately four feet and clean sediment will be imported to serve as clean backfill.

This will help support the future restoration and marsh planting efforts in a later phase.

The upland areas would be excavated to an average of two to five feet followed by placement of clean, imported backfill to eliminate any exposure pathways.

Soils and sediments will be treated onsite and stabilized prior to off-haul to allow for a faster dewatering process.

The clean-up of the site is being undertaken through the Regional Water Quality Control Board's Voluntary Site Clean-Up Program. The Water Board is serving as the lead agency and has guided the Department in its investigations, remedial design and remedial action planning process. The Department, is also receiving consultation support from staff, from the state and federal resource agencies, U.S. EPA, NOAA Fisheries, U.S. Fish and Wildlife and CDFW who have helped inform the clean-up targets as well as the methods.

The remedial plans as approved by the Water Board are compatible with the future use of the site as a public park. The remedy offers the highest level of health protection as the entire surface will be scraped and backfilled.

All imported material will be screened and tested prior to placement.

The remedial activities are generally concentrated in the upland areas and shoreline with excavation ranging between two to five feet with an equivalent backfill volume.

There are two offshore areas which are proposed to receive a sand cap as depicted by the two polygons. These offshore, capped areas do not exceed either remedial goals, but because of the proximity to the Park, we elected to cover these areas to reduce the area site-wide average and not to exceed concentration, by a lower amount.

Given the extensive mudflats in this area and limited access to the work site via traditional scows and barges the work is proposed to be performed from the upland areas with land-based equipment.

A temporary water barrier will be installed to ensure that demolition, excavation and backfill activities do not impact aquatic habitats.

Several existing structures within BCDC's jurisdiction below mean high water and within the shoreline band are proposed for removal.

This slide shows some of our sediment volume. We propose 0.88 acres of remediation, 0.4 acres localized, offshore, sand caps, and we are restoring 0.29 acres of Bay surface area that will be reopened from the removal of some of these hard structures.

Now within the shoreline band the volume removed and placed will be at equivalent at 11,600 cubic yards.

As part of the project's condition of approval an interim path has been requested by BCDC staff to be constructed if there are significant delays in the construction of the future park at the site.

We can say this project has truly been a partnership. To date we have received approximately \$7 million in public, grant funding for this clean-up effort with the largest contribution from the San Francisco Bay Restoration Authority of nearly five million dollars and from the U.S. EPA of nearly two million dollars. We are also grateful to the California Coastal Conservancy for providing early funding for the development of the initial park concepts which have helped to pave the way for additional funding for the future work.

We can also say this project has been a true partnership with the community working with APRI, the Trust for Public Land, and the San Francisco Parks Alliance. Together these core partners are doing something unprecedented for this Department and City, which is to develop the Park under an equitable development plan (EDP).

Through this plan we will receive input not just on the Park design but what inspires capacity, stewardship, and place making.

The EDP process is rooted in these six principles with a foundational principle and common thread of spatial justice.

We hope to be back at the Commission to present on this phase of the work back at 375 Beale sometime next year. Thank you for your time Commissioners. That concludes my presentation and we are available for your questions.

Ms. Lydon continued: Thank you Charlene. A quick note to the Commissioners; there were six, public-comment letters that were submitted about this project application and those were provided to you before this meeting.

Chair Wasserman that concludes our presentation on the project.

Chair Wasserman continued: Thank you very much. With the presentation complete, I will now open the public hearing. Any member of the public that would like to make a public comment please raise your hand to speak. The six letters Anniken referred to have been posted on the website.

Ms. Jackie Flin commented: I am the Executive Director of the A. Phillip Randolph Institute (APRI) of San Francisco. I've been before this Commission on previous occasions in support of the India Basin Park Development Project.

And despite the challenges we're facing during COVID-19 and the shelter-in-place orders my office is committed to doing the best we can to keep our community informed and participating in public meetings such as this one.

As we are all figuring out technical difficulties transitioning to a virtual world I want to take the time to remind you of the challenges low-income families face in that transition.

Many community members do not have computers and internet service at their homes and some may only be able to participate through their mobile devices. But even despite these challenges our community is very resilient and I've asked community members to be on this call as you heard from one of our youth leaders earlier.

And the earlier raised hand during public comment which was PHTA User is the Public Housing Tenants Association who are experiencing some microphone issues which is why you can't hear them, but they are rigorously texting us. I wanted to make sure that you guys knew they are here.

And just before this meeting I emailed multiple letters of support to the project and I humbly ask that you accept these beyond the deadline due to some of the technical challenges we've been facing just to get them signed off and get them back to you in a timely fashion.

Many of our community members have made themselves available today but they also serve on the project's Equity Development Leadership Committee as Charlene mentioned. And just before our shelter-in-place orders those leaders invested over five months in developing an equity plan for the project and their voice has been an invaluable voice of the community.

And we still have ongoing work but some of that has been adjusted a bit with our shelter-in-place orders.

Lastly, this remediation is extremely important and necessary to start the first and most essential task of cleaning up the Park for future use. And I ask that you all stay considerate of the fact that our community is susceptible and vulnerable to air-quality impacts.

So I am hoping that we all continue to work together to minimize our overall impact on the community because 40,000 square feet of dirt is a lot to haul off site and bring on.

In addition to that we are also committed to maximizing local opportunities for work on the site through our union partnerships and the Office of Economic and Workforce Development.

So, I thank you all for your commitment to the public in hosting this meeting and making it as accessible as possible. And I thank you for your time and I wish you all well and stay safe and healthy during this time. Thank you.

Mr. Oscar James was recognized: My name is Oscar James and I am part of the A. Phillip Randolph Institute and I am on the Leadership Committee. I am also a native of Bayview Hunter's Point and I have been here all of my life of 73 years. As a young person I had the opportunity to be at that waterfront in the previous years, but I haven't been able to go down there for the last 60 years.

So, what I am asking this Commission to do is make it possible for young people of my community to be able to go there and experience fishing and what have you. We definitely need it to be cleaned and also enhanced for the opportunity for different businesses for the young people to participate in business opportunities.

I thank you for your time and I also thank you for this new technology that we are on now. I hope one day the community will be able to go and meet you guys face-to-face and share interest in your community as well as we share interest in our community with you. We love our community and we want to make sure that our Bay is open for everyone throughout the City and the Bay Area. That is something that we have not had the opportunity to experience in the last 60 years. Thank you very much.

Ms. Lilla Pitman spoke: My name is Leila Pitman and I am a Bayview Hunter's Point community member and resident as well as the Director of Feline Finesse Dance Company and a part of the APRI family.

I stand here in support of the 900 Innes Project. However, I feel like there needs to be more of a collaborative effort done around the clean-up and treatment of the water. We utilize that Park (India Basin Shoreline Park) all of the time. However, back in 2014 my son was hospitalized for receiving a parasite after he played in the water and he accidentally drank some of the water.

So, I am all for cleaning up the soil and with the sandbagging and everything but I feel like there has to be more of a collaborative effort done as far as the contamination and the treatment of the water because there is no surprise that Bayview Hunter's Point has suffered from contamination for many, many years. So why has it taken so long for the call and response for you guys to come and revitalize and remediate this area? And I hope it is for the right reasons and not for the purpose of a face front for making it look well for all of the gentrification that has taken place. And I thank you.

Mr. Erik Zepeda-Flores addressed the Commission: Good afternoon Commissioners. My name is Erik Zepeda-Flores and I am the Bay Area Community Organizers speaking on behalf of the Trust for Public Lands. I am strongly supportive of the proposed 900 Innes Remediation Project at India Basin.

Since 2014 the Trust for Public Land and the San Francisco Recreation and Parks Department have worked with partners and community-based organizations to ensure that Bayview Hunter's Point and India Basin residents were well represented and deeply engaged in the remediation efforts and the design for the future park at 900 Innes and India Basin Shoreline Park.

We believe the proposed 900 Innes Remediation would be a huge asset to the Bayview Hunter's Point community that has endured a long history of environmental injustices. This project would create much-needed access to space and accessible high-quality parks while celebrating these beautiful views of the boatyard.

We see the environmental clean-up of the 900 Innes property as the first step towards equity and resilience building.

We strongly urge you to approve the Remediation Project to ensure that the site is safe and healthy for the community and nearby residents and for the local plants and wildlife in this area. Thank you for your time.

Ms. Jessica Campos gave public testimony: My name is Jessica Campos I am a director at an Early Head Start program here in Bayview as well a community member and I am here speaking on behalf of the project and strongly stand by it.

I think in our community we need a space in which families and community members can go out and feel safe and secure and also enjoy the beauty that our community and our City has. And we want to make sure that we are providing equitable spaces and holding each other accountable for how we are doing the clean-up to ensure the safety of not only now but into the future of the families and next generations so they could also enjoy the space.

Being part of the process, it has brought a lot of CBOs (Community Based Organizations) and a lot of community members together and building on the social justice piece of not only Bayview but in all our communities in San Francisco.

Ms. Sophia Tupuola commented: My name is Sophia Tupuola and I am a lifelong resident of Bayview Hunter's Point. I grew up on Kirkwood and Hunter's Point and have had limited access to safe spaces to recreate.

I am in support of the remediation of the 900 Innes site as Bayview has had a longstanding history of social isolation which obscures our access to resources and spaces that will give residents the capacity to thrive in society.

This site is a cumulative opportunity to bring equity to residents of Bayview Hunter's Point. This site is an opportunity to provide safe and healthy spaces to residents and give us the chance to dislodge ourselves from the overwhelming hopelessness incurred by existing in a space of concentrated poverty and environmental toxins and stressors. Thank you guys.

Dr. John Durand commented: My name is Dr. John Durand I am a research scientist at U.C. Davis. I study wetlands, ecology and restoration.

I have a question about any historic structures that could be salvaged that would represent the maritime history of San Francisco, which I think would be a valuable inclusion.

The other concern that I have, although this is a really lovely project it doesn't mention climate change at all. And sea level rise is going to swallow up about at least half of this Park in the next 50 years. Given the amount of energy and resources that we are putting into this it does seem like a shortcoming to not actually consider the fact that a kind of jewel of the neighborhood will essentially be subsumed by sea level rise in a very short time. Thank you.

Chair Wasserman continued: With that I would entertain a motion to close the public hearing.

MOTION: Commissioner Peskin moved to close the public hearing, seconded by Commissioner Nelson. The motion carried by a virtual show of hands with no abstentions or objections.

Commissioner McGrath was recognized: I do have a question for Charlene. I saw those boards in the background. I hope you use them. More seriously, there is an interesting graphic on page 18 of your presentation that looks like it might be the Marine Railroad, which still extends out into the water and will remain. Is that the case?

Ms. Angsuko replied: My slide 18 shows the interim path. Do you have the title page?

Commissioner McGrath responded: It is the interim path but there something that looks like a series of rectangles that goes from the interim path down into the water and I've been curious as to what that was. Your later picture on slide 22 looks like it's the Marine Railroad and looks like it may remain.

Ms. Angsuko answered: That is correct. So, there are actually three marine way rails; there are two metal ones that were pictured on Slide 7. So, the ones you are seeing in the renderings are those marine rails restored and put back hopefully. And those are contributing features of the design and the landscape.

The concrete boxes, or what we refer to as the H Ladder, internally, is also a form of marine rail. They used to have components built on top of it and I think you saw the historic photos of boats sort of hovered over those slipways.

Commissioner McGrath responded: So that clarifies it. I think to the point we are not approving a permit for this for the eventual Park and to the community's concerns and to John Durand's concerns about historic structures; those issues will still be taken up but there is certainly an opportunity to preserve at least some of the historic features. Is that correct?

Ms. Angsuko replied: That is correct. The biggest preservation task at hand is after this first phase of remediation. We are also including within this phase abatement of the historic Shipwright's Cottage, which is a landmark structure and it is eligible for a listing in the California Historic Register and the National Register.

Commissioner McGrath interjected: You answered my question. Thank you very much.

Chair Wasserman continued: Anniken will you present the Staff Recommendation?

Ms. Lydon read the following into the record: On April 10, 2020 you were mailed the Staff Recommendation for the India Basin 900 Innes Voluntary Remediation Project. The staff recommends that the Commission approve BCDC Permit No. 2019.003.00 with conditions to authorize the project.

As conditioned, the staff believes that the project is consistent with your law and Bay Plan policies regarding fill, natural resources, and public access.

The staff also requests that the Commission allow the staff to make minor, typographical, grammatical or non-substantive corrections to the permit. And with that we recommend that you adopt the Staff Recommendation.

Chair Wasserman continued: I would entertain a motion on the Staff Recommendation.

Commissioner Peskin was recognized: I actually wanted to sing the praises of our Recreation and Parks staff, Mr. Ginsberg and his staff. I wanted to point out what Commissioner McGrath asked about as it relates to the preservation of the Shipwright's Cottage, which is an edifice that was landmarked by the San Francisco Board of Supervisors over a decade ago, and particularly I wanted to salute the community. We heard from Ms. Flin at APRI, the Trust for Public Land, my former employer and a host of others. The outreach has been superlative.

This project will add over a third of an acre of Bay surface area. It will preserve historic resources. It is consistent with the McAteer-Petris Act and it furthers and advances our environmental justice goals and policies and I am very proud that the City and County of San Francisco has moved it forward.

I also want to point out that five of the seven members of the Bay Restoration Authority are members of BCDC who had the pleasure of taking a tour with the General Manager of Rec and Parks, Phil Ginsberg, who is participating in this virtual meeting and we actually got to see up close the incredible opportunity that this is for the southeastern portion of the City and County of San Francisco and the people of the Bay Area.

So, I am delighted to move Staff's Recommendation.

MOTION: Commissioner Peskin moved approval of the staff recommendation, seconded by Vice Chair Halsted.

Chair Wasserman continued: I would like to ask the applicant's representative whether you have reviewed the Staff Recommendation and agree with it.

Ms. Angsuo replied: We have and we accept the recommendations and the conditions of approval.

Commissioner Showalter commented: It was mentioned that this was the first BRRIT project to come to BCDC. So, I was interested in how that worked and generally did it save time; and if so how much time? It is a great project. How did BRRIT work?

Ms. Angsuo answered: Commissioners it was a fantastic process. I don't think I've seen anything approved that quickly in my time working for government. I am from Southern California, so I had the pleasure of working with the Coastal Commission and I think for a project of this size and scale I think it moved very efficiently.

I want to thank the regulators and the permit analysts from all the agencies who provided phenomenal support and feedback and were very clear in their directions.

So, I really commend staff and the Restoration Authority for setting up this process.

Ms. Lydon added: From the regulator's side; working on the project with the other team members from the other agencies definitely gives you insight into the analysis that they are doing and I think it does help staff when we are writing our analysis. Not to just get the letter with the other agencies' analysis in it, but to really understand why that is being done and the reason that they are adding certain conditions or measures to their documents in their approval.

Commissioner Showalter continued: It sounds like it should be theoretically when we heard it described it sounded like it really would be quite successful. So, I am really glad to hear that it seems to be working that way. That is wonderful.

Commissioner McGrath had additional comments: I echo everything that Aaron Peskin said. I'd like to point out that this is the first project that we've seen that required in some ways the Bay Fill policies to be put in place that recognize shallow water has habitat value rather than just hauling the contaminated material out there – it is being replaced with other clean material.

I spent about 10 years working with the University of Wisconsin on remediation programs for different states and different areas and this is absolutely consistent with that.

And then the last comment; as a park guy for decades – parks do something wonderful. They mix people that you wouldn't ordinarily see. They wouldn't ordinarily be on an airplane flight or a bus because they might come from different walks of life. But parks look beyond that and there is something very good about that.

So, I am going to be really happy to vote for this.

Commissioner Nelson posed questions: I have a couple of questions for the applicant. First, a number of your slides show a temporary water barrier. Charlene could you talk us through what that barrier is and how it is installed and removed?

Mr. Steve Cappelino responded: What our thoughts on the water barrier are and what we would like to do is to make sure that we adequately remove the sediments that are contaminated to the target depth and to be able to successfully excavate the material, and restore back the grades while minimizing any contact with the surrounding waters. From not only a contaminant standpoint, but from a suspended-solids standpoint as well.

What we are going to do is use a temporary, water barrier and Charlene has put a few pictures up for you to see. There are two typical approaches. One of them is basically like a giant water bladder that you roll out at the site. They would leave an opening in it and wait for the tide to go out and then close it. Another one is a temporary one that looks like a silk fence but it is reinforced and it works the same way.

Commissioner Nelson stated: That is helpful. Second, one of the public comments we received asked if it is possible to handle some of the removal of materials through barges instead of trucks to reduce air quality and other impacts on the neighborhood. Could you talk us through that decision to use trucks instead of barges?

Mr. Cappelino explained: The depths of the site would not allow us to be able to get a barge into the site. At low tide the entire embayment area actually completely drains out. For us to be able to get a barge in there we would actually have to dredge a channel to get in there and what that would do is that would actually disturb some of the underlying sediments that we would like to not disturb.

We did hear during the public comment process a lot of comments about truck trips and about potential air quality. So, one of the things that we did during the design of this is we worked to find sources of backfill material that are located adjacent to where the landfills are where the material has to be hauled out.

And one of the things that we did in the specification is we are going to require the contractors to dual cycle their trips. So, every time a truck leaves the site with fill going to the landfill they will return back with clean fill to the site. What it does is it effectively drops our truck trips by 50 percent.

Commissioner Nelson had a third question: And the third question is about climate change policies and how we are going to apply those to this site. So Anniken maybe this is a question for you.

My assumption is that this discussion about climate change and design and so forth will wait for the development of the Park phase of this project rather than the remediation. Is that right?

Ms. Lydon replied: That is exactly right. So, there is a little bit of analysis in the Staff Recommendation related to the interim, public-access path and potential flooding impacts on that area.

The site is quite high in elevation and the interim, public-access path would be located fairly high as well, but because this is an interim phase, that analysis will be done for the public Park.

Chair Wasserman continued: Peggy will you please call the roll. Thirteen votes are needed to approve the application. The federal representative cannot vote on this motion.

VOTE: The motion carried with a vote of 21-0-0 with Commissioners Addiego, Ahn, Alioto-Pier, Butt, Gilmore, Eckerle, Gioia, Gorin, Lucchesi, McGrath, Peskin, Pine, Nelson, Randolph, Scharff, Sears, Showalter, Hillmer, Wagenknecht, Vice Chair Halsted and Chair Wasserman voting, "YES", no "NO" votes, and no "ABSTAIN" votes.

11. Commission Consideration of the Third Amendment to the Galilee Harbor Settlement Agreement. Chair Wasserman stated: We now turn to Item 11, which is consideration of the third amendment to the Galilee Harbor Settlement Agreement. Brad McCrea will introduce the amendment.

Regulatory Director McCrea addressed the Commission: Following my presentation I am going to introduce Riley Hurd. He is the representative from Galilee Harbor who is going to share a few comments of his own.

Before I begin, I have a few opening comments with regard to this agenda item and how it differs from the larger anchorage. Today's agenda item relates to Galilee Harbor and its request to remove a privately-owned, public-access dock being used by the anchor-out community in Richardson Bay, but this is a different issue than the larger issue associated with the Richardson Bay anchorage itself.

BCDC is working on that larger matter through BCDC's Enforcement staff and BCDC's Enforcement Committee.

I will also take this opportunity to reiterate what Enforcement Committee Chair Scharff said last week at the Enforcement Committee meeting. The enforcement matter—not the matter for today—but the other ongoing process, is taking a measured approach during this extraordinary time by recognizing the human elements involved and the unique challenges in the area.

We recognize the unique risks for people experiencing unsheltered homelessness during this outbreak. And while COVID-19, shelter-in-place measures are in place BCDC will not undertake actions that conflict with the guidance from the Center for Disease Control or local, public-health officials.

In other words we expect that public agencies and non-governmental organizations can agree that it is not appropriate to force any individual to leave shelter unless it is to ensure that she or he is being moved from an unsafe situation to a safer location in accordance with CDC guidance and the order of local public-health officials.

So with that I will share my screen and give a brief overview of this project. Commissioners you are scheduled for a vote on a request to amend a settlement agreement between BCDC and the Galilee Harbor Community Association.

While the settlement agreement history is long dating back some 24 years; this amendment request is straightforward in that it involves the temporary removal of a small, public-access dock for up to two years in the city of Sausalito, Marin County.

In the next few minutes I will do three things. I will provide some site context, provide a brief history of the settlement agreement and describe the proposal in general terms.

Shown in the yellow circle is Galilee Harbor. It is a residential community of live-aboard boats and houseboats that is authorized for residential use by BCDC until the year 2037.

Relevant to this conversation in yellow here in the lower circle is a publicly-owned dock just a few blocks away in front of Turney Street. You might be asking yourself - why aren't we looking at a permit matter? Why are we looking at a settlement agreement?

And so I will share a little bit of history with you. In 1996, BCDC and Galilee Harbor entered into a settlement agreement to resolve litigation between the parties.

The original dispute arose due to a disagreement concerning whether a BCDC permit was required to authorize the live-aboard boats and houseboats. Galilee Harbor contended that the community pre-existed BCDC and therefore no permit was required for future development of the Harbor. And BCDC contended that the community was indeed established after the enactment of BCDC's founding, legislation policies.

So the 1996 Settlement Agreement, which was amended most recently in 2017, ultimately resolved that dispute. And in settling the dispute BCDC agreed that Galilee Harbor could proceed with the project that modernized its facilities and restored wetlands and provided certain, public-access improvements including the installation of a small, launching float that enabled the public to access the water for recreational purposes.

And that small, launching float shown here is the topic for today's discussion and your consideration.

The Galilee Harbor community has been a steward of the Bay and the public access along its shoreline for the past two decades. It is one of the waterfront organizations in Sausalito that embodies the rich history of this maritime town.

However, beginning last fall Galilee Harbor alerted BCDC that the public dock had become a public safety issue due to overuse by the anchor-out community that lives illegally on Richardson Bay and that access to the shore from vessels moored in that offshore anchorage.

Galilee's amendment request, which you have received, describes the issue in detail including a list of specific, unfortunate incidences resulting from this unintended use which occurs both day and night.

Galilee Harbor has stated that this seemingly innocuous, public improvement, the boat dock itself, has morphed into a serious and dangerous nuance for the residents of Galilee.

In addition to the problems that the dock poses to the residents the volume of anchor-out dinghies that are tied to and using the public dock makes the dock inaccessible to those wishing to use it for recreational purposes such as kayaking and paddle boarding.

Therefore, on January 31, 2020 Galilee Harbor requested an amendment to the Settlement Agreement to temporarily remove the privately-owned, public-access dock for a period of up to two years.

Galilee states that based on present and ongoing circumstances the public dock no longer serves recreational, public access and instead contributes to the dangerous conditions that developed at the property.

It is important to note that the public, launching float that is located on private property owned by the Galilee Harbor Community Association is not patrolled on a regular basis by the Sausalito Police Department. And as an organization Galilee Harbor is unable to enforce security measures at that boat dock and achieve compliance for the requirements of the Settlement Agreement.

So, it is also important to note that alternative, shoreline access for individuals from the anchorages is available just a few blocks away at the foot of Turney Street where there is a public, boat dock that is owned, operated and patrolled by the city of Sausalito pursuant to ordinances.

The BCDC staff has carefully considered this matter and supports the request to amend the Settlement Agreement. For your consideration we sent you a draft of the proposed, third amendment that was prepared by our legal staff and has been reviewed by the Galilee Harbor representatives.

Today you are scheduled for a vote on whether to authorize the Executive Director to execute the third amendment to the Galilee Harbor Settlement Agreement which would allow for the temporary removal of the public dock for up to two years or until such time that the illegal situation on the Richardson Bay Anchorage has been adequately resolved.

As I said earlier, with regard to the anchorage, BCDC's enforcement staff is currently working with the city of Sausalito and the Richardson Bay Regional Agency to resolve that longstanding issue of illegal anchor-outs.

And just last week the BCDC Enforcement Committee reviewed and commented on the local agencies' proposed plans for dealing with that matter. And the local agencies are expected to return to the Enforcement Committee within a couple of months.

And with that, Chair Wasserman, I will turn the floor over to Mr. Hurd representative and counsel for Galilee Harbor.

Mr. Hurd addressed the Commission: Thank you Brad and good afternoon members of the Commission. My name is Riley Hurd and I represent Galilee Harbor.

I came before you a few months ago to report a situation at Galilee that was dangerous and that had become untenable for the residents. That was during the public, open time back when we were able to do such things.

As you've heard the dock that had the very well-intentioned purpose of providing access to the Bay for the public instead was commandeered exclusively by the anchorage community coming ashore. So it was working the opposite of its intended purpose.

Galilee itself has a long history of working with and helping the anchorage and previously it did not take any issue with the occasional use of the dock. But it was a progression, an escalation of impacts due to the behavior of a small but, frankly, dangerous subset of the anchor-out community that finally forced Galilee's hand to the position we find ourselves in today.

Examples of what the residents have endured and still face today include the harbor manager being threatened with a lead pipe and followed for trying to enforce very basic rules, drug paraphernalia regularly ending up on the ground, garbage piling up, screaming, fighting, dangerous boating practices; these happen not just during the day but also at night.

And as some of the photos demonstrated the dock is consistently inundated with anchorage vessels. So it has really become a public nuisance at this particular point in time.

I'd like to stop for a moment and address the COVID-19 issue and the pandemic. There was a speaker at the outset of this meeting during public open time that suggested you consider that, in the context of your decisions, and that couldn't be more important here. It is a critical point when you consider this dock.

Large groups of anchor-outs continue to gather unshielded and in close proximity at and around the dock. One of those photos was shown to you today—well that was last week during a very clear, shelter-in-place order. And while those individuals may be putting themselves at risk they are also putting the residents of Galilee at risk because those gatherings are in the direct path of travel with the Galilee residents to and from their floating homes. So they are forced to run this dangerous gauntlet simply to come and go. So the pandemic is another reason the dock closure needs to happen ASAP.

At this point the dock has been rendered completely inaccessible for members of the public seeking to use it for its intended purpose. It is not compatible with the residential use where the dock sits where people are raising kids, trying to sleep and not to mention the safety issues.

So the Galilee Board had a duty to ensure the safety of their residents and their employees; that's why we are here today.

Galilee is a low-income community, a low-income artist and maritime community.

Intermediate solutions short of closing the dock are not viable or have not worked for them. BCDC staff worked very closely with Galilee to allow new signage and rules for the dock that weren't a part of the original Settlement Agreement. They were ignored from the first day they were put up.

Security guards were investigated and found to be completely cost prohibitive because they were required 24 hours a day and the security companies required dual staffing after analyzing the severity and danger of the situation. It couldn't be afforded.

So it is for these reasons we come before you with the proposed amendment and it is critical to highlight that this is for a "temporary" closure of the dock.

We are very aware and have been following the coordinated efforts of BCDC, the RBRA and the city of Sausalito to address the issues surrounding the anchorage. We are aware of the multi-year timeline for the removal or otherwise addressing those who are out there. But for right now the dock condition greatly exceeds the reasonable relationship to the use for which the condition was imposed.

Before concluding I want to highlight one other point that was in Brad's presentation. And that is, there is another dock just 1200 feet away on public property. It is much more suitable for the anchorage community to come to shore. This dock is at Turney Street. It is owned by the city of Sausalito and it is a place where there are wrap-around services for those who need them as well as regular, police patrols for any issues that may arise.

Also, with regards to the COVID-19 issue the City is responsible for enforcing the shelter-in-place order issued by the County Health Officer so that can also occur at that location.

The City is supportive of Galilee's closure request. Sausalito has really stepped up here in their willingness to accommodate and serve and protect any additional members of the anchorage community that wish to use the City's dock. I really commend the City for stepping up like that.

So, in conclusion, it's just imperative that this condition be temporarily stayed until the underlying cause of the dangerous conditions can be addressed and the purpose of the dock can ultimately be realized again. When that happens Galilee stands ready and willing to allow public access to the water and to reinstall the dock which won't be particularly difficult because the piers will remain and it is simply the floating piece that is taken out and put back in.

So we are very, very appreciative of you taking up this issue during these tumultuous times. And I'd like to reserve any remaining time to address any public comments or respond to questions if necessary. Thank you very much.

Mr. McCrea continued: Thank you Mr. Hurd. Chair Wasserman we also have—not to present—but in case you have any questions for the City of Sausalito, Adam Politzer the Sausalito City Manager is on the line as well Sausalito's Chief of Police John Rohrbacher.

Chair Wasserman offered clarifications: Thank you very much. I believe we do have some speakers. Peggy will you announce them please.

I do want to make a comment before we start the public speaking. This item is about the removal of this small dock. It is not about the larger issues in Richardson Bay as Brad said at the beginning.

So, if you are wishing to speak on those items we will be addressing them at future meetings but that is not the topic this afternoon.

Mr. Robbie Powelson spoke: This is Robbie Powelson again. I would like to just take a larger view for a second. I want BCDC to consider how this situation has really been precipitated in part by the Settlement Agreement in the first place.

People are calling this a public nuisance but for the anchorage community the Harbor is of public necessity. It is important and essential part of the community. You through your Settlement Agreement have made this a need by making this a public dock by requiring Galilee to hold this. Your Commission has constructed a need for the dock during this time.

Right now to go back on it in the midst of the COVID epidemic is very concerning because people are relying on that and it is a hook.

So I would just think that the consideration that BCDC is not—needs to take responsibility for this issue in precipitating the problem in the first place.

I would also like to say that although congregations may be occurring I think you need to be thinking in the context that outside is safer. If you are going about creating hardship making people go even farther just to get essential goods you are basically—it is a precursor to displacement. And that your Commission right now in the midst of housing crisis, in the midst of an epidemic, in the midst of what is going to probably be a huge, economic downturn to continue to taking steps to a mass displacement of Richardson Bay is highly irresponsible.

I think you should be slowing down. You should be talking with the anchor-outs. I find it interesting that you don't have any people who are living out invited to speak with your Commission. I only hear government officials.

I think the Commission really needs to be looking about how you all have been participating in this problem.

I implore you to delay a vote on this and to look for other avenues at least until we get out of this first curve of the epidemic. Thank you.

Ms. Anna Ceres commented: I am an anchor-out and I understand about the dock. I was wondering if you could please repeat to me where the other public-access dock is because I don't know where that is.

Mr. McCrea replied: The other public-access dock is at the foot of Turney Street.

Ms. Ceres continued: What is that by? Can you give me a building that might be there because I can't see it?

Mr. McCrea answered: I don't know the answer to that.

Ms. Ceres continued: As long as you have a public access that is our right. It is okay if it is not at Galilee Harbor but if it is somewhere else that's fine. As long as we have a way to get to shore—we have to get to shore. There are no ifs, ands or buts about that. We need to go to the store. We need to work. We need to do things on land.

As long as you have a public access and I know the other one by Salida is but I don't think that is going to work.

Commissioner Sears addressed the location of the Turney Street dock: It is by Salida. It is the ramp by Salida.

Ms. Ceres continued: Yeah but there is time limit and for people who have to go—some people go out of town and you can't leave your skids there for too long. So that is not going to work. You can't expect people to have a time limit of two hours.

Mr. Politzer commented: This is Adam Politzer the City Manager. I was going to respond but I saw that Supervisor Sears responded to that question.

Ms. Peggy Atwell announced: We have no more public comment.

Chair Wasserman asked: Any Commissioners have any questions before the Staff Recommendation?

Commissioner McGrath had access questions: Brad, I looked at the aerial photographs of this and it seems to me that there is a continuous shoreline path. Is this the only access to the water or is there adequate access along the shoreline? There are certainly paths there. Are they all public paths?

Mr. McCrea explained: Yes. As part of the Agreement, public access was built into that Agreement just like it would have been in a permit. And there are adequate, public pathways. This is also right next to Dunphy Park which is undergoing a major renovation.

Commissioner McGrath continued: Right. So now I would like to add a comment. Brad called me about this to make sure that as a longtime advocate for small boating I understood it. I in turn sent the notice onto Penny Wells who is known by her avatar of Kayak Queen. Penny is the person who started the Water Trail. I did not make an ex-parte communication. I said any concerns you have you need to express them to the full Commission. I think it is telling that she did not.

So Brad has made a very important point that I want to reinforce. I've used this area. I've launched from Dunphy Park with Penny Wells on a kayak and kayaked all around this area. It is important for the rest of the Commission to understand that there are multiple access points. There is a sandy beach just to the north and there is a sandy-beach launch at Dunphy Park as well as the boat dock that Brad pointed out.

So to me part of the question when you consider something like this is—are you taking away access that would not otherwise be available? In this case I don't think that is the case so I think that is a very important point and because of that I'm going to support this.

Commissioner Nelson had reservations: I'm troubled by this because I think we should not likely allow applicants to remove public access knowing that reinstalling that public access at some point in the future could be difficult. That is a slippery slope.

To what extent did the staff look at alternative arrangements? You mentioned security. Is there some change in the physical design? Did the staff consider any arrangements short of temporary removal to address the concerns about the use of the site?

Mr. McCrea answered: Absolutely. Just like the Commissioners, the staff has a bias always to keeping public access in place. And so our first reaction was skepticism but, after visiting the site, after seeing how it was done, and we talked with them about design features, about how we approved different hours of operation. We talked to them about cameras. We talked to them about security guards.

And what we came to is that they are a small cooperative of homeowners. Given the situation that they are dealing with it seems to be an unreasonable burden on this community that they would have to continue to be obligated to deal with the public-access feature that is required in the Settlement Agreement.

Commissioner Nelson had further questions: The second question is messy. This is a messy intersection between use of a public-access facility and the anchor-outs themselves. So could you talk with us a little bit more about the intersection between those two?

We have concerns about the anchor-outs as a use but we also want to make sure that, especially during our current pandemic, we're not creating some problem we are not foreseeing by making this change and I don't know what that means in terms of the ongoing use of those anchor-outs while we are dealing with the longer-term issue and the access alternatives that they have.

Mr. McCrea responded: Local officials in the area, the RBRA and the city of Sausalito continue to make positive improvements in dealing with the anchorage—that is, managing it and reducing it.

And as the Enforcement Committee learned last week those efforts are ongoing and the Enforcement Committee gave them clear direction of what its expectations are and those folks will be back to the Enforcement Committee.

We didn't make any decisions without talking with the City of Sausalito because this will likely create a larger burden on the dock at Turney Street. And so that is why we have the city staff on the phone today to make sure that you had the opportunity to ask them that question if you wanted to.

I am told by the city manager that the City supports this closure.

There are also ongoing discussions on the county side with another dock up the road.

And so there is sort of a larger look at this that is going on but as Mr. Hurd pointed out, as I said earlier; the Turney Street Dock is the obvious place where folks should go.

Commissioner Nelson requested: I'd love to hear from the City about what they expect to happen if this dock is temporarily removed and how they are prepared to handle that change.

Chief Rohrbacher commented: Thank you for inviting us to answer questions from the Commissioners. Clearly it is a multi-faceted question, problem and challenge.

Our position as a city is that we support Galilee's request as we've made clear. Just to add a point of clarification so that the Commission has the right information—the one speaker mentioned that the two-hour limit would be a problem for the anchor-outs. There is not a two-hour limit, it's 24 hours.

So when we drafted the proposed time limits for the grant we kept the north side of the ramp, which is actually the physical, concrete-ramp side, to a very short time limit so that it wasn't blocked so that people can launch and recover their recreational boats. And then the south side of that ramp is a 24-hour limit which we felt would be a reasonable time limit to accommodate the people who live on the anchorage that actually have jobs and need to come to shore and certainly for longer than 15 minutes. So we have two, separate, time limits and the speaker said two hours and she is absolutely mistaken.

So moving on from that we believe that the residents at Galilee are unfairly impacted by the shore side problems created by people congregating there and that shifting the shore side access to Turney which already exists is something we the city of Sausalito can handle. That is our job.

And so if we have problems on shore that is our jurisdiction. Problems on shore at Galilee are not ours unless we are called. We think this is a better solution all the way around.

Mr. Adam Politzer was recognized: I would just add to the Chief's comments that we have been working really closely with Galilee Harbor for some time now related to this issue. And we have purposely over the years have made improvements to the float and extending the float further out into the water to accommodate the public coming ashore.

And just like during the winter season and especially now during the pandemic we also continue to evaluate and look at our restrictions and our regulations and we adjust those to accommodate the needs of the public.

So, recognizing that these are unprecedented times we are willing and continue to work with the community on the water and on the land. I think we are prepared to support at the Turney Street Boat Ramp and Float to help support those that are living in a residential neighborhood in Galilee Harbor.

Commissioner Wagenknecht commented: I get nervous about closing public access of some sort out there, and then at some time, the re-opening of it. How do we assure that this is just a temporary closure and not going to be pushed for a permanent closure?

Mr. McCrea responded: It is a good question and it is a fair question. After the two-year term the float would be reinstalled by Galilee Harbor unless they request a time extension. And that time extension could only be approved based on the determination that the issues at that offshore anchorage have not been adequately resolved and the anchorage is not capable of being managed at that time to an extent that the launching float could be reinstalled and operated as a public, recreational amenity.

Now to your question—how do we get there? I have every confidence working through BCDC's Enforcement Committee and ultimately through the Commission that the city of Sausalito and their RBRA will come forward with a plan that is successful and that will be implemented.

I have every confidence that we will solve that problem and this dock will be reinstalled.

BCDC Chief Counsel Marc Zeppetello commented: I would also add that if you look at the text of the amendment that is proposed it is of a definite timeframe. It allows the Executive Director to grant one extension but after no more than four years the dock would either have to be installed or Galilee Harbor would have to come back to the Commission for you to reconsider the matter yourself.

Commissioner Scharff was recognized: First of all, I support everything that Brad said. I actually do believe that we will have made tremendous progress on this issue within two years. We are getting a lot of cooperation from the RBRA and Sausalito. I think if you look at what Sausalito has already done, it's quite amazing.

I did want to talk to this issue from a practical point of view. This is a mess there. People need to realize that it is not being used for public access for the public and that really is not the issue. The issue is how do we get it back to be public access and make sure it comes back?

My concern with this is that this is a lower-income community. Are they going to have the money to put this dock back? And the Settlement Agreement doesn't address that issue. I was wondering if staff had looked at that issue and asked—how expensive is it to put this back? Is it not expensive at all? Is it relatively cheap and that is not a concern? Is that actually going to cost them some money and if so where would they have the money to do that? This is something that comes up in Enforcement Committee meetings all the time. I think we should address that in the Settlement Agreement right now if that's an issue. But it may not be an issue. I don't know if this is a \$5,000 issue or if it is a \$50,000 issue.

Mr. Hurd replied: The means and methods of the removal and reinstallation were something that the community had to investigate before even coming forward with this request. If it was going to be out of their price-range they knew that the request was not something they would spend the time and effort and your time on.

So, what was decided was that all of the infrastructure for the dock will remain in place. And by that, I mean the pilings, the expensive parts. And the plan, with your approval, would simply be to disconnect the floating portion of the dock and drag it up onto the land and then maintain it in a safe place until such time as it can be reinstalled which is also a low-cost endeavor.

So we took a good look at that and also knew that the intention to put it back is real. So the removal of the pilings would make no economic sense whatsoever.

And the final point is the public access from this dock right now is closed; not formally, but in practice. There is no user of the public that can launch towards the Bay. Thank you.

Commissioner Scharff had a question for staff: Marc Zeppetello my question for you would be—does the Settlement Agreement cover that only the floating portion would be removed and that they would have a duty to reinstall that? And I just wanted to ask the speaker—is that under \$5,000 to put it back? What are the costs involved in a rough range to put it back? Does the Settlement Agreement make it clear that you won't be removing the expensive parts? I think we need more clarity in the Settlement Agreement about what removal of the dock means. And I think we should say things like—we are only removing this portion of it.

Mr. Zeppetello spoke: The Agreement is clear that what will be removed or may be removed is the launching float, the gangway and the access ramp.

Commissioner Scharff continued: That is where it says, “Reinstall the small, public, boat-launching, float gangway and access ramp” and those are the chief portions—right?

Mr. Hurley added: I will simply add that I went over this with Mr. McCrea and provided a photographic diagram identifying three parts of the float and its accompanying infrastructure and specifically showed which would be removed and then that was incorporated into the Draft Settlement Agreement language such that the permanent parts were to remain.

Commissioner Scharff stated: Well that allays my concerns and I hope it allays other Commissioner’s concerns about the ability to put it back and that it will come back per the Settlement Agreement.

Commissioner Butt commented: Like a couple of other Commissioners I’m troubled by the idea that a public amenity can be removed just because the property owner responsible for it finds that it is too much trouble to maintain.

It wasn’t too long ago we had a discussion about a restroom at the east end of Richmond/San Rafael Bridge that the City was the applicant and they wanted to close it down because it was too much trouble.

I think this is a slippery slope. It is a bad precedent that if these public amenities get to be too much trouble then people can just close them down.

Somehow I think that there has to be a solution out there that really hasn’t been looked at. I mean look it, you know, a lot of parks like the East Bay Regional Parks, a lot of their parks have a curfew. They close them at 10 o’clock at night and they open them up again at seven or something like that. Why can’t you do something like that? Why can’t you put a gate on it and lock it up at sundown and open it up the next day?

I think you ought to try some of these things before you just shut it down and take it away for two years. Two years is an awful long time.

I may have to jump out of here before that is resolved but I wanted to register my concerns.

Mr. McCrea responded: Thank you Commissioner Butt. I want to say as I said before and as Commissioner Sears said in 2017 when we extended the Galilee term for another 20 years—Galilee Harbor has been a steward of public access. Galilee Harbor has been a great partner with BCDC and the Bay over the years.

The staff believes their intentions are to restore public access. The trouble they are facing is and the “too much trouble to maintain” really falls on a problem that is far outside of their control. They cannot control the anchorage. That is the RBRA and the city of Sausalito.

I don't think that this is comparable to other permittees or other groups around the Bay that maintain public access.

Commissioner Sears added historical information: Could I jump in here and provide a little color on this? I want to give a lot of credit to Brad McCrea for trying to work through this particular problem.

But to address Tom's issues; Tom, this really is not a situation where the community decided it was a little too much trouble. They have videos. Brad and I toured the property back in January. They started taking videos of what was going on at all hours of the day. And there is a small group of anchor-outs who are really disruptive, difficult, scary folks.

And Galilee is a community of families. And this group of people is coming at 2 a.m., at 3 a.m., at 4 a.m., at 10 p.m., at all different sorts of hours and getting into fights and being extremely loud and disruptive for the community. The videos are truly horrifying.

I certainly came from a place of not being anxious to get rid of public access. And with the current request I was also very concerned about our current context of COVID-19 and were we creating issues for some of the folks who do use that dock to come in and do their laundry and other kinds of uses that are not an endangerment to the community.

But this situation is so extreme and as Brad noted—the hours were changed and that made absolutely no difference. When we toured the site it wasn't obvious that there was a way that you could actually close it and lock people out.

So I think this is a very, very unusual circumstance that is like the community is being terrorized by a small group of people. I certainly hope to never find an analog anywhere else around the Bay.

I think the fact that folks are congregating in part has been complicated by the redesign, the redevelopment of Dunphy Park where people used to congregate but that piece of it, as Mr. Hurd noted, creates additional issues during this time of COVID-19.

So as much as I don't think any of us really relished the idea of closing public access—a lot of thought has gone in, and I want to commend Brad again, to are there alternative steps that could be taken? And I don't see any. And I really appreciate Sausalito's Chief Rohrbacher, the City Manager of saying, "Bring folks down to the one other access point in Sausalito, really that is all we have at this point." But it is the City of Sausalito. It can be policed.

When there were these issues at Galilee Harbor the community would have to call 911 which created a challenge for the police force being able to do their job with folks that were being disruptive.

So I think we are at a point where there really is no other good solution and I support it.

Chair Wasserman chimed in: I want to interrupt for just a moment. I don't want to stop the appropriate debate on this issue but we are very close to losing a quorum. We are going to postpone Item 12 because of time and because Commissioner Vasquez is not here. I would really like to hold on to a quorum so that we can approve the issuance of our Annual Report.

I think we have some momentum going on communications and it is an important part of it. Let's hear from the remaining Commissioners wishing to speak but let's make the comments focused so that we can hold on to our quorum.

Commissioner Gilmore commented: This is a follow-up to the conversation that Commissioner Scharff was having. I didn't hear the amount. I heard what was going to be removed but I didn't hear the cost of that. And my other concern is the dock probably hasn't been in the water that long. But what happens if during the removal something gets damaged or they discover damage becomes exposed because the dock is removed?

That all goes into the cost of potentially having to put it back. And so I am a little concerned about that.

Mr. Hurd responded: The cost is at or less than the \$5,000 mark that Commissioner Rohrbacher [sic] referenced. Also, to your point about damage – the extreme overuse of the dock and its use in a way that was unintended actually did cause damage to the dock.

So one of the things that Galilee plans to do and has budgeted for is to repair any damage while it is in dry dock. So it is budgeted for. It will also serve that purpose and then it will be put back and hopefully can be used for people to access the Bay. Thank you.

Commissioner Randolph addressed the issue of removal of public access: On the subject of taking out public access; I think nobody likes taking out public access but we've done it before. And what comes to mind is some years ago there was also in Sausalito a dock further up toward the Richardson Bay Bridge that was on private land. And there was a threatened lawsuit by an advocate for disabled access. And the owners of private land of the dock had been making it available just freely but they were caught between having a lawsuit against them or a cost they couldn't bear to improve or rebuild the dock and so reluctantly we allowed them to take down that dock.

So it is a different situation but it was a case where there was an unreasonable burden on the property owner in that case. And I think in this case it is a different situation but there is some precedence for taking out public access when there is an unreasonable burden. And this one strikes me as currently unreasonable.

Chair Wasserman continued: All right. Brad will you state the Staff Recommendation please.

Mr. McCrea read the following into the record: I do want to point out that Chief Rohrbacher pointed out that the anchor-outs did destroy the gate and security cameras and it was too costly for Galilee to repair it or replace those.

The staff recommends that the Commission authorize the Executive Director to execute the third amendment to the Galilee Harbor Settlement Agreement.

I would like to point out that we didn't close the public hearing.

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

MOTION: Commissioner Scharff moved approval of the staff recommendation, seconded by Commissioner Sears.

Chair Wasserman asked: Does the applicant accept the Staff Recommendation?

Mr. Hurd replied: Yes, thank you.

Chair Wasserman added: A majority of Commissioners present and voting are needed to pass the amendment.

Mr. McCrea asked: Federal representatives can vote?

Ms. Atwell replied: Yes.

VOTE: The motion carried with a vote of 18-1-0 with Commissioners Addiego, Ahn, Alioto-Pier, Gilmore, Scharff, Eckerle, Gioia, Lucchesi, McGrath, Peskin, Nelson, Randolph, Sears, Showalter, Hillmer, Wagenknecht, Ziegler, Chair Wasserman voting, "YES", Commissioner Butt voting, "NO", and no "ABSTAIN" votes.

12. Briefing on Suisun Marsh Protection Plan and Local Protection Program Review. Chair Wasserman stated Item 12 was postponed.

13. Briefing and Potential Vote on Pending Legislation. Chair Wasserman stated Item 13 was postponed.

14. Consideration of 2019 Annual Report. Chair Wasserman announced: That brings us to Item 14, Consideration of the 2019 Annual Report. Chief Deputy Director Steve Goldbeck will make the presentation:

Chief Deputy Director Goldbeck presented the 2019 Annual Report to the Commission: Thank you Chair Wasserman and Commissioners. You have before you the Draft 2019 Annual Report that contains the Commission's accomplishments and statistics for 2019.

The staff recommends that the Commission adopt the Annual Report but with one correction to include the U.S. Environmental Protection Agency as a member of the BRRIT on the second bullet on page 17 and make other edits needed for clarity and accuracy.

I'd be happy to answer any questions.

Chair Wasserman asked: Are there any questions for Steve? (No questions were voiced) Are there any public comments on the Annual Report? (No questions were voiced)

I have a very brief comment. It may well be that even with this pandemic 2020 is a more eventful year for BCDC. But 2019 was a truly amazing year in terms of accomplishments. We made two very significant amendments to the Bay Plan. We got BRRIT working. We moved the Regional Adaptation Strategy forward. We came through a difficult state audit with our head slightly bloodied but unbowed. And we continue the very good work of this staff and this Commission.

With that I would entertain a motion to approve and issue the Annual Report as recommended by Steve Goldbeck.

MOTION: Commissioner Wagenknecht moved approval of the annual report, seconded by Commissioner Ahn.

VOTE: The motion carried with a vote of 19-0-0 with Commissioners Addiego, Ahn, Alioto-Pier, Gilmore, Gorin, Scharff, Eckerle, Gioia, Lucchesi, McGrath, Peskin, Nelson, Randolph, Sears, Showalter, Hillmer, Wagenknecht, Ziegler, and Chair Wasserman voting, "YES", no "NO" votes, and no "ABSTAIN" votes.

Executive Director Goldzband stated: I have received texts from Secretary Crowfoot and an email from OPC Director Mark Gold saying how impressed they are with BCDC for being way ahead of the curve on dealing with virtual meetings.

I on behalf of staff and on behalf of you-all want to thank Peggy and Reggie who are behind the scenes running this as well as our other members of the audio/visual team and our admin staff for putting this together.

In any case let's give them a big "thank you" and we will do even better in the next meeting.

15. **Adjournment.** Upon motion by Commissioner Wagenknecht, seconded by Commissioner Showalter, the Commission meeting was adjourned at 4:31 p.m.

Respectfully submitted,

LAWRENCE J. GOLDZBAND
Executive Director

Approved, with no corrections, at the
San Francisco Bay Conservation and
Development Commission Meeting
of May 7, 2020.

R. ZACHARY WASSERMAN, Chair