

San Francisco Bay Conservation and Development Commission

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February 24, 2023

TO: All Commissioners and Alternates

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)
Peggy Atwell, Director, Administrative & Technology Services (415/352-3638;
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SUBJECT: Approved Minutes of February 16, 2023 Hybrid Commission Meeting

1. Call to Order. The hybrid meeting was called to order by Chair Wasserman at 1:07 p.m. The meeting was held with a principal physical location of 375 Beale Street, San Francisco, California, and online via Zoom and teleconference. Instructions for public participation were played.

Chair Wasserman stated: I am the Chair of BCDC. Several of us are here at the Metro Center, our headquarters building at 375 Beale Street. Other Commissioners are participating from other locations.

Chair Wasserman advised Item 8 was postponed to the next meeting and Item 12 would be heard after Item 9. He also gave instructions to all attendees on procedures for participating in the meeting. He asked Ms. Atwell to proceed with Agenda Item 2, Roll Call.

2. Roll Call. Present were: Chair Wasserman, Vice Chair Eisen, Commissioners Addiego, Ahn, Arreguin, Beach, Blake, Burt, Eckerle, Eklund, El-Tawansy (represented by Alternate Ambuehl), Gioia, Gorin, Gunther, Hasz, Lee (joined after Roll Call), Lucchesi (represented by Alternate Pemberton), Mashburn (represented by Alternate Vasquez), Moulton-Peters, Peskin, Ramos (represented by Alternate Gallagher), Ranchod, Randolph, Showalter and Vacant (represented by Alternate Gilmore).

Chair Wasserman announced that a quorum was present.

Not present were Commissioners: Department of Finance (Almy) and San Mateo County (Pine).

3. Public Comment Period. Chair Wasserman called for public comment on subjects that were not on the Agenda.

Chair Wasserman gave instructions for participating in the hybrid meeting. He emphasized the following: Commissioners must have their cameras on, instruction for public attendees was given, those in attendance at 375 Beale Street were socially distanced, comments must be focused and respectful and emails received were noted.



Mr. Zeppetello addressed the Commission: Good afternoon, Commissioners. My name is Marc Zeppetello and I am commenting today as member of the public who enjoys walks on the Embarcadero. I have no involvement in this matter on behalf of BCDC.

In October of 2021 you issued a permit authorizing the Bay Area Council to berth the Klamath at Pier 9. The permit requires public-access areas and improvements on all three decks of the ship as well as the pier; and also requires the public access to be open to the public prior to the use of any authorized structure or improvement.

On September 20, 2022 the Council had the Klamath grand opening.

When I tried to visit the Klamath on December 12, a sign taped to the gate on the pier said, quote, we are still working to obtain the final permits necessary before we can open our doors to the public. That evening I saw on the Council's website that it was renting the private event space for holiday parties.

The next day I sent in an email describing my attempted visit and noting that the Klamath was in violation of the permit's public-access requirements. The Council responded that the public access is not open because the fire department had not approved use of the elevator. BCDC staff offered to work with the Council to resolve this issue.

Checking back with the Council twice in the past month I received further explanations but got the impression that little progress has been made and that there is no definite timeframe to open the public access.

It is not clear that the fire department is preventing the Council from opening the public access. Rather, it appears that with a temporary certificate of occupancy the Council has voluntarily chosen to use the office and private event space but not to provide the required public access.

Even if the elevator cannot be used to access the upper decks there is no excuse not to provide public access and improvements on the bottom deck and the pier.

As of yesterday there is no public-access signage on the pier gate or anywhere on the pier. The only sign is the same one I saw in December, now taped to the door of the ship, confirming that the public access is not open, nor are any of the required public-access improvements on the pier.

In December the Council had not responded for months to BCDC staff's Public-Access Plan review comments. Today, two months later, there is still no Public-Access Signage Plan that has been approved.

I would respectfully suggest the Council should implement a temporary signage plan by next week so that there are at least a few public-shore signs inviting the public onto the pier and ship. The Council should immediately open the public-access area on the bottom deck. The Council should be given short deadlines to respond to the staff's comments on a final signage plan and to install the required public-access improvements on the pier and the Council should be asked to submit a work plan and schedule to resolve the elevator issue and open the public access to the upper decks.

The Council has been enjoying use of the Klamath for five months without providing public benefits required by its permit. I hope that the public will soon be able to visit the Klamath. Thank you for your consideration.

Ms. Atwell acknowledged: Thank you, Marc. We have no more public comment speakers hands raised, Chair.

Chair Wasserman continued: Thank you. And thank you, Marc. As you have said, I am sure staff is diligently looking into this matter. I look forward to hearing further about it in March.

Commissioner Peskin chimed in: Mr. Chairman, I will raise it with the Port of San Francisco. Aaron Peskin here.

Chair Wasserman acknowledged: Yes, sir.

That concludes the Public Comment Period. We will take public comments on the Agenda items as they come up.

Chair Wasserman moved to Approval of the Minutes.

4. Approval of Minutes of the January 19, 2023 Meeting. Chair Wasserman asked for a motion and a second to adopt the minutes of January 19, 2023.

MOTION: Commissioner Randolph moved approval of the Minutes, seconded by Commissioner Eklund.

The motion carried by a voice vote with no opposition and Commissioner Gallagher voting "Abstain."

5. Report of the Chair. Chair Wasserman stated: I have several announcements to make.

All of the Commissioners, and many others, received a disturbing email on January 24 from two members of our Environmental Justice Advisors and one alternate announcing the respective resignations of the two members. As a result of that announcement, Executive Director Goldzband and I asked Greg Scharff our general counsel to determine whether the facts of the matter warrant a formal, independent investigation.

Greg's discussions with members of our staff, EJ Advisors and others are ongoing and will be completed very shortly. He will present his findings to the Executive Director and me; we expect that week after next. We expect to report back to you on Greg's findings and our recommendations at our March 2 meeting.

Separately from that, I think given the time that has passed and the progress and struggles, to some extent, the challenges to the EJ Advisor process, have gone on long enough that we should determine whether there are ways to move forward that we could improve. I am sure that the Commissioner Working Group and our staff will be working with those advisors on how we should best do that in the near future.

I also want to report on a very successful meeting that occurred in late January. Commissioner Moulton-Peters, Commissioner Ahn and I had the pleasure of cohosting Dr. Richard Spinrad, who heads the National Oceanic and Atmospheric Administration, and Nicole LeBoeuf, head of NOAA's National Ocean Service.

We met in southern Marin along with NOAA's West Coast regional staff. We spent two hours in wide-ranging discussions including the challenges to Bay Area shoreline resilience and BCDC's upcoming Regional Shoreline Adaptation Plan and how that plan must include equitable approaches to shoreline adaptation and what NOAA is doing about equitable approaches to all of its activities.

Dr. Spinrad and Ms. LeBoeuf were very engaged with us, both before, during and after lunch. They asked certainly pertinent, sharp questions and promised they would follow up with further requests and comments. We will share that information with you when we get it later this month. I think it is not the beginning because we have worked very closely with NOAA for a good number of years. But I think it is an elevation in our conversations that can be beneficial to both organizations.

I want to address our April Commission meeting. I recognize that the prevalence of Zoom has enabled our meetings to be more accessible for both Commissioners and the public. So long as we can lawfully continue to do that I have no desire to suggest changes.

However, I do want to make a suggestion of one change. I think it would be very worthwhile to ask that our Commissioners be present here together at Metro Center at least once a quarter. I suspect we have all found that Zoom, while very efficient, and very necessary during the pandemic, lacks some of the benefits of meeting together in-person. So we are going to ask you to do that and we are going to ask you to do that in particular on April 6.

On April 6 we expect to hold, in the morning, a combined meeting, in-person, of the Financing the Future Working Group and the Rising Sea Level Commissioner Working Groups to discuss key findings and next steps to make each part of our region more resilient to rising sea levels as well as taking a hard look at how we are going to finance that.

During the Commission meeting itself in the afternoon we will have our first review of our new Strategic Plan and we will have at least a couple of agenda items on which we want all of you to participate.

I know that commuting to San Francisco can be hard, especially for our northernmost Commissioners. But I think that the Commissioners' discussions in-person if a great majority of us are together, have the potential to be more fruitful than what we have experienced on Zoom. John, you just put your hand up.

Commissioner Gioia stated: I had a question, Zack.

Chair Wasserman acknowledged: Go.

Commissioner Gioia continued: Just to be clear. Maybe because we are not under the Brown Act, we are under a different state law.

Chair Wasserman added: Bagley-Keene.

Commissioner Gioia continued: The Brown Act bodies have all been advised, whether it is the Air District or boards of supervisors or city councils, that they need to start meeting in-person, not public, but the governing board members in March, subject to the exceptions for remote meetings.

Are we saying that that does not apply to BCDC? So it is more of a legal issue. Because what the Air District is doing, for example, and this is relevant, is it is meeting in-person starting in March but it is also setting up regional centers so that in the North Bay one of the Air Board Members can go to that location. The location is posted and the public can show up so that they do not have to come in to San Francisco twice a month, they can still come in.

And so I wanted to understand, does that requirement apply? If so, tapping into the regional networks that other regional agencies are setting up make some sense for this Commission as well.

Executive Director Goldzband chimed in: So two responses, Commissioner Gioia. Number one, what applies to MTC and ABAG and the regional agencies does not apply to BCDC. We operate under the portion of the State Budget Act that was passed last June which enables us to have hybrid meetings as we have been doing so, if we want to do so, and certainly allows full virtual meetings if we wish to do so, through June 30 of this year because that is when the Budget Act expires.

What is going to happen in the state legislature between now and June 30 is probably anybody's guess. So we are operating through June 30 in the same way that we have been operating since July 1.

That does not mean, however, that we would not love to include all of you with our friendly regional agencies' ability to get regional places for people to be at and we are happy to discuss that should that occur. But at this point we are operating through June 30 under existing rules.

Commissioner Gioia replied: Got it. So that answers that, that's why. Yes, we may want to start considering that because it is possible that after June we are going to be faced with the same issues other regional agencies are facing now and it makes sense to combine these regional locations so that somebody from the South Bay, North Bay or wherever does not have to always come in to San Francisco but they can attend through one of their regional locations.

Chair Wasserman acknowledged: Yes, thank you. I agree, if we have to move to in-person meetings I think that regional node idea is a very, very good one.

Commissioner Gallagher, I swore you in just before the meeting. If you would like to address us you are welcome to do so. It is our tradition to give that opportunity to new Commissioners.

Commissioner Gallagher spoke: I will just be very, very brief. Joelle Gallagher from Napa County. I am a first term supervisor here so just getting started. I am actually the Alternate on this committee. Our supervisor Belia Ramos is your member.

I actually sit as the member on the BAAQMD Board and several other boards as well. I am really, really excited. Environmental protection is one of the issues that I am most concerned about, really at the front of my agenda. So I am very happy to be here and I look forward to meeting you all in-person.

Chair Wasserman acknowledged: Welcome. Thank you.

One other brief comment. There was an article in today's paper that they have performed some additional scientific studies on the Thwaites Glacier, otherwise known as the Doomsday Glacier, and have gone far down with a small but powerful observational tool and noted significant cracking at the base of it, or at least fairly deep into it. Which does not mean there are leaks, but it does mean that there is an increasing likelihood that it will calve or break off. And it is really the breaking off of parts of glaciers that significantly increases the rise in sea level. The point is simply that it is the Doomsday Glacier and doomsday for rising sea level is getting ever closer to us. It is not going to happen tomorrow.

One of the reasons the April 6 morning discussion is so important is that we are going to look hard at both the cost of what we need to do, the cost if we do not do it, as well as the things we need to do and how we are going to best do them. That is in April.

At our next meeting on March 2 we may agendaize the following matters:

A contract to provide funding for our Environmental Justice Advisors that we postponed today, along with an update on the EJ Advisors program;

A proposal for a pilot project to test feeding Bay marshes with sediments;

An enforcement matter regarding the Family Gun Club in Solano County;

A briefing on compliance at Oyster Point Marina in South San Francisco; and

A briefing on groundwater mapping.

This is the time when Commissioners make ex parte reports if they have been contacted or had contact with members of the public on any adjudicative matter on which we are holding hearings that you wish to report. You need to make the report in writing regardless.

The purpose of this is that if you have had those contacts, particularly about anything on today's agenda, people know that and can take account of that as they may respond. Any Commissioner want to make an ex parte report?

Commissioner Eklund chimed in: I do not have an ex parte but I do have a question that is outside of the Agenda. Is there appropriate time for us to ask a question?

Chair Wasserman answered: Oh, probably not but I will let you ask it now.

Commissioner Eklund asked: Thank you very much, I appreciate it. We got a copy of the partnership agreement and commitments to the development and implementation near-term and long-term resilient State Route 37 Projects Agreement that I believe four different agencies have signed on to, three or four. Is there going to be a time when we are going to be able to put this on the agenda, have some discussion about?

Chair Wasserman responded: The answer to that question is yes and the Executive Director intends to address that in his remarks.

Commissioner Eklund acknowledged: Okay, great. Thank you very much, appreciate that. And thank you for your indulgence on that item/question.

Chair Wasserman: That brings us, in fact, to the Report of the Executive Director.

6. Report of the Executive Director. Executive Director Goldzband reported the following: Thank you. And thank you, Commissioner Eklund. That is the fifth paragraph, as a matter of fact, of the Executive Director Report today.

I was interested to learn the other day that on display at Westminster Abbey is what the English consider to be the first known check to be drafted for an actual purpose and purchase. The date on that check is February 16, 1659, 364 years ago today. In the spirit of transparency, however, I should note that while the date of the check itself is not in question, the date of what might be the first true written check certainly has bounced around. The point here is that payees expect a check to be honored, not unlike how observers of BCDC expect a posted agenda to be accurate. But as Chair Wasserman noted earlier, we have had to change today's meeting around a bit to accommodate both unexpected and somewhat less-than-expected occurrences. I want to thank you and the public for bearing with us.

With regard to staffing and what seems to be a never-ending story I have three new hires to inform you about. Dominic MacCormick has been selected as BCDC's new Climate Adaptation Policy Specialist reporting to recently-appointed Assistant Regulatory Director for Climate Change Ethan Lavine. Dominic will help us design and implement improvements to BCDC's Regulatory Program in light of rising sea levels; one of the priority actions called for by the Bay Adapt Joint Platform. Dominic has a Bachelor of Science from UC Davis and a Master's of Public Policy from Duke, so he is a devilish Aggie. He has been a policy analyst for the United Nations Environment Program, has led the EPA's Coastal Wetlands Initiative and was a project manager for the San Francisco District of the US Army Corps of Engineers.

Lita Brydie will be joining BCDC as our new Environmental Justice Specialist working with Phoenix Armenta. Lita has spent the past eight years working at the Delta Stewardship Council where she has co-managed its internal Justice, Equity, Diversity and Inclusion efforts. Before then she spent 12 years working in community outreach in Northern California. She is a beaver from Oregon State with a master's degree in Environmental Science and a Hornet from Sacramento State from which she earned an undergraduate degree in Media Communications.

Finally, I am very pleased to let you know that Katharine Pan, a valued member of our Shoreline Development Permitting Team has been selected to fill Ethan's shoes and become that team's new manager. Katharine is a colorful Big Red and Blue alum, having earned her undergraduate degree in linguistics and Asian Studies from Cornell and her master's degrees in Urban Planning and Natural Resources and Environment from the University of Michigan.

We look forward to all three of these individuals starting in the next few weeks.

Per Commissioner Eklund's note, many of you have noticed the announcement of a partnership agreement signed by a number of CNRA and State Transportation Agency members.

We have agreed to work together to move forward both a near-term and long-term solution for Highway 37 expeditiously. I was pleased to sign the agreement as your Executive Director but as you will note when you see the document posted on our website, I did so while

reminding the other partners that only the Commission has the authority to make permitting decisions. I expect that we shall invite representatives of the Partnership Agreement to give an update on the Highway 37 Work Plan this spring, either at the second April meeting or early May.

Now I would like to ask Commissioner Eckerle to give a short presentation on the state of California's presence at the United Nations Biodiversity Conference, commonly known as COP 15, which concluded in Montreal on the 19th of December. The conference adopted the Kunming-Montreal Global Biodiversity Framework that is designed to halt, if not reverse, the loss of biodiversity, restore ecosystems and protect indigenous rights. The Framework also aims to increase financing for developing countries to pursue these goals. Commissioner Eckerle, you have the floor if you want to share your screen.

Commissioner Eckerle presented the following: Thank you so much. You stole all my talking points. But I will share my screen. I have some photographs to share with all of you. I will walk you through very quickly what it was like in Montreal.

As Larry mentioned, this is the UN Biodiversity Conference or COP 15. This is essentially the biodiversity version of the more famous and popular Climate COP. And really the goal of this international conference was to finalize a Paris-style agreement for protecting nature.

California's participation and objective there was to use it as an opportunity to showcase our globally significant leadership on biodiversity and climate change, to use our considerable influence to raise ambition for the final agreement that is aligned with California's values, and strengthen international relationships through bilateral meetings and commitments to new global partnerships.

I will say that our 30x30 Initiative and our network of Marine Protected Areas were the stars of the show. They are truly setting the gold standard for conservation on land and in the ocean.

We showed up California strong in Montreal. We had, I think, a total number of attendees from California coming in at over 50 participants. So we had a delegation from the Natural Resources Agency that included Secretary Crowfoot, Deputy Secretary for Biodiversity and Habitat Dr. Jen Norris, myself and Senior Biodiversity Program Manager Mike Esgro from the Ocean Protection Council. We also had seven members of the legislature. We had Senator Ben Allen, Senator Henry Stern, Senator Lena Gonzalez, Senator Scott Wiener, and then Assemblymember Laura Friedman, Assemblymember Phil Ting and Assemblymember Ash Kalra.

And then we had just an incredible group of nonprofit partners, California Environmental Voters, NRDC, Azul, the California Native Plant Society, Center for Biological Diversity, National Wildlife Federation and the Turtle Island Restoration Network.

The top line outcomes from the conference included California joining the High Ambition Coalition Subnational Task Force as a founding member to help support implementation of 30x30 globally.

This is really an intergovernmental group of more than 100 countries trying to champion protection of nature for the environment and for people.

California joined a new Regions with Nature partnership to connect with other subnational governments, showcase commitments and share points of progress and lessons learned.

We signed a joint declaration with the government of Quebec committing to ongoing action on biodiversity and climate.

We had many, many productive bilateral meetings with leaders, both subnational and national governments across the globe including a meeting with the executive secretary for the United Nations Convention on Biological Diversity, who is pictured here to the left of Secretary Crowfoot in the photo.

And then as Larry mentioned, just the huge success, is that at the end of the conference we had over 190 countries signing on to this global biodiversity framework, a huge deal to protect nature and a commitment to conserve 30 percent of the planet's lands and seas by 2030.

A few other quick highlights. California had participation in the summit for cities and subnational governments. It was really powerful to see that the role of subnationals in this effort. There was the formal negotiation that was happening that was incredible wordsmithing by committee, and then there were all the partners on the ground who were having conversations and trying to figure out how do we continue to advance this work even if the global agreement does not come out the way we want it to?

We had a delegation of all of our California partners at a breakfast and roundtable. There were close to 70 people who were participating.

Secretary Crowfoot hosted one of his Speaker Series live from the conference.

We had a joint workshop with Quebec on how we are both implementing 30x30.

We had a press conference to highlight California's leadership on our wildlife crossings.

There was also a presentation on the work that we are doing to list California's Marine Protected Area Network on the IUCN green list of conserved and protected areas.

I will just close by saying this slide of blurry but you can see this is our California strong along with some of our international partners. It was a really incredible experience and opportunity and a reminder about how important the work that we are doing in California is for the global stage so just really proud to be a part of it.

Lots to learn, particularly from our colleagues who are so much further ahead of us in partnerships with communities and tribes, but really, really some incredible outcomes and next steps. Thanks for the time, happy to answer any questions.

Executive Director Goldzband asked: Are there any questions for the Commissioner? I promised I would not embarrass her by showing the great picture of her speaking so I shall not, Jenn.

Commissioner Eckerle responded: Thank you. I am so glad.

Executive Director Goldzband added: But maybe I will in a follow-up email.

Commissioner Eckerle replied: Okay.

Executive Director Goldzband continued: Really a tremendous showing by the state of California. I think we can all be really, really not only grateful but proud of the work that CNRA and all of its attendant departments, commissions, et cetera have done on 30x30.

I imagine that at some point this summer, Jenn, we would love to get a briefing on the 30x30 process and how that is going because I think it really will be beneficial for our supervisors especially, and our city council members especially, as they figure out how they can participate as well as the 30x30 movement grows.

Commissioner Eckerle stated: That sounds great, happy to do that.

Executive Director Goldzband acknowledged: Thank you.

Before I finish I want to note the passing of a valued California leader, Allan Zaremborg. I met Allan in late 1990 when he was appointed to be former Governor Wilson's first legislative secretary. Allan and his small team collaborated on a daily basis with the two of us in the office of the cabinet secretary. Allan later headed legislative strategy for the California Chamber of Commerce before he became the Chamber's leader for many years.

In your email update from Grace Gomez last week I hope that you read the magnificent remembrance of Allan that appeared in the *Los Angeles Times*. Allan knew both how to manage through Sacramento's arcane policy process and how not to abuse it. He understood and practiced both partisanship and bipartisanship respectively and respectfully, and he was held in incredibly high regard by members of both parties and by both corporate and union leaders. California needs more leaders like Allan whose sudden and untimely death so soon after he retired was a shock to my system and that of so many others with whom he worked.

That concludes my Report, Chair Wasserman, happy to answer any questions.

Chair Wasserman asked: Any questions or comments from Commissioners? I see none.

7. Commission Consideration of Administrative Matters. Chair Wasserman stated: That brings us to Item 7, Consideration of Administrative Matters. Steve Goldbeck is here. I believe we have a public comment on this matter.

Ms. Bonnie Marmor commented: Thank you very much. I submitted my comments in writing. I just wanted to thank the Commission for giving this their attention. I hope everyone had an opportunity to read my comments and look at the pictures that I submitted with those comments.

I know Supervisor Stephanie Moulton-Peters was part of the consideration at the board level with the county of Marin and she is here today. She will remember that it was a controversial project and I am sure would recall all the comments at that hearing after the unanimous reversal by the Planning Commission of the initial granting of the application.

It is important, I believe, that the BCDC actually look at the impact of the incursion into this shoreline band. I do not believe that the Board of Supervisors was properly advised with regard to BCDC's interest in this.

There was a specific question from Katie Rice, Supervisor Rice asked the planner on the project and I have the transcript. She did ask, what is the role of BCDC in a project like this? Is it purely in our purview? The planner advised that, quote, I don't think they have any role because it is not within their purview. We did send this to BCDC and they had no comments.

I do think that BCDC's role in this is important and I would ask that the BCDC pay particular attention to the comments of Dr. Stuart Siegel who rebutted the conclusions in the Biological Site Assessment that was produced by the paid consultant for the applicant.

He concluded there would be a significant adverse direct impact on the wetlands that are just adjacent to the property. And I think that this is the role of BCDC, to take a look at this and hope that due consideration has been given to that contrary view.

The project unnecessarily encroaches into the wetlands, as was noted by the Planning Commission and as I quoted from their findings.

I would also note that no consideration was given to the public view, which I think should be considered. The public view in this area is being diminished all the time. Driving toward the west from Bayside Park, which was another controversial project in this area, there is new development at the Strand and this is a last peek of this beautiful view. Lots of controversy here and we hope that you will pay attention to this small project because it is important, particularly with regard to sea level rise as was noted by Dr. Siegel. Thank you.

Ms. Atwell announced: Thank you. Chair, there are no more hands raised.

Chair Wasserman asked: Steve, do you want to respond?

Mr. Goldbeck commented: Yes. This is, for context, in an unincorporated part of Marin County, on a road fronting the Bay that has residential houses and very narrow lots. This is one of the last infill houses there and it is entirely within the shoreline band.

I am sure you all have memorized that within the shoreline band the Commission can only consider a proposed project and not approve it, if it does not provide maximum feasible public access. We looked at this in terms of it being a residential house and did not determine that public access was needed. Tony Daysog, the permit analyst on the project can provide more details if needed.

Chair Wasserman asked: Are there any questions from any Commissioners? (No questions were voiced) If not, we will move on.

8. Commission Consideration of a Contract with Resources Legacy Fund for Environmental Justice Advisors.

Item 8 was postponed.

9. Commission Consideration of Two Sediment Grant Contracts. Chair Wasserman stated: That brings us to Item 9, which is consideration of two contracts to support our work to fulfill the EPA and OPC grants for our Sediment Program. Our Sediment Program Manager Brenda Goeden will present this item.

Ms. Goeden addressed the Commission: Thank you Chair Wasserman. Good afternoon, Commissioners. Today I am presenting a staff recommendation to allow the Executive Director to enter into two contracts to support the EPA and Ocean Protection Council sediment and beneficial reuse grants. The first is with the San Francisco Estuary Institute/Aquatic Sciences Center and the second is with the San Francisco Bay Joint Venture/Point Blue Partnership.

As you may recall, BCDC applied for and received grants from the US Environmental Protection Agency and the Ocean Protection Council to improve beneficial reuse of sediment and soil in the Bay Area.

The timeline has been adjusted to match contracting schedules and has been moved to January 2023 through December 2025.

The grants include partnering with the San Francisco Estuary Institute and the San Francisco Bay Joint Venture and includes funding for these teams. The San Francisco Water Board is also a partner in the grant but is donating staff time to the effort.

The EPA and Ocean Protection Council grants are designed to specifically address a known sediment and soil shortage for wetland restoration and adaptation work in the region, highlighted by SFEI's 2021 report, *Sediment for Survival*, which notes the potential need for 450 to 650 million cubic yards of sediment between now and 2100 to support wetlands restoration and adaptation to sea level rise. It highlights the role of sediment management in the region, particularly looking at navigation dredging, flood protection, excess soil construction materials, and potentially construction debris and reservoir sediment.

The project has three specific components. One is the stakeholder process to increase collaboration and coordination across the region on beneficial reuse and includes a potentially two-day Results Chain Analysis workshop, and the development of a Beneficial Reuse Roadmap which describes actions, roles and responsibilities to increase beneficial reuse of sediment. The second part is the San Francisco Bay Plan policy review and potential Bay Plan Amendment process, should the Commission choose to initiate the amendment.

As you are aware, the Commissioner Sediment and Beneficial Reuse Working Group has begun its activity starting in January of this year. This work will also include a Bay Plan policy review, a background document development, as well as additional public outreach.

The third part of the grant is work to develop a beneficial reuse financing strategy. Working with the Financing the Future Working Group, interviews with different sectors to identify upfront and hidden costs of beneficial reuse, review financing options, working with the Financing the Future Workgroup and to develop a recommended financing strategy and a presentation to the Commission.

The two partner organizations that are the subject of today's request, are the San Francisco Estuary Institute and their contracting organization, which is the Aquatic Sciences Center. They are, as I think you know, one of California's fantastic science institutes that provides expertise to the Commission and Commission staff from time to time on a number of issues. But in this regard they will be working with us specifically to provide expertise from their background documents and information that they have developed on science around sediment and adaptation.

Similarly, the San Francisco Bay Joint Venture also has a contracting agent, which is Point Blue. They are a partnership, which I think you are also well aware of, whose work to protect and restore wetlands and habitat for birds and wildlife throughout the region as well as other parts of California is well known. Their work on this grant will focus on the coordination of the restoration projects and their expertise in that regard as well as policy advocacy, legislation and funding. And they will also be not only providing expertise but help us with additional stakeholder coordination and the restoration community front.

That is the subject of the recommendations. I will stop here if there are questions or discussion. But if there is not, I can move on to the two recommendations for the Commissioner vote. Chair Wasserman stated: Let's hold it for a moment. Do we have any comments from the public, Peggy? Ms. Atwell noted: I see no hands raised, Chair.

Chair Wasserman asked: Do we have any questions from Commissioners? Commissioner Eklund. Commissioner Eklund spoke: Thank you very much, Chair Wasserman. My question is; to what extent will the beneficial reuse subcommittee of BCDC get involved or more knowledgeable about some of the work that is happening to these two contracts? Ms. Goeden sought clarification: Sorry, to the two contracts? Like more information about the contracts themselves? Commissioner Eklund replied: And the results from some of the work. Ms. Goeden acknowledged: Oh, yes.

Commissioner Eklund continued: No, I just think that some of us have more expertise. Having worked for the US EPA for 35 years and also the Army Corps of Engineers for 8, I have a lot of institutional knowledge about the beneficial reuse of sediment and also sediment or materials that are on land that could be used for wetland restoration as well. Novato has taken advantage of that with the huge wetland conversion that we did at Hamilton and then what we are doing with Bel Marin Keys. What is going to be the relationship between that subcommittee and some of the work that is coming out of these contracts?

Ms. Goeden explained: Yes, thank you. So these two groups, the San Francisco Estuary Institute staff and the Bay Joint Venture staff will be joining us at the Commissioner working groups. They will also be working directly with staff on technical documents, development and presentations that will then be presented to the working group as well as stakeholders involved in the overall process. Then they will also be working with us as part of the core team to assess different kinds of suggested policies or background document information to help support the Commission decision-making when it comes to how we might move forward in the region. Commissioner Eklund acknowledged: That's fantastic. Thank you, Brenda, very much. Ms. Goeden replied: You are welcome. Thanks for the question.

Chair Wasserman asked: Any other Commissioner questions? Commissioner Showalter was recognized: Mine is not so much a question as it is just a little bit of discussion. As Commissioner Eklund said in her final statement, it is fantastic. We are very fortunate to be working with these two really stellar groups and I think that means that our sediment workgroup is off to a great start. As the Vice Chair I would like to invite all the Commissioners who are interested to watch out for our meetings and we would love to have you attend. The next one is March 17. I believe we had, what was it, 38 participants at the first one, was that right, Brenda? Something like that? Ms. Goeden answered: Yes. That is about right. There

were a few staff involved but around 38 overall. Commissioner Showalter continued: Yes. We want this to be a big tent because it is a very complex issue. I am really pleased to see this caliber of assistance being brought in to make sure that we can do the best job possible.

Ms. Goeden acknowledged: Thank you.

Chair Wasserman inquired about water issues: I have a question if there are no other ones. Will the issues regarding the tension between agricultural use of Delta water and greater flow for natural habitat, which has shifted in the last week or two, be part of the consideration of these studies? Ms. Goeden responded: That is not currently planned. It is a little beyond the area where we have opportunity for influence. I think perhaps it can be discussed as background information for how sediment flows change with water flow, but I do not know that it is within the plan currently to reach out into that area of the Delta. But it certainly is a very connected system, as you well know. I think you know that those connections can be described and if there is a place for us to have some influence perhaps we can do that work. But it was not in the initial scoping of the project, to be frank. Chair Wasserman replied: Understood, and it is too late to change the scoping now, I appreciate that. I do think it is a relevant factor. In certain respects there are much more powerful players in this issue than BCDC and I am not trying to get us injected into that struggle. On the other hand, the flow of water from the Delta directly affects this issue of the amount of sediment that is coming down. As your slides point out, there is not enough sediment coming down for the uses we need.

Commissioner Vazquez commented: Chairman Wasserman, I want to thank you for raising that. I sit on the Delta Protection Commission and I do see the connection itself. There has been some discussion, but I do not think anything really formal. But I think those discussions need to take place as work continues towards flows through the Delta system. I think potentially the availability of material coming out [from the Delta Conveyance Tunnel], there is an opportunity to find some beneficial reuse of that material. I am not saying that the tunnel is going to be completed or worked on, but there is likelihood that at some point, when 80 percent of the population lives south of Tracy, and 80 percent of the water is above Tracy, that those folks are going to have some system different than the system as it is today.

Chair Wasserman continued: Not to put too fine a point on it. One of the tensions is between preparing for drought on the one side and preparing to address an unwanted, very large quantity of water on the other. Commissioner Vasquez added: No, I would be excited to begin to have those discussions there and to maybe formalize it. Maybe have a small working group at the Delta Protection along with BCDC. Chair Wasserman stated: We will keep our eye on that, thank you. Commissioner Vasquez acknowledged: Thank you, sir.

Chair Wasserman yielded the floor to Ms. Goeden: Brenda, no further questions; state your recommendation, please, for the first contract, one by one.

Ms. Goeden read the following into the record: The first one is, the staff recommends that the Commission authorize the Executive Director to enter into an up to \$30,000 contract with the San Francisco Estuary Institute/Aquatic Sciences Center to provide the Commission expert scientific advice and documentation and presentation review, and recommendations based on sediment adaptation science for improved sediment management from February 17, 2023, tomorrow or upon your approval, through December 31, 2025.

MOTION: Commissioner Eklund moved approval of the Staff Recommendation, seconded by Commissioner Gorin.

VOTE: The motion carried with a vote of 23-0-1 with Commissioners Addiego, Ahn, Arreguin, Burt, Eckerle, Eklund, Gioia, Gorin, Gunther, Hasz, Moulton-Peters, Peskin, Ranchod, Randolph, Showalter, Blake, Ambuehl, Pemberton, Vasquez, Gallagher, Gilmore, Vice Chair Eisen and Chair Wasserman voting, “YES”, no “NO” votes, and Commissioner Beach voting “ABSTAIN.”

Ms. Atwell asked: Do you want to go ahead for the second one, Brenda?

Ms. Goeden continued: The staff recommends that the Commission authorize the Executive Director to enter into an up to \$9,999 contract with the San Francisco Bay Joint Venture/Point Blue to provide the Commission expert restoration science and practice advice, document and presentation review, and recommendations, as well as stakeholder convening, based on its work with the restoration community from February 17 2023 or upon approval through December 31, 2025.

Chair Wasserman asked: Any questions on the presentation? (No questions were voiced) Is there a motion?

MOTION: Commissioner Showalter moved approval of the Staff Recommendation, seconded by Commissioner Burt.

VOTE: The motion carried with a vote of 23-0-1 with Commissioners Addiego, Ahn, Arreguin, Burt, Eckerle, Eklund, Gioia, Gorin, Gunther, Hasz, Moulton-Peters, Peskin, Ranchod, Randolph, Showalter, Blake, Ambuehl, Pemberton, Vasquez, Gallagher, Gilmore, Vice Chair Eisen and Chair Wasserman voting, “YES”, no “NO” votes, and Commissioner Beach voting “ABSTAIN.”

Ms. Goeden added: Thank you, Commissioners. And if I might just put a teaser out there to the issue of water flow and sediment transport. I think you will remember, some of you, in 2015, you authorized sand mining permits and required some additional science to be done according to the transport of sand in the region. We are just about done with those studies. You will find the results very fascinating because there is definitely a very strong connection between water transport and sediment transport that is pretty interesting when you look at it regionally. So just a teaser, coming back to you later this year, more on sediment and transport. Thank you and have a good afternoon. Chair Wasserman acknowledged: Thank you. We look forward to that.

12. Update on Regional Shoreline. Chair Wasserman stated: That brings us, as I noted earlier, to Item 12 out of order, which is a staff briefing on the recent launch of the Bay Adapt Local Elected Officials Regional Task Force and a short status report on work on Bay Adapt and the Regional Shoreline Adaptation Plan. Dana Brechwald, our Assistant Planning Director for Climate Adaptation will provide the briefing.

Assistant Planning Director for Climate Adaptation Brechwald presented the following: Thank you, Chair Wasserman. I have a couple of slides here just to give you some updates on two groups that we launched at the end of January; and then I am going to pass it around to a couple of other folks who will share some updates from their perspective as well.

Just to remind you here, this is a slide that you have seen before. Here is an overview of our complicated leadership structure for the Bay Adapt Initiative. So far we have launched two of the groups that you see here, our Local Electeds Task Force at the local elected level and the Regional Shoreline Adaptation Plan Advisory Group at the expertise level, both of which are in support of the Regional Shoreline Adaptation Plan.

As Chair Wasserman and Larry Goldzband spoke of today, we will be launching our BCDC Rising Sea Level Working Group in April. We also plan to launch our Bay Adapt Implementation Group, which will be linking all of the tasks that are aligned in the Joint Platform, in April as well.

I am going to give you a brief overview of both the kickoff meeting for the Shoreline Adaptation Plan Advisory Group as well as the Task Force and then turn it over to Commissioner Gioia, who is the chair of the Electeds Task Force to give report out on that group.

First, just an overview of the roles and responsibilities of the task force. Our kickoff meeting was on January 24. The intention of this group is to convene two elected officials from each county to achieve the following goals.

First, to really ensure that the local efforts and interests are successfully married with the regional goals, particularly in the context of developing our Regional Shoreline Adaptation Plan. We want to ensure that as we are developing the vision, goals and guidelines of this plan that we are taking into account the needs of cities and counties who have an understanding and an interest in regionalism as well.

Second, providing reports and recommendations back to the BCDC Commission. That is what we are doing today. That is what Commissioner Gioia is going to be providing for you.

We want to ensure that every member of this task force feels empowered to serve as a visible public champion for sea level rise adaptation in their community. That was a big theme of what we heard at the first meeting.

We also want to provide with this group a model for regional coordination and decision-making. As we all know, shoreline adaptation is something that happens locally but is not going to be as successful if we do not come together as a region and coordinate on that decision-making.

I want to go over quickly the members of our task force here. I want to thank all of you who nominated elected officials from your counties, it was really excellent group. We had a really robust conversation. Just want to go through the list here quickly and share with you who is on our task force.

We have Ana Chretien from Napa River Reclamation District, Kate Colin from San Rafael, Lisa Gauthier from East Palo Alto, Chair Gioia from Contra Costa County, Alma Hernandez from Suisun City, Suds Jain from Santa Clara, Mark Joseph from American Canyon, Janelle Kellman from Sausalito, Sandra Lowe from Sonoma, Sophie Maxwell from the San Francisco Public Utilities Commission, Doris Panduro from Fairfield, Aaron Peskin from City and County of

San Francisco, Mark Salinas from Hayward, Linda Sell from Sunnyvale, Cecilia Taylor from Menlo Park, Janice Cader Thompson from Petaluma, Cesar Zepeda from Richmond, and Brianne Zorn from city of Martinez.

So I am going to move now quickly into an overview of our Advisory Group, which is really our expertise level group. This group kicked off on January 23, so the day before the Elected Officials Task Force. The goal of this group is really to share subject matter expertise as we develop the guidelines that need to cover a lot of really technical subject areas.

This group will get down and dirty. They will really contribute to project materials. They will help us write the guidelines. They will review the guidelines.

We have asked members from many different organizations, asked them to align and liaise with their own organizations to make sure that we are representing their organization's interests.

These are people who have actually worked on many projects; both planning projects as well as on-the-ground projects. We are asking them to share those real world examples and experiences in the guidelines.

I will share that this is obviously a much larger group. We have about 35 members on this group at the moment. We are looking to fill a couple more seats, really focused on EJ seats as well as some tribal representation. You can read this list as when we post this presentation online if you are interested in finding out the membership of this group.

This is really a wide variety of subject matter expertise, representation from different types of organizations. We have people from local jurisdictions, nonprofits, community-based organizations, private sector, and from all over the Bay Area as well.

At this point I am going to turn it over to Jessica Fain our Planning Director to quickly share some of her thoughts on the launch of these groups. Then she will turn it over to Commissioner Gioia to report out from the Task Force kickoff meeting.

Planning Director Fain addressed the Commission: Thanks, Dana. Good afternoon, Commissioners. As you can see, this is just a great group of people that we have been able to assemble, just a very exciting time to launch these groups and such a wonderful representation from across the region.

But I am actually going to go back to something that Chair Wasserman started with which was an event that we held in January with the leadership from NOAA where several Commissioners joined us for a beautiful afternoon on Bothin Marsh in Marin. In a way that event was a really inspirational kickoff for this effort where we had a chance to really discuss with not just local leaders but national leaders the work that we are doing around adaptation, nature-based solutions and environmental justice, and really visualizing what that will look like on our shoreline as we were overlooking the Marin shoreline.

NOAA leadership expressed a lot of enthusiasm and appreciation for this work and how we can really bring it to more of a national audience.

So as we move forward we are looking forward to not just communicating regionally around this, also communicating nationally; but also doing a lot of place-based events, connecting with communities around our region and doing really robust outreach.

We will be in touch as we start to do those and develop our engagement plan in more detail but just wanted to share those thoughts. I will pass it over to Commissioner Gioia for any thoughts.

Commissioner Gioia commented: Great. I will be brief because I think you covered a lot. Let me just start by saying I thought it was a really great, energized, engaged group of local elected leaders and they are looking forward to this process. One of the things that we asked them early on, to tell us what they wanted to get out of this process. What their expectations were, what would be most helpful to them. They mentioned several things.

One is getting information, being educated on behalf of their communities about sea level rise impacts. Really understanding this issue being fully informed as elected leaders in their jurisdiction.

Second was information, no surprise, about how resources should be allocated and how priority should be set. What are the best projects that should be incentivized? What are the types of projects that should get incentivized? Again, really about resources, the allocation of those resources and the types of projects to be incentivized.

Third, was understanding design standards, best available science, and support for any projects that are underway in their communities now. So getting help on projects going through the process or proposed in their communities.

And consistent I think with our own priorities is really concerned about equity and how to address the institutional and historical injustice throughout the Bay Area dealing with sea level rise. So I think that and how to provide resiliency.

Those were the points that they raised. Again, I think this is going to be a good process. They are all really committed and care about this issue and I am looking forward to this process going forward.

Chair Wasserman acknowledged and asked: Thank you, all.

Any questions from any Commissioner? (No questions were voiced) I assume we do not have any public comments but I could be wrong.

Ms. Atwell noted: No hands raised for public comment.

Chair Wasserman acknowledged: Thank you.

10. City of Sausalito Update on Settlement Agreement Implementation. That brings us to Item 10. This is an annual briefing and discussion about the cleanup of Richardson Bay. You remember that the Commission entered into settlement agreements with both the city of Sausalito and the Richardson Bay Regional Agency, commonly known as RBRA, requiring that both organizations implement plans to remove illegally anchored boats in that part of the Bay.

The first update that we will hear about will be from the city of Sausalito under their settlement agreement and the second will be provided by the RBRA.

We certainly will take public comment and allow questions on both matters. I want to remind everyone that the two issues are linked by their geography. Principal Enforcement Analyst Adrienne Klein will introduce each matter and I will take questions from the public and the Commissioners after both of them.

Ms. Klein presented the following: Thank you. Good afternoon, Commissioners, members of the public. I am Adrienne Klein, as mentioned. I have a very brief PowerPoint to accompany my very brief introduction.

Today's presentation will be primarily from the two local agencies doing the hard work to implement the two settlement agreements that were adopted several years ago. Staff will briefly set the stage for the new Commissioners and also by way of reminder for everyone present.

In January of 2021 you authorized the Executive Director to enter into a settlement agreement with the city of Sausalito and in September of the same year you authorized the Executive Director to enter into a settlement agreement with the Richardson Bay Regional Agency, or RBRA for convenience as mentioned by the Chair, to promote the management of the waters of Richardson Bay in a manner that is consistent with the Public Trust and with the McAteer-Petris Act, the San Francisco Bay Plan and the Richardson Bay Special Area Plan.

The RBRA is a Joint Powers Agreement whose members are Marin County, the town of Tiburon and the cities of Mill Valley and Belvedere. Until 2017 when it withdrew from the RBRA, the city of Sausalito was also a member of the RBRA. That is why there are two settlement agreements.

Each settlement agreement lays out the steps that will result in the end of an era of allowing long-term anchoring of unseaworthy vessels occupied as residences and for storage, the ground tackle from which is believed to have resulted in between 50 and 85 acres of damage to the 300 to 650 acres of subtidal eelgrass habitat in Richardson's Bay. Eelgrass is well known to support herring spawn and many bird species.

These settlement agreements are similar but not identical. They both require the city of Sausalito for city waters, and the RBRA for Marin County waters and those of the three cities that are its members, to each take the following actions. As I review the actions I will share two slides that separately list the terms of each agreement. A copy of each agreement was shared with the meeting notice for this meeting.

The agreements require that the agencies return the waters of their respective jurisdictions to a Public Trust compliant condition by removing the vessels occupied as residences, stored vessels, and in the case of the RBRA, house boats, all anchored offshore and not in a marina, from Richardson Bay by 2025 in the case of the city of Sausalito, and by 2026 in the case of the RBRA.

Next to prevent the reoccupation of the Richardson Bay waters by future anchor-outs by enforcing the local ordinances that limit the duration of stay of new influx vessels.

Next to prevent future adverse impacts to subtidal habitats, including eelgrass, such as by establishing and enforcing the no anchoring rules in eelgrass protection zones.

Next to restore eelgrass habitat that has been damaged by anchor scour that has created what are known as crop circles by creating and implementing eelgrass restoration plans that are compliant with the California Eelgrass Mitigation Policy and that include a ten-year adaptive management plan.

So those were the City's terms. These are the RBRA's terms.

Cooperate in regional efforts to identify alternative housing and other supportive resources for the occupants of the vessels anchored on Public Trust lands and coordinate waterfront management efforts in recognition of the fact that anchor-outs on county waters come ashore through city waters and into city of Sausalito jurisdiction.

Both settlement agreements require monthly reporting to staff, tertiary reports in the case of the City and quarterly reports in the case of the RBRA to the Enforcement Committee and an annual report to the Commission, which as mentioned is occurring this afternoon.

The last report to the Enforcement Committee occurred in mid-July of last year and the last report to the Commission occurred last January. Today's presentations will summarize the 2022 accomplishments by the City and by the RBRA.

This concludes the introduction. Through the Chair I now turn the floor over to Sausalito Council Member Joan Cox. She will be followed by the RBRA Executive Director Brad Gross, with a pause between the two presentations for public comments and Commission discussion on the City's presentation, followed by a second set of public comments and Commission discussion on the RBRA's presentation. Thank you.

Sausalito City Council Member Joan Cox addressed the Commission: Thank you, Adrienne, and thank you, members of the Commission. It is nice to see so many familiar faces and to be back with you again. I am pleased to get back involved in this effort.

By way of brief introduction of course I want to reiterate that Sausalito remains committed to effective, efficient waterfront management and we were very pleased in 2018 and 2019 for the Enforcement Committee's recognition that we were a leader in our Waterfront Management Plan and the effectiveness with which we removed marine debris, unoccupied boats from our waters and provided alternative solutions for occupied boats, reducing our numbers from just under 100 at the beginning of 2017 to less than 10 by the end of 2019. And we did that without ever seizing or destroying an occupied boat.

We are very proud to have established our Safe Harbor Program in 2019 to provide a compassionate approach to providing transitional housing for anchor-outs in Sausalito's waters.

I am pleased to report that our very first anchor-out to enroll in Safe Harbor has now transitioned to upland housing for which he is receiving no governmental assistance. So this just shows that Safe Harbor works and we remain committed to maintaining the Safe Harbor Program as a means to address our anchor-outs' needs in a practical manner.

I think you will see from the rest of our presentation that we remain committed to carrying out a collaborative approach with RBRA and BCDC to resolving ongoing waterfront management challenges including identifying solutions for our five remaining anchor-outs as well as mitigating damage to eelgrass beds, some of which, as Adrienne mentioned, may have arisen from illegal ground tackle of boats moored in Richardson's Bay.

I am proud that we have hired an expert consultant, Robert Mooney, whom you will hear from shortly and that we are making good progress in this effort as well.

So with that I will turn it over to our staff to make their respective portions of our presentation and will remain available to answer any questions that you may have. Thank you all very much.

Acting Sausalito Police Chief Gregory took the floor: My name is Stacie Gregory, I am the acting police chief for Sausalito. I am going to be speaking to you today about our enforcement and the management of our waters. I am happy to be here today to share the success and progress of our waterfront management efforts.

The highest priority for us from the onset was the removal, as Council Member Cox said, of marine debris, unoccupied and unregistered vessels, and vessels that were occupied with those who may have been a danger to themselves or others.

Our lowest priority has been the legacy occupied vessels. Those are vessels that are licensed, registered and have proper waste disposal services. Currently, we have five registered legacy vessels in our water.

Our current strategy based on our priorities is to monitor and immediately enforce the 72-hour ordinance with respect to any new vessels entering our waters.

We have also deferred the enforcement of those legacy vessels since they are occupied as we continue to work with the residents of the vessels to find other suitable living options.

The current average age of our five legacy residents ranges from 68 to 80 years old and so we believe it could take three to five years to transition them off the water.

To highlight some of our efforts, we maintain a relationship and maintain contact with those that are living in our waters, the legacy anchor-outs. This is done through personal contact, making contact with them on the water when we are out there, just do a welfare check, and phone calls as needs arise. We make it a priority to maintain communication with those five individuals.

We also continue to work with our partners to attempt to identify those living on the water that may benefit from the Safe Harbor Program.

More recently we have partnered with the Marin County Sheriff and their marine unit to maintain and monitor our waters. Due to staffing shortages we have been really limited on our ability to get out on the water as frequently as we have in the past. So the Marin County Marine Unit and the Richardson Bay harbormaster have been a big help to us being the eyes and ears on the water for us, we appreciate that.

We have a couple of slides to show the progress that has been made in Sausalito. This slide is from 2010, it was pre-enforcement.

The next slide is 2015 pre-enforcement. You can see the amount of vessels that are in Sausalito waters.

The next two slides we took with a drone on February 12 of this year. You can see there is a purple circle that is a vessel that we are currently monitoring; we have marked for 72 hours. We have had communication with the subject in the vessel and so we are attempting to vacate that vessel from our waters. You can see just to the right of it is one of our legacy anchor-outs.

The next slide shows another area of our water where four other legacy anchor-outs are plus the Vadura, which is the larger boat/vessel on the bottom of the slide. The catamaran in the red was just visiting on that Sunday and is no longer in our waters.

The Vadura is the large vessel that you saw at the bottom of the last slide. It is a very large boat. It has got some complicated construction and it has been in our water for about 25+ years. Due to its size, tonnage, construction, we are going to need to find, in order to remove it, specific contractors and harbors that are capable of towing, storing and dismantling it. We will have to have favorable conditions because a lot of the times it is resting on the bottom of the Bay.

We need to survey it prior to being towed just to make sure it can be done safely. We will have to determine what hazardous material is on it prior to removal. We are very aware that there may be protests due to the history of the boat and the length of time it is been in the water. So there may be some opposition to us trying to remove it.

Currently, we do know that the owner of the Vadura is living on it, possibly with a caretaker. The City and the County have both been in contact with both individuals and are working to find them land-based housing. Our removal efforts will not resume until it is no longer occupied.

We wanted to share some examples of our waterfront management.

The Safe Harbor Program. We have had some great success with our Safe Harbor Program. And as I mentioned before, we continue to work with our partners in the County the Ritter Center, and within Sausalito, the chamber and our different harbors, to further this program and to help with the success of the individuals who want to take advantage of it.

This next set of slides are an incident that happened actually in February of 2022. Two vessels intentionally beached themselves off the Dunphy Park shoreline. We immediately were notified; we immediately marked them for 72 hours. If you can roll through the couple of slides you will see as the tide is going out the state of the vessels. After we made contact we marked them for 72 hours.

One vessel was actually able to leave on its own. The other one was not because I think of the fact that it was sunk in the mud. It actually filled with water, it sank. That is the status of where it was.

We noticed that there was sheen and immediately called Parker Dive, had a boom put around it, made the legal notifications that we were required to and the owner of the vessel was cited for the violation. Ultimately Parker Dive was able to lift the boat and remove it to the Army Corps where it was ultimately destroyed.

So that is the waterfront management portion of Sausalito's presentation so I think I will turn it over to Brandon Phipps.

Mr. Phipps continued the presentation: Thank you, Chief Gregory. Good afternoon, members of the Bay Conservation and Development Commission and members of the public. My name is Brandon Phipps, Community and Economic Development Director for the City of Sausalito. I am glad to be presenting to you all today to provide an update in connection with Section 3a of our agreement related to developing resources and taking necessary actions to support housing opportunities for existing anchor-outs in Richardson Bay.

The first update I will discuss is related to the City's 6th Cycle Housing Element Update. As has been communicated in previous reports, the city of Sausalito was given a RHNA, that is a Regional Housing Needs Allocation, of 724 units distributed between income levels as you see here: 200 Very Low-Income units, 115 Low Income units, 114 Moderate Income units and 295 Above Moderate Income units.

The City has worked hard in collaboration with our Housing Element Advisory Committee, housing consultant, planning commission, members of the public, multiple working groups, to submit a draft element to the State Department of Housing and Community Development on October 28, 2022.

The City received comments back from the state on January 26, 2023.

After which point the City made edits to the draft element addressing those comments and considering recommendations provided by the Planning Commission.

As a result of those efforts the city council successfully adopted an updated housing element on January 30, 2023.

The City's adopted housing element promotes water-based housing opportunity. Specifically, Program 9 in the City's element commits the City to meeting quarterly with the BCDC to collaborate and developing a water-based housing program that can be implemented in Sausalito's marinas to increase berths for lower-income households.

This increase in berths could take multiple forms, two examples of which are live-aboards, similar to our Galilee Harbor live-aboard community for those who are familiar, or a water-based community which could contain more robust water-based housing options.

Program 9 also supports increasing live-aboards with marinas from 10% to 15% of total berths, identifying additional sites for water-based housing opportunities, developing a water-based affordable housing program and working to accommodate a portion of the City's RHNA via live-aboards at a marina or in a water-based community.

The City has also adopted and is in the process of drafting ordinances that will increase ministerial, by-right review processes which represent additional resources and actions the City has taken to support housing opportunity.

Specifically, the City's SB 9 Ordinance went into effect on July 28, 2022. And a quick summary in connection with SB 9, SB 9 is a part of California's Senate housing package which aims to increase the supply of housing in California. The bill requires ministerial approval of two dwelling units on a parcel zoned for a single-family unit.

The City's local ordinance creates the foundations for this ministerial by-right regulation for new housing units in residential zoning districts.

This ordinance may be amended this year to include additional standards based on in-progress objective development and design standards that would apply to multifamily and mixed-use developments in R-2 and other multifamily zoning districts.

Those ODDS are the second bullet you are seeing here. The ODDS currently in progress facilitate the creation of new housing units by establishing by-right ministerial regulations that streamline the review and approval of housing projects.

An update on the status of the in-progress ODDS was presented to the city council on January 12, 2023. We are in the process in collaboration with our ODDS consultant and the ODDS Working Group and staff of bringing a draft version of our second phase of the ODDS before the Planning Commission at a public hearing for their review and consideration.

We actually had an ODDS Working Group earlier today prior to this meeting and we are currently looking at a March 15 meeting where these ODDS will be brought before the commission.

Regarding the machine shop mentioned in previous reports to BCDC. The City was formerly pursuing purchase with Government Services Administration to relocate an existing corporation yard to the machine shop site. Unfortunately, discussions on the potential acquisition have stalled and it is unlikely at this time the city of Sausalito will proceed with this endeavor.

Finally, the City desires at a high level to work with BCDC to allow marinas to increase the capacity of their total berths by 5% if the new berths provide affordable housing opportunities and BCDC considers a rent-control program for new berths to ensure rents remain affordable over time.

Thank you all for your time today. That concludes my portion of the presentation and I will now pass the mic to our eelgrass consultant, Robert Mooney, who will discuss eelgrass habitat mitigation and damage avoidance. Thank you.

Mr. Mooney presented the following: Thank you. Thank you, Brandon. Good afternoon, everybody.

Adrienne did a great job earlier of laying the foundation here for the agreement that was signed between the City and BCDC so I will not go into too much detail there except to point out that with the eelgrass the goal of that agreement is to restore, create or enhance eelgrass habitat to mitigate for damage caused by the unlawfully-anchored vessels in City waters, as the chief has already pointed out and provided some background on.

The City has been working on this now for a couple of years. In the agreement some mechanisms to achieve the goal that was stated in Condition 4, the first of which was to quantify the eelgrass damage.

We then also provided a document that looked at measures to avoid and minimize further damage. Much of those measures have already been implemented by the City and include the removal of vessels and the plants and so forth that have been put in place to avoid further damage. And then we were to develop an Eelgrass Mitigation Plan.

And finally, once that plan gets implemented we would need to monitor and manage the eelgrass beds within the management area for ten years.

A little bit on what we have accomplished and where we are at.

The eelgrass damage associated with the illegal mooring and anchoring was estimated at 6.28 acres in Sausalito waters.

That was done by looking at the previous study which was performed by Merkel and Associates. It was funded by RBRA and the city of Sausalito. That study mapped eelgrass and anchor scars throughout Richardson Bay.

We simply took the data at that point and cropped it by the City limits and that is what resulted in finding the 6.28 acres of damage in Sausalito waters.

The results of that were provided in a memorandum of October 15, 2021.

Additional data were collected last year to look at where we stand with eelgrass now and I will share those slides in just a moment.

We prepared a preliminary draft of our Restoration Plan for eelgrass in City waters. That was provided to BCDC in June of last year.

We received a response from BCDC staff on December 14, 2022 and have been working since to draft a new plan. BCDC had some comments on the Plan. One of which was looking at just how much passive growth of eelgrass would be accepted in City waters. The good news to that is the removal of vessels resulted in quite a bit of eelgrass growing back in sea waters.

The latest draft of the Mitigation Plan after incorporating BCDC comments was drafted by me and provided to the City just this past Monday. On February 13 the City received that and they now have the opportunity to review it, direct me to make edits as appropriate and then we will be taking it back to BCDC.

This is a snapshot of eelgrass in City waters. We have two management areas, one just offshore at Dunphy Park and the other to the north at Marina Plaza. In these figures the take-home message is that quite a bit of eelgrass has spread back between data that were collected in 2019 and 2022. The hatched areas in red are the 2019 eelgrass.

So anywhere where you do not see that fuzzy red on top it is eelgrass that grew back or filled in these areas between 2019 and 2022. Much of that growth is attributed to the removal of vessels, although there are still areas, particularly at Marina Plaza, where we can see these holes in the eelgrass bed. But likely they will persist as scars from tackle.

The draft that is currently being reviewed by the City, we have taken this information relative to how much eelgrass has come back into City waters as the vessels are being removed. We are looking at that in combination with the depth model of where eelgrass is occurring, where it is coming in. And then we are looking at those depths that currently do not support eelgrass. I should say the suitable depths that currently do not support eelgrass as potential restoration sites.

We are taking a lot of factors into consideration such as the current presence of those legacy vessels, which have already been mentioned, because those areas in many cases are suitable for restoration. However, the presence of those vessels, of course, is an impediment to some point of restoration as well as taking into account factors like parking into marinas, potential for vessel traffic that conflicts with divers and implementation methods as we move forward. So taking all this information in and critically looking into potential restoration sites within the City waters.

So the Revised Eelgrass Mitigation/Restoration Plan, as mentioned, is currently being reviewed by the city of Sausalito staff and city council. It identifies passive recovery of eelgrass in Sausalito waters. Sausalito is taking that information now and any comments from BCDC and using that to look at where future additional restoration efforts may be feasible. That document is also looking at identifying the most suitable means and methods to restore seagrass within the city of Sausalito.

So that is where we are at. We are hoping to have that draft new report back to BCDC in the near future. With that I have completed, thank you.

Ms. Cox acknowledged: Thank you, Robert. As you can all see, it takes a village. Sausalito is committed to this effort and we are available to answer any questions you may have.

Commissioner Gunther was recognized: Thank you all for this detailed presentation. I just have one question about eelgrass. The question is to put into context the change that we saw in light of the variability in eelgrass populations. I understand from Kathy Boyer's work that sometimes eelgrass is growing beautifully and then it disappears.

You showed us 2019 and 2022 and said there has been some passive restoration, which means it has grown back. How does that change compare to natural variability and what might occur in some future year based on some event that influences the population?

Mr. Mooney replied: Yes, that is the million dollar question. Unfortunately, we do not have a lot of data to fall back on, right. We are looking at this issue came to light, some data were collected. And now in the City waters at least we went a few years and now we have collected more data. The points you raise are spot on, eelgrass can be highly variable. You can have heavy rain years, for instance, which cause a lot of sediment transport, right, which was what was talked about earlier. Suspended sediments cause less light to get to the bottom and so you can see areas where you might have eelgrass recede. You could potentially lose a lot of area that way. There's a lot of those uncertain estuary-type environments where depressing the salinity can cause diebacks of eelgrass. So it is certainly dynamic.

We are being optimistic. We believe the removal of vessels has resulted in some amount of regrowth. But of course, we only have a couple of snapshots in time. So the reality is that do not always know exactly what is going on.

Commissioner Gunther continued: Then as we go forward here we are really going to be developing one of the few long-term datasets on eelgrass population in San Francisco Bay.

Mr. Mooney agreed: It will be one of a few, right. As you are probably aware, right, the Bay Bridge Project has resulted in the development of two projects of eelgrass restoration in the Bay. RBRA, of course, is also working on projects that you are going to hear about next. So yes, a lot is coming.

There have been a lot of eelgrass transplantation efforts performed throughout the state, a lot of them very successful. But yes, I have firsthand knowledge of failures in San Francisco Bay. NOAA Fisheries, for instance, in the California Eelgrass Mitigation Plan proposes that you do a lot of extra planting with eelgrass restoration work because of the variable nature of success that has been observed in San Francisco Bay.

That is one of the reasons why we are looking at City waters right now. We are taking as broad an approach as possible to identify as much potential restoration area as we can. Then as we move forward, where we see the successes hopefully we could build on that. And if we have areas with failure we can adapt.

Commissioner Gunther acknowledged: Thank you.

Chair Wasserman recognized Commissioner Gilmore: Commissioner Gilmore to whom I apologize. I should have recognized you first since this is an enforcement matter. I just got wrapped up in the science.

Commissioner Gilmore had questions: Thank you, Chair Wasserman. I also want to thank the city of Sausalito for such a comprehensive update. I do have a couple of questions.

By way of background, when we were crafting the settlement agreement, and even when it was approved by the Commission, we were in the middle of the pandemic. So my first question to you is; how did pandemic conditions affect your ability to either perform under the Settlement Agreement or to move as quickly as you might have liked to do? Basically, how did the pandemic affect your efforts?

Ms. Cox fielded this question: I will take a crack at that, this is Council Member Joan Cox. One way that it affected our efforts was that we, as a compassionate approach, ceased our enforcement efforts against occupied boats. They already are our lowest priority. But we purposely made the decision that we would not seize any occupied boats and we are proud to have adhered to that.

We did throughout the pandemic continue to make outreach to occupied boats in our waters. As the chief made mention, we keep in close contact so that we understand folks' needs.

The pandemic also extended the duration of some of our Safe Harbor participants. Safe Harbor was intended to be an 18-month program but we actually for our first Safe Harbor recipient extended that program to 2022 before at least one gentleman transitioned out of his live-aboard slip into land-based housing. So we extended the hoped-for, 18-months transition period to a longer period of time to facilitate the provision of services.

The last way that comes to mind that we were adversely impacted by the pandemic is financial. The City has limited resources and we made careful proviso in the Settlement Agreement that we would undertake eelgrass mitigation efforts as feasible and as resources allow.

So I am very pleased that we have been able to hire Robert Mooney and we also are in the process of hiring a sustainability employee who will continue to assist with these efforts. But certainly logistically and financially our efforts at eelgrass mitigation have been impacted by the pandemic.

Commissioner Gilmore acknowledged: Thank you for that.

Ms. Cox added: We have the city manager on the line if he has anything else to add.

Commissioner Gilmore continued her inquiry: I am guessing not. I do have a couple of follow-up questions. Other than the pandemic what was your greatest challenge or what continues to be your greatest challenge?

Ms. Cox replied: It is a couple-fold. Our Safe Harbor Program depends on the cooperation of our marinas and on the cooperation of those who are still living on the water.

One of the early impediments to Safe Harbor was trust. It actually has taken a lot of effort for us to build trust with the people who are living on our waters and for them to realize that if they come off the water and into a slip we only have the best intentions for them and we are committed to providing them with the services that they need to get the help that they need.

And another impediment is culture. We have Peter Romanowsky who has lived out on the water for over 25 years. Greg Baker has lived out on the water for over 25 years. He is 83 years old. He is finally getting to an age where the difficulty of the weather and the tides and the uncertainty is finally adversely impacting him and he has asked to come into our Safe Harbor Program. We do not have a slip big enough to accommodate his over 40-foot boat and so we are working to transition him to a different boat by which he can participate in our Safe Harbor Program.

So there have been some logistical challenges and some trust challenges but I am proud that we are traversing those.

I am pleased that the Commission gave us five years to carry this out because it is not something we could carry out overnight. When you look at the ages of our anchor-outs, many of them are geriatric and so there is a natural process by which I believe they will transition off the water, as one did earlier this year voluntarily, if we can continue to ensure that we are providing them whatever services they need to make that transition.

Commissioner Gilmore acknowledged and asked the following: Thank you. Council Member Cox, just a couple more questions and I will finish up. Since we have a lot of new Commissioners could you please tell us when we started this process how many occupied vessels you had within Sausalito waters? Because I believe you said you are now down to five.

Ms. Cox answered: We are now down to five. Boy, you are testing my memory, Commissioner. I know we provided you with those reports every month for a while to the Enforcement Committee.

Commissioner Gilmore concurred: You did and I am trying to give you an opportunity to blow your own horn. While I do not remember the exact number I remember it was a lot more significant than five.

Ms. Cox agreed: It was, absolutely. It was in the dozens for sure. As I said earlier in my presentation, we had just under 100 total boats in Sausalito waters alone. That is not counting all of the couple hundred boats that were in RBRA waters. I know RBRA will toot their horn later today because they have gone from over 200 to like 50.

I think it is very funny. One of the former RBRA members used to say that Sausalito is the hare and they are the tortoise. We were laying the groundwork and they were following in our path. I am pleased to see that both agencies have made great progress.

Commissioner Gilmore continued: Final question. Since you brought up RBRA, I understand that you and the Agency have to work very closely together. Could you please tell us about some of the ways that both the City and the Agency have been cooperating to achieve the goals of both settlement agreements?

Ms. Cox explained: Sure. I know that over the last couple of years there have been many meetings between Sausalito and RBRA. I am very pleased, even though I was not on the council last year, I attended the RBRA meeting at which the RBRA suspended its Mooring Program.

That was a program that was of great concern to Sausalito and RBRA suspended that program and instead adopted a buyback program which they have used successfully and I believe they will move forward with it in the future and Sausalito was very grateful for that.

I will say that after I was reelected to the council I have already sat down with the Executive Director of RBRA and with Stephanie Moulton-Peters and with the mayor of Sausalito to plot our path forward.

We are very pleased to be collaborating to a positive solution for waterfront management for both agencies. So I am optimistic about the future. I see Supervisor Stephanie Moulton-Peters nodding her head as I am speaking so I am pleased to see that she is aligned with my comments.

Commissioner Gilmore acknowledged: Thank you so much, Council Member Cox. Chair Wasserman, those are all the questions I had for the moment, thank you very much.

Chair Wasserman continued: Thank you.

Ms. Schwartz Lesberg was recognized: I have two questions. Well hi, I am Rebecca Schwartz Lesberg with Coastal Policy Solutions, an environmental consultant working with mostly RBRA but others as well.

My question, Robert, thank you so much for that presentation. I had two questions about the Restoration Plan that you guys are working on for Sausalito.

The first was, are you using reference sites to help account for the natural variation in the Sausalito bed?

And then the other question was, do you have the data from the previous side-scan, sonar surveys of Richardson Bay, including Sausalito, other than the 2019 one? Because I think we have some other years as well that we would be happy to share. But those are my two questions.

Mr. Mooney responded: Okay, I will start with the second one and say, no and I will take whatever you have got, thank you very much. I would be more than happy to take a little bit more in-depth look into the history of the eelgrass resources.

I have participated in a lot of that past work so I am familiar with it but I do not have the data. A little background there, I used to work for Merkel and Associates who is doing a lot of work on the RBRA side so I certainly know a lot of the events in the region.

As per the reference areas, yes. We still have the issue of when all this was first being looked at, right; it is great that we have got this kind of a Bay-wide view of Richardson Bay. But that came without having things like density estimates derived from scuba-diver surveys and stuff like that.

As we move forward, yes, in our Restoration Plan we have chosen a couple of sites where we are trying to kind of bracket the conditions, if you will, within the City. So looking at a potential reference site that is a little bit north of the City and has depth values that are closer to what we are working with in the City. And another site that is a little bit further removed but in Richardson Bay and looks to be a very stable site. So we are trying to capture the range of conditions that might exist.

Ms. Schwartz Lesberg acknowledged: Great, thank you so much.

Chair Wasserman recognized Commissioner Eklund: Commissioner Eklund.

Commissioner Eklund commented: Thank you very much, Chair Wasserman, appreciate the opportunity. This subject is near and dear to my heart because I was in charge of the NPDS Permitting Program for the US EPA for a long time and a lot of that is emanating from the requirements of the Clean Water Act.

But my question is for staff or the city of Sausalito. It seems that they have made tremendous progress and that the challenges ahead with the last five anchor-outs is paramount because of the lack of affordable housing in the region and especially in Marin County.

But it says here that the City is supposed to implement measures to provide housing by June 30, 2023. Is this something that we should consider continuing or changing that date to give Sausalito and the anchor-outs a little bit more time in order for them to accommodate the housing for the five remaining anchor-outs?

Because I think from the presentation they made tremendous progress and it is not an easy process at all. Given the makeup of who is left and the tremendous progress that they did do, I think that giving them more time makes sense. So is that one of the actions that BCDC is going to have to be making or considering?

Chair Wasserman had a suggestion: Let me ask the Executive Director to respond.

Executive Director Goldzband addressed this issue: Thank you, Chair Wasserman. The settlement agreements that were crafted with each of the respective parties were done so in ways that Chair Gilmore and Adrienne and everybody in the Enforcement Program will remember as being slightly less than painful and slightly more than successful.

It clearly has been successful so far. The last thing I would ever encourage the Commission to do would be to change them at this point. Clearly, Sausalito has had tremendous success. They may have more success next year or the year after, we do not know. But right now, as I see it, and Adrienne, correct me if I am wrong; there are 34 months remaining in the settlement agreements and the last thing I would do right now is change horses in midstream and change what is going on.

I say that as Executive Director. I certainly do not say that as Chair of the Enforcement Committee. So I would certainly want Chair Gilmore to weigh in on that if she would like to.

Ms. Cox chimed in: Commissioner, may I weigh in as well? This is Council Member Joan Cox. We did make proviso in our Settlement Agreement for such a situation. At clause 2d it states:

“The time period for removal of vessels set forth in this section may be extended for good cause, at BCDC’s discretion, if causes beyond the control of the City prevent the City from removing the vessels. The City must submit a request for extension as soon as reasonably possible and in any event no later than 30 days after becoming aware of the need for extension.”

So we did know that unforeseen events arise. We did try, as you do with every contract, to plan for an uncertain future. So there is a mechanism in the contract by which we can seek an extension if we believe it is necessary.

Commissioner Eklund continued: But that 30 days before would be May and today is February.

Ms. Cox noted: But we still have months left to carry out.

Commissioner Eklund acknowledged: I appreciate that, Joan.

Ms. Cox replied: All right.

Commissioner Gilmore added: I would just like to jump in and say that I agree with what Council Member Cox said about unforeseen circumstances.

I will just remind the Commission that while we were crafting the Settlement Agreement we were in the most unforeseen circumstance of what was probably our lifetimes, the pandemic. So we tried to craft these settlement agreements with the opportunity for

change/amendments for these unforeseen circumstances, while also giving the City and the RBRA and BCDC, honestly, some flexibility because we just did not know what was going to happen down the road.

We had no idea at the time how long the pandemic was going to last. If you recall, during a lot of the discussions around the Settlement Agreement we were all in lockdown. So it was just a very trying time. And based on what the Enforcement Committee has seen of the progress thus far I am really impressed with, and I expect to be impressed with what RBRA has done, but I am definitely impressed with what the city of Sausalito has done. At this point in time, if it is not broken I do not think we should fix it. Thank you.

Commissioner Eklund acknowledged: Thank you very much for your feedback, appreciate that. Because I think it is clear that Sausalito has made a lot of progress. With this June 2023 date I am hopeful that we will be able to help accommodate their needs. Thanks.

Chair Wasserman asked: Any other questions or comments?

Any comments or questions from the public?

Ms. Barbara Salzman spoke: Hi, I represent Marin Audubon Society and I have been involved with this issue for a very long time. I too would like to add my commendations to the city of Sausalito. They went off on their own. They have done a fantastic job. If they have gotten rid of that many boats in that short a period of time I cannot imagine that they are going to be unsuccessful in their future efforts to meet this deadline. So anyway, keep up the good work Sausalito.

But secondly, I did have a question about the number. I did not catch the number of boats, or the number of units I suppose, that Sausalito was hoping to have residential units in the water. I assume they are all going to be in marinas or is it expected that there would be a request for a new marina? So thank you.

Ms. Atwell acknowledge: Thank you, Barbara.

Chair, there are no more hands raised for public comment.

Chair Wasserman continued: Thank you. With that we will go on to the second report from RBRA.

Ms. Cox gave her adieu: Thank you, Commissioners. I will say farewell.

Chair Wasserman acknowledged: Thank you very much, Council Member Cox.

11. Richardson Bay Regional Agency Update on Settlement Agreement Implementation.

Chair Wasserman continued to Item 11, asking Ms. Klein to introduce the speakers.

Ms. Klein introduced the RBRA representative: Representing the RBRA will be their new Executive Director, Brad Gross.

Commissioner Randolph chimed in: Can I just make a comment on Sausalito while we are waiting, Mr. Chairman?

I remember when this topic came before us the last time, I can't recall the date exactly, but expressing concern then about what would happen to the people who were taken off the boats because Marin County does not have an amazing record of housing the homeless. So it was reassuring to hear today about the Safe Harbor Program and progress that has been made so I think that is a good development.

Chair Wasserman chimed in: Go ahead, Mr. Gross.

Mr. Gross addressed the Commission: Thank you very much and I apologize for the confusion signing on. Good afternoon, Chair Wasserman, Vice Chair Eisen and Commissioners. I am Brad Gross, the newly appointed Executive Director of the Richardson Bay Regional Agency. Thank you for the opportunity to present our progress on the agreement between RBRA and BCDC.

I wanted to introduce the staff and consultant present. Steve McGrath, our outgoing Interim Executive Director and now Senior Advisor with Regional Government Services assigned to special projects for RBRA is with us today making the presentation, Jim Malcolm, Richardson Bay Harbormaster, and our coastal policy expert Rebecca Schwartz Lesberg, president of Coastal Policy Solutions. Mr. McGrath will be presenting today; Mr. Malcolm, Ms. Schwartz Lesberg and I are available for questions.

Before Steve begins I just want to acknowledge the progress reflected in the upcoming presentation thanks to the hard work and the dedication these three have shown over the last year to maintain and improve the navigational waterways, the open waters and the shoreline of Richardson Bay. I just thank you again for the opportunity to introduce myself and let us present and with that I will turn it over to Steve. Thank you very much.

Mr. McGrath presented the following: Thank you, Brad. Chair Wasserman, Commissioners and public, staff, thank you very much for the opportunity to present today. I want to thank Brad especially for taking the helm on a permanent basis after my stint as Interim Executive Director. I know that the agency is in good hands.

Yes, it takes a village. Our member agencies listed across the top there, Marin Housing, Health and Human Services, and then our partner agencies across the bottom.

In particular after giving thanks to staff I want to give thanks to our member agencies who after we executed the Settlement Agreement, I came in and looked and saw ahead that the Agency was not equipped to implement that Settlement Agreement at the staffing levels that we currently had. For Fiscal Year 2023 these member agencies, perhaps not as willingly as they might have liked but nevertheless in the spirit of cooperation, suffered through a 78% increase in their dues to the RBRA, and for that I thank them.

This slide, I am not going to read through this, a lot of words here. But this is fundamentally a recap of all of the significant milestones that are included in that Settlement Agreement. And you can see on the right hand side there the progress we are making in moving through those significant milestones.

One of the first milestones that we were looking at was the implementation of a mooring field. This was mentioned by Council Member Cox. You can see on the graphic there the area where the mooring field was to go. It needed to be in Richardson Bay. It needed to be outside of the eelgrass. That pretty much restricted where it could go.

This shows a detail of the plan that was developed working with our consultant GHD during that process.

As Council Member Cox mentioned, this program is currently on hold. We are waiting to see the results of some other projects that I will come to in a minute and then we will reevaluate at the end of this year as to whether or not to move forward with this.

There was \$165,000 budgeted in Fiscal Year 2023 for this project but we are in the process of reallocating that to other areas as needed to make sure that we continue to meet the goals of the Settlement Agreement.

The deadline for the completion of this project is actually, if it were to go forward, October 15 of this year. The RBRA sees no need at this point to seek any extensions from the BCDC per our agreement; should the decision be made that this project would need to go forward then we would need to seek an extension on that particular deadline. But we are still committed to meeting all other deadlines as contained within that agreement.

So one of the areas where we spent the money that we were not spending on the mooring field was in the Vessel Buyback Program.

This was a program we instituted in 2022.

As you can see, to date nine vessels have been surrendered. We have cut checks to individual vessel owners to date of \$51,600.

We started off with a termination date on that program of 12/31 of last year. The idea there being to incentivize people to take advantage of it rather than having it drag out.

But we will be bringing this program back to supplement our Housing Support Program, which I will address in just a minute.

While we did not get the number of vessels that we wanted, nevertheless I think the program was successful and we look forward to pairing that up with our Housing Support Program in the future.

I tried to find a graphic to go with this but it is kind of dry. Not only did we need to update our ordinances but the Agreement required it and that project was completed on September 8, 2022 with the adoption of a completely new, from the ground up, set of ordinances that specify, for example, in greater specificity protection for eelgrass, consequences of not abiding by RBRA's rules and regulations, and processes for how to implement those enforcement actions.

Also in the Settlement Agreement was a requirement that we petition the federal government for any actions necessary to make sure that we were in a position to properly protect the eelgrass.

We did submit a petition for an amendment to the Code of Federal Regulations that addresses the special anchorage in Richardson Bay. We submitted that in December; receipt of that was acknowledged by the US Coast Guard on February 1.

It may seem like we were late in getting that petition submitted into the US Coast Guard. But conversations with the Coast Guard had been going on throughout most of 2022 where they consistently said, not sure you need to do this, but at least get all of your ordinances updated first. So this is where we are. They have the petition for an amendment and we will see what happens with that.

Eelgrass. So we heard a lot about eelgrass from Sausalito's consultant Robert, and also you were introduced there to Rebecca Schwartz Lesberg, President of Coastal Policy Solutions, who has been managing our Eelgrass Restoration and Management Plan for us. And any technical questions Rebecca, as you know, is on the call and I will certainly turn it over to her for that.

So we are working with Coastal Policy Solutions, as I said. We are also working with Audubon, with the San Francisco State Estuary and Ocean Science Center, Merkel and Associates.

We are doing that through current funding from the Ocean Protection Council, \$325,000, and NOAA for \$330,000.

With that we have done aerial drone surveys and done water bird counts as a result of that.

Aerial survey and photo documentation of the eelgrass. The results of that have been a little disappointing. While we have seen a dramatic reduction in the number of vessels, and I will come to that in a minute, we have seen no net improvement in the amount of growth of eelgrass. Rebecca, again, can answer technical questions about that.

But it does seem that while we have seen regrowth in areas of anchor scour where vessels have moved or left, what we have not properly addressed yet is whether a vessel has left or has simply relocated, because if it has relocated then it is creating a new anchor scour.

We have also noticed in some of the recent surveys an area of depletion of eelgrass in the northeast corner of our eelgrass protection zone and we are trying to determine at this point exactly what has caused that.

In the Sausalito presentation the issue was raised of sediment and could sediment be damaging the eelgrass? Unfortunately, in this particular instance this problem area that we have identified was first identified last summer before the recent storms so we are investigating what is causing that.

Over the course of the last year and with the help of Coastal Policy Solutions we have codified eelgrass protection into the RBRA Ordinance Code. Again, associated with that, by the way, if the petition to amend the Code of Federal Regulations is accepted by the US Coast Guard we will see that protection of eelgrass actually codified into the Code of Federal Regulations as well.

We have established the Eelgrass Protection Zone.

We have developed and are implementing the Eelgrass Protection and Management Plan.

This is the big news. This is the daylighting for the first time of this big news. We have been selected for funding through the EPA's San Francisco Bay Water Quality Improvement Fund. We are waiting on the contract documents but this funding is \$2.78 million for restoring the eelgrass.

It is for development and beginning the implementation of our ten year Restoration and Adaptive Management Plan. It sounds like a tremendous amount of money. It will allow us to develop that Restoration and Adaptive Management Plan and begin implementation. But we will need to be successful on several more grants like this to complete that project.

Really interesting to note, I think, is that the EPA with this grant cycle had \$53 million worth of requests. They awarded seven grants nationally and we were one of those, because there was only \$24 million available. This could not have been done without Rebecca Schwartz Lesberg from Coastal Policy Solutions and the many, many people from Senator Dianne Feinstein who wrote letters of support. Those letters of support, for all of you elected officials on this meeting, when you get asked for those, never think that those letters of support are not consequential. They are, as was evidenced by this grant award. So thank you all for all that you do.

Our progress; and I wish like Acting Chief Gregory did, I could enumerate and tell you stories about each of the vessels that we have but we have got too many. We would be here all day and into tomorrow. But you can see the progress we have been making. In the eelgrass in 2017 there were 94 vessels and now there are 46.

We keep making progress. You can see this from July of 2020 when we had 123 vessels out there to 57 now. Note that in 2016 there were 240 vessels out there.

This highlights the progress in the last year from 77 to 57 vessels. Where the eelgrass work could not be done without Coastal Policy Solutions and Rebecca Schwartz Lesberg, this work could not have been done without the actions of Harbormaster Jim Malcolm who for a large part of this time was working part-time or with the previous harbormaster; but has stepped up to the plate as the harbormaster now and done an outstanding job.

Here is just an aerial view and we will take a deeper dive into some of the vessel census data.

Milestones in the Agreement. The first milestone coming up for vessels is October 15 of this year. That was when we had to have seen the removal of all of the post-2019 vessels, vessels that arrived after August of 2019. We had fourteen the middle of last year. We have got five as of now.

Floating homes, there are four out there. There are still four but we are making active contact with each of those individuals. I know that Executive Director Brad Gross has jumped in feet first into the issue of this impending deadline, is working well with Harbormaster Malcolm on getting those four vessels, those four floating homes out of there by October of this year.

By October of 2024, October of next year, we have got to get all the vessels out of the Eelgrass Protection Zone. We had 53 as of the middle of last year, 46 as of the beginning of this month.

All occupied safe and seaworthy vessels gone by October 15 of 2026. That is the last date in the Settlement Agreement for the removal of vessels. This is the day by which all vessels and all floating homes that have been illegally anchored in Richardson Bay should be gone.

Now, if anybody has been doing math quickly you will notice that possibly the number of vessels in the inventory as of February 1 exceeds the number of vessels total. That is because some of those vessels are counted in two groups. But the occupied safe and seaworthy we are down to seven as of the beginning of this year.

So people census. That is dropping slowly, as we can see. I want to reference back to the slide where it mentioned that there were 240 vessels on the water in 2016 and there are 57 now. That is including those 4 floating homes.

It should be noted that, to coin a phrase, the low hanging fruit was not easy but easier to dispose of and we now have those 57 vessels and floating homes, 53 vessels, each one of them with a unique story and unique people involved. Each one of them is going to take individual attention and care and compassion to move those folks off the water into housing and to remove those vessels from the Bay, whether it is to a marina in a slip or elsewhere out of Richardson Bay or whether those vessels will be turned in for disposal by RBRA.

Here is our number one challenge. Nothing new to Marin County, nothing new to most of the counties in the state, perhaps the nation, housing and affordable housing for our folks.

The challenge comes in four separate areas. I think the first is funding without which nothing happens.

Temporary housing support.

Case management. How do we identify and help those people, as I said, on an individual basis.

And then we also wanted to look at marinas as a possible solution, as Council Member Cox mentioned.

So starting off with the funding. We were successful in an ask of Senator McGuire to include in the state budget \$3 million for RBRA to work on solutions for housing the people who are living out on the water. Those funds have been promised to us, they are in the budget. Apparently they are still tied up in the Department of Finance at the state level. But when they arrive they will be coming to us through the State Housing and Community Development Department.

So when we got word of that money, we started working with the Marin Housing Authority to find a way to house the people on the water. A shout out here to Ashley Derry at the County and to Kimberly Carroll, particularly with this housing authority thing, who is the

Executive Director of the Marin Housing Authority. When I came into this job as Interim Executive Director I came out of ports and harbors, not out of housing. What I do not know about housing would fill, perhaps it is better to say what I do know about housing, which is not very darn much.

But Kimberly Carroll has been an enormous asset and help. Working with her we did develop an idea of a program that would be akin to but not a Section 8 program operated and funded through HUD. But based on that concept we started off and negotiated an agreement and that agreement was approved by the RBRA Board in November and by the Marin Housing Authority Board in January. So that program is ready to go, just waiting on receipt of the funds.

So while we recognize that our \$3 million may seem like a lot of money it is not an infinite amount and it will run out. There is provision in our agreement with Marin Housing Authority for people enrolled in our program who are getting this temporary housing assistance from funds received through the state to RBRA. Built into the program there is the idea that these people will become eligible for a Section 8 voucher when that funding runs out.

I do put in there that this is available for eligible applicants. While the goalposts on this keep moving, HUD does have restrictions on who is eligible for a HUD Section 8 voucher. For example, folk on Megan's List, sexual offenders and the like. I do understand, again, I do not know much about housing, but I do understand that HUD has been loosening some of those requirements.

But nevertheless, it is important to say that those Section 8 vouchers will be available for eligible applicants. I know that people at Marin Housing Authority will do everything they can to get people one of those vouchers when the time comes.

Case Management. While working with the Marin Housing Authority we were also working with Health and Human Services at the County and there will be an agreement between RBRA and Health and Human Services go before the board of supervisors on February the 28. That agreement will provide for case management services to be funded by RBRA but to be provided by Health and Human Services, most likely under contract with Downtown Streets Team.

This way in between the two contracts with Marin Housing Authority and with H&HS we have got the case management. We have got the housing location services of Marin Housing Authority. We will have the ongoing voucher support program and we likely will see some terrific success.

We know we already have a number of people on the water very interested in this program; people who might have been eligible for a HUD Section 8 voucher if their needs were sufficient.

This is where we get into a lack of funding. In general, there are not the funds available to provide Section 8 vouchers for everybody who may want them and qualifies on a financial basis but does not score high enough through personal circumstances, health, so on and so forth, to actually get them. So now we can close some of those gaps, get our folks into housing.

I will say that also I mentioned earlier the Vessel Buyback Program. While that Program terminated on December 31 we will bring that Program back for people who engage with the County and Marin Housing Authority and get into housing. This way for our population out on the water, once we have gone through all the paperwork, we will be able to say, here is a housing voucher such that you will pay no more than 30% of your income for your housing; and here, we will buy your vessel back from you. We will write you a check. By the way, I want to thank Marin Link for facilitating all of that, that side of the Program. Here is a check. These funds can help you furnish and get settled and established in your new home.

Marinas. I know that our new Executive Director Brad Gross has met with Council Member Cox and was apprised of the Safe Harbor Program. I think that there are possibilities there that so far in our outreach at RBRA we have not had any success in identifying supportive marinas who will be willing to take the vessels that are out on the water.

One of the issues is a vessel has to be insured and registered in order to meet the minimum standards of most marinas. Additionally, those vessels should be seaworthy and operable, again a challenge for many of the vessels out on the water today. But we are not planning on giving up on that just yet.

With that I would be happy to answer any questions from the Commissioners.

Chair Wasserman asked: Do you have any comments from the public?

Ms. Atwell stated: No hands raised, Chair.

Chair Wasserman continued: Thank you. I would recognize Commissioner Gilmore if she would like to comment on this report.

Commissioner Gilmore spoke: Thank you, Chair Wasserman. Thank you for that very comprehensive update. You actually answered a lot of the questions that I have.

But I do want to ask about the pandemic, just as I asked the city of Sausalito. It just was a big impact on all of our lives and for everything that we attempted to get done in the last several years. So I am curious to know how dealing with the pandemic affected your attempts to achieve the milestones under the Settlement Agreement.

Mr. McGrath replied: I think that is a very good question. Thank you, Commissioner Gilmore. I came into the RBRA after the pandemic had started and we were already in lockdown. I think that, as such, I cannot compare pre-pandemic and post-pandemic with actions on the water. I do know that it has certainly made it more challenging to interact with people out on the water. It made it more challenging to think in terms of getting people housed into marinas. I think it made it more challenging to generally operate in many ways.

However, what I want to stress is the opportunities that are presented. Without a doubt it has been a tragic event for millions of people around the world. However, what it encouraged and enforced was creative thinking. I think that the ability to think outside the box was brought to the forefront on how we were going to challenge getting together with a friend for dinner, all the way up to how are we going to house people out on the water.

I think that the ability to get onto the Zoom call and have constructive dialogue face-to-face at the drop of a hat with the Executive Director of the Housing Authority, for example, really helped develop creative approaches.

I think that without that ability that we were forced into, I do not think we could have come up with some of the stuff that we did. So I guess I am trying to make lemonade out of lemons. But I do think that it cannot be understated, the necessity to think outside of the box creatively and the way in which all of the partners that we worked with did. They all stepped up and we made progress through trying times. I hope that answers your question.

Commissioner Gilmore answered: No, it does. I would be remiss if I did not congratulate you and all your partners on how much you have been able to accomplish.

I particularly want to congratulate you on your ability to seek and compete for funding. Because I think you made it very clear whether you are looking at housing or whether you are talking about eelgrass restoration, that funding, correct me if I am wrong, is probably your biggest challenge.

Mr. McGrath agreed: That is correct. We are a very small agency. In Fiscal Year 2022 our annual operating budget was about a million dollars.

We could not do what we are doing without the willingness of our funding partners to step up and help with this work, whether it is OPC, whether it is NOAA, with this coming award from the EPA, and with the support of Senator McGuire, who through a number of meetings sat with the Chair of our Board, Commissioner Moulton-Peters, other of his staff, our staff, and hammered out a good approach to how to use money that was available through the state budget surplus and come up with a solution. So I cannot thank him enough. Absolutely could not do this without these partners.

Commissioner Gilmore acknowledged: Well, thank you very much. Chair Wasserman, those are all the questions that I have.

Chair Wasserman recognized Commissioner Hasz: Thank you very much. Commissioner Hasz.

Commissioner Hasz: I just wanted to say thank you not only as a BCDC member but as a resident of Mill Valley and an active recreational user of Richardson Bay. Thank you so much. This effort is colossal. Having a six-year old that participates on the Bay with me I just feel so much safer; the more boats that we get out of there that are living out there and the water quality improvement. So anyway, thank you, everybody. I know it is a monumental effort.

Mr. McGrath acknowledged: Thank you.

Chair Wasserman noted: I do not see any more hands. I certainly join in the thanks and congratulations on the progress to both presentation groups and jurisdictions. Recognizing that you have been successful and the hard stuff still lies ahead. That concludes this item.

13. Adjournment. Upon motion by Commissioner Gilmore, seconded by Commissioner Eklund, the Commission meeting was adjourned at 3:51 p.m.