

San Francisco Bay Conservation and Development Commission

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October 14, 2022

TO: All Commissioners and Alternates

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

SUBJECT: Approved Minutes of October 6, 2022 Hybrid Commission Meeting

1. **Call to Order.** The virtual meeting was called to order by Chair Wasserman at 1:04 p.m. The meeting was held online via Zoom and teleconference. Instructions for public participation were given by Chair Wasserman.

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

2. **Roll Call.** Present were: Chair Wasserman, Vice Chair Eisen, Commissioners Addiego, Ahn, Beach, Brown (represented by Alternate Gilmore), Burt, Eklund, Gioia, Gunther, Hasz, Lee (represented by Alternate Kishimoto), Lucchesi (represented by Alternate Pemberton), Moulton-Peters, Peskin, Ranchod, Randolph, Showalter, Spring (represented by Alternate Vasquez) and Wagenknecht. Senator Skinner, (represented by Alternate McCoy) was also present.

Chair Wasserman announced that a quorum was present.

Not present were Commissioners: Association of Bay Area Governments (Butt), Department of Finance (Almy), U.S. Environmental Protection Agency (Blake), Department of Natural Resources (Eckerle), Department of Business Transportation & Housing (El-Tawansy), Sonoma County (Gorin), San Mateo County (Pine).

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

Chair Wasserman gave instructions for participating in the virtual meeting. He emphasized the following: Commissioners must have their cameras on, instruction for public attendees was given, comments must be focused and respectful and emails received were noted.

Alison Madden addressed the Commission: Good afternoon, thank you. My name is Alison Madden. I am an attorney in San Mateo County. I am currently working with Oyster Cove Marina tenants. There are boats with tenants at the Marina.

I wanted to provide some information respecting an emergency solution that has been approved by the Commission. And I wanted to say first of all, thank you so much. It was lightning speed with lots of different government agencies working together.

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The San Mateo County Harbor District, Supervisor Pine, Commissioner Pine and Addiego, the South San Francisco City Council and city manager; and it was fantastic.

And what it is is allowing some latitude for Oyster Point Marina to receive the Oyster Cove tenants coming over.

And the one year appears however maybe to have started September 15 or maybe even before in terms of maybe when the staff was working on an MOU or an LOI. We would like to just kind of put that on the radar that October 15 was the noticed termination date and the date most people had planned on moving.

And we have recently been in contact with the realty company Kilroy and the management company Tideline through their counsel and it appears that the actual notices and the pattern and practice of having people agree to vacate was not in compliance with the Tenants Protection Act of 2019. It is being no-fault just caused a statute requiring very specific notice and certain terms and conditions.

And so we are engaging in a very good faith discussion with them which might give more time at Oyster Cove.

So I just wanted to make the Commission aware of that. You know there was some discussion about whether one year was enough.

And I also wanted to say that was something not on anyone's radar until the Town Hall which is that the Harbor District appears to want a firm plans, people having firm plans in hand by April which is only six months.

And people are a little bit panicked about that which means that as people look around if there is any marina that will take them they are not going to be able to say, well take us at the end of the year. They will have to move and it is likely out of the area and potentially at a cost to them.

So what is definitely still very much appreciated and amazing, you know, it has a few details that I don't think were in front of the Commission at the time.

And I did provide a public comment. And I realize it was late. So if it wasn't accepted I understand that. I think the cut-off is 10:30 and I sent it 11:30 I think.

And also attachments need to be ADA compliant. I will keep that, I did not know that. So I will do that in the future. If that wasn't late today I will resend it for the next meeting.

And I very much support what you are doing today, your Racial Equity Plan and all of the work that you do is much appreciated. Thank you very much.

Ms. Atwell added: Thank you, Alison. And we did receive your email and we actually did make it ADA accessible for you. And it is probably on our website right now.

Ms. Madden acknowledged: Thank you so much.

Mr. David Lewis of Save the Bay was recognized: Thanks very much, Commissioners. Just two brief comments before you get to important work that is the main part of your Agenda today.

First, as I had commented at a previous meeting, we are very concerned about the long and slow process for reviewing Cargill's application for a more extensive permit for operation and maintenance of their berms in their solar salt making operation.

And we were looking forward to public conversation about this at the Engineering Criteria Review Board meeting this month which, I now understand has been cancelled and possibly rescheduled for later in the year.

Of course, we want the permittee and the staff to be able to be on the same page about information and the process of evaluating the permit.

But this appears to be continued foot dragging and resistance by Cargill. And so we want to encourage you to encourage the staff to press forward and insist on due diligence and information being provided by Cargill to make this possible.

On the second matter, we were deeply disappointed to see Governor Newsom veto Senate Bill 867 last week despite the fact that it had asked the Legislature for strong support. This is Senator Laird's bill to authorize BCDC to begin a process of requiring sea level rise preparedness plans from municipalities within your jurisdiction.

We were very pleased that Chair Wasserman wrote a very strong letter encouraging Governor Newsom to sign this. The Governor's veto message cites fiscal considerations that indicate that the bill was not being carefully read by the Governor's Office.

We've made a number of inquiries and have not determined exactly why or who prevailed upon the Governor to veto this bill.

I would encourage Mr. Chairman to try to pursue that understanding so that we can determine next steps including whether it is advantageous to try for legislation again next year or there might be a way for the Administration to advance these really important goals and facilitate BCDC doing this planning in the way that is long overdue.

Thanks very much.

Lucia Lachmayr commented: Hi, thank you so much. I appreciate so very much what the BCDC has done to work for – oh, my name is Lucia Lachmayr. I am a tenant at Oyster Cove Marina. And I just want to thank the BCDC for working so nicely and quickly with the city of South San Francisco as well as the Harbor District and Oyster Point Marina.

I want to thank particularly Dave Pine and Council Member Addiego, just really thank you.

I did get a chance, I did a public records request and I did get access to some big overview of what Kilroy is planning. And Tideline had previously, Tideline Marine Group had previously said that they couldn't dredge three of the five docks that we have at the Marina. And they said they really had no idea what they were going to do there but we have seen the plans.

It looks like they want to put a water taxi which Tideline would publicly be the recipient of that water taxi contract. And so Kilroy wants to put in a building, a multi-story building on the water and make it some kind of destination spot.

And I just wanted to ask multiple questions. One, would it be possible to work in coordination and keep at least some element of a marina there so there would be access for working class folks to actually go out on the water versus just sit on in a restaurant for a business to make money to look at the water but actually utilize the water as is part of the Bay, as part of the Bay Area Plan?

And so I was hoping that also that this Kilroy plan will be part of open, the planning or the meeting for that will also be open to the wider community.

Evidently things are happening but it is really hard to access unless we dig very deep into it.

Since Kilroy/Tideline refused to dredge three to five docks Tideline who has a vested interest in that eventual water taxi said that the water was polluted. And since Tideline is now currently managing Oyster Cove Marina and they were also the company that did the dredging and they said that the water was contaminated; I am wondering if you are going to ask or require that Tideline or Kilroy do an appropriate EIR since evidently the water is contaminated and I think that would be appropriate given that the claim that it was contaminated even though it has been dredged four or five times prior to that with no contaminants found.

So, but since they said there are contaminants there I think that would be an appropriate ask. Thank you very much.

LaDonna Williams commented: Yes, good afternoon, LaDonna Williams, All Positive is Possible. I would like to first commend BCDC for its efforts in addressing and putting on the table the racial equity pieces that we will be doing the workshop on and actually listening to frontline communities voices in these spaces about environmental justice and issues that are directly impacting our communities.

I would like to recommend though that BCDC puts forward a resolution condemning racism. And a specific resolution with addressing the issues of racism and especially during the time when anti-blackness is at an all-time high.

It continues to be at all-time high and at the same time it continues to be one of the major issues that are ignored throughout America.

And so as we move through these spaces it's great to talk about an all-around approach that we all are impacted. That we all have these issues; yes we do.

But we also know that when it comes to black America and the issues that have historically impacted us and currently impact us, we still continue to be the least supported communities. We have the least resources.

And so therefore as we move through these spaces those who have been impacted the most unfortunately which continues to be black Americans or African Americans as some refer to us as; we must be made a priority in these spaces.

That is not at the exclusion of others but you must address those who are hurt, who are devastated, who are impacted the most if we are talking about reaching these racial equity goals and inclusion and actually having this all-society where it's equal because currently it is not.

So as we move, again, through these spaces, you know, we need to keep that in mind that we must pick up the pace in supporting historically disadvantaged, long-term exposed communities that have been put in this position because of the lack of agency decisions, elected officials' decisions that have allowed our communities to bear the most burdens of pollution sources coming through our waterways and our Bay.

So I look forward the workshop that is coming up and the engagement. Thank you.

Ms. Atwell acknowledged: Thank you, LaDonna. Chair, I see no more hands raised.

Chair Wasserman announced: That concludes our open comments period. That brings us to Approval of the Minutes of our September 15 meeting. We have been furnished copies of them and I would appreciate a motion and a second to approve the Minutes.

4. **Approval of Minutes of the September 15, 2022 Meeting.** Chair Wasserman asked for a motion and a second to adopt the Minutes of September 15, 2022.

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

The motion carried by a voice vote with no abstentions or opposition.

Chair Wasserman added: I would note for the record I'm not going to abstain although I was not there because under Robert's Rules you can vote for approval of minutes even though you were not present.

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

I would like to welcome Nancy Kemnitzer to the Commission. She serves on the City Council of Belvedere and has been chosen by ABAG as Commissioner Eklund's Alternate. Commissioner Kemnitzer, if you would like to make a few comments we welcome you to do so.

Commissioner Kemnitzer addressed the Commission: Thank you very much, Chair Wasserman. I am on the Belvedere City Council and former mayor. I am very honored to have been selected as Pat Eklund's Alternate to this group. I also serve and have for many years served on the Executive Steering committee for Bay Wave working on sea level rise issues along our shoreline with Supervisor Stephanie Moulton-Peters. I am honored to serve and participate in the important work you do. Thank you.

Chair Wasserman acknowledged: Thank you. We welcome you.

a. **Next BCDC Meeting.** Our next Commission meeting will be held on October 20th. At that meeting we expect that we may:

- (1) Consider a permit application for 567 Airport Boulevard in Burlingame.
- (2) Consider contracts with the Ocean Protection Council and the State Coastal Conservancy that would help fund our work on Bay Adapt and have a briefing on the status of Bay Adapt and the plans going forward.
- (3) Hear a briefing on legislation in the state budget regarding alternative energy permitting.
- (4) Hear a staff briefing on our current year budget.

(5) Hear a briefing on our Enforcement Program.

b. **Ex Parte Communications.** That brings us to the Ex Parte Communications, if anyone has one that they feel they need to make, again, this is on a matter that would reach us on adjudication not policy and you do need to make it in writing in any event.

Is there any Commissioner who would like to make a brief disclosure of any ex parte communications? (No ex parte communications were reported) Seeing none, thank you.

That brings us to the Report of the Executive Director; take it away, Larry.

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

Given the nature of today's meeting I shall keep my Report short. Before I announce our new staff members, I want to thank very publicly our Planning Director, Jessica Fain, for stepping into the role of Interim Executive Director during my almost four-week absence caused by jury duty.

She did an outstanding job as we expected. Providing learning and leadership opportunities for staff is an incredibly important part of any manager's job and I am both proud and totally unsurprised that Jessica handled the position so well.

I have three staffing announcements to make. First, as part of our expanded Bay Adapt Program I am happy to report that Todd Hallenbeck has been selected as BCDC's new senior GIS staff member.

Todd has been with BCDC for six years and started as a permit analyst. As BCDC's current GIS Specialist he has spearheaded projects like the Bay Shoreline Flood Explorer and the Shoreline Adaptation Project Map.

Prior to joining BCDC, Todd supported west coast marine spatial planning efforts through open data initiatives and seafloor mapping.

When he is not in the GIS room you will find Todd leading BCDC's bocce team – the Mean High Tides, who made the playoffs this year – or sailing on the Bay. Todd earned his B.S. from U.C. Santa Cruz and an M.S. from CSU-Monterey Bay, making him both a Banana Slug and a Sea Otter.

We also plan to start our new Compliance Program in November with two experienced BCDC staff members. John Creech, one of our current enforcement staff, and Tony Daysog, one of our permit analysts, have been selected to fill those two new staff member slots.

Before John joined BCDC he was a project manager and estimator for a pipeline company; he earned his undergraduate degree at U.C. Santa Barbara and his M.S. from the University of Maryland. This Gaucho and Terrapin is also an experienced SCUBA diver and Cross-Fit instructor.

Tony is a Cal grad through and through having earned both his undergraduate and graduate degrees in Berkeley. Prior to joining BCDC Tony was an analyst with the Santa Clara County Housing Authority and a consultant in this new position and a consultant. In this new position I think he will really help us communicate with and work more closely with local governments given his experience as a member of the Alameda City Council.

One more announcement to make; Commissioner Jenn Eckerle, who sends her tremendous regrets at not being able to be here today, has been named Acting Deputy Secretary for Oceans and Coastal Policy and Acting Executive Director of the Ocean Protection Council.

We look forward to working with her even more closely than we have previously.

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

Chair Wasserman asked: Thank you. Does anyone have questions for the Executive Director? (No questions were voiced)

7. **Consideration of Administrative Matters.** Chair Wasserman stated: That brings us to Item 7, Consideration of Administrative Matters. We have received an Administrative Listing mailed on September 30 and Chief Deputy Steve Goldbeck is here to answer any questions if we have them. Anybody have questions on an administrative matter? (No questions were voiced).

8. **Adjournment.** Upon motion by Commissioner Peskin, seconded by Commissioner Eklund, the Commission meeting was adjourned at 1:25 p.m.