

From: Ausra Eileen Boken

Sent: Thursday, June 15, 2023 1:57 PM

To: BCDC PublicComment <publiccomment@bcdc.ca.gov>

Cc: Aaron Peskin <Aaron.Peskin >; Peter Drekmeier; Charles Head; zrant; peskinstaff; Sarah (BOS) Souza

Subject: BCDC Meeting June 15, 2023 Public Comment Period Item #3

TO: BCDC Commissioners

From: Eileen Boken,
State and Federal Legislative Liaison

Coalition for San Francisco Neighborhoods*

*For identification purposes only.

RE: Bay Conservation and Development Commission meeting June 15, 2023 item #3 Public Comment Period

I was on the call for this meeting by phone but was not called on to speak so I am submitting my comments in writing:

At a recent meeting of the San Francisco Board of Supervisors, the President of the Board of Supervisors Aaron Peskin presided over a hearing of proposed water and wastewater rate increases by the SFPUC.

During that hearing, Board President Peskin referred to the algal blooms in the Bay this past winter.

Board President Peskin urged the SFPUC to upgrade its Southeast Treatment Facility to address nutrient discharges into the Bay in order to decrease the likelihood of future algal blooms.

I would urge the Bay Conservation and Development Commission (BCDC) to work with the Bay Area Regional Water Quality Control Board to require all wastewater facilities which discharge into the Bay to perform similar upgrades.

The San Francisco Board of Supervisors discussion also extended to the watersheds which flow into the Bay.

This includes the Tuolumne River watershed where salmon populations are collapsing due to inadequate flow regimes.

I would urge the BCDC to work with the State Water Resources Control Board (SWRCB) on implementing the Bay-Delta Plan rather than any voluntary agreements.

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San Francisco Bay Conservation and Development Commission
June 15, 2023, Commission Meeting

Public Comment, Agenda Item 3
submitted by Marc Zeppetello, a San Francisco resident

Failure to Provide Required Public Access and Improvements on the
Historic Ferryboat Klamath and Pier 9

On February 16, 2023, I commented regarding the failure of the Bay Area Council (Council) to provide required public access areas and improvements on the Klamath and Pier 9, including its complete failure to open any of the required public access areas on the ship. The (Council) reportedly opened the roof deck public access area in March. However, as I found on a June 7th visit, the Council continues to violate numerous public access requirements of the Commission's permit. Those violations, as well as many others cited by staff in its June 12th letter to the permittees, have caused and are continuing to cause significant harm to public access.

As detailed in the accompany table and photographs, the ongoing violations, which continue nine months after the Council had the Klamath grand opening and four months after my earlier comments, include but are not limited to:

- Failure to provide the required public access area or improvements on the main deck.
- Failure to provide the required public access area or improvements on the upper deck.
- Failure to provide the required museum on the roof deck.
- Failure to provide required public access improvements on Pier 9.
- Failure to obtain Commission approval of a signage plan or to provide any required public access or wayfinding signage on Pier 9 or the ship.
- Failure to provide required public tours of the Klamath or required signage regarding public tours.
- Failure to provide required public restrooms on the upper deck.

The amendments to the enforcement regulations adopted by the Commission last year defined the term "significant harm to the Bay's resources or to existing or future public access," as recommended by California State Auditor. The significance of harm is "determined based on both the context and intensity of the violation." 14 C.C.R. § 11310(f). Context "refers to the location of the violation and the characteristics of where it occurs." For public access violations, "highly visible and/or frequently used areas are generally considered to be more significant than isolated areas with low visibility or infrequent usage." Intensity "refers to the severity of the impact and the degree to which it affects...public access." Violations that "substantially interfere

with the ability to use designated public access or encompass large portions of a designated public access area will be considered to be more significant.” *Id.* at §§ 11310(f)(1) and (f)(2).

The Council’s violations have caused and are continuing to cause significant harm to public access. The context of the violations is that hundreds or perhaps thousands of pedestrians pass by Pier 9 and the Klamath every day waking along the Embarcadero promenade. The Council’s public access violations are occurring in one of the most highly visible and frequently used locations along the entire San Francisco Bay shoreline. The intensity of the violations is that for nine months, the Council has completely failed to provide: (1) public access or improvements on the main deck; (2) public access or improvements on the upper deck; (3) the museum on the roof deck; (4) public access improvements on Pier 9; (5) any public access or wayfinding signage on Pier 9 or the Klamath; or (6) public tours of the Klamath or signage regarding public tours. For six months, the Council completely failed to provide public access to the roof deck. These violations have prevented or substantially interfered with the public’s ability to use required public access and have encompassed all or large portions of designated public access.

The recent amendments to the enforcement regulations also added the term "significant harm to the Bay's resources or to existing or future public access" to section 11321(a), entitled “Commencing Commission Enforcement Proceedings.” This regulation states that if the Executive Director believes that any person has caused significant harm to existing or future public access, “the Executive Director **shall** commence Commission enforcement proceedings by issuing...a violation report...[and] a complaint for administrative civil liability.” (emphasis added). *Id.* § 11321(a). This amendment was made “to provide clarity and consistency for the exercise of the Executive Director’s enforcement discretion in determining whether to commence Commission enforcement proceedings in response to a violation.” Initial Statement of Reasons Addendum (April 5, 2022), at 4. Thus, even if the Council takes some steps to comply in response to staff’s June 12th letter, under the regulations, the violations should be addressed and fully resolved through Commission enforcement proceedings.

Permit Requirements	Violations
Main Deck (Special Conditions II.B.1 and 2.a and Exhibit A). Approximately 1,562-square-foot front entry area on the main deck, including exhibits for public viewing and wayfinding to assist visitors in navigating the <i>Klamath</i> .	No public access on the main deck. No exhibits for public viewing or wayfinding. The required public access area is an open, largely vacant space occupied only by an ATM and a wall signage concerning the law firm Hanson Bridgett. See photos 1 and 2. (All photos taken June 7, 2023.)
Upper Deck Terrace and Reception (Special Conditions II.B.1 and 2.a and Exhibit A). Approximately 1,050-square-foot terrace, including tables, seating, and trash receptacles; and approximately 960-square-foot reception area, including exhibits for public viewing.	No public access on the upper deck. Terrace area is vacant; no tables, seating, or trash receptacles. No reception area or exhibits for public viewing. The staff's June 12 th letter includes a photo of the interior of the elevator showing a sign next to the button for the second floor stating: "No Public Access."
Roof Deck Museum (Special Conditions II.B.1 and 2.a and Exhibit A). Approximately 551-square-foot museum on the roof deck, including exhibits highlighting the <i>Klamath's</i> historic and cultural significance to the Bay and other exhibits about the Bay and maritime culture.	No museum on the roof deck. The area designated for the museum is vacant; there are no exhibits. Instead, the receptionist provides a single 11" x 8.5" sheet of paper; each side contains numerous small photos and text paragraphs; one side is captioned: "A Ship with Many Lives;" the other: "The Golden Age of Ferries on the Bay."
Public Restrooms (Special Conditions II.B.1 and 2.a and Exhibit A). Two restrooms on the upper deck.	No public restrooms on the upper deck.
Public Restrooms (Special Conditions II.B.1 and 2.a and Exhibit A). Two restrooms on the roof deck.	Restrooms provided but locked. To obtain access, one must go from the roof deck down to the main deck, request a key from the receptionist, and give a government issued ID to the receptionist. After going back up to the roof deck to use the restroom, one must go back down to the main deck to return the key and retrieve one's ID.
Pier 9 apron (Special Conditions II.B.1 and 2.c). Amenities along the approximately 7,354-square-foot apron between the Pier 9 entrance gate shall include interpretive elements, bicycle parking, and seating as feasible while ensuring adequate emergency access for Pier 9 tenants.	No amenities provided on the Pier 9 apron. To a member of the public, the required public access area on Pier 9 appears to be private. As a public access area, the Pier 9 apron is sterile and completely un-activated. See photos 3, 4 and 5.

<p>Signage and Wayfinding Program (Special Condition II.B.5). The permittees shall provide for review and approval a Signage and Wayfinding Program “that provides adequate signage to ensure that members of the public are able to find the entrance to the <i>Klamath</i> from The Embarcadero, that it is clearly understood that the public has unrestricted access to the Pier 9 apron and the public access areas aboard the <i>Klamath</i> during operating hours, and that visitors to the <i>Klamath</i> may easily navigate the boat and locate ADA-accessible facilities (e.g., elevators, restrooms).”</p>	<p>There are no public shore, public access, or wayfaring signs on Pier 9 or the <i>Klamath</i>. See photos 3, 4, and 5. The Council has failed to respond for months to BCDC staff comments on a previously submitted proposed signage plan.</p> <p>The roof deck public access area is beautiful. See photos 6 and 7. But due to the Council’s failure to install public access and wayfaring signs, or to install required improvements to activate the Pier 9 public access area, none of the hundreds or more pedestrians walking by Pier 9 and the <i>Klamath</i> every day know that the roof deck public access area exists and is available for them to enjoy.</p>
<p>Public Tours Plan (Special Condition II.B.6). The permittees shall provide for review and approval “a Public Tours Plan outlining procedures and operational details for regular public tours of the <i>Klamath</i>.... The permittees shall advertise to the public, both online and on-site, how to schedule a regular tour or how to arrange a tour directly with staff.”</p>	<p>No information is provided on Pier 9 or the ship or on the Council’s website regarding public tours of the <i>Klamath</i>.</p>
<p>Public access aboard the <i>Klamath</i> “shall be unrestricted.” (Special Condition II.B.3). The Public Access Operations Plan submitted by the Council and approved by BCDC staff states that members of the public “may be subject to security screening, similar to other museums, public agency entrances and civic halls in San Francisco to ensure the safety of all.”</p>	<p>To access the roof deck public access area a member of the public must: (1) produce a government-issued ID; (2) allow the receptionist to scan one’s ID; and (3) read and sign a detailed “Visitor Code of Conduct.” See photo 8. These restrictions on public access are overly burdensome, unnecessary (especially with 15 security cameras on the ship), and inconsistent with the Operations Plan. I visited the DeYoung Museum last week and did not need to show a government ID. One does not need to show a government ID to enter the San Francisco City Hall or San Francisco Public Library, much less allow one’s ID to be scanned. Requiring a member of the public to sign a Visitor Code of Conduct to access required public access is unprecedented.</p>



Figures 1 and 2: main deck unavailable required public access area.



Figure 3: Pier 9 public access area from gate at the Embarcadero.



Figure 4: Pier 9 public access area from gate looking east.



Figure 5: Pier 9 public access area from near gangway



Figure 6: roof deck public access area



Figure 7: roof deck public access area

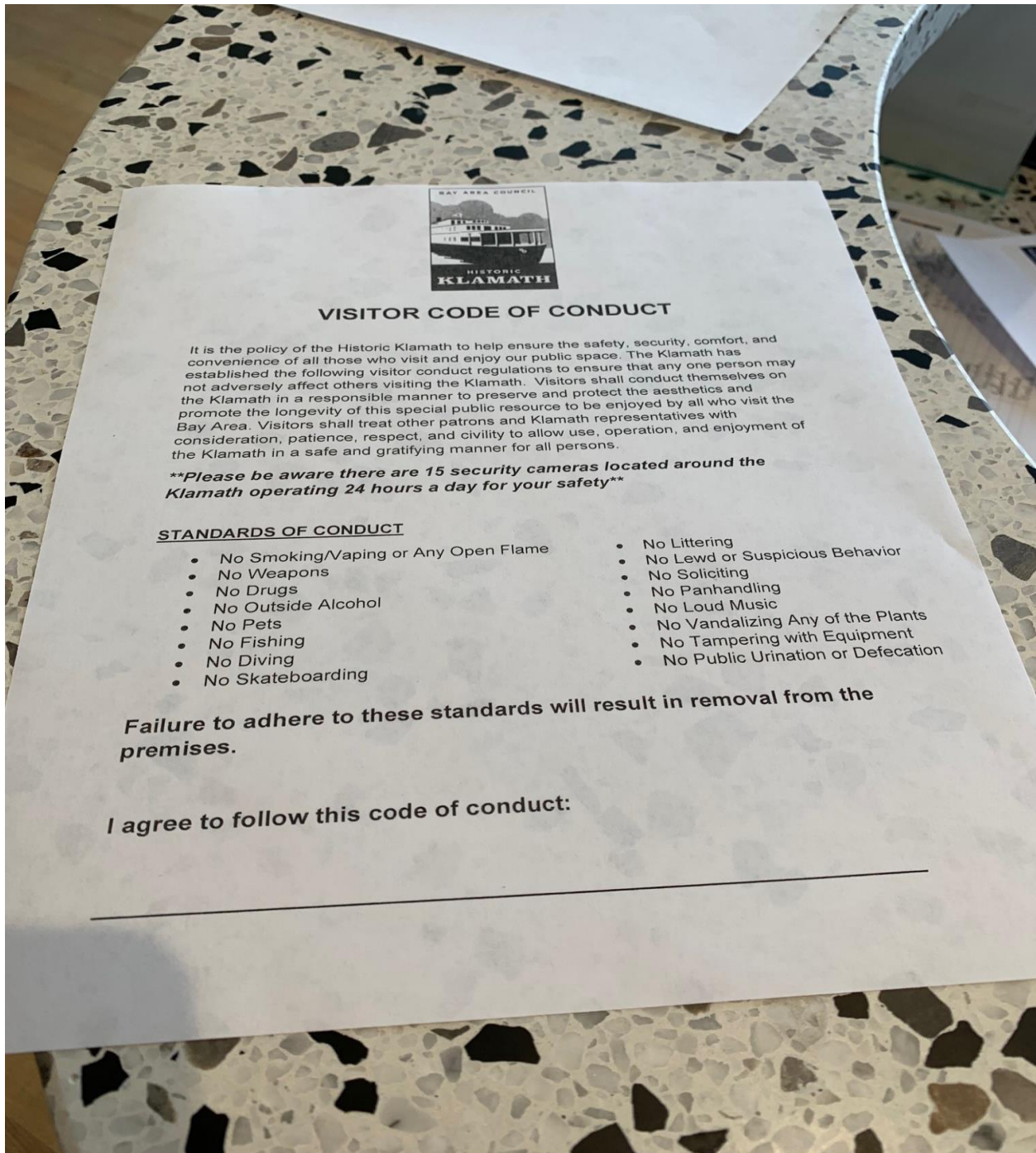


Figure 8: Visitor Code of Conduct must be read and signed to access roof deck public access area (available only in English, no other languages)

From: cm Orth

Sent: Tuesday, June 6, 2023 8:23 PM

To: [Rec-SFMarinaProject](#)

Cc: Catherine Stefani <catherine.stefani>; ReceptionDesk@BCDC

Subject: SF Marina Green Project..Travesty in planning

I am sending this as a citizen of San Francisco who is firmly opposed to the Marina Green shore line development Rec-SF Marina Project. The plan does not represent the citizens of SF. It seems to be a handout to the boat owners or billionaires who own them. Who else will benefit from this ill conceived plan?

It will damage the Wave Organ an iconic SF landmark. It will damage the pleasure of walking on the edges of the Marina for those of us who have no other access to the water. It will ruin the delight and awe of all those who have the privilege to walk and play on the Marina Green.

Your plan is ill conceived and apparently done in the dark! Hopefully BCDC will disallow this horrendous plan.

Sincerely,
Christina M. Orth