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MINUTES

TO: All Commissioners and Alternates

FROM: Lawrence J. Goldzband, Executive Director (415-352-3653; larry.goldzband@bcdc.ca.gov)
Sierra Peterson, Executive & Commissioner Liaison (415-352-3608; sierra.peterson@bcdc.ca.gov)

SUBJECT: Approved Minutes of October 1, 2026 Hybrid Commission Meeting

1. Call to Order: The hybrid meeting was called to order by Chair Wasserman at 1:05 p.m. The meeting was held with a principal physical location of 375 Beale Street, San Francisco, California, and online via Zoom and teleconference.

Chair Wasserman stated: Good afternoon, everyone. Welcome once again to our hybrid BCDC meeting. My name is Zack Wasserman, and I am the Chair of BCDC Commission. I want to thank the Commissioners who are here at Metro Center, always good to see people in person, as well as those who are participating virtually.

Chair Wasserman asked Ms. Peterson to proceed with Agenda Item 2, Roll Call.

2. Roll Call. Present were: Chair Wasserman, Vice Chair Eisen, Commissioners Ahn (joined after Roll Call), Dorsey (represented by Alternate M. Tam), Dumlao (represented by Alternate Pemberton), Eckerle (represented by Alternate Kimball), Eklund, Gauthier, Gonzalez, Gunther, Hasz, Hermosillo, Janoff, Lee (represented by Alternate Kishimoto), Mashburn, Moulton-Peters, Nguyen, Ramos, Showalter, L. Tam (represented by Alternate Gilmore), and Taylor.

Chair Wasserman announced that a quorum was present.

Not present were Commissioners: Association of Bay Area Governments (Addiego), Department of Finance (Benson), U.S. Environmental Protection Agency (Blake), Contra Costa County (Gioia), Governor (Randolph, VACANT)

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

Maggie Hallahan commented: Hello. Thank you for having me be able to speak today. My name is Captain Maggie Hallahan; I am a Sea Scout leader. I am also on the Commission for California Boating and Waterways, but I am here as an individual boater in the North Shore of San Francisco.

On Saturday, we had a Sea Scout event with over 230 youth from the Bay at Coast Guard Island, which was exceptional.

I do not know if you know but per capita California ranks number 45 in all of the 50 states of having boating access per individual.

Our youth are really struggling to be able to get access. Now, one place that I when I was a youth and grew up I was able to get access from an area called Gashouse Cove, East Harbor. Here is a photo from 1915. Beautiful harbor, functioning fuel dock, functioning boat lift, functioning public access dock, and then less than 10 years later it started falling apart. California Boating and Waterways denied a loan in 1915 to SFRP to fix the area up and then SFRP let it fall apart.

All these kinds of things have a lot of history to it. This remediation project is something we are all for, but the remediation project is a very small rectangular area. The blue area is from the California Water Board. That is the area that has to be cleaned up.

As a Harbor Safety Commission Member, the area over here on the right is what San Francisco Rec and Parks submitted to us saying the reason in which they needed $25 million to keep the fuel dock, which is not true because that is a 150-foot-wide channel to go to the fuel dock, and the existing fuel dock which is eight-and-a-half-feet low tide is functional.

All the emergency responders use this area. There is a list here of all the different emergency response boats. Here is a list. All these agencies want to keep the fuel dock there because it is also a mass casualty site because Fort Mason is right next to it. But none of them are landowners so they cannot do anything about it.

The Harbor Safety Committee has researched this, done an ad hoc report, and produced a two-page letter to BCDC asking BCDC to not grant this permit to SFRP under your own mandates.

The executive offices of California and other groups have researched this deeply and there is no state mandate stopping anyone from closing a fuel dock at this point. So, if we can use BCDC's oversight for public access, since we won't have public access there anymore; we don't have public access the last eight years in this marina as just regular citizens. We have to be paying.

Bill Clark spoke: Good afternoon, Commissioners. Bill Clark here. Looking through my collection of SF Marina photos recently I discovered East Harbor images relevant to water quality, circulation, and site-specific issues that have not been fully vetted in relation to the Marina Improvement Project.

Bay debris flotillas enter East Harbor through the harbor mouth and the lengthy eastern boundary underneath Fort Mason, sucked into the harbor by tidal surge. These debris fields will have an adverse effect on the paddle craft experience navigating through the waters of southern East Harbor as they ebb and flow.

For a marina, such debris intrusions are not unusual. But for public recreation will RPD attend to such sea debris? It is doubtful since RPD is not known for diligent marina maintenance.

And to what extent will circulation clear out such debris? The tidal flushing dynamic at Gashouse with its current four-foot depth is an unknown that would benefit from an EIR.

The other photo shows the effect of low tide wave action and tidal surge activating harbor floor mud sewer discharge sediment and marina boat residue by releasing them into the water column, creating a murky mix of contaminated water. The adverse effects of these daily tidal events on recreation area water quality have not been studied since the 2007 EIR. With decreased harbor depth since 2007 and the closure of the Pierce Street outfall contributing new conditions at Gashouse a current EIR should be mandatory.

Nearby, Aquatic Park does not have a sewer outfall contamination issue or marina boat residue activity. It has sand for a seabed that is replenished annually, along with baffles protecting the cove from wave action, tidal surge, and sea debris, all of which are optimal conditions for public engagement with the waters there.

RPD's plan for the MIRP Recreation Area at Gashouse pales in comparison to what the National Park Service has accomplished at Aquatic Park.

Over at Gashouse the MIRP design includes a breakwater to solve an age-old problem in East Harbor, whereby severe wave action, tidal surge, and strong westerly winds rock the boats and ricochet back when those winds hit Fort Mason, causing an unstable berthing situation. Much sturdier boats will receive breakwater protection in the MIRP, while the southern recreation area is left open, exposing paddle craft to conditions ranging from challenging to inhospitable. Why would a kayaker endure the turbulent waters and winds of Gashouse when a relatively calm cove exists at Aquatic Park - and swimming. What is a recreation area without swimming, which is prohibited at SF Marina? Aquatic Park allows both swimming and paddle craft use with much cleaner and safer water, providing the public with a superior waterfront experience.

All of the above should call into question the seriousness and intention of Rec and Park as it relates to public recreation in Gashouse Cove. In reality, best uses appear to be dredging the southern half to accommodate boating needs or fill to become more parkland. But as a recreation area this is RPD conveniently eliminating a valuable boating resource.

Dan Clark was recognized: You have seen this before. This is the same subject as you have just heard a little bit about. It is Gashouse Cove. It is the Marina Improvement and Remediation Project.

A month from now, November 5, this will be before you for a hearing, so this is not an academic discussion. So, you will have a hearing and you will vote on it. You will decide about some of the controversies that that are embedded in this project.

Staff has been apprised of all this, has received all the comments, and is aware I believe of most of the problems.

And I believe staff will make a recommendation. I know they will make a recommendation. Probably some kind of a report as well as give you all the documents that they have received up until that time.

BCDC is not just a rubber stamp for what applicants come to them, what people come to you for; and BCDC Commissioners are not a rubber stamp for what staff recommends.

You have the responsibility as the Commissioners to make informed decisions. So, I am going to give you some further information to inform you as to what the controversies are with this. And hopefully to influence your decision, not to reject the application, but to add conditions that may, in fact, help mitigate the worst parts of what is going on with this project.

So, on this slide, very quickly, the blue is good, the red is bad, the yellow and brown and dark colors in between are what is necessary to separate the good from the bad. This is a 12-acre site. It is not really very big. It held at most about 350 boat slips. But there it is only 8-foot depth, so they are the smaller of the small craft, and it has been in operation for 50 years or something like that.

The simple solution to dealing with the chemicals that are there is to do the slide on the left, which is simply to dredge it, put in an engineered cap, protect the beneficial use on top from what is below.

The reason that there's two bar charts here is because PG&E discovered that they could save a whole lot of money by not dredging half of the cove, the southern half, and just leave it as the right-hand bar chart shows.

Rec and Park, that is not their motivation, but PG&E is underwriting about $95 million worth of Rec and Park's improvements so Rec and Parks has decided that that's a good idea.

Talking about motivation is not what should influence your votes on this. You have to deal with what is objectively good for the Bay. But I think you should understand what the Applicant's motivation is coming into this, and it should at least alert you to some of the controversy and some of the positioning that you will hear on this.

Sorry, I am over, I am out of time. There will be more on this when I get to speak to you again. Thank you for your time.

Chair Wasserman continued: Before the speakers leave, the first speaker, Captain, will you come up? I have a question for you. Thank you, Captain.

Maggie Hallahan approached the podium: Yes, please.

Chair Wasserman had questions: I do not know whether it is worth pulling the slide up but talk a moment about why we are 45th.

Maggie Hallahan: Yes, I would be happy to talk to you about anything about California waterways.

Chair Wasserman stated: It piqued my interest. That seems odd to me given our coastline and access to the Bay.

Maggie Hallahan replied: Another commissioner, Idsater and I, created a 40-page research paper that is posted on the November California Boating and Waterways meetings. We presented ad hoc research. In there is every registered boat. We have about 600,000 registered votes in California. If you take that per capita on all 50 states, we are number 45 of registered boats per capita.

Then also the thing we did is now that California boating cards are required in the state of California, it just finished. We have about 650,000 people that have gotten their California boating card. And they have to list their home address and show their ID and upload that. I was able to get all the ZIP code and place that throughout the state, and we gave that to the state of California legislator. But say like in Belvidere there is one boating card per 50 people, and in San Francisco there is one boating card per 10,000 people. So, the inequity of boating has become extremely serious in the last 20 years in California.

Chair Wasserman acknowledged: Thank you.

Commissioner Eklund chimed in: I wanted to find out whether it is possible for a Commissioner to hear the citizens' or the residents' issues before the Commission as long as we do not provide any feedback, but just listen to their issues or questions, or statements, and do a site visit. I just wanted to find out whether that is legal or not.

Chair Wasserman stated: You can do a site visit, sure. Wait. We may get into a little debate here. You have heard some of this debate before.

There is in my view a contradiction in the state law governing the answer to your question. There is a provision of the state law which essentially says we should not have ex parte communications on applications that are coming before us. The logic for that is fairly straightforward. Because citizens are entitled to hear and know the full dialog, the information that we as Commissioners are getting when we have applications before us or enforcement matters.

On the other hand, the law says if you have those you need to disclose them. Well, the purpose of disclosure is the same as what I just said. This is not the first time counsel, not just our current counsel, and I have gone around on this.

So, from my point of view the law acknowledges that there is a contradiction and that at times we are going to do this.

I also happen to believe that, particularly when we are dealing with elected officials, you have certain obligations to your constituents, which may be engaging in dialog with them. Now you are going to hear counterpoint.

Mr. Scharff commented: Well, I was just going to start with, the previous counsels are no longer here, so I will never contradict our Chair.

What I really wanted to say was that what is really important is to get to the spirit of what they are trying to achieve, which is to create the same record that everybody, the public, other Commissioners, everybody has. If you go do a site visit, I am not going to lose any sleep over that. Go have a site visit. You can talk to people, do whatever you want.

And you need to make an ex parte of it. You need to say I made a site visit and I met with so-and-so and talked to people and disclose it. Particularly if there is something that impacts your view of it when it comes before the Commission. If you are thinking to yourself, I am not going to vote for this because I saw X, or I am going to vote for it because I saw X, you really should tell everyone and bring whatever evidence that is and share it with the group and make it part of the public record. Because it is really that everyone has the same public record. That is the goal here.

Executive Director Goldzband added: I will tell you that there will be a public hearing and a vote or a possible vote on this on November 5. Two weeks prior to that you will get a Staff Report which will be somewhat voluminous; and prior to the meeting you will get a Staff Recommendation. So, everyone will share all of the information and have the same information.

I would argue from the Executive Director standpoint, if you decide that you want to make an ex parte visit or something like that, it would be really helpful if you would let the staff know that that is happening prior to the time it is happening. Give us the agenda that you are working on. Also provide to the staff immediately thereafter, any kind of information, written or verbal, that you received, because that will make things even more clear.

Commissioner Eklund replied: Great. I have one last question. Is it possible for staff to set up a site visit so that all of us could go if we wanted to?

Ms. Peterson added: That would also be a meeting.

Executive Director Goldzband stated: The Executive Director will not let that happen unless I am told so by the Chair, in which case we will have a discussion.

Commissioner Eklund asked: Privately or publicly?

Executive Director Goldzband answered: Probably privately.

Commissioner Eklund acknowledged: Probably privately. Okay, thank you.

Chair Wasserman continued: So, just a couple of other things, which actually emphasize the counterpoint to what I have said. Greg said this but I want to emphasize it.

Often when we do ex parte disclosures, and I am really talking about the written ones because the oral ones at the Commission should be brief. But the written ones should be complete. It is not just that I met with X at such-and-such a time, in such-and-such a place, but the substance of the discussion. Obviously not all of it, you do not have to record it, but enough again so the public can know the basic information that you received.

The other thing which we have not talked about which is very, very important. If you do have discussions or site visits, is not to express your judgment or opinions. Certainly, ask questions. That is part of why you are doing it if you do it. But you want to be very careful that you do not, in fact, make up your mind in advance of the public hearing and outside of the public hearing.

Mr. Scharff added: And you do not want to give an appearance of having made up your mind, even if you have not.

Chair Wasserman agreed and added: And just as important, you do not want to give the appearance of that. So, that fairness is really very, very important.

Commissioner Eklund acknowledged: Totally understand.

Chair Wasserman continued: And I am sorry. The other thing I am going to say, not to contradict what the Executive Director said, we are not setting up formal site visits. Although there could be an occasion where we will do that. But having said that, there are times when seeing the physical site does make a difference. I think we have beaten this horse enough for this moment.

Commissioner Eklund continued: One last question. What if I record it? What if I record it and provide a copy of the recording?

Chair Wasserman explained: It is not what if. If you do it, you need to do that. Frankly, even if you go see it on your own and you do not talk to anybody, you should report that as well, it is effectively an ex parte communication.

Sorry for the divergence. Now moving on. Chair Wasserman continued to the Report of the Chair.

4. Report of the Chair. Chair Wasserman reported on the following:

a. Exploratorium Visit: I along with several members of our staff and several members of the Port staff had a very interesting meeting this week at the Exploratorium, going into the warehouse to see the projects and the physical items that will become part of their exhibit for our authorized and their educational effort on sea level rise. It is really exciting.

They are going to have kiosks out in front on the Embarcadero where people can interact with them about scientific information. Our Bay Explorer will be there for people to utilize, to share. These are people who are visiting the Exploratorium. There are also people who are just walking back and forth on the Embarcadero. There is going to be a very interesting bronze large structure that replicates the seawall that makes it almost palpable. There are also stories of people, what the Bay means to them.

It is being very well thought out. It will be a work in progress in the sense that they are going to put it up hopefully early this fall. Over time it will be expanded and modified. Hopefully, over time, it will be replicated in other areas throughout the Bay Area. So that is really exciting.

b. El Niño: I had a conversation there, which I have had in a couple of other places. We have all been reading about El Niño. Its most serious effects will probably be south of us, but there will be effects in the Bay Area. If circumstances are very bad, if we have a confluence of events, we could get a very serious rise in sea level this fall and it could do some very significant damage, and that will be bad.

If it happens, and I hope it does not. But if it happens there is a silver lining. Our Executive Director has often said what we really need, not that we want, he is not asking for it, is a Sandy, is a really extreme event here. Because rising sea level is still too slow-moving an emergency and we do not really feel it. And when I say we I am not so much talking about the people here that are members of

this Commission, people who come and watch us. But to the public, even the Legislature, it is just not quite a high enough priority.

One of the things that is going to be very important for us to do as we move forward, as we move forward this fall and early in this next year, is our educational effort, which is one of the exciting things about what the Exploratorium is doing.

Even if El Niño, and we hope it does not produce major damage here, it is going to be worth talking about and we need to figure out how to do that. And we are working with Rylan and his team to do that more effectively. Particularly as we get a new administration coming in to govern the state of California. You will, I think, hear significantly more about educational efforts over the next months in particular. We will have some significant work to do.

Commissioner M. Tam chimed in: Chair, if I may make a quick comment about El Niño. When the Governor declared the emergency, Commissioner Dorsey in his capacity on the San Francisco Board of Supervisors, called for a multi-department hearing that is going to take place in late October at the San Francisco Board of Supervisors to coordinate across our city departments how the City is preparing for El Niño. This is going to be a multi-department and multi-agency hearing that we are actually going to be asking BCDC staff to provide some expertise on and potentially attend the hearing.

It is going to be about how we are coordinating with our state and regional partners, whether there are gaps in our infrastructure, emergency response capabilities, or resources that we should be addressing before those storms arrive. I am happy to report back on that maybe after we hold the hearing or if there is information I can report on at our next meeting. We will not have the hearing until after our next meeting, but happy to keep providing updates on what we are doing at the Board of Supervisors on this.

Chair Wasserman stated: Please do. I am sure there will be BCDC staff at that hearing.

Commissioner Gunther commented: I do not share with you the opinion that it is probably going to be worse in Southern California, I do not think we actually know that. What we know is that longitudinally the center of the real hot water is very far east, and that is the characteristic for an El Niño that has significant precipitation impacts on California. I personally will be having some sandbags at my house within a few months just to have them ready. Just because of the characteristics of the drainage where I live, I think it is probably a good idea for me. I am very, very fascinated with how this message has broken through.

It is great what the Governor has done. It is great what Supervisor Dorsey is doing. I think that people are really ready. People are ready to hear about this because their relationship to the weather is changing. That may in fact be the most important truth about climate change in our public discussion is that the weather is something different now. The weather report is not about whether you need an umbrella.

I really applaud your interest in heightening people's awareness of this. That extreme weather is more resonant than sea level rise because it happens within a political term, and I think that is a real important issue. I feel regionally we are doing extraordinarily well in building momentum towards our long-term solutions, and I think that you and this agency and others have really helped in making that happen. I think we will continue to struggle with getting people to be concerned about sea level rise when it is still in the future.

But the King Tide is going to be an important moment, particularly with the warm El Niño water, and we might want to consider developing more video evidence. There is a photograph of a canoeist next to the bike rider on the bike trail in Marin that I have used so many times in my presentations. There are certain things that will open people's eyes to what could happen.

But I know there are things that are occurring that we do not actually publicize, like the Bay going up the storm drain in San Leandro and things like that. And we are going to see more of these. And taking pictures of them and showing them to people is a way to raise awareness.

Commissioner Janoff commented: I just want to add on to all the comments. I appreciate that we are talking about El Niño so extensively and comprehensively. Even this morning I think in the headlines of the *New York Times*, the dailies, the short form, they were talking about El Niño and the Kelvin wave that the coast of California will be experiencing. So, I think up until this point Southern California has been taking the brunt of it, especially with all of the tropical activity, the marine heat wave.

The National Marine Fishery Service has some great website content and predictions on how the marine heat wave is going to spread across the whole West Coast all the way up to Alaska. Subsequently, the relative rise in sea level over the term of El Niño or over the course of a year or on that order of magnitude could be, I forget exactly, but maybe half a foot to a foot. That is the baseline that is moving up. And then on top of that, obviously as we know, the extreme weather, the atmospheric rivers and the King Tides. It is just a recipe that we are going to be facing here.

And then I think also on the biological side of things, everybody knows about domoic acid. Hopefully a lot of people know about the marine mammals that are impacted by these heat waves. They often come to the beaches and they are disoriented. I do not know if it is related to the whale that recently made it up into the Delta as well. But there are ways when you see that to be able to call it in to the Marine Mammal Center and they can do something about it. That is kind of a public service announcement that there are many impacts to the El Niño that I think we can see on a day-to-day in this area. Even right now, I saw a sea lion who essentially beached themselves on Baker Beach and was very disoriented. It is only going to happen more as this heat wave spreads across the whole West Coast. Thanks for letting me wax poetic.

Commissioner Showalter was recognized: I just wanted to share that in Santa Clara County, we are having a meeting of elected officials of the shoreline cities and other people are very welcome to come. It is October 14 from 9:30 to 11:30 at Michael's Restaurant, which is in Shoreline Park, so right out on the edge of the Bay where we can see things happening. The focus of this year's meeting is going to be El Niño and what we expect to see as the impact locally and how we should prepare for it.

Commissioner Nguyen chimed in: I just want to report on what Caltrans is doing as related to the Executive Order from the Governor on September 21 which actually had two items specifically requiring the Department of Transportation to provide. And they are:

One is to identify facilities at risk of flooding, erosion, debris flows, and slides.

And two is to transmit a prioritized list of projects to address those risks.

And then thirdly is to pre-position personnel, materials, at those locations that have those risks.

Within the Executive Order it is also talked about all state agencies, in particularly one that I saw in terms of prioritizing work related to help local agencies prepare for those risks and prioritize permitting consultation, technical assistance, to support local efforts to prevent or mitigate those

impacts. I wonder if for this Commission is there anything pertinent that we are doing to support those or not?

But first and foremost, I just want to report what Caltrans is doing. And by the way, it required the Department to submit all of those within 30 days. Literally last night Caltrans Headquarters in Sacramento began to approve some of those improvements for us to start. One of the assumptions is all that work has to be done between now and December. Thank you.

Commissioner Moulton-Peters added: On a similar vein, I appreciate all of my colleagues and the prep work. Marin County in light of the January storm, started preparing really this spring for El Niño. We last night had our mayors and council members meeting where we discussed this. We are doing integrated interagency planning with Caltrans and our cities and special districts, and the Army Corps.

The question I was asked to come in and just bring for future discussion with our staff is: Are there emergency measures that BCDC can imagine, such as raising tide gates for effectiveness, that we might want to consider, and how can we have conversations about getting that work done in time for El Niño? So, no answer now, but just bring that up.

Chair Wasserman acknowledged and continued: Thank you all very much for that little detour.

c. Next Meeting: Next meeting in two weeks we only have a couple of items, but we expect a very interesting and probably lengthy agenda.

- We will hold a public hearing on the Sediment Bay Plan Amendment.
- And we will have a closed session to discuss possible litigation.

d. Ex Parte Disclosures: That brings us to ex parte disclosures. If any Commissioner has not made a written disclosure that is required because of contact, as we had discussed earlier, now is the time to do so verbally, but you still have to do it in writing. Are there any ex parte disclosures to be made? I see none.

(No ex parte communications were disclosed.)

5. Report of the Executive Director. Executive Director Goldzband reported: Thank you very much, Chair Wasserman. Pardon my voice, I am getting over a cold, he says coughing.

I am pleased to be back in this chair after missing a few meetings. I certainly did not want to miss the October 1 meeting. Not that I would mention that Nazi Germany annexed the Sudetenland on this day in 1938 or that Roger Maris broke Babe Ruth's home run record on October 1, 1961.

Instead, I want to let you know that on this day in 1888 *National Geographic* magazine made its first appearance. For many in my generation, our homes were littered with scores of National Geographic magazines that our parents were never willing to throw away, and this was before the age of recycling. This was so prevalent that *The Journal of Irreproducible Results* published an article in the 1970s positing that because families never discarded their National Geographic magazines the earth's axis would soon tilt more toward the northern hemisphere, causing unimaginable catastrophic harm.

I am happy to report that BCDC will be taking on Kelly Meza Prado to join our Regional Shoreline Adaptation Plan team. Kelly now works at the Governor's Office of Land Use and Climate Innovation, formerly known as the Office of Planning and Research. Recently, she led two funding rounds of California's Extreme Heat Program, working with cities, community-based organizations, and tribes across the state.

Previously, she worked to develop sustainable and resilient health systems within the World

Health Organization; and did conservation planning in Latin America focused on planning upstream watershed conservation to improve water outcomes for downstream cities.

Kelly is a proud Ole, having earned her B.A. in Economics and Environmental Studies from St. Olaf College in beautiful Northfield, Minnesota. She also holds a master's degree in public health from the London School of Hygiene and Tropical Medicine, which no surprise, does not appear to have an athletics department.

I am also pleased that Mulika Musyimi will join BCDC as our second member of the Environmental Justice team. Mulika is an Aztec from San Diego State University, my home town, from which he earned his undergraduate degree in sustainable geography, and a Golden Bear, as his master's degree in public health was awarded by Cal. Mulika is the son of artisans, cooks, farmers, teachers, and tour operators from Indian Ocean coastal communities in Kenya.

He most recently served as a Fellow at the Exploratorium, where he co-designed and co-directed a participatory research project using Photovoice to elevate local community perspectives on sea level rise and coastal change.

Last week BCDC helped sponsor a huge annual national conference hosted by Restore America's Estuaries, a tremendously successful NGO that educates and advocates about the need for estuary health. Commissioners Ahn and Gioia each had major speaking roles, and our staff led, organized, and/or participated in tours, poster sessions, and over a dozen separate panel discussions. Although I could not be in attendance, I heard from more than one conference participant that "BCDC is all over the place." BCDC staff were also present throughout the conference in our booth, which received a very large number of interested visitors from all over.

You may have seen newspaper articles or television news reports about the ongoing and much upgraded efforts by the city of Oakland to rid the Oakland-Alameda Estuary of its large number of abandoned and derelict vessels. BCDC's Enforcement and Compliance team deserves immense credit for this activity. As you will hear in more detail soon in an update by that team, BCDC staff have played a key role in leading more than a year of meetings and spurring multi-agency collaboration that has consistently pushed the City, and reinforced Oakland's responsibility, to address abandoned vessels and protect the waterfront and the Bay. We are thrilled that this long-awaited cleanup is finally moving into implementation and we will have more details soon.

In other enforcement and compliance news, we are in the process of creating a BCDC drone program for our Enforcement and Compliance team. Our first pilot, BCDC staffer Erich Miller, has passed the FAA exam. Next up is finalizing a well-vetted guidance document detailing how the operation will proceed.

One day after BCDC staff briefed you on our Bay Adapt Project and Funding Navigator it went live. This is a new web-based platform that includes scores and scores of rising sea level adaptation project information from around the Bay, and whose information can be sliced and diced into myriad ways to provide all sorts of information for anyone who is interested in learning about or pursuing an adaptation project. The information includes project costs and benefits, funding needs, and opportunities for securing money to advance projects. The Navigator will be presented to our Commissioner Working Group on Rising Sea Levels at its next meeting in two weeks.

As we recently heard, we cannot seem to get through a few days without hearing about the

Super El Niño that has developed to our west, and this week we are seeing its results once again. This is the first time in National Weather Service history that a coastal flood advisory has been issued for the Bay Area in September, a full three months before our normal King Tides. I will be attaching to the meeting summary a marvelous one-pager in both English and Spanish describing the El Niño phenomenon from the National Weather Service that you are free to distribute as you see fit.

We will have an update on BCDC's activities in preparation for the El Niño in a couple of weeks.

And just so that you can't say that I didn't warn you: Tickets for BCDC's annual Rising Together Summit at the Exploratorium celebrating the region's achievements on sea level rise adaptation became available Monday, but it is sold out.

The event includes optional field trips and workshops, a variety of breakout panels covering topics ranging from sea level rise visualization tools to the importance of regionalism; and it will feature a keynote from Rosanna Xia, an environmental reporter from the *Los Angeles Times* who has done amazing work.

If any of our Commissioners or Alternates want to attend do not worry, we have held back some VIP tickets. Please let Jessica, Dana, or me know and we will secure one of those slots for you. Gratuities are gratefully appreciated. Just kidding.

Finally, we are going to ask Rylan to show you something which just appeared on Instagram I think yesterday or the day before and how now reached viral proportions.

Director of Legislative and External Affairs Gervase shared the following: Sierra is going to roll the tape on an Instagram reel. I will highly encourage you guys to follow us on Instagram, if you do not already. We are also on Facebook and LinkedIn. I will not spoil it too much, but I think it is a good example of the new approach to communications and public engagement we are taking at BCDC. With that, enjoy.

(A video was shown.)

Executive Director Goldzband continued: I just want to give huge kudos to Alyssa and Rylan, who hired Alyssa, who puts together such marvelous Instagram posts. That is Alyssa way in the back, and she is still standing up and will wave to you.

I really want to encourage all the Commissioners to either be here or to certainly Zoom in two weeks from today. It will be more than likely a lengthy public hearing on new sediment programs, Bay Plan Amendment Draft. We look forward to hearing from huge numbers of the public as well as from Commissioners about how it can be improved. And then ultimately in November, knock on fake wood, we will have actually scheduled a vote on the Bay Plan Amendment.

Thank you very much, Rylan and Alyssa. Thank you, Chair Wasserman. Happy to answer any questions.

6. Consent Calendar

a. Approval of Minutes for September 17, 2026 Meeting

Chair Wasserman reviewed the items on the Consent Calendar and called for public comment.

(No members of the public addressed the Commission.)

Chair Wasserman asked for a motion and a second to adopt the Consent Calendar.

MOTION: Commissioner Hermosillo moved approval of the Consent Calendar, seconded by Commissioner M. Tam.

VOTE: The motion carried with a vote of 21-0-0 with Commissioners Ahn, Eklund, Gauthier, Gilmore, Gonzalez, Gunther, Hasz, Hermosillo, Janoff, Kimball, Kishimoto, Mashburn, Moulton-Peters, Nguyen, Pemberton, Ramos, Showalter, M. Tam, Taylor, Vice Chair Eisen and Chair Wasserman voting, "YES", no "NO" votes, and no "ABSTAIN" votes.

7. Commission Considerations of Administrative Matters.

Chair Wasserman asked if there were any questions for Regulatory Director Harriet Ross regarding the Administrative Listing.

(No members of the public addressed the Commission.)

(No questions were posed to Ms. Ross.)

8. Public Hearing and Possible Vote on the Peninsula Crossing Development Project, in the City of Burlingame, San Mateo County (Application for BCDC Permit No. 2025.004.00). Chair Wasserman announced:

That brings us to Item 8, a public hearing and possible vote on the Peninsula Crossing Development Project in the city of Burlingame, on the application for DW Burlingame I Owner, LLC, and DW Burlingame II Owner, LLC, and DW Burlingame III Owner, LLC, to develop a 12.1 acre site with life science office buildings, parking structures, various public access improvements, and sea level rise adaptation measures.

We are opening the public hearing. Lia Bobay of our Shoreline Development Permitting Team will start the discussion.

Coastal Program Analyst Bobay addressed the Commission: Good afternoon, Commissioners and Chair Wasserman. I am Lia Bobay. I am a Coastal Program Analyst here on the Shoreline Development Team at BCDC. I am here today to present a summary of this project and some permitting considerations for you to think about. Then I will hand it over to the applicants here to speak to their project in a little more detail.

Where is this project? The project site is in the city of Burlingame. It is in the South Bay. You can see that it is close to the shoreline. It is sandwiched between the Bay in the east and major roadways to the west.

Looking at the site in a little more detail here. It is about 12 acres large, and it is used right now for commercial activities. On this slide it is important to note here that this site does not include that shoreline edge. The shoreline is actually part of the neighboring parcel that is owned by a private entity. You can see here the boundaries of the site in yellow.

What is being proposed on the site?

Here is a site plan of the proposed project. It is going to build over most of what is on the site right now.

For some permitting context there, back in 2024 BCDC issued an administrative permit to these applicants for a demolition, surcharging, and grading to prepare the site for the site plan that you see here.

This project and its design has been to BCDC's Design Review Board two times now, so we are excited.

What are we looking at? This project will include three life science buildings; you can see them here in orange. Two parking structures here in pink. And then about 5.2 acres of dedicated public access

and open space area, shown here in green.

Now that you have seen these different elements, where is BCDC's jurisdiction on the site?

Here is an overlay of our jurisdiction. The Bay is in light blue and the shoreline band is in the dotted dark blue. You can see here that there are project elements that go over the Bay. Most of the public access improvements are within our 100-foot shoreline band, and then most of the buildings and the drive aisles are outside of our jurisdiction completely.

For additional permitting context here as well, since this project affects both the Bay and the shoreline band as you can see, BCDC staff focused the Staff Recommendation on the elements that are related to our policies on Bay fill, public access, visual access, and sea level rise. So, in this presentation I will walk you through those elements now.

Starting with Bay fill. Looking at the creek on my left-hand side, the project will create about 1,219 square feet of new Bay fill in Easton Creek. So, that is a combination of the bridge that goes across and then two outfalls.

This project will also remove about 635 square feet of Bay fill as debris. This is a requirement of the 401 certification by the Water Board for the project.

At the southern end of the site, on my right, the project will be built over about 1,890 square feet of existing Bay fill that was authorized to be placed in 2013.

Moving on to public access.

This project will create about 5.2 acres of dedicated public access and open space areas, shown here again in green. This area will be a combination of new public access, new open space, and then existing public access.

Some more permitting context here. The existing public access that is here in orange on my right was a condition of the 2024 administrative permit that was issued for the site preparation as well.

All in all, about 43% of this entire site will be dedicated public access and open space area, and 79% of that dedicated area is in BCDC's jurisdiction.

In addition, this project will build two public cafes, an airplane viewing platform, a public restroom, and 40 public shore parking spaces for public use. Those two public cafes will be at the ground level, and they will have dedicated seating areas. The airplane viewing platform, public restroom, and public shore parking spaces will be in the south parking structure, pointed out with the arrow. Those 40 public parking spaces will be at the ground level as well and available free of charge.

Moving on to visual access.

This project provides five view corridors on site, shown in blue in this exhibit. These view corridors must remain undeveloped to protect the views of the Bay.

The project also creates new lookout spots that offer views of the Bay from different perspectives. For instance, the airplane viewing platform is up high, the picnic area is at the ground level, and then the cobble beach is set a little bit lower in elevation closer to the water.

The last public access piece I will speak on here is the project's development timeline.

Development is expected between 2029 and 2051. The project site is 12 acres, if you remember.

It is divided into three development zones called out here so North, Central, and South.

These zones will develop separately and can develop in any order. When the buildings in a zone develop so will the public access improvements in that zone as well. And then when it comes to the Bay

Trail, which will cover all three zones, the Applicants are required to provide an interim Bay Trail segment within three years.

Lastly, sea level rise adaptation.

The current shoreline elevations on this site are between 10 and 11 feet.

The entire site will be raised up to an elevation between 16 and 17 feet before development begins. This element of the project, this is designed to comply with the city of Burlingame's Sea Level Rise Adaptation Ordinance as well as BCDC's own policies that require resilience to 2050 and adaptability to 2100. Again, some permitting context here. Raising the site was also authorized in 2024 by BCDC under that administrative site preparation permit.

This project in addition to being raised up, this project also includes shoreline protection elements and public access amenities and landscaping that have all been designed in anticipation of sea level rise.

Issues raised.

The Staff Recommendation and Application Summary provided to you for this project highlight all of the relevant policy issues raised by this project, including whether the project is consistent with the laws and policies in the McAteer-Petris Act, in the Bay Plan, particularly those related to Bay fill, Bay resources, public access, scenic views, and climate change. That Staff Recommendation and application summary provided also explain how this project is consistent with these laws and policies.

Keeping these topics in mind I will now introduce Seth Bland from Divco West to present the proposed project in a little more detail.

Mr. Bland spoke: Chair Wasserman and Commissioners, as Lia mentioned, my name is Seth and I am extremely pleased to be before you this Thursday afternoon, along with the nucleus of the many talented design and engineering professionals which have helped to shepherd the project that we do refer to as Peninsula Crossing, from a blank paper notion in early 2021 into a project which we believe is worthy of your Commission's support here in latter 2026.

With me today are Ben Mickus of WRNS Architects, Justin Aff of CMG Landscape Architects, Dr. Kelly Hardwicke, our ecologist from HT Harvey, which I understand is now merging with Integral Consulting, Mads Jorgensen and Dilip Trivedi of Moffatt & Nichol, our shoreline engineers, and Patrick Connors of BKF, our civil engineers.

For the last five and a half years this group in particular has synthesized the guidelines, the codes, the public input, just the totality of learnings that we have had from what has been a very open and inclusionary and thoughtful public review process into a project, which as Lia mentioned, provides for meaningful sea level rise protection, for regional Bay Trail connectivity, and for more than five acres of publicly- accessible, highly-amenitized open space where none currently exists.

Following the terrific Staff Report with which we take, just for the record, no exception, we will now do our level best to try to provide a little bit of an overview of the project's trajectory to this point. And following that, we obviously stand prepared to answer any questions your Commission may have.

In 2021 we were able to assemble 13 separate parcels from multiple owners into 12 contiguous acres at the intersection of Old Bayshore Highway and Airport Boulevard in Burlingame.

Replete with muted tidal wetland in the south and bifurcated by Easton Creek in its north, we began the good and challenging process of trying to create a design which would meet broad

community development expectations and standards.

Working closely with the city of Burlingame at all levels, and informed by early community feedback, in April of 2022 we were able to take our initial sketches to a publicly-noticed Joint Planning Commission and City Council public hearing, from which good plan revisions resulted.

And which revisions, as Lia mentioned, we were then able to take to multiple BCDC Design Review Board hearings later in 2022, from which still more good plan revisions resulted.

And it was these revisions which then formed the basis for the very public, multi-year Environmental Impact Report and specific plan review processes, which themselves resulted without appeal in the project's unanimous plan approval and Final Environmental Impact Report certification by the Burlingame City Council in May of 2024.

Our project continues to be grateful to the city of Burlingame at all levels, as we think is further indicated by the City Council's letter of endorsement addressed directly addressed directly to your Commission in your packet today.

It was this May 2024 Final Environmental Impact Report certification that then allowed our project to move into its next tranche of conversations, this time with state and federal agencies with jurisdiction, such as the fantastic professional staff here at the Bay Conservation and Development Commission, and with the Regional Water Quality Control Board, the California Department of Fish and Wildlife, the U.S. Army Corps of Engineers and National Marine Fisheries, the Federal Aviation Administration given our relative proximity to SFO, and the United States Coast Guard, regarding the introduction of a bridge across Easton Creek.

As the Staff Report confirms, each of these entities has also now provided their own respective approvals, which brings us to today, which brings us to your Commission.

From the very first and throughout this entire five-year process the record will reflect that our goals for Peninsula Crossing have remained consistent.

Create a strong connection to the Bay, restore and protect the shoreline, provide a beautiful and functional landscape for people, plants, and animals. We have always understood and embraced the responsibilities attendant with land of this nature, and we have welcomed the input of all voices.

We did not simply hold one community meeting to check a box. We commissioned a separate survey of several hundred local residents to begin to understand local perspectives and thoughts.

We met on site repeatedly, cheerfully, and often with any who wanted to attend so that we could get a better sense of their own perspectives in person, and so they could get a better sense of the current conditions on the site.

We reached out effectively to local, regional, and national organizations of all kinds. And at the end of the day several themes, unifying themes, just continued to assert themselves. Connect the Bay Trail, maximize open space, help move people safely to and from the site on foot, by bike, and by shuttle, and allow people to recreate in ways supportive of human activity without detriment to natural habitat.

All of which must sound very familiar to your Commission as these things align 100 percent with long-established BCDC goals and objectives. Provide quality public access and quality public connections, all while remaining firmly compatible with nature. What follows is how we believe that Peninsula Crossing, shaped over these many years of open public conversation, accomplishes these

goals and objectives.

This slide is a little bit visually noisy. While it is probably something that we could and maybe should spend an hour fussing our way through in terms of each individual amenity, for the moment the primary takeaway should please simply be that Peninsula Crossing is designed to deliver more than five acres of highly amenitized, publicly accessible open space where none currently exists.

And it all begins by connecting the Bay Trail. We will add roughly 1,500 linear feet of new connectivity, 20 feet wide throughout, and incorporating a new span across Easton Creek where Peninsula Crossing will also create roughly a quarter acre of new creekside habitat which, as we understand it, is something of a rarity in and of itself.

All while being further connected with and by active and passive moments, many of which we will review a little more closely with you in just a few moments. But not before we confirm that we have considered this recurring notion of connectivity still more broadly.

Being mindful of existing public transportation options and their proximities, the team has been intentional about pedestrian, bike, and new public shuttle design and integration. Incorporating enhanced crosswalks at Old Bayshore Airport and Broadway, permanent on-site public parking, multiple bike storage, share, and repair locations to complement the new and separate bike lanes in our designs on Old Bayshore Highway, clear and generous walking pathways throughout, and more.

But we still do not feel as though we can take you on a walk or a bike ride on these great new Peninsula Crossing trails until we have first also spoken to sea level rise.

And while this is also something on which this team could and maybe should spend hours deep in the pickleweeds with you reviewing - really, the primary takeaway for this moment is that over time, if we do this right, as this slide attempts to show, Peninsula Crossing can play a meaningful part in helping to protect a non-trivial portion of our inland neighbors from the rising tides.

As shown in the graphic on the left, absent action, this entire site is at risk of complete tidal inundation by the year 2100.

Which is why we are proposing, as shown in the graphic on the right and mentioned in the Staff Report, raising the predominant existing grades across the entire site by roughly 6 feet.

Permitting the establishment of long-term transitional, Kelly would have me use the term ecotonal here, kind of a fun word. Resilience along the shoreline for the clear benefit of fauna and of flora and of just us folks.

And I will just pause here a moment and I am going to, not to make anybody dizzy, toggle back and forth a little bit between these two slides. A little bit of the shoreline sort of cross sections and the details, and this kind of more cheerful image.

And my pause is simply to suggest, please believe me when I say that the smart and talented designers and engineers with me today have complete command of the details of this shoreline adaptation. While I stand up here taking up all the air in the room, I guarantee you that they are behind me right now thinking about all the details that are very important, the resiliency details that I have not mentioned and will fail to mention.

As mentioned earlier, I encourage your Commission to ask questions of them when I finally wind down, which now can be soon because having at least touched upon these very important notions of good and open process, and sea level rise protection, and inclusion, and connectivity, we do feel as

though we can take a little trip up the new Bay Trail with you.

With opportunities for great trailside graphics and educational moments throughout we will start in the south, down in Section 1. We will loop our way around the southern tidal marsh. We will hang a left at the shoreline. Make our way north and cross Easton Creek at the new bridge and will finish in the north. One, 2, 3, 4.

And so, returning to Area 1, our plan picks up the existing narrow sidewalk along Airport Boulevard and moves it gently onto Peninsula Crossing and into an expansive terraced seating area called the South Overlook. With views, wait for it, over the tidal marsh and the Bay. We then wrap the trail around the marsh, and through a new public plaza at the southern shuttle stop, and toward the first of the two public cafes mentioned in the Staff Report.

Turning north at the water we encounter more Bayside seating areas, plus active fitness opportunities, the public parking with its public restrooms, nature play areas, a cobble beach, and the elevated observation deck, the airplane viewing platform.

Returning to the ground sort of mid-project we find multiple expansive walkways with their own terraced seating.

On both sides of Easton Creek, to and from the northern shuttle stop. We also encounter the second publicly-accessible cafe with its outdoor seating and separate shade structure.

And the bridge at Easton Creek, from which to appreciate the expanded and restored natural habitat.

As we then turn north the final time toward public bike share, more terraced seating.

Active and open picnic areas, and quieter covered shade structures.

Which is where we pass the baton in terms of this presentation and conclude our overall presentation for Peninsula Crossing. Resilient, inclusive, public, and connected. Our team very much appreciates your Commission's time this afternoon. We very much appreciate the untold hours already spent by your staff in the years prior. We look forward to your conversation and deliberation, and we hope very much for your support. Thank you.

Chair Wasserman acknowledged: Thank you for an excellent presentation, both from staff and the Applicant.

Do we have any public comment?

(No members of the public addressed the Commission.)

Chair Wasserman continued: Questions, comments from Commissioners?

Commissioner Eklund chimed in: The Staff Report mentioned the removal of an underground gas station back in 2013. Did the Regional Water Quality Control Board confirm complete cleanup? And if you can identify where it is within the relationship of your project?

Mr. Bland fielded Commissioner Eklund's questions: Sure. The gas station predated our acquisition by well over a dozen years. But in the information provided to us, everything was removed and No Further Action letters were issued by San Mateo County Department of Environmental Health, I think in conjunction with the fire department. Testing at that time indicated no further concerns or issues. The location was at the intersection of Old Bayshore Highway and Airport, down where we started in the south.

In the meantime, we have conducted our own reasonably recent tests of soil, groundwater,

those kinds of things, and we have submitted those reports also to San Mateo County Department of Environmental Health, and they have issued our soil management plans without additional work. So yes, we have tried to pay a lot of attention to that.

Commissioner Eklund continued: Yes, I appreciate that very much. I used to be in charge of the underground storage tanks program for EPA, so really appreciate hearing that. Thank you.

Mr. Bland added: Absolutely. To go a little further, we even ran magnetometers in the area to see if any of the old process lines or anything might have been missed because I have learned some lessons over the decades, believe me.

Commissioner Ahn had questions: I had two precise questions, perhaps for staff or the Applicant. The parking, the 40 public spaces that are available. Was that offered by the Applicant or was that determined by BCDC staff? Who made that determination?

Mr. Bland replied: In terms of the trajectory of that conversation, it was a combination of the city of Burlingame and as we were in our early discussions with regard to the Design Review Board hearings with BCDC, they date back to 2022.

Commissioner Ahn continued: And I appreciated the level of detail in the Staff Report about the hours and the access that is provided. I guess that kind of takes care of my second question, but I am trying to signal already. I would like a better sense from staff about standards applied when it comes to public access and parking. I think I can maybe holster my second question and return to it at a future date with another application. Thank you.

Commissioner Gauthier was recognized: I probably just have more of a comment. Thank you for bringing this to BCDC. I sit on OneShoreline as well, so we have been following this work in Burlingame through the Regional Shoreline Adaptation Plan. We are grateful that this is moving forward. As a supervisor here in San Mateo County, this is going to be good to not only Burlingame but it is going to be good for the county as well.

I too will continue to follow the public access to ensure that community members have access to this rich resource. Thank you again.

Commissioner Showalter chimed in: I have two questions. One, how did you raise the ground surface elevation? Where did you get all that fill?

Mr. Bland answered: Well, not to read too far ahead, I do not have it yet. But I will guarantee you that during the dredging conversation I started to write a note that I need about 185,000 cubic yards of Bay mud, please. That is a thing that we have been working very closely with our contractors with. That is a non-trivial undertaking. We will be working with Burlingame, with Caltrans, about access for the trucks. We refer to it sort of internally, not to make light, it is a dirt dance, and we have to do that. And we have been in earnest conversations about it. And that number that I mentioned is right, it is about 185,000 cubic yards. We have been very clear-eyed about that.

Commissioner Showalter added: Yes, it is a very big deal. I just want to say that the city of Mountain View has just imported quite a bit of construction material to our Shoreline Park for the restoration of Pond H2W and Pond A1. And if you wanted to reach out for some advice about how that went or troubleshooting, I would be glad to connect you with people who might want to talk about it. So, good luck with that. It is very, very important, as you mentioned, and non-trivial.

I think that we have proved in a number of projects that we can do this and it is worth the effort.

But there's a lot of layers to it, to make a pun. There's a lot of layers to it, not just the dirt itself, but the transportation issues, the emission issues, and just the public support. Those are all pieces to this puzzle that you have to you have to take care of. So, good luck to you. If the Mountain View experience can be of help let me know.

Then the other question I have is about the times for the opening of the playground. It seems like this is going to be a public park, and most parks are not open 24/7. I know that this came up a couple of months ago with respect to something and I honestly do not remember the answer that BCDC staff had. My understanding is that we are concerned with having good, reasonable public access. We do not really care that a tot lot is open at 2:00 a.m. or not. Can you tell me how this is being handled and who is going to operate this park?

Mr. Bland replied: Sort of in reverse order, maybe. Right now, there are no presumed time restrictions on the outside publicly-accessible open space. It is open space.

In terms of the overall governance structure, how we think about it, there will be a commercial owners association to be created that will ultimately own and manage all of that, so that that's a dedicated function. Again, to your very good point, that is something that has to be the focus of an entity as far as we are concerned. Not just the 5.2 acres that comprise the publicly-accessible open space, but everything, property line to property line, that goes on out there. So, our interests remain aligned in making sure that that operates well and successfully.

A master plan at a Mission Bay, a Bay Meadows, where the outside space is typically managed by an entity that is a commercial owners association with professional management.

Commissioner Janoff chimed in: I appreciate the presentation. Echo the thoughts that it was a great presentation. Also, appreciate Commissioner Showalter's point, the leading question toward beneficial use of that dredge material. I do not know the logistics of it or the feasibility, but the Corps of Engineers, I am with the Corps, also our Beneficial Use Program Manager. Redwood City Harbor is not so far away. That is our nearest federal navigation channel, I think. I do not know if it is closer than Oakland. But it is on that order of magnitude, a couple hundred thousand cubic yards. I do not know the logistics on site, if they would be able to be pumping to the site and decanting of water and to where that decanting would flow, that is the Water Board or other water quality agencies would be amenable to that. But I think it is a conversation that we probably should have.

Mr. Bland replied: Agree.

Commissioner Janoff continued: Potentially. But I also think this is an opportunity maybe for flood control, or I will say flood risk channels. The channels, the dredging of the channels, potentially. Not navigation channels. But since you are right on a channel that probably does flood that propagates up the channel, that leads into my next question. But it is also a point that you should probably look into if there is any dredging occurring on that channel then you are keeping the sediment as local as possible and addressing the flood issue.

Which gets to my next question about what did the team do in terms of modeling flood risk or looking at any variations to the channel banks that might help relieve flood risk? And I am not talking about sea level rise flood risk. That is one aspect of it, but from rainfall coming down the creek.

Mr. Bland stated: This is where I think you have fallen into my trap. My earlier suggestion to call on things that are technical in nature. I am not saying they are anxious to do this, but that is why my

smart team is here.

Mr. Jorgensen spoke: Mads Jorgensen with Moffat and Nichol. We were the shoreline designer for the project.

In terms of flood hazards, we analyzed wave action from the Bay and how that could interact with the shoreline proposed development. We conducted this analysis for present-day conditions ranging from annual to 100-year extreme conditions, and with projected sea level rise according to the latest OPC 2024 guidance. So that is what we did in terms of addressing, analyzing coastal flood risks from the Bay.

And then related to Easton Creek as a channel. That is an established floodway managed by city/county. We have not changed the channel cross section in any way. That is maintained, I think, for flood control purposes. But we have verified that it can carry the 100-year flood discharge fluvial on the hillsides coming down with the proposed bridge in place and with sea level rise. Thank you. Does that answer your question?

Commissioner Janoff acknowledged: Yes, I think it does, yes. Is there dredging of that channel that could potentially alter that flood risk, or was there with or without project analysis in terms of how it impacts the flood risk?

Mr. Jorgensen stated: I think that would be under city/county because there is habitat in the channel that would be impacted from changes or modifications. So for the purposes of this proposed project, we have limited work in Easton Creek to just the necessary protection that would be at the two small stormwater outlets.

Commissioner Janoff continued: Thank you. I have another question or two. On the muted tidal marsh is there any fill that is occurring there? I saw that there was a viewing area and it looked like there was still marsh there. But maybe the current condition is a marsh channel, a tidal channel, and I do not know if that is going to be maintained.

Mr. Bland chimed in: I am just going to try to invite another member of the team to help answer some of those questions as well. But with regard to Easton Creek as a channel, if that is what you were referring to.

Commissioner Janoff clarified: No, the muted tidal marsh.

Mr. Bland sought clarification: Earlier when you were asking about the channel?

Commissioner Janoff answered: Yes.

Mr. Bland continued: And whether there was dredging. If you were referring to Easton Creek, there is no dredging in that at all. There is just minimal. We are barely touching it. We are replacing/repairing a couple of existing outfalls, and then there is a little bit of implication with regard to the bridge abutments.

Dr. Hardwicke chimed in: Kelly Hardwicke with Integral Consulting. Yes, we looked carefully at that muted tidal channel. It is very degraded right now. It was partially filled by a Caltrans project. We still consider it Bay per Bay policies where the fill was placed, but it is low functioning at this point. But we still made an effort to completely maintain all tidal connection to the Bay.

There will be a rock berm that is planted but it is placed outside of the jurisdictional wetlands and the marsh itself, over to the south of that opening. The site was designed to allow for very shallow banks coming up from the muted tidal marsh that will have native plantings within them. Those banks

right now, so where you saw the seating area is designed, currently uplands. The banks will allow for marsh expansion with sea level rise and as that channel starts to function more and more as fully tidal and less muted. Hopefully that answers your question.

Commissioner Janoff acknowledged and continued: Yes, thank you. And just one more question, if I may. The cobble beach, was there an analysis that was done on the coastal dynamics and whether the cobble would move and who would be responsible for maintaining the coastline?

Mr. Bland directed this inquiry to Mr. Jorgensen: We will bring Mads Jorgensen from Moffatt & Nichol back up.

Mr. Jorgensen commented: Yes, thank you. Yes, I can confirm that there was analysis looking at the stability of the cobble on that beach. With the proposed project that is starting out as an elevated cobble beach, elevated above the Bay. The present-day shoreline right adjacent is under other ownership. But as sea level rise comes up, we have analyzed how the cobble beach would become more active and better access to the water line of the Bay.

Commissioner Janoff asked: Is there a maintenance cost incurred or associated with this project? Of the beach, I am thinking.

Mr. Bland answered: To use my expression, there would be a non-trivial maintenance cost of most of this at the end of the day. And we have obligations, I am confident, in our permit with BCDC for maintenance and ongoing adaptability over time.

Commissioner Nguyen chimed in: My question relates to transportation and connectivity. Given the full build-out based on the presentation would have about 4,000 to 5,000 jobs. So, my question is, can you share a little bit more regarding the traffic circulations? You know, trip generation and impacts and mitigation. Particularly in terms of bike and pedestrian safety that would want to go to the site. Thank you.

Mr. Bland replied: I will do my level best as always on this. Again, a full EIR process was run. Fehr & Peers has been our transportation consultants; and BKF Engineers has also been instrumental in helping to work with Caltrans at multiple levels throughout this entire process, as well as with the city of Burlingame Department of Public Works.

And so, there are five intersections in total essentially affected because we are both northbound off- and on-ramps to Highway 101, the hook ramps there, and there is the Broadway overcrossing itself. Again, I can bounce around here a little bit too much, probably unhelpfully.

Signal timing is an issue, and control of the traffic on our side of the property line with regard to access back onto Old Bayshore is an issue. But it is an issue that has been studied for years and evaluated. And again, our EIR was certified showing no significant unavoidable, unmitigated impacts at the end of the day. Which we thought was a positive thing with regard to the overall traffic flow and our ability to control it.

With regard to the pedestrian, bike, other circulation and accessibility. We are improving the crosswalks at each of those intersections as well. Right now, they are sort of mean spirited.

And so, our entire design, and our civil engineer is here, not that he has probably brushed up on this lately, does include new high visibility crosswalks at all of those major intersections. We are introducing a separate new bike lane on Old Bayshore Highway. I made a gentle allusion to that in the presentation. And then we have two shuttle stops, which are very significant.

As part of our agreement with the city of Burlingame under our development agreement we are committing to help fund the Commute.org shuttle to run at no less often than 15-minute increments in the a.m. and p.m. periods at our expense to and from the Caltrain stations and to the Broadway retail districts. We do have an adopted TDM plan, a full Transportation Demand Management plan.

Commissioner Nguyen acknowledged: Thank you. I would be interested in what the actual traffic mitigation is; but I think we can get there once you are ready for an encroachment permit from Caltrans. Because that area is heavily congested and very funky. You know, hook on- and off-ramp, and Broadway is, you know Broadway.

Commissioner M. Tam commented: I want to say this is a really excellent project so it is great to see the presentation. I think there's so many elements to love about this project, particularly all of the public access and activation that is going to happen in the public spaces.

I did have a question. This is probably best directed at staff. And pardon me if this question is something that other Commissioners may say, why are you asking this question? But I am new to the Commission, so I want to make sure I understand that this is a standard practice.

I saw in the Conditions of Approval around art signage and events that permittees shall submit for review and approval by or on behalf of the Commission for those elements. Is that standard practice for public space that is within BCDC's jurisdiction? And is that something that, if it is, is that something that permittees can comply with easily? Is there flexibility in that to ensure that there is maximum usage of the allowable days for events and that signage and that art?

Ms. Bobay replied: Yes, thank you for your question. Yes, this is pretty standard practice for permits, particularly for projects that are so far in the future. If there was a project that was hoping to change their special events plan or their signage plan, this would be done in plan review, usually with a 45 or 60-day turnaround. Our Bay Design and Development Analysts would review the signage package and work back and forth with the Applicant to make signage, interactive exhibits and art that was accessible and understandable and clear and easy to follow.

Because this project is so far in advance, instead of requiring specific particular numbers of events and specific restrictions so early in the process, what we are doing is asking the Applicants to come back to us once they have a better idea of what they would like on the site and what they are planning for the site, and then we will review that package the way that we review all of our other plans under the plan review condition.

Commissioner M. Tam continued: So, what comes back is a package like a plan package. Not like an individual per se, like this sign will be at this exact location. And then if there was a change to that, does that have to come back to the Commission or to staff?

Ms. Bobay deferred to Ms. Tomerlin: This is a good question for Ashley Tomerlin, who is our Bay Development and Design Analyst. She does the review of these signage packages for us.

Senior Bay Development and Design Analyst Tomerlin commented: Signage and wayfinding, we are trying to make sure that it is functional to the site. We do receive construction drawings that are specifying locations and the information is presented on those, like each individual sign, to ensure that it is usable for the public and they can navigate through the space. If we have recommendations on changes we do a conditional approval, give them direction for the corrections that should be made, and have them resubmit the drawings for approval.

Chair Wasserman interjected: I want to give one other response. It is a very good question. That in my experience this does not usually come to the Commission, it usually comes to staff. That where there tends to be a little tension on events is when there are private events that for some period of time, period of event, restrict public access. But that rarely comes to us unless there have been some very major issues, which has happened from time to time but not often.

Commissioner M. Tam continued: And the amount of time that can be used for private events that is limited under, I do not know the exact laws, but I know this has come up in conversations around like Port property before too.

Shoreline Development Program Manager Pan chimed in: I am Katharine Pan. I am the Shoreline Development Program Manager here at BCDC. Just to give a little bit more context on the plan review structure. Prior to implementing any of the projects that we permit, unless it has already been very thoroughly reviewed at the construction implementation stage, we ask that permittees come back with their final set of construction documents, final plan documents, to make sure that what they are putting in the ground is actually consistent with what we permitted and what the permit requires.

Sometimes there are things that are in the conceptual stage now that we can have a general sense of what parameters would allow for a good operating condition where we can set criteria for those within the permit and allow them to come back for plan review approval. So that way they do not need to go through the process of getting an amendment or coming back before the Commission or coming back before any of our boards. That is why we will build in, the plan shall do this, it shall include these things, et cetera, et cetera.

For things like events, we can set up what you know most people start with if they have not previously contemplated any event program is one-offs where they come back and say we want to do this event here; and if it meets the terms of the permit still, we can do a plan review approval.

For things like private events, those are generally not going to be consistent with something where we have not had any thought about it at all. So, if we have not talked about private events before and set those limitations, then we might not actually be able to approve those through plan review. In that situation we would sit down with the applicants and work out why do you need to do these events. Is there a way to do them that is not necessarily going to impact any of the public access. We might not be able to actually give them that approval for the private events that they want, depending on what they are able to provide for or mitigate for in terms of the loss of experience for the public during those times.

But other times we are able to come to a good agreement about what spaces need to remain available, how frequently those events can happen, and on an annual basis, so that we are not seeing a lot of private event closures that we were not previously anticipating of the space that the Commission approved for public access.

Those tend to be amendments that we can do non-materially so those do not need to come back to the Commission. But we do work through those through our policies and make findings for those when that happens.

Commissioner Gunther was recognized: First, Larry and the staff, every time one of these projects comes up they are so complex with so many moving parts and I just have to listen to the answer and say yes. I just want to congratulate you. So much work has gone into this.

And for you guys, I always see these timelines at the beginning of every one of the presentations, and I am right there at the end, and you have dealt with the whole thing. And I just want you to know that I appreciate your persistence and your thoughtfulness. It seems now it is just standard practice that everybody is thinking thoughtfully, multi-benefit approach, and we get these projects that have all this benefit, public benefit, in addition to being privately workable. So, I think that is really great.

I have a question, which is about the movement of material to make the project resilient to sea level rise. Everyone has got to deal with this. Pat sounds like they were dealing with it in Mountain View. I was wondering, Larry or Harriet, do we offer any guidance to people coming for permits about how to do this. Who to call. Where to go. And I know it is also idiosyncratic site by site too.

I also had a question for you which is, was this something that was, oh yes, we know how to do this, or are you starting with a blank whiteboard and trying to figure out how do we turn this 11-foot site into a 17-foot site?

Mr. Bland replied: Every large project, to some degree, ends up having to deal with import and export of material. This just happens to be orders of magnitude larger at the end of the day. The nature of the contractors, the general contractors that we tend to use, have a lot of relationships with people who are moving dirt all day, every day, around the Bay. Working with those large excavators and knowing where other projects are.

We have underwritten to roughly a two-year process on the soil side. It is not two months. It is not seven-and-a-half weeks. We figure it is roughly a two-year process to import this much soil to do the surcharge. The surcharge requires, by its definition, more dirt than we need. And then we come in after the little piezometers and inclinometers and pressure plates go off bing, and the egg timers say we are done, we are compacted. We take off the top roughly three to four feet and then get down to the final finish grade. It is a two-year process.

And so again, what you are focused on, folks, is absolutely the right thing to focus on. It will not be easy. It will not get to the site by the Bay, the dirt will come in trucks. It will come in 9 and 12 and 15 yard trucks. That is why I was saying earlier we will have to work very closely with the city of Burlingame with regard to traffic management plans.

Again, it is a massive undertaking. What you pointed out earlier, we do not all understand. The waters are rising and we are not ready anywhere. And so, we hope that we will be able to be a start. There will be a Petri dish of example called Peninsula Crossing. That is why I said earlier, I even phrased it I think in the presentation, if we do this right, was my preamble to that notion, over time Peninsula Crossing will be able to play a meaningful portion of protection. It is not a light switch. It will take time. Period.

Chair Wasserman added: A very large Petri dish.

Executive Director Goldzband chimed in: To answer your question, Commissioner Gunther. Brenda and her team have ears to the ground and eyes all around about who is moving dirt and who is trying to move dirt and who needs to move dirt.

For example, we are working on an issue, Brenda is working on an issue this morning today for Sonoma County trying to figure out where dirt could come from to repair a levee, for example.

So yes, our team does an awful lot of scouting and listening. And it is not just our team who does it. Xavier at the Water Board will do it and the like. I know that our Chair has something to add to that.

Commissioner Gunther continued: That is exactly my question is that obviously this was something that we considered in the Sediment Beneficial Reuse Working Group because it came up frequently. We are asking teams like yours to make this happen, and it is difficult and neighbors have a lot of impacts.

I was wondering whether we can, if this is not already happening, whether we can facilitate a process to try and generate a more efficient way. There is the SediMatch program for wetlands, but I am thinking of just in a general term.

We move dirt around all the time regionally. And if we can be more efficient at getting it to the right place. Because once we drop it and pick it up, it that adds so much cost to it.

I do not know because I am not in this business. But I do know that we are going to be making more and more decisions that will encourage people to try and bring this dirt to proper sites along the shore, and how we can efficiently get information to teams like yours early on. I know that it is hard to do because the dirt is like, okay, the trucks are moving, do you want it or not? And you have to make that decision very short term.

I do not know, but I see this as our policies encouraging people to, or requiring people to bring hundreds of thousands of cubic yards to particular parcels. And how that is done I think is best left up to, you know. I do not want us to be the purveyors. But how we can enhance communication is something beyond just the wetlands which I know we have been doing, but to a broader array of those who have it and those who want it.

Chair Wasserman continued: I know Brenda wants to say something, but before that, I absolutely, and I am sure we will talk about this more in two weeks when we take up the Bay Plan for sediment. But one of the observations a number of us made coming out of the sediment workshop was that the movement of dirt and sediment around was much bigger than simply the wetlands dirt and Bay fill, both coming in and moving out. And we, BCDC, has next to no power over that.

But one of the things that BCDC I believe has become very good at in in the last dozen years or so is helping to bring people together, helping to convene. And one of the efforts that I have been talking about with staff, and I know that staff is working on is how we can convene that in a broader context than simply Bay fill.

And I promise you, you will be drafted, sir.

Mr. Bland replied: I am happy to volunteer, in fact.

Chair Wasserman added: So yes, it is a very important issue. It is where we have little control and little authority but we may have some very beneficial influence.

Commissioner Moulton-Peters chimed in: Mr. Bland, I just wanted to thank and appreciate you and your team for a really remarkable, and absolutely the BCDC staff, thank you to all of you. What a well thought out multi-benefit project you brought to us. And then the future contribution to the area protection of sea level rise, the whole thing is just remarkable. Five years actually seems like pretty quick timing to have done all that. So, thank you very much. I will be supporting the project.

Commissioner Eklund offered kudos: I also wanted to thank the developer as well for actually raising in my mind the need for us to play a greater role in trying to coordinate the availability of sediment and looking at it holistically.

Because having worked for the Army Corps of Engineers and the US EPA and now locally elected

official and on state regional boards, there is a variety of different levels of government and different requirements. Somehow we are going to need to get the federal and the state and the locals together to try to streamline the permitting part of it so that it can be more effectively utilized at the time that people need it.

I look at the Army Corps as sort of the leader in this way to some degree because the Army Corps does so much dredging. And you have the technical expertise at the Army Corps to not only know the type of sediment, but also the quality of it as well.

I think it would be helpful for us to have a discussion about how can we get the regulatory agencies together to help facilitate this across the San Francisco Bay Area? Because we want it to be used, we do not want it to be dumped out in the ocean, that is a waste of resources. I think that we need to have a concerted effort to try to streamline the permitting processes so that the locals do not have to necessarily go through it, or the developers have to go through all of it. But let's do it at the governmental level.

I do not know. It is just a thought. But I would ask that this board maybe take a leadership role in trying to get the regulatory agencies together. I do not know if the Army Corps representative has any thoughts about how we could initiate this because I am not at the federal level anymore, but you are. It seems like there's some real opportunities here. Or maybe our Executive Director could have some thoughts too. I thought that the Army Corps might have some ideas because you think outside the box, and I really appreciate that.

Commissioner Janoff chimed in: It is the same point I think that Commissioner Eklund is raising that I was raising earlier which is, how do we align our dredging projects with a need? The challenge is because you are talking about bringing trucks and having to coordinate with the city. But it goes back to my original posing which was, is it even feasible? I want it to be. I want it to be until somebody tells me no. But is it feasible for the dredge material, which is not delivered dry, to be delivered there and utilized? Because 185,000 cubic yards is a non-zero and a pretty significant volume of material that can come out of a channel that I mentioned.

Redwood City Harbor I think dredges on the order of 200,000 to 300,000 cubic yards every year, or so, up and down. I am sure Dilip has some answers too in terms of whether it would be even feasible. But I think it is critical that we have this conversation and we try our best to align it.

Mr. Bland added: And your point is certainly our shoreline engineers will have their own thoughts. Cornerstone Earth Group, which is our geotechnical consultant, has a full surcharge plan already crafted and they are, to your point, very precise about modeling and the nature of the soil. And as I mentioned, the inclinometers and the piezometers and those things, to help understand how those lifts are even placed and whether the soil is wet and dry. Again, I am going down a rabbit hole and I apologize, but it is important. Smart engineers can help figure that out. The nature and characteristics of the soil itself, the material, and how it can be applied, sort of peanut buttered across the site or not, can be modeled, and we should be doing it.

Commissioner Showalter noted: I just wanted to add real quickly that there is an industry or a profession existing called dirt brokers. And what dirt brokers do is literally sell dirt. They collect dirt from construction sites and either take them to landfills or appropriate other places where they can be put to beneficial use.

So, we do not necessarily have to have a complete government system to do that. There is a private system that is operating that does it and we need to work with that system.

But they are primarily involved with the dirt that comes from construction sites that you dig out on land. Of course, that has different engineering criteria and characteristics than the dredge material. So, when you are considering the geotechnical characteristics of a site and what you need to do, those engineering characteristics of the sediment are very, very important.

I just wanted to bring that up as that is where the dirt from the land comes through is through dirt brokers and yes, we need to work with them. And we certainly need to make the beneficial reuse of sediment from dredging, much, much more prominent and easy to do.

Frankly, I would just like to say that the Corps has changed their policy on that dramatically over the last few years, which is just really delightful to see. And the lead of that has happened locally at our Corps, so I just want to thank the Corps for that progress. You know, we just need to keep moving forward on it. And we will learn a lot more on October 15. So, thank you.

Chair Wasserman continued: Lia, will you present the Staff Recommendation, please.

Ms. Bobay read the following into the record: The staff recommends that the Commission approve this permit application with conditions. These conditions include the requirements to:

- Remove 635 square feet of Bay fill.
- Dedicate those 5.2 acres of public access and open space area.
- Construct a new Bay Trail segment, which includes that Easton Creek Bridge.
- Complete the public access improvements in each development zone as they develop.
- And then prepare a sea level rise adaptation plan.

So, with these and other conditions outlined in the Staff Recommendation provided, the staff believes that the project is consistent with the Commission's laws and policies, and we recommend that the Commission adopt their recommendation of approval.

Chair Wasserman asked: And does the Applicant accept the Staff Recommendation?

Mr. Bland replied: For the record, we do, Chair.

Commissioner Eklund chimed in: Can I ask a question about the Staff Recommendation?

Chair Wasserman replied: You may.

Commissioner Eklund continued: Does the Staff Recommendation require open hours for the public access, for the open space?

Ms. Bobay answered: Yes. In the Staff Recommendation there is a section called Hours of Operation and it details the different hours of operation for different areas of open space. Most of that dedicated public access and open space area is open 24 hours per day, and then there are certain limited hours for the airplane viewing platform and the public shore parking spaces because they are inside of a parking garage.

Commissioner Eklund acknowledged: I appreciate that because my concern about the commercial owners association is that they may not necessarily keep that open for the public, so I do appreciate having that in the permit requirements. Thank you.

Chair Wasserman continued: Thank you. Now, may I have a motion and second to close the public hearing?

MOTION: Commissioner Gonzalez moved to close the public hearing, seconded by

Commissioner Ahn. The motion carried with no abstentions or opposition.

Chair Wasserman: Now, may I have a motion and second to approve the Staff Recommendation?

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

VOTE: The motion carried with a vote of 20-0-0 with Commissioners Ahn, Eklund, Gauthier, Gilmore, Gonzalez, Gunther, Hasz, Hermosillo, Kimball, Kishimoto, Mashburn, Moulton-Peters, Nguyen, Pemberton, Ramos, Showalter, M. Tam, Taylor, Vice Chair Eisen and Chair Wasserman voting, "YES", no "NO" votes, and no "ABSTAIN" votes.

Chair Wasserman acknowledged: Thank you and congratulations.

9. Briefing on BCDC Staff Jurisdictional Determination Process. Chair Wasserman announced: That brings us to Item 9. We will receive a briefing from BCDC staff on the reevaluation of BCDC's jurisdiction along several creeks based on staff's on-the-ground observations and new regional data. I want to draw your attention to the complex nature of this discussion. It involves historical judgments, data-driven decisions, and issues regarding BCDC's legal authority. Regulatory Director Harriet Ross will begin the briefing.

Regulatory Director Ross addressed the Commission: Thank you, Chair Wasserman. Good afternoon, Commissioners. Viktoria Kuehn from the GIS team and I will be briefing you today.

In the spring of this year BCDC started a process to reevaluate where BCDC jurisdiction ends along some streams. Over the last 60 years, BCDC staff have documented where BCDC jurisdiction ends, in what we call Staff Jurisdictional Determinations, also known for short as Staff JDs.

Some of these past Staff JDs prepared years ago were incorrect to begin with. Some past JDs are incorrect now because existing conditions have changed. This means that our jurisdiction needs to be reevaluated in these areas.

New data and maps are now available to make this reevaluation of our jurisdiction possible at scale.

Also, many cities and counties are working on their Subregional Shoreline Adaptation Plans, and it is important for them to know exactly where our jurisdiction is, so they know which Bay Plan policies apply.

The good news is that this will mean we are aligning what we are doing here at the state with what the locals are doing, which will help build resilience in the region.

We are just now beginning this process and there is a lot to do. The very first step was to start by briefing the Commission on this whole topic.

We are still determining exactly how to move forward, and we will work closely with the cities affected. And because each city and county is different, it may require a different approach to address these reevaluations of our jurisdiction.

It is really important to note we are not changing our jurisdiction.

Today we are going to talk about the challenge of identifying BCDC's jurisdiction to begin with.

We are also going to go into why now is the time to reevaluate our jurisdiction. Again, with availability of new data and maps it will be easier to ground-truth these maps using staff observations.

We are going to talk about the opportunity to create an initial list of streams to review our jurisdiction.

Also, with the RSAP subregional plans in development, knowing our jurisdiction will help ensure that the adaptation concepts presented in those plans align with BCDC laws and policies within our jurisdiction.

How we will communicate the changes. We will also go through what this can look like for project proponents; and we are going to be going through an example site in the city of San Rafael.

We are also going to be talking about the community benefits it provides when we assert our jurisdiction.

And we will also end with how we will move forward with the revaluation of our jurisdiction in these creeks.

So, with that I am going to turn it over to Viktoria.

GIS Specialist Kuehn presented the following: Good afternoon. I am Viktoria Kuehn, GIS Specialist. I am now going to give a bit of background and then share some new work.

BCDC's jurisdiction is defined in Government Code Section 66610. Staff assesses jurisdiction using historic land cover, current land cover, tides, shoreline ecology, and policy-based location descriptions. In other words, it is complicated. Therefore, historically, it has been difficult to communicate jurisdiction clearly at a regional yet site-specific scale.

As a super high-level overview, let's review some very generalized jurisdiction types. BCDC's jurisdiction types are set forth and legally defined through the McAteer-Petris Act. There are many jurisdiction types, but we will focus on describing Bay and Shoreline Band jurisdictions.

Generally, Bay jurisdiction applies based on where the tide reaches and land cover. You can see that in this graphic in the pink dashed line.

The Shoreline Band jurisdiction goes 100 feet landward of Bay jurisdiction, which you can see drawn in the black dashed lines.

Different policies apply to each jurisdiction type, which is why understanding which jurisdiction applies is important.

As we dive deeper into these topics, I want to reiterate what Harriet said. The law defines what jurisdiction is, and this is not discretionary. We are not changing the definitions of our jurisdiction.

A Staff Jurisdictional Determination is an evaluation of a location by staff that describes if the location is within BCDC's jurisdiction.

In places where Bay jurisdiction may apply, staff document the head of tide, which limits BCDC's Bay jurisdiction in that specific location based on the conditions at the time.

In real life, figuring out where Bay jurisdiction ends can be difficult. The tides do not end at a line on the shore, but rather the head of tide is a zone. The head of tide is the furthest point upstream or onshore where water level is affected by tides.

The red box shown here is where tides flow upstream in a creek, and the fresh water flows downstream into it. This is a zone. It can be difficult to tell where that zone is, so SFEI did a report in 2014 that outlined how to use elevation and certain field indicators to identify where the head of tide is located.

Why did we set out to create a jurisdiction mapping tool now?

New regional data from SFEI's Baylands Habitat Map filled a critical information gap by mapping tidal habitats relevant to BCDC's legal jurisdiction.

BCDC partnered with SFEI to model the agency's full jurisdiction for the first time in GIS and develop the first draft of the Jurisdiction Screening Map. This map is the first visual tool designed to estimate and communicate BCDC's jurisdiction, ever.

We used this tool to generate a list of areas where there is a big difference between where previous staff decided where our jurisdiction ended and where it seemed obvious it ends today. This new process enables us to generate a list of places where we need to go and ground-truth our Staff JDs. I will talk more about all of that, but first, want to quickly share how we built the Jurisdiction Screening Map.

As I mentioned, we set out to make this map of BCDC's jurisdiction types, with the help of SFEI. We had to think about how to build this. I want to think of it like a collage where you cut some pieces out, add others in, and color existing areas to differentiate them. This is what we did to create the Jurisdiction Screening Map so that we can clearly see where different types of jurisdictions apply.

First, we mapped where there is Bay based on tides and land cover.

Then we marked where there was historically Bay, but it is now filled.

Then we removed areas where BCDC jurisdiction is limited.

And then we marked special areas that have different jurisdiction types.

And lastly, we added on Shoreline Band to the remaining Bay margins.

Again, different jurisdiction types require applying different types of policies, which is why we need to know which ones apply where.

Here is what the draft looks like that BCDC staff are refining now. I want to emphasize that this is a Jurisdiction Screening Map because it is identifying where different jurisdiction types may apply. For example, it shows the zone where the head of tide likely is, and so Bay jurisdiction may apply. In most cases, you have to go into the field to look and confirm those conditions to find the location where BCDC jurisdiction ends at present day. Depending on the project, this may involve using a surveyor or other external resources. But being able to identify the head of tide zone saves staff a ton of time because they have an idea of what areas to do their research in and plan site visits. We are ground-truthing the map now to see how well it has done at estimating the zone where the head of tide is.

Let's look at an example in Concord.

Here in Walnut and Grayson Creeks, staff were able to identify the head of tide zone based on the Jurisdiction Screening Map.

Then staff visited the site and looked for field indicators to do an updated Staff JD that documents where BCDC jurisdiction ends today.

Using the map resource we developed, we were able to generate a list of streams to be re-evaluated. With additional staff capacity and the RSAP Subregional Plans underway this represents opportune timing for BCDC to work on reviewing Staff JDs. This work also aligns with our Strategic Plan where Strategy 2.2 aims to update existing regulatory and planning operations to implement laws and policies more consistently, transparently, and efficiently.

For the purposes of this evaluation, by streams we mean small rivers, creeks, flood control channels, ditches, and sloughs.

As an overview, even just reviewing streams is a daunting task. There are hundreds of streams that flow into the Bay. So far we have identified 85 in need of BCDC review. We identified these based

on the outdated nature of existing Staff JDs, lack of adequate documentation, recent inquiries, changing site conditions, and availability of better information through the Jurisdiction Screening Map.

To arrange these in an order that we can start to work our way down we used criteria to make a shorter initial to-do list. The criteria we used are:

- Where an active permit process is underway.
- Where there is a material difference in area between Staff JD records and what current staff know about existing site conditions.
- Areas with known or recurring issues that affect the Bay and its resources negatively.
- Where there are known or potential significant development pressures.
- With initiated RSAP Subregional Plans underway.
- And within a socially disadvantaged community.

We chose to reevaluate BCDC jurisdiction in tidal streams first because we had the most existing records on streams. It is more straightforward than other diked Baylands and wetlands, and they also face significant development pressures.

Those other areas may also need this type of review in the future.

This work is never done because a Staff JD always represents a snapshot in time and conditions are always changing.

Of the 85 sites that we have identified, 56% have a review started or completed.

Many of them need very minimal review and might not result in any change in jurisdiction extent.

The 25 sites on our to-do list require a more involved staff analysis and a site visit.

We will work through those in coordination and with help from local government.

We just completed this analysis showing a first draft of the top 25 areas where we need to reevaluate our jurisdiction. The purpose of showing this slide is to show the breadth of locations throughout the Bay that this covers.

Ms. Ross continued: Now we are going to need to start communicating these changes by again starting with this meeting today.

Out of the initial list of 25 areas, we have already reevaluated our jurisdiction in 3 areas on the list and communicated changes to the local governments because of existing application inquiries. For the rest of the areas, we will work collaboratively with the local governments on our reevaluation, how to communicate any changes to the community, and how we will implement these changes.

What does this mean in areas where our jurisdiction is reevaluated?

Local governments will continue to review proposed new developments and changes to existing developments first, as they currently do now.

It is important to recognize BCDC is not expanding our authority or jurisdiction. We are recognizing and asserting our existing authority and jurisdiction where we may not have before.

The properties located within our reevaluated jurisdiction have been and remain in our jurisdiction.

As we reevaluate our jurisdiction in these areas, again we will collaborate with the local governments and communities on how to roll it out. Coordinating with the local government is important because they set the long-term vision for the area in terms of land use and they are all

responsible for preparing shoreline adaptation plans. We want to make sure we are consistent with what the local governments are doing.

Properties in our reevaluated areas are now subject to BCDC permit review. Because of this change, we have to work closely with the local government to make sure they understand what the rules are as property owners seek changes to their properties that may trigger permit review and as those subregional plans are prepared. Again, local governments will continue to review development proposals first in these areas.

Existing development not proposing changes will not require a BCDC permit.

New proposed changes for structures built before 1965 should contact BCDC for staff to evaluate the appropriate permit process. I should point out that there is an existing regulation that does allow for repairs and non-expansive, non-intensifying improvements of residential uses built before BCDC was created in 1965.

New proposed changes for structures built in 1965 or after, those property owners need to contact BCDC staff to evaluate what options may exist for legitimizing that work.

We also want to remind the Commission, as we have spoken many times, we have been working hard on a Regulatory Improvements Program the last few years to make the permitting process easier. The last regulatory package that the Commission approved earlier this year exempted 20-plus categories of activities in the shoreline band from needing any permit at all. And permits for other minor activities can be obtained in as little as 10 days.

This is our starting point, work in progress. And the purpose of this briefing again is to provide the Commission with a discussion point from which to move forward.

To illustrate what we have been talking about, one place where we have reevaluated our jurisdiction is along the San Rafael Creek in the city of San Rafael. In the past, we have received many inquiries whether their properties along the Creek are in our jurisdiction or not.

You will see here that there is an orange line on the right that shows where the past Staff Jurisdictional Determination indicated where BCDC jurisdiction ends, and that is at Pickleweed Park. This Staff JD was prepared in 1990; and why this determination was made and our BCDC jurisdiction to end at that point, we do not know.

But the Jurisdiction Screening Map confirms staff observations that the head of tide is actually located farther upstream than what was previously documented. We went out to the head of tide zone and determined that the San Rafael Creek is tidally influenced much farther upstream than what originally was documented.

You can see here that the hatched light blue area shows the part of the creek within BCDC's Bay jurisdiction, and the 100-foot shoreline band is shown in yellow. The San Rafael Creek then splits into two branches, and it was determined that our jurisdiction ends at the green lines.

We completed this evaluated Staff JD in the spring of this year.

We met with the City in the summer.

We had some preliminary discussions about outreach to the community. We decided that BCDC would prepare notices, handouts, FAQs, and provide info on our website; and that the City would send the notices we prepare to all affected property owners.

Through our discussions with the City staff expressed concern about the effects that this could

potentially have on the Canal District residents, which is an underserved community. We have also had some preliminary discussions with local community-based organizations regarding coordination on community outreach and how best to reach those constituents.

We have brought in our EJ team, and we are looking to do some coordination with those local CBOs and the City, and for us to attend some existing community events to talk to the residents about this change.

Why are we reevaluating our jurisdiction? It is obviously a tremendous amount of work. BCDC has the responsibility to assert our permitting authority in its codified jurisdiction. As we reevaluate our jurisdiction, again, we need to work with these local agencies and communities to understand and respond to their concerns in ways that provide for local and regional resilience.

And for these reevaluated areas, communities in our jurisdiction will have the protection of Bay resources. We will continue to protect the Bay and conserve and develop its resources.

These communities will also have a coordinated response to sea level rise that provides certainty. As local governments are required to address sea level rise, applying the same rules around the Bay gives communities predictability when preparing shoreline adaptation plans. Again, we will be working with the local agencies and residents to understand their concerns and share information openly along the way.

These committees will also experience expanded public access. BCDC will continue to require increasing access to and along the shoreline so that the public can enjoy the Bay and use its resources through maximum feasible public access consistent with any future project.

Also, there will be a greater voice in projects. BCDC will continue to empower underserved communities by making sure their voices are heard through application of our environmental justice and social equity policies.

And lastly, they will experience a cleaner and healthier waterway. In unregulated areas of the Bay illegal dumping, unpermitted fill, and abandoned vessels can harm wildlife; and BCDC has the authority and the enforcement tools to address these issues.

Moving forward, we plan on creating those outreach materials, we have actually already began, and a website landing page for all of this information.

We will work through the review of the initial sites in coordination with the local cities and counties.

We will also work with those cities and counties on the permit and outreach approach that works for them and consistent with their future plans of the area.

We will be providing updates to the Commission on how this process is going on a regular basis.

And then lastly, we are making progress towards creating that public-facing Jurisdiction Screening Map later in 2027 for the public and everyone else to be able to use on their own.

Happy to answer any questions.

Chair Wasserman asked: Do we have public comment?

Kate Hagemann commented: Thank you so much. My name is Kate Hagemann. I work at the city of San Rafael on climate adaptation, addressing sea level rise.

I would just thank the BCDC staff for being so cooperative during the process. Just to underscore some of what was said before, we feel it is really important to communicate directly with our residents

about the change. There is a lot of complexity that is difficult to comment on unless you are familiar with BCDC and the existing regulations. So, we would really appreciate BCDC being the voice explaining those regulations to residents who have questions.

In this community many of the residents who are affected are renters with Spanish as their first language.

As we look at the El Niño and the flooding risk in this area, there is a very high chance that we have damage to the existing buildings this winter, unfortunately. That brings up a host of questions about substantial repair if any of these buildings are affected and the potential for short-term displacement from the storm to touch upon longer-term displacement.

So, we really appreciate the cooperative nature of BCDC staff, but that is a concern we have heard quite a lot from residents and so look forward to working through that as we approach the winter storms. Hopefully, nothing of that nature happens but that is one of the concerns given how low-lying it is. Really appreciate the effort on outreach, especially to our Canal community, and our elected officials also would be very appreciative of a briefing. Thank you so much.

Laura Kaplanis commented: Thank you very much. I am a resident on the San Rafael Canal. We definitely are aware of the requirements of BCDC. We are at Porto Bello, which if the map was still up and I could see it, we are towards the power towers and towards the Marin Yacht Club. We were very aware of the requirements when we needed to replace our docks. Several jurisdictions actually, BCDC, the Army Corps, we got permits for also the Fish and Wildlife. We got several. We worked with a company I think called Sunset Ecological to help us get our docks replaced because they were damaged.

I would venture that most people, homeowners that live along the canal, do experience the water rise. Whether suddenly their boats or their docks are very high in relation to their yards, and then suddenly sometimes their docks are very low in relation to their yards. At Porto Bello here, which is on Point San Pedro just east of the Marin Yacht Club, we get water in our yards.

San Rafael, yes, has done a great job in communicating with both sides of the canal and the communities on sea level rise.

I think my biggest concern and the reason I am at this meeting is appreciating the BCDC's jurisdiction on the canal because I have two great concerns. One of the points at the bottom of one of those slides was about the health of our waterways. Many apartment owners, and not so much homeowners but lots of apartment owners, have completely degrading, deteriorating docks, floats, even some boats, and it is quite disturbing, and I am wondering who has jurisdiction. And I have been writing for several months. The city of San Rafael. I have written and received very kind responses from BCDC staff.

So those are my great concerns as to why apartment owners are not being held. Because Porto Bello had to jump through a lot of hoops and pay a lot of money just to replace docks that we had already in place that got damaged. And yet those docks up and down the canal are deteriorating and polluting our waterways. And I always think if that debris was on the street it would be considered blight, but no one can really see it because it is on the waterway. So, I am really hoping that BCDC or somebody can start conveying to some of those owners of those apartment buildings that they need to do something about that debris.

My other concern is when you go all the way up to the, I think it is called HoT or whatever it is

called, up near the San Rafael Open Space. How is it that the 17-story building, which I understand is state-mandated and it has been discussed over and over, and maybe some of the Commissioners are rolling their eyes because they know this is a problem and yet nobody can do anything. I mean, when we came off the freeway there was a grate that was full of water right there. Thank you so much.

Chair Wasserman continued: Questions, comments from Commissioners?

Commissioner Gunther commented: Oh my. Can we put the picture of the San Rafael Creek neighborhood back up on the screen? I want to make sure I understand this correctly. If I was the owner of a property, the back edge of which now is shaded in this map in yellow, that means that for the first time ever I suddenly find out that if I wanted to do something on my property in the yellow shaded part of it, I need a permit from BCDC.

Executive Director Goldzband interjected: Not necessarily. Harriet, let's go over the same list that you did about what is required.

Ms. Ross stated: It depends on when the structure was built.

Commissioner Gunther replied: Let's assume we are after 1965.

Ms. Ross continued: After 1965, we are asking people to come to BCDC so that we can figure out a way to legitimize their development. That is our plan. But what we actually allow depends on what the city is envisioning for the future of that area.

Commissioner Gunther acknowledged: Okay. Then at minimum, instead of saying I need a permit from BCDC, I need to talk to BCDC.

Chair Wasserman chimed in: Let's reset this. This is critical.

Mr. Scharff responded: I can answer this question.

Chair Wasserman acknowledged: Yes, please.

Mr. Scharff explained: If someone comes who is now in the jurisdiction and they want to do something with their property they probably need a permit for it.

Commissioner Gunther acknowledged: Right. I have owned this property for decades and all of a sudden, unbeknownst to me, I now find out that this is. I am just trying to set the stage. I am not going to be in this hot seat, at least not yet, like Harriett will be.

Mr. Scharff continued: Well, we are considering your sandbags when you said you were going to put sandbags.

Commissioner Gunther stated: Well, and in fact I hope maybe the city of San Rafael can be distributing sandbags. So, then I am going to receive notification as a landowner that if I am going to do something on my property I should consult with BCDC.

Mr. Scharff answered: That is correct.

Commissioner Gunther continued: And if I choose not to do so, I would possibly be in violation.

Mr. Scharff surmised: Possibly subject to enforcement. But let me just say that enforcement will be thoughtful on this.

Commissioner Gunther continued: I think that going back to our previous conversation, I think this is a great opportunity for BCDC to approach this by saying, dear landowner, you are actually going to be impacted by sea level rise. We are here to help you with this.

The other question I had, can we go back to the map, is that the green lines are moving.

Ms. Ross replied: Correct. At this time that is where the jurisdiction ends.

Commissioner Gunther continued: Right. This is mean high or high water, is that what it is? Okay. So, people beyond these green lines will be affected by the King Tides but that is not really our concern. But whatever we do here, this process we build, our relationship with the cities, we are going to have to build into that the idea that the green line is going to be moving upstream. And yet this seems to me to be an enormous administrative undertaking to keep track of this.

Ms. Ross explained: We are not going to be able to update these Jurisdictional Determinations on a monthly basis or annual basis. There's a lot, so these will be in place for a while. Yes, conditions change. It is not going to be tomorrow, right? So, we will have to reevaluate. We were talking about just existing. We will have to go through all of these sites and then come back to it again. How long that takes us, that is going to be based on staff capacity and, again, what the development pressures are.

Ms. Kuehn chimed in: Can I add to that from a data side. So just a quick correction. In this particular location, this is actually based on mean high water, not mean high or high water.

The way that we built the Jurisdiction Screening Map was designed to be able to be updated easily. That is why we did do extensive modeling with SFEI, so that new data that comes out regionally as sea levels rise, as other conditions change, will be able to be plugged into that model, and this map will be updated at regular intervals as that happens.

Commissioner Gunther stated: This is a model where you can put in the current datum and then the entire distribution here gets changed.

Ms. Kuehn agreed: That is correct. On page 10 of the Staff Report you can actually see the planned updates of all the different data sources in that model, so we already have a plan in place for that as well.

This will, again, just identify that zone where head of tide may be. Then it is up to staff to confirm current conditions as needed, and as Harriet said, as whatever priorities come through. But that is why we designed it in such close collaboration with a lot of the regional data that is being worked on.

Commissioner Gunther continued: I assume if a landowner came to you with a recent survey, you would discuss with them the result, what that means, okay.

Lastly, last question. There are so many such sites around the region. It is my sense that many, many of them do not have this level of residential development along the edge. Is that correct?

Ms. Ross replied: That is true.

Commissioner Gunther continued: This is representative of a certain type, but there are other types where we will find it is mainly a flood control channel and there is no one to argue with us.

Ms. Ross stated: This is probably the most difficult place. That was the hard part starting here. But yes, there is a range, a diverse type of streams from various levels of development.

Commissioner Gunther offered a suggestion: Then lastly I would suggest, and Stephanie, I do not know what you think about this, but I would suggest that the city of San Rafael is a great partner as we approach the King Tides to develop this snapshot of what our region is going to face if there are huge flows down San Rafael Creek. Maybe the city of San Rafael has other things to do rather than worry about helping us to take pictures. This is a really important opportunity, I think, to underscore the vulnerability, starting with the most vulnerable spots in the region. I did not appreciate how far up into the City the head of tide actually went. It is really going to be a remarkable event I think this winter.

Executive Director Goldzband chimed in: Commissioner Gunther, one of the really good things,

and you heard from Kate from the city of San Rafael, the public speaker, this is not a surprise to them, which is good. Candidly, it is no surprise to anybody. All you had to do was go to San Rafael anytime in the last 30 years and you could see the water moving. And why that red line is there? Well, that was 1990 when, candidly, BCDC was to some extent struggling for its existence. As one person has said, cover your eyes, cover your mouth, cover your ears, put the line where you can see it between a bunch of transmission towers and leave. That's what they did.

But I think the fact, and you are totally correct, that rising sea level, El Niño, the Kelvin tide, the perfect storm, you name it. It is really important that local governments recognize what is going to happen. And it is really, really, really, really important, given the regional shoreline adaptation plans that are being created, that state law and local government ordinances and practices are aligned. Because if they are not, you are simply asking for trouble.

And that is why I want to thank Commissioner Moulton-Peters for setting up a ground-truthing discussion walk and boat trip up the San Rafael Creek, which is happening a week from Friday, I think, with a few of us and folks from San Rafael, just so we can all talk about this.

I do not think we are going to need to do that everywhere. I think Harriet is totally correct. I think that there are places we will want to do things like that and places where we will say, well, you probably do not need to. But you know one of the things you learn, and we all learn it is you dance with the lady who brung you. The city of San Rafael has been asking us about this for an awful long time, so that is why we are starting here.

Commissioner Gunther asked: Is it your expectation that there will be landowners in the yellow zone who have never thought about sea level rise before, or has the city of San Rafael been pretty aggressive in communicating with people?

Executive Director Goldzband answered: Both and.

Ms. Ross added: I am not sure what the level. I am positive that there are some landowners that have no idea.

Commissioner Gunther stated: Well, I guess by January they will know.

Planning Director Fain chimed in: Can I just add that out of all the cities in the Bay Area San Rafael is widely seen as the hot spot for deep, especially around the Canal District, deep community engagement and action around sea level rise consistently. Kate just won an award actually last week highlighting the deep community work, working with local community organizations, and really trying to help residents in multiple languages really understand this issue. Does that mean every resident knows? Probably not. But I would say this is not a shirking of San Rafael's responsibilities in terms of taking sea level rise seriously, either as a city or a community. It is really just a complex issue.

Commissioner Gunther stated: I am sorry if I implied that because I know that is not the case. I was more asking that this yellow line that I am looking at resides in a city that has done more than maybe any other city to make its residents aware of the problem. And even in that situation I was wondering whether there are people who are not really aware of what might happen in their backyard in December.

Commissioner Moulton-Peters commented: Thank you, Jessica, for acknowledging what you know, Andy, that they have really made a concerted effort in San Rafael, particularly in the Canal area. They have their twice annual King Tides Day where they have community meetings and really look at

what is going on in real time.

I had a follow-up question because the single-family homeowners will be the ones that do not know about this. The apartment building owners in the Canal I think are well aware of the issue. My question, Harriet, for you and staff is, does the city of San Rafael or the city of Belvedere, do they in their permitting processes direct residents or advise them that they need to get a BCDC permit as well? I know it has come up in Belvedere, who is supposed to advise people that they need a BCDC permit?

Ms. Ross replied: Yes, we have a good relationship with the city of San Rafael and we work with them often so we do get referrals from the staff letting them know to contact BCDC for permitting. But not up the stream, obviously, because this is new.

I should also mention on purchase disclosures, new owners are notified to check with BCDC if they are going to make any changes to their properties because they may be within our jurisdiction. And that is actually throughout all nine Bay Area counties. There is a big stack of papers for everyone to go through, but they are notified in that manner as well. And we know this because our staff have bought property and they see the disclosure.

Commissioner Eklund: Fascinating subject. Fascinating information, and I have so many questions in my head. First of all, what you may or may not know is I do write a written report for all the elected officials in Marin County monthly. That is distributed to all mayors and council members and staff. I am going to feature this in my next report, obviously.

I really think that it is important for us to have a discussion with the elected officials in each of the counties. And I think that the board members from that particular county or representing that particular county should be a part of that, so that we can help with the transition of trying to make sure that we get information out.

I wanted to ask a couple of questions.

This is going to affect Caltrans. It is going to affect the Army Corps. It is going to affect a lot of other state and federal agencies. To what extent are you working with some of the other state, and federal agencies to let them know that your jurisdiction is not necessarily changing but you are redefining where your jurisdiction is because of the change in sea level? Because I am sure that other agencies that have permit requirements are probably going to involve BCDC more, I would hope so anyway, when they get an application and you guys might not. Can you help me to understand to what degree you are reaching out to other state and federal agencies?

Ms. Ross answered: Well, as I mentioned, this is the first step, and we have just had some one-offs on some more pressing locations.

But we do have regular communication with Caltrans. I think our regulatory staff meet with them almost every month or every other month. We have a lot of standing meetings with some of these agencies. We will start to roll it out and talk with them and share this information.

We are going to be doing it area by area because it will be difficult to do several at the same time because it is so intensive. So, it might be one at a time, it may be a few at a time, we might bundle some in the same area. But we do have standing meetings with a lot of these agencies that we can communicate this change.

Commissioner Eklund continued: Okay. I do not know if a geographic approach with local and federal and state is good or not, but I will leave that to your jurisdiction.

I would like to have Marin. I grew up in San Rafael, so I am very familiar with the San Rafael Creek and there's a lot of other creeks too in Marin that are probably going to be affected as well. At what point can we start working with you or can we offline give you a call and start scheduling some meetings with the elected officials, or maybe like come to a mayors and council members commission meeting and have a discussion?

Or it might even be better to just have a special meeting so that we can have a discussion with the elected officials and the city managers probably, and public works. Stephanie and I can try to coordinate that for Marin. But I would assume that the other counties. Like I also represent the folks in Sonoma, Napa, and Solano, so I would like to help reach out to those counties to make sure that they are engaged as well. How do you want to approach this or should we talk offline?

Ms. Ross stated: Yes, let's talk offline. It would probably be best to, again, focus on the areas that we are reevaluating now because of those development pressures and for whatever reasons we need to do first. And the city of San Rafael did ask for BCDC to speak to their city council. I think it will be a common request, and we will do our best to do all those.

Commissioner Eklund asked: Are you going to then start notifying property owners? You could get the list from the county and then start notifying them. Or is the county going to be doing this for you?

Ms. Ross replied: For the city of San Rafael, we asked if they could do the noticing. A lot of the time the issue is not everyone is familiar with BCDC. They see our name; they might not read a notice from us. But we are happy to prepare those notices. We are going to have to work with each of the communities to see what the cities and counties would prefer to do, whether they send out the notice under their cover, but our information. That is kind of the plan that we have for the city of San Rafael.

Commissioner Eklund acknowledged: Okay, great. I look forward to our conversation. Thank you.

Commissioner Gonzalez had questions: Just a couple of quick questions. The river streams, canals that you identified, is that the full set or that is just the first set?

Ms. Ross answered: That is the first set based on the criteria we defined.

Commissioner Gonzalez acknowledged: Thank you. There are a number of creeks that go dry during the summer. Can I assume that whatever portion of the creek that is dry during the summer is almost by definition not tidally influenced?

Executive Director Goldzband chimed in: I do not know the answer to that question and I am not going to tell anybody in public what that answer is. But we will get back to you because that is a really good question, and I will place side bets.

Commissioner Gonzalez continued: That's fine, thank you. In that same spirit, just when we have that discussion, it would be useful to understand the role when we are doing this mean calculation to establish a zone. What role the highest tide ever, storm surge, elevation, and if we know that a portion of the creek bed is 10 feet above sea level, does that inform us? Are we using that type of data in our calculations?

Then the last piece. For a canal, a flood control canal like the Estudillo Canal, which I know was not flagged on your list. But because it does currently move tidally because the tide gate has failed, would an evaluation be done based on the functioning of a tide gate, where it does not allow it to be a tidal creek, it is essentially dammed. Or is it what would naturally happen in that body of water, that

stream, that creek?

Senior Staff Attorney Ng chimed in: Michael Ng, Senior Staff Attorney. BCDC actually does have a regulation that addresses pre-BCDC tide gates. Essentially, if a functioning tide gate could have been closed pre-BCDC and still functions today, could have been closed at any point at the time of BCDC's existence or afterwards, that area is considered outside of our jurisdiction, notwithstanding the fact that it has been open and never closed.

But that same regulation also specifies that if a pre-BCDC tide gate has been naturally destroyed, or other similar types of man-made tidal control structure is naturally destroyed, the property owner has one year to repair it to maintain that exclusion outside of BCDC's jurisdiction.

There is also an opportunity for that property owner to contact BCDC and specify that the necessary repairs will take longer than a year. In which case the Commission and staff can evaluate the rationale for that and allow for a longer period of time in order for those repairs to occur, such that the area behind the tide gate continues to remain excluded outside of BCDC's jurisdiction. Failure to comply with those regulations results in the area behind the tide gate becoming subject to BCDC's jurisdiction to the extent that the area is subject to tidal action.

Commissioner Nguyen spoke: Thank you. This is a real complex issue, and communication going forward will be very important.

One comment is at the San Rafael Canal it seems like the change from last time was in 1990, right? But now with the model I hear that we intend to update regularly on the model.

My question is, for the current change right now. What is the jurisdictional Bay shoreline change increase from before this model in terms of percentage or whichever. I was just curious because when I saw the presentation there was pluses and minuses, but in the current version.

Ms. Ross stated: Yes, I believe it is 11,500 linear feet.

Commissioner Nguyen mentioned potential hypotheticals: Percentagewise what does that mean in terms of the current? And then hearing the discussion here I am thinking, well, since this is changing, we are updating regularly. What would it look like instead of the yellow band by 2050? What would the 2050 band look like? And not just looking at now but for property along there in the cities and all that, talking about sea level rise, not just the issue of permitting. What would that band look like since we do have the model? So, those are my two questions. Thank you.

Ms. Kuehn answered: On that note, I think our present goals were just to get a baseline model that is working for current conditions and to go out in the field and really ground-truth that to see how well the model was working.

We are currently planning and gearing up to update the model this winter with the help of SFEI so that we can be really sure that what we are showing is correct. We do not at this point have any plans to project that, but regional resources data exists for that type of analysis.

Commissioner Nguyen continued: For the current 1100, what percentage change is that compared to current jurisdictional lines?

Ms. Ross interjected: I am going to make a guess here, but we did not.

Ms. Kuehn added: It is hard to compare because where basically the jurisdiction limit was at the end of the mouth of the San Rafael Creek, and it has now just gone 11,500 feet upwards upstream.

Commissioner Nguyen clarified: I am talking about the whole map that said there's pluses and

minuses.

Ms. Kuehn stated: We have not been able to estimate that. It is pretty difficult since there are so many ditches and flood control channels that oftentimes run parallel to each other. There's many islands in the Bay where it is harder to quantify linear feet. And then there's also diked Baylands that just make a lot of the - that measuring less straightforward on a regional scale.

We did measure the material difference between past and present jurisdiction in all of these creeks and that was one of the criteria that we used to create our priority 25 creek to-do list. We made sure that the ones that had a larger difference in area of where we used to have our jurisdiction and where this is projecting it may end are at the top of that list.

Commissioner Nguyen explained: I guess intuitively I am thinking, with sea level rise we have a certain area of the Bay and in 2050 it is going to be bigger. And with that what does the Bay shoreline look like just percentagewise just to put it in context. That's all. Thank you.

Chair Wasserman shared historically pertinent details: I want to interrupt here for a moment then we will come back to Commissioners' questions. I am interrupting because the issue you raise is the issue that put me in the seat I am sitting in; starting about 16 years ago when BCDC first started really publicly addressing sea level rise and considering the first amendment to the Bay Plan to address sea level rise.

BCDC at that time did not do as good a job communicating what was going on, as it should have. That resulted in a group of organizations, including cities, counties, Bay Area Council, Bay Planning Coalition, becoming concerned that BCDC was trying to expand its jurisdiction, precisely because sea level rise would move the mean high tide level.

The fact that sea level rise is going to move that level is inescapable. Absolutely true. It is very important for us to be very careful as to how we communicate this. I want to use what went on here as an illustration of how we need to be careful that we are being clear in our language, we are being clear in our questions, we are being clear about what the question that is being asked is.

The question about the 11,500 feet was offered in part as an answer not to the question that was asked. This can be a very scary subject. There is no question that the issue is very scary. That is what we talk about all the time. But as we address particularly this highly technical but also very important and impactful issue that we be careful about our communications.

Careful does not mean we do not communicate. Quite the opposite. It means we do need to communicate more. But being careful about how we do that, our understanding of it, our expression of it, and our listening to each other to make sure that we are actually talking to each other, communicating with each other, and answering the questions that are really being asked.

How, when, how much, gets in part back to this whole issue of how quickly sea level rise is going to happen, how much, when all of those issues. And we do not know. We do need to provide what answers we can, which is the very process that we are starting here. Well, we started it before. We have been communicating with San Rafael and with some others. But in a public way starting here. This is a start and it is an important one.

I just want to make everybody be sensitive about it. Not hiding it. Quite the opposite. But also, being careful about what we are talking about. Sorry for the preaching.

Vice Chair Eisen was recognized: Sorry to add one last question to all that we have talked about

already, but I noticed that the Lake Merritt Channel is on your list of waterways to review. I assume, tell me if I am wrong, that is the waterway that leads directly into Lake Merritt. I am wondering if that means that we will also be reviewing our jurisdiction or potential jurisdiction over Lake Merritt? If so, obviously to Zack's point, we are going to need a lot of really good communication with the city of Oakland, which deals constantly with encampment issues around the Lake Merritt Channel and Lake Merritt itself.

Chair Wasserman agreed: Yes.

Vice Chair Eisen replied: Okay.

Chair Wasserman continued: When the issue was raised with me, and San Rafael brought it up for a variety of reasons which have been talked about. But yes, the next one on my list because I did live in Oakland for a very long time was its effect on Lake Merritt. Again, clearly a built-up area. But also, in terms of clarity here. This is primarily, not exclusively, an issue of public access.

Vice Chair Eisen stated: Totally agree.

Chair Wasserman continued: Most of this is going to affect that 100-foot band. There are other areas, and this may be true in the Canal District, where there are some questions of fill that come into play. That is not likely to be the case in Lake Merritt. In Lake Merritt, because it is so built up, most of the areas of public access are A) there and B) fixed.

But your point is still very well made that we are going to have to be careful and a little aggressive about how we communicate with Oakland and other communities that are there. And we are going to have to do it in phases because we have limited resources. We are, as staff has indicated, focusing on those that appear to have most likely effect on potential development or potential changes with buildings, and we are going to do it as rationally as we can. But yes, it is going to be a challenge for us, for the cities, for the property owners, no question.

Executive Director Goldzband addressed Commissioners: Can I ask Commissioners to think about this. As you think about how all this is going to happen and thinking about where you live and whom you represent. I am thinking about Commissioner Nguyen. And I am not smart enough to remember the map of Lake Merritt, but I know there is a highway that goes right over the entrance. And I can only imagine, Doanh, that you are about to go back to your office and try to figure out how this is going to affect Caltrans, right? Do not even answer. Do not even answer, I totally get it.

To expand or to really just solidify what Chair Wasserman said, we need to really work on our language. Our jurisdiction has not changed. Our jurisdiction will not change outside of natural causes due to rising sea level.

What we are doing is asserting our authority in existing jurisdiction where we have not asserted it before. Or in the case of San Rafael, we have not asserted it for 36-some-odd years. We just need to make sure we are using the right words as we discuss this, and I just want to make that clear. Because it is really simple to confuse authority with jurisdiction and the like.

Chair Wasserman added: And I want to emphasize what was said before precisely in that context. That one of, if not in fact the primary reason we are doing this is because of the effects of sea level rise on these areas and the relationship with the with the Regional Shoreline Adaptation Plan and what steps are going to be necessary for the cities and in some cases the counties to take.

Commissioner Janoff chimed in: I do not mean to steal last words since we have already had a

whole discussion on this but I find it interesting, and I am not arguing for looking to the past. But interesting, we talk about the future and how the jurisdiction might change as sea level rises. But in the past, we know that the natural state of the Bay was much larger by surface area and human-caused activities resulted in a massive amount of sediment that changed the shoreline and then therefore where the shoreline band would be. Again, I am not trying to argue for exerting authority in places that used to be Bay that are no longer, but it is just interesting to think of it in that context.

And I guess to Commissioner Gunther's point, seeing this maybe as an opportunity and a positive. And to what you just raised about the RSAP maybe is a question. The RSAP, does it cover areas within BCDC's jurisdiction only? So therefore, if BCDC is exerting this authority. I see Jessica shaking her head, maybe you know what I am asking. Is this an opportunity for those homeowners to be included in the RSAP in San Rafael now, where they were not previously?

Ms. Fain stated: Any city that has even a tiny bit of BCDC jurisdiction has to do a sea level rise plan for their entire city. That is the area of which is subject to. We looked at the 2100 levels of sea level rise projection. All these cities were already subject to the requirement. It is really about clarifying how exactly this is all working within the context of their city.

Chair Wasserman touched on communications: I actually want to add one other point. I do not remember whether it was Larry or somebody else who talked about asking you to think about how to communicate this.

One of the things I would ask you to do to help our staff, and particularly to help Ryan and Alyssa is, if you know of particular social media that affects your constituents, because if nothing else with your, those of you who are elected officials, campaign hat, but others may be involved in communications as well may have a sense of what social media are really effective. That is an issue which at the big level is fairly easy to determine, but when you get down to the micro levels and the community levels, is not so easy to determine. If you have information about that, please convey it to staff as well.

Anybody else? This is a very important topic. Go ahead.

Commissioner Nguyen was recognized: I appreciate the language in the Staff Report to say that we are just recognizing the authority and current jurisdiction, so I really appreciate that. Just a comment on the changing jurisdictional lines. Not just Lake Merritt, which we have been trying to build a bridge for over 20 years over there. But I just want to mention that there are railroads that we have to deal with that is very challenging as related to Lake Merritt.

But beyond that, Caltrans for the Bay Area, we have our ten-year plan that is about $7 billion. Now I have to go back and look at how much of that is now, especially the core assets of pavement, bridges, and culverts, that now may be subject to a different kind of permitting requirement.

Chair Wasserman stated: I think that closes this item. I thank you very much. This is obviously a very important issue that covers a number of different aspects of what we are dealing with and will be coming back to us repeatedly.

10. Adjournment. There being no further business, the Commission meeting was adjourned at 4:20 p.m.