

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600

State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov

September 20, 2023

TO: All Commissioners and Alternates

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

SUBJECT: Draft Minutes of September 7, 2023, Hybrid Commission Meeting

1. **Call to Order.** The hybrid meeting was called to order by Chair Wasserman at 1:10 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, all, and welcome to our hybrid BCDC commission meeting. My name is Zack Wasserman, and I am Chair of BCDC. We will be moving the order of the agenda today. The first item we will hear is Item 10 regarding the Department of Finance Mission-Based Review of BCDC, and then Item 9, the Summer Interns Briefing, and then we will return to the stated order on the agenda.

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

2. **Roll Call.** Present were: Chair Wasserman, Vice Chair Eisen, Commissioners Addiego, Ahn, Arreguin, Burt, El-Tawansy (represented by Alternate Ambuehl), Gioia, Gorin, Gunther, Hasz, Lee, Lucchesi (represented by Alternate Pemberton), Mahburn (represented by Alternate Vasquez), Peskin, Ramos (joined after Roll Call), Showalter and Tam (represented by Alternate Gilmore). Assembly Representative Ting (represented by Alternate John-Baptiste) was also present.

Ms. Rangunathan announced that a quorum was present.

Not present were Commissioners: Department of Finance (Almy), USACE (Beach), U.S. Environmental Protection Agency (Blake), Department of Natural Resources (Eckerle), Association of Bay Area Governments (Eklund), Marin County (Moulton-Peters), San Mateo County (Pine), Governor (Ranchod, Randolph).

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

David Lewis commented: Commissioners, this is David Lewis, Executive Director at Save the Bay. I want to make sure everyone knows they are invited, Commissioners, staff and members of the public, to our next, live, online climate conversation. Save the Bay is hosting a series of these climate conversations and the next one is on Tuesday, September 19 at 5:00 o'clock. It features Assembly Member Diane Papan and other experts talking about greening our cities and how climate adaptation can provide multiple benefits, not just on the shoreline but in our urban landscapes.



Most of you should have received an email invitation and we also have information on our website. It is very easy to register and participate in this online climate conversation.

The first one was with State Senator John Laird back in June and there actually is a video recording of that conversation for those of you who are not able to attend.

Alison Madden was recognized: Good afternoon. Thank you, as always, for your service. I wanted to call attention, I am not going to speak right now on Item 11, but I would like to call your attention that I sent an email public comment. It is very lengthy, and it includes general information and some information about Item 11.

But what I wanted to speak about right now is the BCDC prioritizing keeping recreational marinas. I also wanted to let you know, I know that you know this, so I am not being condescending, but the general public, we are tax-paying voters and we do deserve responsive government when we raise issues asking for public process. I am asking that the BCDC prioritize keeping recreational marinas. I attend a lot of BCDC meetings, and the recreation and recreational marinas don't come up that often. There's a lot of development, a lot of wetlands restoration, all kinds of important climate and other initiatives and I am very supportive of all of that.

I am specifically speaking about Oyster Cove, which is empty right now. Last September, when the Oyster Cove refugee item came before the Commission, there was a staff memo and the memo expressly said that the people that want to develop want a change of use. It is not the existing owner, and it is not the existing upland owner; so, this is a new team of people wanting to come in and rip out that recreational marina.

I want to remind the Commission that we have lost a lot of marinas south of San Francisco and this is in South San Francisco, and it is a fantastic, protected marina, in a cove, and very much used for recreational purposes. I believe the change of use; they want to rip the whole thing out and maybe have a private ferry or a water taxi. Of course, there is a huge WETA ferry serving the area.

So, I am advocating that we keep recreational marinas. We lost Pete in 2013 down in Redwood City by the developer there who really didn't have successor rights to the actual public trust land and the marina. Walked in an emergency application and this Commission authorized ripping it out overnight, when the State Lands Commission had said, you need an environmental impact report.

I am making the same case for Oyster Cove, an EIR needs to be done. And that emergency permit never should have been granted. We had a ten-page letter from Adams and Broadwell. I spoke personally on the phone that day to Mr. Goldzband who had, I believe, recently started. It was never taken off consent calendar, never given a public hearing.

We have lost Dogtown because of input from the State Lands Commission and Peninsula Marina, which was built by Teachers Credit Union. It had 400 slips and now it has 20. This is about 700 to 800 slips lost for recreational boating south of San Francisco and South San Francisco even.

I am asking you not to approve a change in use. There are qualified, talented voters that are ready, willing and able to make an application and run that marina which serves the public trust. Thank you very much.

Charles Davidson spoke: Hello, my name is Charles Davidson. I live in Hercules, California and I am a participant in a group called the Concerned Neighbors of Selby Slag, which is on the border of Crockett. It is located in Crockett, on the border of Hercules. I live within less than two miles from the Slag.

The Slag is 2.5 million cubic yards of heavy metal Slag that were deposited over 100 years. Selby Slag is part-owned by Phillips 66, 20 percent, the rest by the State Lands Commission.

Previous remediations have covered it with asphalt and it is currently used as a lay-down site for Phillips 66 when they are doing large projects. It is listed by BCDC as a future Selby Seaport for liquid fuels. There has already been a remediation plan over several stages and in the current stage of their remediation plan, which began over 30 years ago. And this is the most recent one.

Our group has found numerous inconsistencies and have reviewed our inconsistencies with scientific oversight. We have had discussions with a former representative from BCDC about this who is no longer there in the Selby Seaport project. I don't know if she is with the organization. But we are very concerned about this turning into an expansion of fossil fuel projects in the area.

We already have plenty of areas for the refinery to expand on and so they don't really need to be expanding further in this area. There has already been expansion in the area. It was formerly a nature area by NuStar that has accepted product from Phillips 66 and had toxic leaks and explosions on the site. This is just further expanding fossil fuel infrastructure in the area and the DTSC plan is completely inadequate.

And so, we'd like Selby Seaport to be taken off of the list of projects for the BCDC. And you'll be hearing further from the Concerned Neighbors of Selby Slag and thank you very, very much for listening.

Chair Wasserman moved to Approval of the Minutes.

4. **Approval of Minutes of the July 20, 2023 Meeting.** Chair Wasserman asked for a motion and a second to adopt the minutes of July 20, 2023.

MOTION: Commissioner Gilmore moved approval of the Minutes, seconded by Commissioner Gunther.

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

5. **Report of the Chair.** Chair Wasserman stated: That brings us to my report. I will start by passing the gavel to Commissioner Gioia who will give us a report on last week's meeting of the Bay Adapt Local Electeds Regional Task Force that was held in Contra Costa County.

a. **Bay Adapt Local Electeds Task Force:** Thank you, Chair. We had a very good turnout of elected officials who are serving on this Regional Elected Officials Task Force. There were a number of city council members from around the Bay Area and there were also staff from a number of agencies as well there and also organizations who work on sea level rise.

We held the meeting in North Richmond in order to do a tour of a project that we are all collectively involved with, which is creating resiliency along the North Richmond shoreline through a living levee or horizontal levee project; it is also wetland restoration.

The planning of this project has been partially funded by the San Francisco Bay Restoration Authority and it is occurring on the property of the West Contra Costa Wastewater District and they are involved in helping with this project as well.

It was an opportunity for electeds to see an actual project. Where it would be located, the types of benefits that would result to the inward property, which is a wastewater treatment plant, as well as the North Richmond community, which does have two tidal creeks that go through it, creeks with tidal action, both San Pablo and Wildcat Creeks.

It was great to actually be out there and look at the examples of the kinds of projects that would provide sea level rise protection to low-lying shorelands like the North Richmond area.

So that was really the gist of it. We did talk about maybe visiting some other sites. Most of the time was really the tour and the different property owners and players involved in the process. Thank you.

Chair Wasserman acknowledged and continued: Thank you very much. Any questions from Commissioners about Commissioner Gioia's report? I see none.

b. Meeting Notice Requirements: A couple of administrative items. I want to again remind Commissioners who are participating virtually that you are responsible for posting BCDC's meeting notice at an appropriate place at your meeting location when you receive the meeting notice and that needs to be posted 10 days before the BCDC meeting. If you are meeting at one of the regional centers you are not individually responsible for posting that, that will be taken care of by staff. If you are individually responsible, you are meeting at a place that is fundamentally just you and you have properly noticed it, otherwise you shouldn't be doing that. If the agenda has been modified, you need to post the final agenda when you receive it.

c. Get-Together on October 19: I had previously suggested that we have a social meeting after the Commission meeting on September 21. We are not going to have a meeting on September 21, so we are not going to have that social meeting. Hopefully we will have that on October 19. Please schedule some additional time for that. We will get a notice out to you about that.

d. Next BCDC Meeting: We will not hold the meeting on September 21. We do expect to hold a meeting on October 5, which will be led by Vice Chair Eisen. At that meeting we may take up the following matters:

- (1) Consideration of a contract with the Port of San Francisco;
- (2) An enforcement matter regarding Seaplane Investments in Sausalito;
- (3) A briefing on our Strategic Plan;
- (4) A briefing on the Ocean Protection Council's update of its Rising Sea Level Guidance; and
- (5) A briefing and status update on Highway 37.

There is an interesting article which I commend to you in the August 15, I believe, issue of *The Atlantic* about the Thwaites Glacier. It is an interesting read. I cannot tell you it is an informative read. It does clearly emphasize that we simply do not know how fast, how high the seas are going to rise.

We know they are going to rise. It illustrates with some firsthand observation by an *Atlantic* reporter the changes in the Thwaites Glacier, which actually occurred in the week they were there.

It is a little scary. I wouldn't let your six-year-old read it. But it is important for us to know that the problem is occurring, it is accelerating, and it emphasizes how much we need to keep pushing on preparing for adaptation to what we know is coming, even though we do not know all of the specifics about that.

e. **Ex Parte Communications:** That brings us to the time when if you have an ex parte communication to report you can do so verbally, you still need to do so in writing. These are on adjudicatory matters, not simply matters of policy, although you are free to report whatever you choose. If you do report, I ask you to do so briefly. Are there any ex parte communications to report?

None from the dais and I see no hands on the screen. Thank you.

That brings us to Item 6, the Report of the Executive Director.

6. Report of the Executive Director. Executive Director Goldzband reported: Thank you, Chair Wasserman.

First of all, I want to apologize to Commissioners who were having trouble getting in. Some settings clearly have been changed by either mice or goblins over the past month and so we will be correcting those. I don't know if we are going to have to call Orkin or an exorcist but either one I think will do the trick.

On this day in 1533, Elizabeth I was born. One of the greatest Western leaders of any century and the oldest surviving daughter of Henry VIII. Elizabeth wore the crown for 45 years.

While she was known for many accomplishments, perhaps the defining characteristic of her governance was her insistence on stabilizing her country's governance in light of the instability caused by her father's reign. In so doing she was famous for saying, quote, "the past cannot be cured." Fortunately, at BCDC we don't need to cure our past as much as we want to leverage our past accomplishments and break new ground, both in planning and regulatory and environmental justice. And we shall look to our Commissioners to help us do just that, especially during our first briefing today on BCDC's future permitting program.

You may recall a few months ago that President Biden announced the NOAA Climate Resilience Challenge while he was in Palo Alto with Governor Newsom visiting the Bay shoreline. NOAA is making available approximately \$575 million, you heard that right, \$575 million nationwide for projects that build coastal communities' resilience to extreme weather and climate change.

BCDC has partnered with the state Coastal Conservancy, the San Francisco Estuary Partnership, BARC and many others on a Letter of Interest for a project titled "Climate Resilient, Equitable Shoreline Transformation in the San Francisco Bay Area" or "CREST Bay Area."

If awarded, the \$75 million will fund four top priority nature-based adaptation implementation projects, along with a suite of regionwide actions that together will reduce flood risk, promote regional coordination, advance equity and inclusion, and build enduring capacity for climate resilience along the Bay.

It includes funding to construct living shorelines and living levees in the urbanized Central Bay and to combine levee improvements with restoring tidal wetlands and their hydrological connections that help wetlands keep up with sea level rise in the South Bay.

Our partners include well over a dozen community-based groups, tribes and academics and features Workforce Development elements. It advances several regional actions from BCDC's Bay Adapt Platform.

Now that I have your attention, I need to note that this is one of two LOIs statewide that California's Coastal Management Program submitted for large-scale funding and some 20 others in California alone are competing for a variety of funding options. It will be competitive, and we will keep you apprised.

The longstanding agreement between BCDC and the State Coastal Conservancy to use mitigation funds required by BCDC to provide greater public access around the Bay has enabled the Conservancy and Caltrans to move forward with Oakland's "66th Avenue BART to Bay Trail" project.

The project will connect the East Bay Greenway pathway on San Leandro Street to the Bay Trail entrance on 66th Avenue and Oakport Street, which will create some great new recreational access in East Oakland by enabling pedestrians and bicyclists to avoid the increasingly congested and dangerous 66th Avenue.

Instead, they will be able to use a safer and more direct multimodal connection between East Oakland and the waterfront and Bay Trail.

The project is now fully funded through the planning and design phases; and pending funding availability the \$16 million project would tentatively enter construction in late 2027 and conclude in 2030.

On August 18, Chair Wasserman approved an emergency permit for Reclamation District 1607 in eastern Contra Costa County to make repairs to the levee surrounding Van Sickle Island, located about 12 miles south of Fairfield and 2 miles north of Pittsburgh. The island is currently flooded, and the levee has been restored to its pre-emergency condition without any net expansion. It is likely the District will apply for a permit in its regular course of business to work on the remainder of the levee, especially in light of future large storms.

Earlier this month, six BCDC staff members attended the California Adaptation Forum, the statewide conference that highlights all there is to know about adapting to climate change in California, or close to it. Three of our staff presented at the various sessions and BCDC hosted a well-attended workshop titled "Designing Equitable Regional Guidelines for Sea Level Rise Adaptation in the Bay Area." The workshop shared information about the Bay Area, BCDC and Bay Adapt and collected some 30 response worksheets from attendees, which we will use to improve our own work.

Meanwhile, BCDC's Regional Shoreline Adaptation Plan development is beginning a series of popup events around the region tonight to raise awareness about sea level rise planning and solicit feedback from residents about their vision for the future of the Bay shoreline.

Tonight's event will be in North Richmond, thanks to Commissioner Gioia for connecting us. During the next two months we have identified about 10 events in San Rafael, Newark, Oakland, American Canyon and Mountain View, with many other events and locations possibly in the works.

Our staff will be reaching out to our county supervisor commissioners and alternates to let them know of our possible participation and include them in the planning. Please let us know of any events you would like us to participate in.

Two pieces of information before I finish. First, Lita Brydie, one of our Environmental Justice staff, will be contacting each county supervisor in the hope that we can attach our little bit of social network information to yours so that we may broadcast the notice of our meetings through your social network so that your constituents will know more about BCDC's meetings, so please be on the lookout.

And finally, I am pleased to let the Commission know that the state's Department of General Services has renewed BCDC's purchasing authority as part of its regularly scheduled auditing process.

That enables BCDC to execute most of its own contracts and purchase orders for the next three years, despite our small size. That is really important because if we had not passed DGS would have been responsible for that. Our Admin team, especially Reggie, Sean and Cheneé, merits a large thank you and congratulations for its work to ensure that the Commission fulfills its necessary procurement obligations.

We will be increasing training and oversight during the next three years, and we look forward to improving before the next audit.

That completes my Report, Chair Wasserman; I am happy to answer any questions.

Chair Wasserman chimed in: Any questions for the Executive Director? Commissioner Gunther has one.

Commissioner Gunther spoke: Yes. First of all, I just want to reiterate the congratulations to the administrative staff. I imagine that is an enormous accomplishment to get that authority for three years. I am sure that there were many, many keyholes to grind through and buildings jumped over to make that happen.

Larry, I just wanted to ask you about our regional response to the NOAA solicitation. I was very pleased to hear you say very matter of factly that, oh yes, we have four priority projects and then we put them in with 16 different people. Can you say a little more about what I assume was a tremendous amount of legwork ahead of time that led to that level of coordination that allows us to put forward such a regional approach?

Executive Director Goldzband replied: Sure. I think the best way to describe it is that sometimes when you are given a huge opportunity it takes an even larger amount of work to get even to the point where you can look at the opportunity.

The Coastal Zone Management agencies, meaning BCDC, the Coastal Commission and the Coastal Conservancy, were notified of the NOAA LOI and we immediately, literally within a couple days, had decided that we needed to break it into two pieces, one for Northern California and the Bay, the other is going to be for the Southern California Wetland Program.

And the Coastal Conservancy, because it is the statewide organization, would be the lead on both of those, with BCDC being essentially number two on the Bay side and Coastal Commission being number two on the Southern California side.

We then ended up working, like I said, with the Estuary Program, with you name it. With about four or five or six probably, staff from organizations to put together this very large package.

The most important thing about the package is not just what it contains, but how it contains it. It has to be a story. It is not just a bunch of different things you throw into the hopper, and you grind it together and hope it comes together. Instead, it is really a package of things that really work.

For example, there are four top priority projects that would actually get funding to work on the projects themselves.

It would be able to increase our construction of 10 living shoreline projects that the State Coastal Conservancy would lead. There was an Eden Landing part of this in partnership with the Alameda County Flood Control District. There is a partnership between the South Bay Salt Ponds Project and Valley Water to restore natural connections between San Tomas Aquino and Calabasas Creeks. There is a North Richmond Shoreline Living Levee and Collaborative Shoreline Plan that is part of it.

In addition, there is, I want to say, somewhere between \$4-6 million that will go directly toward coordinating and collaborating among all of these players, that will do nothing more than, believe it or not, strengthen Bay Adapt and our regional approach to actually working together.

That to me is sort of the glue that holds all of this together. So, we will have capacity building for frontline communities. We will have science support. And we will be able to fund regulatory improvements. So, all that is in a package that has been put together.

Commissioner Gunther added: I did not realize I actually had personal experience here to add. All of that is the product, each one of those things is the product itself of collaboration and work ahead of time.

I was the facilitator of a scientific workshop examining the San Tomas Aquino Project four or five years ago as part of a project that SFEI was running.

I just think that it is really important for us to acknowledge that in order to be able to put in such a coordinated application where we are not fighting about what the four priority projects are. That there has been a lot of work done by a lot of people, including I know, BCDC staff.

I think that kind of ongoing work, whether now we see it in Bay Adapt or whatever, that that's what allows us to be able to put together such competitive proposals when the opportunity arises. I just want to acknowledge the staff's work and the many other people who have been preparing these projects for years.

Executive Director Goldzband acknowledged: Sure. I appreciate that and staff appreciates that. We could not be doing Bay Adapt in 2023 without having started ART in 2012, right? All of this builds and builds and builds.

I think that the worst thing that we could have done would be to throw a whole bunch of stuff together and try to make a story out of it from the get-go and that is not what we did.

Commissioner Gunther agreed: Right. Instead, we did our research, and we know what the story is.

Executive Director Goldzband replied: Exactly.

Commissioner Gunther acknowledged: Yes.

Seeing no other questions Chair Wasserman moved on to Item 7.

7. Consideration of Administrative Matters. Chair Wasserman stated there were no listings on administrative matters.

10. Briefing on Mission-Based Review of BCDC's Permitting Program. Chair Wasserman stated: That brings us out of order, as noted, to Item 10, a Briefing by the Department of Finance's Mission-Based Review Team, the team is examining BCDC's Permitting Program. Executive Director Goldzband will start us off and then hand it over to our Assistant Regulatory Director for Climate Adaptation, Ethan Lavine.

Executive Director Goldzband introduced the item: Thank you, Chair Wasserman. I am just going to take a minute just to make sure that we give a little bit of context. You are going to hear from the Department of Finance, which BCDC asked to come into BCDC to perform an analysis of our Permitting Program, our permitting processes.

You will remember that we asked, "we" read "I," asked the Department of Finance back in 2019 to do a mission-based review of our Enforcement Program. That mission-based review, which is not an audit, it is a different thing a mission-based review, was tremendously successful and has helped propel our Enforcement Program to now, and you will hear from Matthew later in the day, to be so much better than it was prior.

We have, as a regulatory agency, a duty to the regulated community to continually look at our processes and try to improve them.

We were able to convince the Department of Finance, it did not take a lot of convincing, but we had a couple of meetings, that BCDC was really in need of an independent look at what we do and how we do it, so that we could then garner information and recommendations from Finance. That started a little while ago. Now I want to turn it over to Ethan who has been the lead staffer on the project.

Assistant Regulatory Director for Climate Adaptation Lavine addressed the Commission: Thanks, Larry. Good afternoon, Chair Wasserman and Commissioners. As Larry said, I am Ethan Lavine, I am the Assistant Regulatory Director for Climate Adaptation. I am part of a small team here at BCDC that consists of me and Dominic Maccormack, our Climate Change Policy Specialist, who are working to plan and implement improvements to our Regulatory Program.

Our work is made possible thanks to a generous grant from the Coastal Conservancy to implement the Bay Adapt Joint Platform, the consensus-driven platform that outlines a vision for the region's work to respond to rising sea levels, and particularly Action 7 of the Joint Platform, which called for refining and accelerating regulatory approval processes to help advance adaptation projects that align with regional goals.

As some of you heard when we briefed the Commission's Rising Sea Level Working Group in recent months, one of our first priorities is to assess our own program and help permitting needs to change for the region to meet its urgent adaptation needs.

As Larry mentioned, we were just thrilled when we got the news as we were getting underway with this work that the Department of Finance agreed to our request to apply the expertise that it has in-house under its Research and Analysis Unit to study our program and to help identify prime opportunities to do our work smarter, faster and better.

We are all extremely proud of the strength of our Regulatory Program and the wonderful permit staff here at BCDC, but we know there are major opportunities to embrace new technologies and methods to work better. In fact, we know that is going to be a key part of becoming an effective agency over the coming decades as we consider projects that will shape the future of our shoreline.

I just want to say before I introduce them that it has been an absolute pleasure working very closely with Aaron Edwards and Chris Locke over the past several months. They are doing very methodical work to understand all aspects of our program. I am going to pass it off to them now and let them outline their scope of work and what to expect over the next several months.

Mr. Locke commented: Thank you, Ethan and Larry, for that introduction.

Good afternoon, members of the Commission. My name is Chris Locke, and I am here with my colleague, Aaron Edwards. As Larry and Ethan said, we are from the Research and Analysis Unit from the Department of Finance, and we are here to present on our mission-based review (MBR) of BCDC.

Who are we and what do we do?

The primary responsibility of the Department of Finance is to compile the Governor's Budget. This is very fast-paced work with urgent deadlines. Even when budget-line staff encounter issues as they are working with a department, there really is not time to stop and do a deep dive into the issues that departments face. There was a recognition of that gap, which led to the creation of the Research and Analysis Unit.

What our unit does is we complete mission-based reviews, which simply put, are really deep dives in which we help departments understand and resolve the longstanding and critical budget and policy issues that they face.

As Larry was mentioning, this current MBR that we are doing with BCDC, it is not an audit, it is not based on anything that BCDC did wrong, but BCDC proactively reached out to us to help them work through some of the complex issues they are facing and help them improve their permitting process. Just keep that in mind as we talk through the problem definition and the scope. This is not punitive in any way. It is really proactive on BCDC's part.

What is the scope of our review?

We have talked through this with Larry and the BCDC staff and we have settled on a problem definition and use that to inform the scope of our review. We settled on three issues with the current process.

First, the process is outdated. The permitting process was developed decades ago and is in need of a comprehensive reexamination. We really want to understand how the permitting landscape has changed since the McAteer-Petris Act was first enacted. We want to see if BCDC's systems and processes have kept pace with changes and what permitting looks like in the 21st century.

Secondly, the current process is inefficient. In looking at the data, BCDC is generally meeting its required timelines but there is still a need for further streamlining. We have heard from staff that there are issues, there are pain points with organizing and tracking permits, with application intake and filing applications in a timely manner, interagency coordination and other issues.

These inefficiencies with the process have led to delays in filing applications, late changes to project design, which are very painful and very frustrating for applicants.

And finally, the current process is lacking standardization and there's multiple contributing factors for this. As you all know, it is the increased complexity of projects with issues like sea level rise. Figuring out how are we going to incorporate that into our permits. There's the issue of staff experience and training. We understand that there is a high degree of turnover among staff. Also, a lack of consistency in permitting practices, particularly in the pre-application phase.

We want to look at the administrative process and see what improvements can be made. The result of this lack of standardization is the process can vary depending on who is assigned to the project, and it leads to a sense of applicants feeling like they do not know what to consistently expect from BCDC.

That problem definition feeds into our primary objective, which is really to streamline and update the Commission's permitting process. We want to update the process. We want to improve efficiency. We want to improve standardization.

That problem definition also connects to our secondary objective, which is improving coordination between permitting agencies and the clarity and enforceability of permits.

Interagency coordination can also be a major source of inefficiency, which leads to project delays, and we understand that that's a process that can also benefit from being updated.

One of the issues with JARPA, for instance, was it became outdated as agencies updated their applications but failed to update the JARPA application.

Enforceability is closely connected with standardization. We really want clear, consistent permits so that there can be clear and consistent monitoring and enforcement.

How are we approaching our review?

This slide shows some of our major research tasks to accomplish our primary and secondary objectives.

We are conducting a permit process review and one of our main tasks is we have conducted a LEAN permit improvement workshop. LEAN is a methodology that is often used in the business sector to maximize the value produced by a process and to eliminate waste from the process.

We adapted some resources provided by EPA, which they used to help other environmental permitting agencies improve their processes, and we adapted it to BCDC.

We conducted a three-part permitting workshop where we mapped out the entire major permitting process. We identified pain points in the specific steps of the process and brainstormed solutions for those problems.

Some of the types of questions that we are wrestling through are, what does it look like? What are our key indicators for success in the permitting process?

It really is a difficult question to determine because delays in the process can happen for many reasons, many of which are not within BCDC's control. So, we are really trying to get to what are the root issues that cause these delays and what does it look like to measure improvements when it is dependent on both certain things that are within BCDC staff's control and certain things that are not?

We are also conducting a review of legal authority and we are really focusing our review on BCDC's current authority.

One of the big questions we are asking is, are there any areas in which staff need additional flexibility under current authority? Or the converse of that, are there areas that need additional clarity for analysts to be consistent in their determinations?

Then lastly, a big part of our review is a comparative analysis of overlapping permitting agencies. We want to look at existing models such as BRRIT, the DMMO and JARPA and see what we can learn, what is working well, what is not working well.

For each research task we are interviewing BCDC staff, we are talking with stakeholders, applicants, consultants, policy groups; and we are reviewing the resources that are out there from academics, from government agencies from stakeholder groups.

So where are we in our review?

As I mentioned earlier, we just finished yesterday the last of our three-part workshop of the LEAN improvement workshop with BCDC staff. As mentioned earlier, we mapped the process. We identified pain points. We proposed solutions. It was really fruitful. We generated a lot of feedback and input from the BCDC staff.

Our next step with that workshop is we want to continue analyzing it. Try to separate out what are the root pain points, the root causes that are really driving the other maybe more symptomatic pain points that are experienced by both staff and applicants. We are hoping to drill down on those fundamental pain points and the solutions to those pain points in smaller group settings.

We have completed a preliminary review of statute, the regs, the Bay Plan, as well as many of the resources about permitting best practices, integrated permitting, interagency coordination and topics like that.

We have conducted 9 interviews so far with various stakeholders and 20-plus meetings with BCDC staff.

We have not yet started the comparative analysis of overlapping permitting agencies, but we are hoping to begin that phase of our research soon.

How will we deliver our review?

Our goal is to present the final report to BCDC by February 2024. We are still not completely sure what form that report will take. In the past, our reports have typically taken a type of hybrid approach. There is usually some sort of public-facing aspect of our report. In the past that has been a BCP, or it could involve a presentation in a setting like this. There is usually an internal document, an internal report that is shared with the department that is not public.

We are still talking with Larry and the BCDC team and we welcome feedback from anyone on the Commission as well. Especially as we near completion of our findings and recommendations, we can continue to have discussions on what would be the best format for our final report to take.

But that is our timeline, February 2024. And that report will contain findings and recommendations on all our primary and secondary objectives, and all our major milestone research tasks.

I want to thank you for your time. It has been a pleasure working with Larry and Ethan and the BCDC staff so far. We work with a lot of departments, but we found the staff to be very engaged, very helpful.

We hope to talk with some of the Commissioners soon. We are definitely open to talking with you, hearing your feedback, hearing your expertise. If you are interested, definitely reach out to Larry and their staff and we can maybe set up a meeting to hear to hear more from you and learn more from you.

So, with that I will pause and open for questions.

Chair Wasserman stated: I do not have any cards. Are there any questions from the public either in the room or remote on this presentation?

Ms. Ragunathan noted: There are no public comments.

Chair Wasserman continued: Questions, comments from Commissioners?

Commissioner Showalter was recognized: Yes, thank you so much for this presentation and also for the work that you were doing. I know that being in an agency you get so engrossed in the work that you are doing that it is sometimes hard to have a perspective about what might not be right and what are other agencies doing. You are going to bring a lot of really helpful information to us, and we appreciate that, thanks. Thanks for having this expertise and sharing it.

But one thing I am wondering about is how much does the Finance Team need to understand about how rising sea levels really affect our shorelines in order that you can understand the permitting challenges that BCDC will face in the not-too-distant future?

And one of the reasons I think that is so difficult is because it is very much a moving target. We do not really know exactly how much the seas will rise and how quickly it will happen. We have all sorts of best scientific scenarios, but they certainly have not been static, they have changed quite a bit.

So, I am wondering, how much do you need to know about sea level rise and are you getting that information from us that you need?

Mr. Locke answered: Thank you, that is a great question. I will take a shot at it and then if my colleague Aaron wants to hop on feel free as well. We have had a lot of discussions with BCDC about sea level rise and to what extent it should be included in our scope. It is really complex; it can be a very controversial topic as well. It also involves BCDC's authority and whether there should be discussions on expanding that authority and such.

At this time, we have made the decision at Finance to not include discussions about BCDC's authority surrounding permitting sea level rise in our scope. We have done that for a couple of reasons. The first is, as mentioned earlier, there is the Bay Adapt Process Initiative that is going on right now. Without knowing what the Regional Shoreline Adaptation Plan will look like, it seemed premature to us for us to issue findings and recommendations about BCDC's current authority on sea level rise.

And then secondly, this is really a statewide issue, and it is a priority for the Administration, certainly. But there is some concern about getting out in front of the state's strategy and wanting to present maybe a more holistic strategy for sea level rise.

So, we have decided in our scope to focus more on BCDC's existing authority. We are still having ongoing discussions with BCDC, and we are certainly open to looking at how sea level rise is being incorporated in permitting under BCDC's existing authority and some of the challenges and some of the improvements.

In terms of providing information, BCDC has given us a lot of resources to catch us up to speed. We are certainly not experts, and we acknowledge that. Hopefully that answers your question. I will pause and see if my colleague has anything to add.

Mr. Edwards chimed in: Good afternoon, Chair Wasserman and Commissioners. Aaron Edwards, I am the Chief of our Research and Analysis Unit here at Department of Finance.

Commissioner Showalter, thank you for that question. I think my colleague answered that much in the same way I would. I think I would just add that we absolutely are getting everything we need from BCDC in this respect.

We understand that sea level rise is something that you all are very focused on. It is an important and critical and urgent issue facing BCDC and the state more broadly and we understand that it needs to be considered, certainly in the permitting process. We are absolutely getting what we need from BCDC to help us understand the science behind sea level rise. It is certainly evolving.

We do not expect that we will become experts on that issue, but I think we have the basic understanding that we need to understand the contours of the issue. We rely on the experts at BCDC in terms of the state of the science.

We want to make sure that we are looking at how sea level rise considerations are being incorporated into the permitting process as it stands today. So certainly, that is part of what we are looking at. Hopefully that answered your question.

Commissioner Showalter replied: Yes, it helps. I just think that this is such a unique situation from a permitting situation because the goalposts are changing, and we know they will change.

Normally, in permitting situations the goalposts are pretty, pretty static. So, that does change how the permitting situation is set up. It just adds a whole different dimension of complexity that we have to figure out how to deal with. Thank you very much.

Commissioner Peskin was recognized: Thank you. I appreciate looking at this after a few decades after the McAteer-Petris Act.

BCDC is an interesting organization with an interesting act insofar as it is not only about the state permitting side, but also about the local jurisdiction permitting side where some, four dozen different local agencies and nine counties also have authority and jurisdiction.

My question to the Department of Finance is, what we can expect from the report about how state and local responsibilities intersect and/or complement one another? Is the Department of Finance looking at the overlapping BCDC/local government dynamic?

Mr. Locke answered: Yes, that is certainly a part of our review. One of our major research tasks is doing that comparative analysis of overlapping permitting agencies.

We understand there's a lot of actors involved in this process and that is part of what makes it so complicated. Definitely the relationship between local jurisdictions and BCDC. What might be done to improve efficiency and consistency in those relationships and also the different federal agencies and other state agencies that are involved in the process.

We have not begun that phase of our research yet so it is hard to know what our findings and recommendations will be, but it will certainly be a part of our report.

Vice Chair Eisen chimed in: Before I ask my question, I want to just thank our Executive Director for posing the question and asking for this analysis in the first place. You know, when I ask my husband if this dress makes me look fat, I run the risk that he is going to say, yes it does, honey. We are sort of in that situation.

I know that you have got more to analyze, but I am wondering, at this stage in your assessment if you could give us a sense of how our staff and our processes differ from some of the other state regulatory agencies that you have been looking at and helping out.

Mr. Locke replied: At this point it is hard for me to say because we have not begun talking with the other agencies. We have really been focusing more on BCDC's process and making sure that we understand the intricacies of BCDC's own process. Then from there, we are hoping to launch out and begin our comparative analysis of other agencies.

For myself, at least, I cannot speak too much to how similar or different BCDC's processes are to other agencies. As we begin that next phase of our research, that is definitely something that we have in mind and definitely something that we would want to include in our final report.

Chair Wasserman made suggestions: One of the things that I would hope you keep an eye on is that by statutory scheme BCDC considers a permit application at the end of the process, that is the local jurisdiction has already approved it. I am not suggesting a change in that process. I think it is rooted in good logic and good policy. Nonetheless, it can cause problems.

One of the areas which we have not yet seen, but have some concerns about, is our requirements for input from diverse and underrepresented communities may well be different and more rigorous than that of local communities and is different than the typical input that a local jurisdiction and a developer goes through under CEQA. Overlap, but different.

I am not so much asking for a response at the moment, I would welcome it. But it is, as you are talking to agencies, I would ask that you keep that piece in mind to help us as well as those agencies figure out how we can make the process smoother and more effective, for the cities and other permitting agencies, for the developers and for those communities in particular.

Commissioner Gunther commented: Thank you, Mr. Chairman. Just a question and a comment. Mr. Locke, are you guys considering as part of your analysis, BCDC's participation in the regional collaboration here known as BRRIT and the idea that we are collaborating with other agencies around certain kinds of projects?

Mr. Locke replied: Yes, we were definitely going to cover BRRIT in our report. From what we understand, it is a model that has been successful and so there is a lot of interest in how widely applicable the BRRIT model might be for fostering more interagency coordination. That is definitely one of the models we want to look at. We know it is a little more complicated than just saying, reproduce the BRRIT in all permitting, but we are definitely going to take a look at it.

Commissioner Gunther continued: Great. I want to congratulate Larry. I think this is a great thing to do. In particular, any agency that gives permits needs to have a narrative now about permitting reform, and I think the pressure on this is going to just rise. I am glad to see that this proactive effort will give us a real opportunity to talk about how we are really thinking about that thoughtfully and planning it and pursuing it.

Commissioner Lee was recognized: I just want to say, thank you so much for taking this process to go through the LEAN. LEAN Six Sigma, as we all know, has been one of those processes that were very popular about a decade ago. But certainly, having gone through those processes, I really get to appreciate how important it is to have that done on a periodic basis just to get rid of the wasteful steps. I am very glad that this is actually happening; so, I am really looking forward to seeing the report coming back in February 2024.

As we always have heard from folks, the three issues that they complain about are outdated, inefficient, lacking standardization. These are things that we often hear about government agencies and the permitting process, that is the case.

But at the same time, I think through the LEAN process we will be able to identify what they might be. If we could get rid of some of these bottlenecks, I think that will be certainly much appreciated. To not just be the process, but actually make it more efficient for everybody. At the end of the day, that the process really makes sense. I just want to commend you for this important effort, so thank you very much.

Commissioner John-Baptiste chimed in: First of all, just repeating what has been said already, but commending the staff for taking this on. It can be hard work and I know it takes a lot of time and energy and takes you away from your day-to-day, and at the same time such an important inquiry to be undertaking. Also really wanted to appreciate the staff from the Department of Finance for doing the heavy lifting on this. It is just really important work.

I think I have a question that is very similar to what I am hearing raised by my fellow Commissioners, but I am hoping you can talk a little bit more about what you mean by a comparative analysis with other permitting agencies.

Having spent many years working in a permitting agency myself, where people who are intersecting with the process have the greatest frustration is not so much when you have separate goals across peer agencies, but when those goals actually conflict with each other or compete with each other. I am curious whether the comparative analysis will identify where the relevant agencies need to start working upstream to align goals and vision a bit. That seems like it would be helpful, but I do not know if that is what is included in your review.

Mr. Locke responded: Yes, that is a great question, and it is something that we have heard from staff as we have done some initial legwork. I think that is certainly included within our scope within this comparative analysis. We have heard that there are not just inefficiencies, but sometimes competing priorities between different regulatory agencies.

One common one, for instance, is BCDC's emphasis on public access and others on habitat restoration; and those two priorities sometimes being at odds with one another. Yes, we are certainly open to examining and possibly issuing findings and recommendations on the need for permitting alignment between agencies. In short, we would include it in our analysis.

Commissioner Arreguin commented: On that point, I seem to recall there was conversation, particularly when we adopted the Bay Plan Amendment on allowing fill for restoration purposes. Looking at how we can streamline the permitting between Army Corps, BCDC, local jurisdictions, and so following up on Commissioner Jean-Baptiste's question - some of that would require probably changes to federal regulations.

But to the extent going to what Commissioner Showalter said, we can try to expedite the process so that we can get these nature-based solution projects done much more expediently. That just not only makes us more competitive for funds, but also being able to respond to the pace of climate adaptation.

So, is that looking at how we integrate and change the permitting process? Not just looking at the different overlapping processes, but how we can make improvements. Is that part of the scope of the review as well?

Mr. Locke answered: Yes, yes, that would be part of the scope of our review as well. Part of the complexity is the types of projects BCDC is, the applications it is receiving are more complex, different than maybe what was initially imagined in the McAteer-Petris Act.

One of those major differences is the difference between a quote/unquote, development project and a quote/unquote, restoration adaptation. There is a one-size-fits-all approach to both projects right now. That has interagency implications and also just for BCDC's own process.

In terms of looking at the application, thinking about the distinctions between these types of projects and trying to improve the efficiencies for all types of applicants, is certainly within the scope of our review.

Chair Wasserman noted: I see no other Commissioner questions. I thank you all very much for the work you have done already, for the work you are going to do, and look forward to the report coming to us early next year. Thank you.

9. Summer Interns Briefing. Chair Wasserman stated: That brings us actually to one of the typically more exciting and uplifting presentations that we get, the presentation from our summer interns. Executive Director Goldzband will introduce the briefing.

Executive Director Goldzband stated: Thank you, Chair Wasserman. We had meant to have this presentation last month because the interns would still be here. Unfortunately, we did not have meetings last month and so as a result they had to record this. There are at least a couple who will be available to answer questions. I am not sure, Anu, who will be, but we will bring them up. I am assuming that we can hit the Play button at some point and simply start it.

I just want to say that this has been the third consecutive summer that we have had a group of interns working at BCDC, undergraduate interns who are going into their junior or senior years.

We want to get as diverse a group as possible and we want to expose them to Coastal Zone Management, which is not necessarily something that they learn about in college. They are bio majors, or they are design majors or architecture majors or environmental studies majors. But this whole Coastal Zone Management thing does not really get talked about much in the undergraduate world as we think about it.

We have been just delighted with the response we have received during the past three years. We see no reason not to continue to do it. We had a cohort this year of five interns, three from our program, one who was a program out of Stanford, and the other a COAST Program participant. Vice Chair Eisen knows the COAST Program because it is part of the CSU system. They really glommed on together well and they work together well, and so with that, Anu, I am happy for you to hit the play button.

A video presentation by the five interns, Ava Hawkins, Alessandra Mohar, Roxanne Wilkerson, Taleen Cochran and Olivia Reid, regarding their internship findings, was played. They introduced themselves, discussed their projects, shared some highlights and recommendations for the program.

Ava Hawkins stated she was a summer intern with the EJ Team this year under Phoenix and Lita. She is in her fourth year at the University of California studying environmental policy and justice and minoring in Native American Studies.

The bulk of her work was assisting Lita with the formation and organization of BCDC's Racial Equity Action Plan. The Racial Equity Action Plan will be the Agency's roadmap for meaningful change outlining a vision, goals, objectives and actions to improving racial equity in operations and activities like staffing, communications and policy implementation.

She also helped with parts of the Regional Shoreline Adaptation Plan (RSAP). RSAP is a stakeholder-driven regional strategy for the Bay Area to prioritize projects and actions that will address critical sea level rise impact.

Her work involved working with the Equity Subcommittee to establish meaningful working agreements early on for the RSAP Advisory Group to reference and use. Furthermore, the definitions of environmental justice and social equity were discussed and revised to ensure that the development of visions goals and guidelines in a plan could be achieved in an equitable manner. She attended meetings that gave her a general sense of the community's goals and desired outcomes for the Plan.

Alessandra Mohar (Ali) was also an EJ intern. She is a second-year student at Stanford University studying civil engineering. Some of her academic interests are sustainable development and equitable housing.

Under Lita's supervision she conducted research on toxic sites along the Bay shoreline to support the EJ Advisors in developing a toxic tour for stakeholders.

She went through the biographies of the four EJ Advisors and learned the neighborhoods and communities each of them represent. Using the Department of Toxic Substances Control's (DTSC) database Envirostor, she selected sites that fit the criteria of the EJ Advisory Group's goals for the tour. She specifically chose sites directly along the shoreline in proximity to vulnerable communities using the CBO Vulnerability Mapping Tool.

She compiled the research into a report and short presentation that included contact information for each DTSC project manager, a summary of site use and cleanup projects on site, and her personal recommendation for an appropriate site. Ultimately, she addressed the Advisory Group with management questions and helped move the project along.

Ava Hawkins added: Ali and I were also able to help with a couple other projects besides our main one. I worked with Lita on the beginning steps of implementing some EJ procedures into BCDC's permitting process and I also drafted up some wording for BCDC's website to explain new translation services that will be available soon.

Alessandra Mohar continued: I edited and organized outreach email templates for RSAP tribal engagement and I drafted a PowerPoint presentation on the history of environmental justice for an all-staff training.

Ava Hawkins stated: Together we also worked on the Shoreline Leadership Academy, a six-month course designed to educate community leaders about an array of topics regarding sea level rise adaptation and community resiliency.

Ali and I reviewed the curriculum from the Oakland Shoreline Leadership Academy, which inspired this project, noting what they enjoyed any recommendations they had for improvements. They created a draft outline for a new curriculum with tentative dates for the Academy.

Alessandra Mohar chimed in: They organized site visits as well with partner organizations, going to the Save the Bay Nursery in East Oakland and Judge John Sutter Park under the Bay Bridge.

They participated in a three-hour-long messaging activity hosted by Phoenix and created a flyer for outreach materials and created a glossary of key terms that could be helpful for participants throughout the program. They also worked with Lita to develop a newsletter for the EJ Advisors.

Roxanne Wilkerson was the Adapting to Rising Tides intern. At Sonoma State University she studies geography, environmental studies and planning, with a focus on environmental systems and a minor in sustainability. Her greatest interests include restoration ecology and wildlife conservation.

She helped Jackie Mandoske with outreach for the Regional Shoreline Adaptation Plan, a long-term plan to protect communities, develop shoreline areas and natural ecosystems, enhance the resilience of the Bay and increase the region's adaptive capacities to sea level rise impacts.

She researched pop-up events across the Bay Area and evaluated community demographics and climate adaptation for those locations.

In addition, she researched table activities that engaged communities in the Plan's vision and goals, such as a collaborative mapping activity. She learned how to compare community values with different conditions and simplify a complicated issue like sea level rise for community engagement.

Her second summer project was supporting Todd Hallenbeck with data entry for the Shoreline Adaptation Project Map (SAPMAP). Over the last year BCDC has been helping lead regional data collection about shoreline adaptation projects, which is used in regional analysis and will be used in the RSAP. Her task was updating new and existing projects to ensure the highest quality of data. She also communicated with our partners about project duplicates and shared updated project details.

She also edited the Racial Equity Action Plan (REAP) introduction and wrote a blog post for BCDC.

Her summer highlight was taking a last-minute trip to UC Davis with Jackie to attend a policy clinic. She loved listening to each group's impressive presentation and learning about different agencies.

Taleen Cochran was the GIS intern working under Todd Hallenbeck. She is a rising senior at UC Berkeley studying environmental engineering science. She chose this major because she is really interested in the roles technology and engineering can play in environmental efforts.

Her first project was updating the Bay Resources Assessment Tool (BayRAT) with recently approved permits. BayRAT is an internal web map that displays permit and jurisdiction information. She added additional permits and helped fill in information gaps for some of the older ones.

A second project she worked on was the Bay Fill Mapping Initiative. The goal of this project is to keep track of past permits that involve major amounts of fill. It will give the BCDC more jurisdictional insight into these areas and enforce the fact that once Bay, always Bay. She researched past permits that involved extensive fill to incorporate into this project. Once completed, we hope to create a map using this information that will clearly demonstrate jurisdictional areas and help close this information gap.

She also worked on several smaller projects. She helped update the CBO Directory with Ali with new organizations and up-to-date contact information. This involved a lot of Instagram and Facebook stalking, which we both excelled at. Additionally, I went on a site visit to Vallejo with Tony. During my time there I got to explore segments of the Bay Train in the area, showing the photos on the right.

Olivia Reid was the Records intern. She is a rising junior at Syracuse University where she is majoring in policy studies with a minor in business. Her main interest is in sustainable development, specifically in the ways government can both promote and implement such development to meet the needs of current and future generations.

Her main project was to digitize and catalog the Claims of Exemption records. The Claims of Exemptions occur when actors are not required to receive a BCDC permit because they had a vested right in the project at the time the Commission gained jurisdiction. Vested right meaning existing uses or another grandfathered provision. The majority of these records are from the 1925 to 1975 period, so it is very important to digitize these files as soon as possible to avoid the decomposition of documents as they age.

A critical part of the digitization process is ensuring that all documents meet the standards of Section 508 of the Rehabilitation Act. This guarantees equal access to these documents for those with disabilities, whether these individuals are members of the public or current and future BCDC employees. Not only does this process increase access, but it also allows the files to be substantially easier to navigate.

Oftentimes, staff members such as the Legal Team need to look through these files with hundreds of pages to find a very specific document. To make this process as efficient as possible I created very specific metadata outlining the most commonly searched for documents and words in each file. To complete this process, I uploaded documents to 1DocStop, our internal archive, for staff members to access.

She participated in updating all of BCDC's retention schedules.

She created a post for the BCDC Twitter account, which contains a short introduction to each of our five interns here, while shouting out this Commission meeting.

Next, we just want to take a moment to reflect on our favorite parts of this internship.

First off, we all greatly enjoyed our recent BCDC staff retreat. It was extremely interesting to learn about the ferry service and how they are transitioning to electric boats and lowering emissions.

We were also able to attend two Commission meetings which allowed us to see the work done behind the scenes at BCDC really come to fruition.

We had a lot of great opportunities to bond as an intern group. One of our favorite things to do in-office was to walk down a few blocks to have our lunch on the Embarcadero. We got to know each other a little bit better and take in the gorgeous view of the Bay. We were also fortunate to go on a field visit to the Alviso Salt Marsh to take a guided boat tour. This was a great experience to learn more about the Bay and we would all definitely recommend this tour if you ever have the chance.

Ava Hawkins noted: They, interns, were provided with a range of professional development opportunities that furthered their personal career aspirations and gave them meaningful insight into the different career paths they may wish to pursue. They had four meetings with Commissioners and two CNRA staffers.

Larry generously helped them review and revise their résumés so they could confidently leave this internship with polished versions. Each of them also wrote a short elevator pitch explaining the work that we did over the summer and why it was meaningful to us.

Finally, various members of the BCDC staff were kind enough to spare time from their busy schedules to have one-on-one coffee chats with us. Much like the meet and greets, these conversations gave us all a useful insight into the work that is being done at BCDC and what type of careers we may be interested in. Everyone was always extremely friendly and willing to extend any help that they could in our future endeavors.

Alessandra Mohar wanted to share what they really appreciate about this program. The various professional development opportunities make this internship program unique. Like Ava mentioned, the meet and greets allowed us to connect with a diverse group of people who offered different career advice and life skills. The résumé building one-on-ones with Larry will serve us beyond this summer and we all had a fun time chatting with him. We are grateful that we had the opportunity to host weekly intern meetings at our own discretion and get lunch together. We even checked out the ferry birthday in July. Lastly, BCDC trainings in various departments including records, permits and the overview of BCDC's history helped them better understand BCDC's different roles.

Taleen Cochran stated they had several recommendations for the program in the future. Firstly, we think it would be beneficial to have overviews and BCDC trainings earlier in the program. This would allow interns to come into the program well rounded in background information about the BCDC which could help them with their projects in the future.

Our second recommendation stems from our collective positive experiences with site visits. We think incorporating more offsite opportunities allows for more variety and experience and education and keeps interns engaged when they get to see the impact the BCDC has in person.

Finally, we think check-ins should be conducted more frequently. Most of us met with our advisors once a week, but we believe two to three times per week would be ideal given the mostly virtual environment. This would allow future interns to communicate with their leads more efficiently and keep them on top of their projects. It would also help with providing more alternative projects to work on when primary projects are completed.

Roxanne Wilkerson added: We are all grateful for the opportunity to be BCDC interns this summer. Our experiences here helped us to find professional goals for ourselves and enabled us to contribute to climate solutions throughout the Bay Area community. Thank you to everyone at BCDC and those involved in making this program so purposeful and inclusive.

Chair Wasserman: Thank you all very much, virtually visually, distantly.

I would just make one comment. This is a terrific program. I praise our staff for both instituting it and conducting it. As we are all going about our busy and complex lives and doing important things in different ways with most of our time, probably not every moment. Helping to train our future generations is absolutely critical to the success of what we are all trying to do. This is a wonderful program, and I am sure we will continue it.

Commissioner Gunther stated: I can see how successful it was because they were already telling Larry how to do it better, which shows that they listened to him and learned a lot.

Executive Director Goldzband added: And what not to do.

If I can just say one thing. I do not know how many of you were interns in previous lives. But for those of us who were interns and who basically got started because we were interns, I just think it is really important that we pay it back so that they can pay it forward; and that is why we are doing this.

They were very disappointed that they could not be here in person. We did invite them, and we will invite them to the December staff party, so, at least we will be able to see them again.

8. Commission Consideration of Legislation. Chair Wasserman stated: That brings us to Item 8, Consideration of Legislation. Deputy Executive Director Goldbeck will introduce the item.

Deputy Executive Director Goldbeck addressed the Commission: Thank you, Chair Wasserman. I have to say I started out at BCDC as an intern. So, I appreciate the chance I received then and want to wish our interns well as they start the flight of their careers.

You have before you a staff report dated August 25 on pending legislation. Today I am going to present a single bill that we are recommending for your approval, even though it is late in the session, and let you know the status of the bills that you have considered previously in the legislative session.

The bill is Senate Bill 544, *the Bagley-Keene Open Meeting Act Teleconferencing Bill* introduced by Senator John Laird. SB 544 recently passed out of Assembly Appropriations Committee and is now on the Assembly floor.

As most of you know, the Bagley-Keene Open Meeting Act ensures that state meetings, including Commission meetings, are open to the public to attend and participate.

Senate Bill 544 would amend the Bagley-Keene Act to ease some of the issues around remote attendance at state meetings. The bill would do that by removing current requirements to:

First, post agendas at each teleconference location.

Second, to identify on the agenda each teleconference location from which a member will be participating remotely.

And third, make every teleconference location accessible to the public to observe and provide testimony. This would no longer be required. In fact, the bill would prohibit the notice and agenda from disclosing information regarding remote locations.

On the other hand, the bill would require the state body to provide a way for the public to remotely attend the meeting or to attend in person.

State bodies conducting teleconference meetings would have to have a procedure for handling accessibility requests from individuals with disabilities in compliance with the Americans with Disabilities Act.

The public would continue to have the opportunity to address the state body and a member of the staff of the agency would need to be physically present at the location specified in the meeting notice.

The bill would require a majority of the members of that state body to be physically present at the same location for at least half of the meetings of the state body.

Any member of a state body attending remotely would have to disclose whether anyone else was present with them and the general nature of their relationship to them.

All votes taken during a teleconference meeting would be by roll call.

The meeting would have to be ended if the provisions for remote participation failed and could not be restored. We had some issues at the beginning of the meeting today.

The bill would not otherwise change the existing notice and agenda requirements.

Lastly, the bill would sunset on January 1, 2026.

Staff agrees with the finding in the bill that providing for remote attendance at state meetings has increased participation, both by the public and by those serving on public bodies. The bill's provisions would ease current impediments to remote attendance by Commissioners and staff recommends the Commission support SB 544.

That is the bill that we are recommending for approval. I would like to briefly update you on the status of bills that the Commission has considered in the current session.

First, Senate Bill 272, *Sea Level Rise Planning and Adaptation* is also by Senator Laird and on the Assembly floor. It would require local governments within BCDC's and the Coastal Commission's jurisdiction to prepare plans addressing rising sea level, for approval by either BCDC or the Coastal Commission as appropriate.

Next is SB 273, *Tidelands and Submerged Lands, City and County of San Francisco, Piers 30-32 Mixed-Use Development*, introduced by Senator Wiener. It would allow for replacement of Piers 30-32 along the San Francisco Waterfront and would allow a mixed-use development with non-trust uses.

BCDC would still consider a permit application for the project, but that consideration would not include whether there is an alternative upland location or whether it is water oriented. The legislature would make the finding of public trust consistency, predicated on the State Lands Commission making certain trust findings as provided in the bill.

When you considered it, the bill included a trust study in light of rising sea level and the need to fund adaptation efforts, in order to provide guiding principles for future projects proposed in the Bay. The study would be prepared by BCDC and State Lands. However, that provision was recently amended out of the bill in the Assembly Appropriations Committee. The Commission did not take a position on SB 273.

The last bill is AB 748, *California Abandoned and Derelict Commercial Vessel Program* by Assembly Member Villapudua. The bill has passed Senate Appropriations and is on the Senate floor. The bill would provide measures to address abandoned and derelict vessels in state waters, including San Francisco Bay. The Commission took a position of support on that bill.

By the way, all these bills are on the floor because September 8 is the last day to amend bills on the floor, committees can no longer meet. September 14 is the last day for each house to pass bills.

That completes my presentation. I am happy to answer any questions.

Chair Wasserman asked: Do we have comments from the public?

David Lewis commented: As Steve Goldbeck explained, the language that Chair Wasserman negotiated with Senator Wiener and the Port of San Francisco to add to this bill was stripped from the bill last Friday. You had extensive discussions about this bill and a project that it contemplates easing.

Earlier this year you established an ad hoc task force with several Commissioners on it to look at whether there was a possibility of improving the bill and reducing the extent to which it overrides BCDC's authority. It sets a bad precedent.

Save the Bay took a strong position that the Commission should oppose the bill. We are on record opposing the bill. Instead, you did not, as Steve summarized.

In part, the reason I think some Commissioners said that they were satisfied not opposing the bill is because of that additional language that was added. That is now gone. We always took the position that it was a pretty thin fig leaf that did not really hide the fact that for the third time on this particular site the legislature was overriding BCDC's authority to determine on its own whether a project was trust consistent or not.

There is now nothing in SB 273 to mitigate even slightly its gutting of BCDC's authority to do that. There is no requirement to study or recommend to the legislature any changes in statute or regulations to accommodate sea level rise resilience on public trust properties in the future, nor even the development of guiding principles with the State Lands Commission that Chair Wasserman sought.

So, because of the concerns that Commissioners raised in previous hearings on this bill, including at a very extensive hearing back in April, I hope that Commissioners will advocate for opposing this bill. It is late in the session. It has obviously been moving quickly and has the governor's support through communications from various members of the Administration.

Notwithstanding that, the bill erodes the Commission's jurisdiction and its authority. That is the reason that Save the Bay has strongly opposed it and testified against it. We have a special relationship and feel a special obligation to protect BCDC's jurisdiction and authority which needs to be expanded, not reduced, in light of sea level rise and all the work that you are doing.

So that is our recommendation. We encourage BCDC to oppose the bill on principle and hope that you will do that today. Thanks.

Chair Wasserman continued: Comments or questions from Commissioners? I would request that we do this in the order that Steve Goldbeck presented them so let's start with SB 544, the Laird bill, on changing the requirements on hybrid meetings. Comments or questions on that?

(No questions or comments were voiced.)

Mr. Goldbeck interjected: I would like to make the Staff Recommendation that the Commission support SB 544, *Bagley-Keene Open Meeting Act: teleconferencing*.

MOTION: Commissioner Showalter moved approval of the Staff Recommendation, seconded by Vice Chair Eisen.

VOTE: The motion carried with a vote of 14-0-2 with Commissioners Addiego, Ahn, Arreguin, Burt, Gorin, Gunther, Hasz, Lee, Peskin, Ramos, Showalter, Gilmore, Vice Chair Eisen and Chair Wasserman voting, "YES", no "NO" votes, and Commissioners Ambuehl and Pemberton voting "ABSTAIN".

Chair Wasserman asked: Does anybody wish to comment on the other bills? I see no comments. No action is required. Others may have comments, and I welcome them, but I want to make a couple comments on 273.

I am going to resist getting into a debate with David Lewis about fig leaves. The striking of the study was very disappointing, and I honestly do not know whether it was a result of some bad communication or the result of just sort of a knee-jerk budget constraint response.

I would note that there are some provisions in the bill that we requested that stay in there and I believe are important. One of them is very important and Steve noted it. That is expressly saying the bill does not reduce our other or change in any way our other permitting discretion on the bill.

It does affect the public trust issue and it does affect the no upland requirement and the maritime use requirement. There is no question that David Lewis is correct. It is a restriction on our authority, as has happened on this very difficult site twice before.

I do want to address the very important issue of the study. The fundamental purpose of the study is to avoid doing this kind of thing on a case-by-case basis where there is some potential, there is a potential issue that providing funds for adaptation can itself be considered a trust purpose that is not currently the state of affairs.

Staff and I have had discussions with State Lands Commission, with the Department of Natural Resources and with the Port of San Francisco and the developer. The funds that were going for that study did not require new authority from the legislature. They are existing funds within Natural Resources and in particular within OPC. We have been assured that those funds will be available. There was an initial estimate of cost of \$1 million by State Lands, that was reduced to \$750,000, that remains the same.

Although the lack of legislative endorsement of that is certainly disappointing, I think the fundamental basis on which we decided not to take a position remains, so I would urge us to do so. However, I welcome questions, comments, or motions. Anybody wish to comment?

Commissioner Peskin commented: One thing we could do is to at least express our concerns over the removal of said language. Short of taking a position in opposition but express our chagrin that said language was removed.

Chair Wasserman asked: If that is a motion, I would accept a second.

Commissioner Peskin replied: So moved.

Commissioner Addiego stated: I will second that motion.

Chair Wasserman noted: Moved by Commissioner Peskin, seconded by Commissioner Addiego. Any other comments or questions?

Commissioner Burt asked: Couldn't we instead provide support contingent on restoration of the language or is that too futile?

Chair Wasserman replied: We could do that, no question. I think there are two problems with doing so. One, I think there was a strong feeling on the Commission that even if everything was there, we did not actually want to take a position of support because we did not want to support reducing our authority. So, that would run a little bit afoul of that.

Second, I do not think there is any way to get that effectively done. There was a little bit of discussion about whether there are any mechanisms that could fight this, there may be a trailer bill, we could try to get it back in.

It is my opinion that given the commitments from the funding sources, and given the commitments from the two agencies to undertake the study, one being us and the other being State Lands, that we do not need to do that and that we should not spend the effort, the energy or the potential chits in trying to get it into a bill. We should simply get on with getting the funding going and getting the study going. But there are times when I am impatient.

Commissioner Burt continued his questioning: Will we get some kind of explanation as to why the language was struck from the bill?

Chair Wasserman replied: The explanation that was given to me by a member of Senator Weiner's staff, who made very clear this was not their action, they did not request or they did not support it, was the general feeling of fiscal constraint.

I do not want to imply in any way that that is inaccurate or misleading or anything else. There were some difficulties communicating to the staff of Appropriations how this was going to be funded. I will not get into the details of that. Whether that miscommunication bubbled over, I do not know.

I think it would have been much better, and therefore the motion on the table I think is fully appropriate, if the legislature endorsed the study. We do not actually need their endorsement. The funding is there, we can get it done. Any other questions or comments?

Vice Chair Eisen was recognized: I have two questions. One, and I am not sure who I am directing it to, anybody who feels they can help me understand this. It was brought up that if this bill passes that it sets a bad precedent. But I am trying to imagine what that looks like. Other projects that somebody would develop that they can get some legislator to help them, again, take the position that our public trust obligations do not exist with respect to that project? So that is question number one.

Question number two is, is there anything in this bill that obligates the developer to engage in some kind of offsetting measures, given that they are being allowed to do something that possibly they would not be allowed to do absent this bill? Build offices on the edge of the Bay, et cetera.

Or are we as a permitting agency still allowed to ask the permit seeker to take certain actions that would benefit the public trust elsewhere, somehow, given that they will not have to do so with respect to this particular project? I do not know if anybody knows the answer to either of those.

Chair Wasserman fielded this inquiry: I will take on the first one and I will make a comment on the second but others may wish to comment.

As David Lewis pointed out, precedent has already been set on this project. The legislature has twice acted to say there can be developments that do not meet or do not necessarily meet public trust, so this is not the groundbreaking one.

The concern, of course, is we do not want to see a lot of these. We certainly do not want to see a lot of these one by one, which is one of the reasons for the study. But this standing on its own is not really precedent setting. This is acknowledging this is a very, very difficult site.

On the second, I do not know how much legally we can take it into account when the project comes to us for approval as it will have to. But certainly, there are mitigation and other issues that as we standardly do we can apply and I think we can weigh things, but there may be some legal limitations on that.

We do have a different issue. We are advised by legal counsel, appropriately, as much as I hate to admit it, that we probably cannot take a vote on this because it actually was not agendized. The only bill specifically mentioned was 544 and there was not savings language as there occasionally is to allow us. I hope it is all going to be done by October.

Mr. Goldbeck chimed in: If I may say, Chair Wasserman, to answer Vice Chair Eisen's question on the second part. The development does have other items like maritime facilities for berthing at the east end, which is a deepwater berth for cruise, ceremonial or military emergency response ships.

And there are other measures, which I do not have at the top of my head, that they are going to provide, like an aquatic facility and such. Of course, we will be looking at public access. The proposal has public access on the site proposed. Of course, that is one of the things we will be looking at as we look at the project. You were just asking what some of the other features of the project were, I wanted to say there are some other ones, I may have missed others.

Chair Wasserman added: My suggestion given the agendizing Bagley-Keene problem is if the maker and seconder would withdraw, that we request staff to express those concerns to the appropriate legislative bodies as a message from the Commission to staff to the legislature. Rather than the formal motion, which is unlikely to but could embroil us in unnecessary litigation. I do not remember this because I have been retired from law for a month, but I have a vague recollection that some people are litigious.

Commissioner Peskin stated: While the risks of litigation I think are slim, I will withdraw the motion and do hereby encourage staff to express the sentiments that I expressed.

Chair Wasserman asked: And you concur as the seconder?

Commissioner Addiego replied: I remove my second.

Chair Wasserman acknowledged: You concur, thank you.

Commissioner Peskin noted: Chair Wasserman, I will note for the record that you and I and Director Goldzband undertook a laborious, time-consuming set of meetings with the Port of San Francisco. All of this was really predicated on that language, which was really a compromise on at least this Commissioner's part. Larry, you hear the sentiments that I think staff should appropriately address.

Executive Director Goldzband confirmed: Loud and clear.

Chair Wasserman announced: That concludes the legislative item.

11. Briefing on Oyster Point Compliance. Chair Wasserman stated: That brings us to Item 11, a briefing on Oyster Point compliance, important to a number of people in the audience as well as to the Commission and the staff. We will have a briefing on BCDC liveaboard policies and an update on the Oyster Cove Marina liveaboard compliance issue. Erik Buehmann, our Long-Range Planning Manager will apparently start the presentation.

Long-Range Planning Manager Buehmann addressed the Commission: Thank you, Chair Wasserman and Commissioners. I am Erik Buehmann, I am the Long-Range Planning Manager at BCDC.

Since the Oyster Point Marina relocation issue came up last year, and even before that with the settlement agreements related to anchor-outs in Richardson Bay, there has been some interest by the Commission and the public in the Commission's liveaboard boat policies in the San Francisco Bay Plan.

Today we are providing an overview of this issue, beginning with an overview of the McAteer-Petris Act and how it treats residential uses in the Bay. I will go over briefly the concept of the public trust because it is important to understand both to understand the McAteer-Petris Act requirements and the background of the Bay plan policies. I will go over the recreation policies in the Bay Plan that relate to liveaboard boats. And then we will briefly discuss BCDC staff recommendation on whether the Bay Plan should be amended to address liveaboard boats.

First, some history. By the middle of the 20th century, the Bay was experiencing a tragedy of the commons. As municipalities around the bay were competing with one another to fill the Bay for a number of different uses, office, trash disposal, but also importantly, for housing.

Public awareness of the impacts from filling the Bay increased, catalyzed by large-scale controversial proposals such as the infamous Reber Plan, a plan to fill the Emeryville Crescent to create islands of residential communities. And in particular the West Bay Plan, which proposed to bulldoze half the San Bruno Mountain and fill the Bay for a sprawling residential development.

Kay Kerr, Sylvia McLaughlin and Esther Gulick formed Save the Bay in 1961 to protect the Bay. As a result of their grassroots efforts, the McAteer-Petris Act created BCDC in 1965.

That background is important to understand the requirements and goals of the McAteer-Petris Act. The Act has a number of requirements that must be met for the Commission to authorize fill in the Bay. Most importantly for our discussion, the fill must be for a water-oriented use. It must be the minimum fill necessary and have no alternative upland location.

What is a water-oriented use? It is not housing. It is not office. It is not trash. Those are uses inherently that have an alternative upland location. A water-oriented use should be a use that must be on the water.

Some examples include marinas, port facilities, habitat restoration. In this way, the McAteer-Petris Act establishes that residential uses should be located in upland and infill areas and should not be developed in the San Francisco Bay.

You can even think of the McAteer-Petris Act as a type of very early anti-sprawl statute intending to reserve fill for water-oriented uses and to stop the uncontrolled filling of the Bay for residential uses and office and garbage.

The McAteer-Petris Act is an expression of the public trust, a legal concept that has its roots in ancient Rome. Basically, the public trust is a common law idea that the public owns certain interests and rights to navigable waterways.

The public trust evolves over time. As it originally developed, it was concerned with protecting the right to shipping or fishing in a waterway. Today it is broadened to include recreation uses and wildlife restoration and protection.

The State Lands Commission has jurisdiction over ungranted tidelands and administers the state's interest in tidelands granted to local governments to act as trustee and ensure these properties are used in compliance with the public trust and legislative grants.

The public trust ensures that no one can truly own the Bay, except for the people of the state of California. And whenever it is developed, its use is subject to public trust principles for the benefit of the public.

You can see how this conflicts with the idea of private property ownership, particularly for residential uses. For example, one of the important bundle of rights you have when you own property is the right to exclude, the right to control. But that can conflict with the public's right to public trust land.

In addition, once residential development is built, we should consider that it will be there indefinitely, all things being equal. As a result, residential uses and general office uses are not consistent with the public trust. The McAteer-Petris Act reflects the public trust by requiring fill be used for water-oriented use or public access to the Bay.

As you know, unlike some other types of plans, the Bay Plan is incorporated into the McAteer-Petris Act requirements. It is more than a regulation. When I talk about policies in the Bay Plan I am talking about regulations. They have the power of law in a lot of ways.

BCDC cannot approve a permit for a project that is not consistent with the Bay Plan. Amending the Bay Plan is a quasi-legislative action. It is in a sense a change to BCDC's regulations; however, it goes further than that because amending the Plan is so significant that the McAteer-Petris Act requires a two-thirds vote of the Commission, the full Commission, except for less significant map changes, to do an amendment to the Bay Plan.

The San Francisco Bay Plan includes findings and policies on the public trust, I have put them here. As you can see, these policies underline how the Commission permits development and approaches other policies in the Bay Plan.

I go through this background because it is important to understand the principles that underline the Commission's policies on liveaboard boats.

BCDC's regulations define liveaboard boats as a boat that is not a transient boat, that is capable of being used for active self-propelled navigation and that is occupied as a residence under the state's definition of a residence. This differentiates it from a houseboat under the Commission's definition, which is not capable of self-propelled navigation.

The Bay Plan includes policies on liveaboard boats in the recreation policies. The recreation policies include many other policies on waterfront parks, marinas, small boat launches, beaches and other water-related recreational activities.

The liveaboard boat policies are in a subset of policies related to development and use of recreational marinas. They were first adopted around 1985. The result of an extensive study and policy review by the Commission around the time that the Commission was grappling with how BCDC should treat existing houseboat marinas and other anchor-out issues, primarily in Richardson Bay.

The liveaboard boat policies state that the liveaboards should be allowed only if the number of boats does not exceed ten percent of the authorized berths in a recreational marina. That ten percent can be increased if the applicant can clearly find that the increase is necessary to provide security or other use incidental to the marina use.

The findings on these policy state: Although residential use is either a water-oriented or a public trust use liveaboard boats can be converted easily to a navigable recreational use; and when properly located within a recreational boat marina, can provide a degree of security to the marina.

The Commission provided for a limited exception to residential uses in the Bay for liveaboard boats for security purposes. The eyes on the dock from residents at the marina provide a security benefit to the public trust recreational marina use. The policies are intended to encourage and strengthen that public trust use, the recreational use. As you can see, any increase in the percentage has to be justified based on a need that exists to support that recreational marina use.

In the past, it has been suggested that the Commission should increase the liveaboard exception greater than ten percent to accommodate affordable housing. But affordable housing does not promote or further recreational marine use. It is not something that contributes to the public trust use. As a result, the Commission would not have a justification to increase the liveaboard amount for that purpose.

Liveaboard boats can have an adverse impact on Bay resources in the public use of the shoreline if not accommodated appropriately. There are additional policies that I have not included in the slide that also provide for a number of other requirements related to toilets, showers, pump-outs, water circulation, and to ensure liveaboard boats are distributed throughout the marina to ensure a security benefit.

In permits for marinas that authorize liveaboard berths BCDC includes special conditions to ensure there is adequate parking and that the presence of liveaboards does not impact public access.

Finally, I want to address a suggestion that has been raised a number of times in different contexts, that the Commission should look into reviewing and revising the policies related to liveaboard boats, in particular to accommodate affordable housing or to accommodate liveaboard boaters who have been displaced by closing marinas.

Review of the liveaboard policies would require a comprehensive review of the recreation policies in the Bay Plan. This is because these policies are integrally linked to supporting the recreational marina use, a public trust use.

We do not know how modification of those policies would impact recreational facilities, and in particular, recreational marinas and boating around the Bay. It is not the type of issue where a ten percent liveaboard boat exception can be modified in a vacuum. Even if it was, it would still require a significant amount of research and outreach to different marinas around the Bay.

BCDC does not typically enter into policy amendment processes with a specific outcome preordained. Rather, as environmental justice and equity policies in the Bay Plan make clear, we must engage in a real honest planning process with substantial background research, community engagement, and the outcome of that sort of process is inherently uncertain, even when it is entered into with a general goal in mind.

The Commission would have to initiate Bay Plan Amendment to conduct that review. That planning process would take two to three years and would probably require about two to three staff members to accomplish. This is one of the meatier policy sections of the Bay Plan.

If you recall, in my long-range planning presentation way back in January, BCDC's long-range planning staff has limited staff and resources and is already stretched thin. We are still trying to complete processes that were begun all the way back in 2017 and 2019 that were delayed for one reason or another, such as the Seaport Plan overhaul. There is no funding or staff available to review these policies right now.

And importantly, the Bay Adapt Regional Shrine Adaptation Plan, including the guidelines developed over this next year, will force us to look at our plans and procedures in a new way and could result in significant long-range planning changes to the Bay Plan policies. Long-range Planning staff have already begun to position ourselves for that moment, and shifting priorities to the recreation policies will seriously hamper this effort.

Affordable housing should be an important goal for everyone in the Bay Area. It is critical. However, the McAteer-Petris Act is clear that residential uses should not be located in the Bay, they should be located in upland areas.

In the past, local governments have looked to the Bay for housing, and the McAteer-Petris Act was passed in part to stop that. Since the use of the Bay for residential uses is simply not allowed by the McAteer-Petris Act, BCDC staff recommend that the Commission not prioritize revisiting the liveaboard boat policies at this time.

I want to end, though, by acknowledging that there are a number of liveaboard boaters who will be disappointed by this recommendation. When I first started at BCDC, I was the analyst assigned to the closure and redevelopment of Pete's Harbor over 10 years ago, which was a marina in Redwood City filled with liveaboard boaters who were all displaced. And I and other staff have spent many hours listening to liveaboard boaters, hearing about the difficulties they often face, and so I do not make this presentation lightly.

BCDC has been open to creative solutions to issues related to liveaboards. Examples include collaborating with local governments and other agencies on regulatory and enforcement solutions to relocate the Oyster Point or Oyster Cove liveaboards and creating regulatory mechanisms and a settlement agreement to relocate anchor-outs in Richardson Bay. And we will continue to be open to these creative solutions.

Thank you and that concludes my presentation. No action is required based on my presentation.

Compliance Officer Creech addressed the Commission: Thank you very much, Erik. Thank you very much, Chairman Wasserman. Good afternoon, Commissioners. My name is John Creech, and I am on your Compliance Team. I am here today to give you a brief update on the Oyster Point Marina compliance issue. I will then introduce Nell Selander of the city of South San Francisco to brief you on their efforts to reach full compliance.

Here is a quick overview to get you oriented. As you can see, Oyster Cove and Oyster Point Marinas are located in South San Francisco, San Mateo County. As their names indicate, they are both marinas as opposed to anchorages.

There are several distinctions that differentiate an anchorage from a marina. A marina, as pictured above, often has assigned berths that a boater can rent at the marina's discretion. A marina also often has utilities and amenities such as water, power, pump-out services, restrooms, et cetera. An anchorage, as pictured on the bottom photo, on the other hand, is supposed to be free, temporary and does not offer any services.

As this map helps to illustrate, Oyster Cove and Oyster Point Marinas are very close to one another. Oyster Cove Marina, to the northwest of Oyster Point Marina, was purchased by a private developer. They indicated that they wish to cease operations as a marina and informed all boaters that there would no longer be slips for them by the end of October 2022.

Oyster Point Marina to the east is owned by the city of South San Francisco and operated by the San Mateo Harbor District. As you probably remember hearing from public comments, many boaters at Oyster Cove Marina expressed concern that they would have nowhere to relocate upon the closure of Oyster Cove Marina.

In a letter dated September 29, 2022, BCDC's Executive Director Goldzband informed co-permittees San Mateo County Harbor District and the City of South San Francisco that BCDC would temporarily allow for an increase of liveaboards at Oyster Point Marina in order to accommodate the boaters who were to be evicted from Oyster Cove Marina.

To accomplish this, BCDC informed the co-permittees that BCDC would forego any enforcement proceedings for the course of one year to allow the City sufficient time to help the relocated boaters find permanent housing options for any liveaboards over the ten percent limit. In this case, 40 slips established in the Bay Plan and in their permit.

On October 26, 2022, the city of South San Francisco and San Mateo County Harbor District responded to our letter and committed to providing monthly progress updates to staff to help residents find alternative permanent housing with help of an organization that specializes in relocation and to reach full compliance with all permit and all liveaboard policies by October 31, 2023.

Oyster Cove Marina's listed date of eviction was October 31, 2022. BCDC felt it would be appropriate to provide boaters and permittees one year from the date of eviction to reach full compliance.

Forty-six boaters moved from Oyster Cove to Oyster Point Marina; 15 of those were registered as liveaboards and 31 as recreational vessels. In their most recent update, the city of South San Francisco informed us that of the 46 there are currently 14 remaining active cases of boaters seeking permanent housing, whether that is upland housing or permanent liveaboard slips at Oyster Point Marina or elsewhere. They are confident that they will achieve full compliance by October 31 of this year.

Thank you very much and please let me introduce Nell Selander, the Director of Economic and Community Development of the city of South San Francisco.

Ms. Selander addressed the Commission: Good afternoon, Nell Selander here with the city of South San Francisco.

John has already given you the context here, but this is just zooming into Oyster Cove and Oyster Point. To highlight, Oyster Cove is privately owned; Oyster Point is publicly owned by the City, operated by the Harbor District.

We have been working very, very closely with Jim Pruett who is the Executive Director of the Harbor District and James Smith who is the harbormaster there on the relocation of boaters that moved temporarily from Oyster Cove to Oyster Point.

As a bit of background, which John already went over, but I do want to highlight because there are a couple of discrepancies between his presentation and ours just based on recent movement of boaters.

Following BCDC staff's relaxation of enforcement of the ten percent liveaboard cap at Oyster Point Marina in late September or early October 2022, at the end of the day, so like as of last month, 48 boaters have actually moved. Not all of them are liveaboards, many of them were recreational. We were keeping track of them because we wanted to make sure that we knew who the Oyster Point Marina was taking in from Oyster Cove. So, 48 boaters in total have moved. Many of them not liveaboards, they are simply recreational boaters that took the expedited access to move over.

The City must also update BCDC monthly so we have been doing that, keeping your staff abreast of our progress in relocating these boaters.

The City contracted with OakBrook; they are an experienced relocation firm. We really did not feel like we could handle this internally, it requires a lot of case management.

OakBrook noticed by placing notices physically on the boats that moved, of their services. We held a preliminary community meeting in late February to meet folks in person. The City attended, the Harbor District attended, as did OakBrook.

At the end of the day, OakBrook received word from 24 boaters that they needed assistance either finding liveaboard slips elsewhere or moving upland.

This is more than the number of live aboard agreements with the Harbor District, mostly because there are a lot of folks that were precariously housed to begin with that moved, right. They maybe were not in a formal liveaboard agreement at Oyster Cove and that has perpetuated at Oyster Point.

Oyster Point obviously has much more enforcement activities and many of these folks live at different marinas throughout the Bay on different evenings or maybe stay in a hotel or a vehicle and were really in need of support in finding housing. We included them all if they asked for help.

Of those seeking housing assistance, only about 15 percent really wanted to stay on their boats. I think this really highlights how affordability really came to play in this move from Oyster Cove to Oyster Point.

Eighty-five percent of them really did want to be in stable housing upland. Most were extremely low income, so making less than 30 percent of the area median income and two-thirds are seniors. There were also a couple children, dependent minors, one of which has now been enrolled in school. One was already in school and the other had to be enrolled in school, so that was also a big upside to engaging a relocation consultant that could really build trust with this community. Many were connected with CalFresh benefits and other supportive services.

Success to date: OakBrook took the initiative and responded to the county of San Mateo that had a request for proposals out for provider-based rental assistance vouchers. These are federal housing vouchers; they last for five years. They will basically pay almost all of a tenant's rent. The tenant pays only 30 percent of their income and the voucher picks up the balance of whatever the contract rent is up to the federal government's limit on a contract rent.

Thirteen of the boaters, as John mentioned, there are 14 remaining. Yes, 14 remaining. Ten of the ones that are remaining will get these vouchers, three have already been placed into stable housing. OakBrook anticipates moving of the remaining 10, 6 into permanent housing this month and 4 into permanent housing next month. As you might expect, many of these boaters cannot even afford a security deposit and so they are availing themselves of rental assistance that is made available through the County and through the City through our local YMCA. So, a lot of assistance coming to bear to move these folks into stable housing. OakBrook will case manage them through the five years of their vouchers to try to get them into more secure and subsidized housing at the end of those five years.

Four boaters are seeking liveaboard slips elsewhere. OakBrook through the contract has provided, I am going to get the term wrong in a roomful of folks that know a lot more than me about boats. They need to do surveys of the boats in order to qualify them for marinas elsewhere to make sure the boats are seaworthy and can pass muster at these other marinas.

We have been able to provide that assistance and a lot of coaching and application support in making applications at other marinas for those liveaboard boaters, those folks that want to stay on their boats.

Our next steps are really just the City is continuing to support OakBrook trying to make those connections. If they run into a barrier we help to facilitate. Maybe it is another jurisdiction with a marina and we can knock on their door sort of staff to staff and say, hey, can you pay attention to our consultant, we are really trying to make this last push to get these boaters moved to stable housing.

We are also working really closely with the Harbor District to make plans for what if we get to the end of October and there is still a boater or two that is not out?

In advance of that, this month we will be making those overtures to boaters that are not making real progress or really working in good faith with OakBrook and let them know, hey, this is sort of what the end of this looks like. We really need to be in compliance. So we are making those plans now and staying in close touch with the Harbor District.

The next slide is just my contact information and I am happy to answer any questions.

Chair Wasserman acknowledged: Thank you very much.

I have one card up here. Matt Klein, you have three minutes.

Matt Klein spoke: I was here a year ago. I was very happy to see that when we were evicted in a very sneaky way out of Oyster Cove Marina, all of the people. We had 34 residents there. Part of the reason we had 34 there is it was a 219-slip marina. Ten percent, 21, 22. Thirty-four. Because of Dog Town, because of Pete's Harbor. These people were brought in. A lot of our people gave up voluntarily their liveaboard status to the marina harbormaster in order to allow those people in.

Development. Bay Conservation Development Commission. You guys, man, are you guys busy. You do a lot of work. I have been really impressed. Both times that I have been in here, every time I have been on the web watching. You guys are busy. The Bay Conservation Development Commission does not have the time to consider whether raising the liveaboard allowance to 25 percent is possible because they just can't, they don't have the staff, they don't have the time. I believe that.

The fact is, this is housing. Those boats are already there in the marina. It is a three-day allowable, all right. You have got an enforcement division here, I don't know who does it. The housing is there. You mentioned something about building housing on the Bay. You are not going to be building housing, it's there. These are the vessel owners. We do not want it commodified into rental units. We want it to be our vessels that we live on.

The waiting list at Oyster Point Marina, and I have spoken to the Harbor Master. Just asked him, how long is it. They were a little miffed that we were put in there because they really care about the residents, the people. The residents and their slip holders and the people on the waiting list. We had to jump over them to be allowed in there because we are evicted because of development.

In South San Francisco development is fantastic. It brings tax base. It brings money to the City. It is fantastic. It displaced us for no good reason. There will be slips in that marina with boats in them, you know, vessels, but we won't be able to live there.

Bring it up to 25 percent. You don't need to do a study. If you do need to do a study let us know what you need to study, we'll figure it out.

I live on a boat. I've gone over. Can you still hear me? Thank you. I live on a boat. I work in the marine industry. I fix concrete hulls out at Sausalito. I was talking to one of the guys at List Marine, Hans List. He's second generation. They tried to build housing over at the Marin Ship that got shut down, thank God. He lives on a boat. He couldn't afford to work here if he didn't live on his boat. He provides a service. It is part of the culture. It is part of us. Come on guys, 25 percent is no skin off of you, no problem. Or unlimited. Thank you.

Chair Wasserman continued: Thank you sir, your time is up. Any other comments from the public?

Alison Madden addressed the Commission: I want to second what Matt said but I also want to say I know Mr. Buehmann is very dedicated to the proposition that he put forward. But something that was missing in 1985, it is missing now, it has been missing all along, is that no one really goes and looks into how liveaboard boaters serve the public trust. It is in so many ways. It is absolutely true.

He cited fill in the Bay from the very beginning of the McAteer-Petris Act and that is incredibly important. They were talking about making infill and actual large, physical, residential developments and commercial and residential developments on the Bay. Right now, as we know, with sea level rise there is going to be some inundation and it is going to overflow private title, so a lot of this discussion is going to change. And it has even changed in the last ten years.

But in a marina, the Public Resources Code provides for the public trust. Nowhere in there, and no judicial decision has ever said, that living on a boat in a marina is an improper residential use. When you are looking at the marina context, it is already a commercial endeavor. It is a mixed-use commercial and recreational offering. To say that the people living there, oh, that is residential, that individual boat slip is residential, overlooks that whatever the 10 percent, 20, 25 percent, that community serves the public trust.

I sent an email, it's long, but I bolded the headings. This does not need to be tied to the Recreation Policy, so I disagree that you have to revisit all of your recreation policies. We should have the staff. We have been asking for a public process for not just the last year but for longer.

I also want to say Nell Selander did a great job. South City did a great job. The number of people that want to stay and go upland, that is because they would have to move their boat to the Delta. Of course, they want to stay. Community is there. People lived there 20 years. And a lot of people on these displacement situations, a huge percent flee right away and find the slips that are available. And I can't blame them. That will be in San Rafael or Sausalito or wherever. So that is why those slips aren't available now.

It is absolutely something that can be done, cutting through bureaucracy to say, hey, if we have seen in the past that we had the authority to make it 10 percent, which by the way, at the beginning it was 10 percent houseboats and liveaboards weren't restricted. It wasn't restricted to safety and security. And there are so many ways, please read my email. It goes over default apprenticeship, people learning marine skills, marine electrician, cleaning the creek, having all kinds of events that bring people down to the water, being a liaison. Almost every liveaboard has a recreational sailboat or power boat so you need to look beyond. Thank you.

Yzobel commented: I want to I agree with what Matt was saying and Alison.

I do want to mention, however, that losing, for me, losing my liveaboard status was not voluntary, it was forced on me. I was told that this new thing called extended stay would cover the same thing. I did not know I was being finagled out of something that later on would prove to be crucial and I know for a fact that I am not the only one to whom this happened.

So, a lot of people that lived there, just flying under a different flag, had no clue that this liveaboard thing was going to be so important. So, there were more liveaboards than there were official, on-paper liveaboards, that's number one.

The other thing I wanted to mention is that the initial bid was to create housing on the land there and that got shot down I believe by Genentech. So now it is all business. And take a look for yourself. These buildings are monstrous. The wind is picking up more and more severely with every building that goes up. It is going to be a hurricane before we know it. So, it is becoming less and less even possible to even go for a nice walk there.

The other thing I wanted to say was that I disagree with what was said that it doesn't make the marinas better, it does. It has been proven that it is safer when there are people there 24/7. There is less need for security guards. The community looks out for each other and other boats and actually saves lives.

From what I understood, the initial reason for the limit was overboard dumping, which is not an issue anymore since everyone has the facilities which can be yearly checked to see if they are up to par so that they can use a pump-out. So, there is no reason to not up it to 25 percent, especially since it has a very, living on a boat has a very low environmental impact, much lower than upland housing.

And lastly, I want to mention that if the definition of houseboat is that it does not have self-propulsion, then by that definition, boats that do have self-propulsion should not be called houseboats and not be excluded. A cow is an animal, but not every animal is a cow. Thank you very much for listening. And I want to thank the City. The City has been stellar. The City has saved our lives. Thank you.

Chair Wasserman acknowledged: Thank you very much.

That concludes the public speakers?

Ms. Ragunathan noted: There are no more hands raised.

Chair Wasserman continued: Comments or questions by Commissioners.
Commissioner John-Baptiste.

Commissioner John-Baptiste was recognized: Thank you, Chair Wasserman. First of all, I just want to appreciate the efforts of the staff, both from the city of South San Francisco as well as BCDC to take care of the folks who have been impacted here.

I am new to understanding all of the intricacies of BCDC so forgive me if I am just needing to come up to speed. I have some questions around how BCDC has articulated its commitment to equity and how that intersects with some of the constraints of the Bay Plan and the McAteer-Petris Act.

I understand the need to hold the distinction between the public trust and sort of privatizing the public trust in the form of housing.

I also see that we are living in an era where climate, lack of housing and economic insecurity are the three greatest threats to our communities. What that means is that none of us gets to avoid those dynamics. While BCDC is not a housing agency, we cannot ignore the fact that so many of our neighbors are on the edge of being homeless and none of us wants to contribute to that.

So I am hoping you can speak to, just from a principle standpoint, where the agency stands on the question of doing no harm within the constraints that you hold, how you think about in the longer term grappling with some of the contradictory application of the principles in the Bay Plan because we do have privatized use of public trust. We do have folks living on the Bay. So, we cannot really say that there is no residential use that has ever been permitted. So, if you could just give me a little bit of that context that would be helpful, I'd appreciate it.

Chair Wasserman announced: Just a moment before you do that. We are going into Committee of the Whole so that we can continue the discussion lawfully since we either have or are about to lose the quorum.

Mr. Buehmann fielded this inquiry: That is a really big question. I will start with the EJ and Equity policies. The way we use those policies, it has to be used in light of the McAteer-Petris Act, right. The McAteer-Petris Act is sort of the roots of the tree and all the policies in the Bay Plan are the tree. Anything you do in the Bay Plan has to be done through that lens of the McAteer-Petris Act.

It does not rewrite the McAteer-Petris Act so it changes our authority so that we can do different things that the McAteer-Petris Act does not allow us to do based on environmental justice or equity principles, we can only do what we are allowed to do under the McAteer-Petris Act. I do not know if that is a really satisfying answer, but it is sort of.

Part of why we have been trying to be open minded about how we managed liveaboards in the past, anchor-outs, houseboats going back to the 1980s, has been to try to crack that nut or trying to solve that problem in a way that is consistent with the McAteer-Petris Act but is trying to be creative, trying to do stuff that we would not normally do to help resolve those issues, to reduce that kind of pain that can happen. I do not know if that is really, I don't know if somebody from senior staff wants to hop in for that.

Executive Director Goldzband added: Two things, two responses. It is a great question. During the two or so years in which the EJ Working Group was starting and dealing with how we were going to incorporate environmental justice in the Bay Plan it was basically decided, and decided by the Commission, that the best way for us to do that is to ensure that that which comes to us has already been vetted.

So that is why you see in the environmental justice portion of the Bay Plan the requirement that local discretionary permits have essentially passed muster with the guidelines, with the principles that are the beginning of the EJ part of the Bay Plan; and that complies with the McAteer-Petris Act.

That being said, I think the better analogy here actually is what we have done with Richardson Bay. The members of the Commission who have been here the past four or five years know the struggle that we had with the Richardson Bay Regional Authority and the city of Sausalito in order to clear up the basically unacceptable liveaboard problem in Richardson Bay.

What essentially has happened is that BCDC has worked very closely with the local cities and counties to ensure that they have made available and will continue to make available the same type of, indeed probably even more, of the types of assistance that the city of South San Francisco has offered. It may be the same because I have not seen the list now of exactly what you have done but it is to the point at which Steve Goldbeck our Deputy Director is on regular

calls with Senator McGuire's staff, and City staff and County staff and RBRA staff to make sure that the upland locations are available to people who are on the water and, candidly, should not be on the water because that is dangerous to themselves and others.

So that is how BCDC has interpreted this. BCDC, it has been said, and staff will say, is not a housing agency. We have no authority to be a housing agency. So, what we do is we make sure that we work with those housing agencies and with the departments on land to move people from where they should not be to where they should be. I hope that helps.

Chair Wasserman chimed in: There may be other comments. I am going to take Chairman's prerogative for a moment because I need to step out at 4:00 o'clock and I do have several comments.

One, I want to join in the compliments to South San Francisco and the agencies that you have brought together. In my experience, we do not often see as much properly aggressive and proactive actions to respond to our enforcement, or in this case really compliance, it did not go to enforcement, activities.

I also think, although I recognize it is a special situation and in some ways a small situation, the kind of cooperation and outreach to a variety of agencies that has happened is a very good example for other areas of our housing problem, not on the water. So, I thank you very much for all of that.

I also want to thank staff for their work and I want to agree with their ultimate conclusion and then I want to disagree with them a bunch.

We do not have the staff resources to deal with this problem in a remotely comprehensive way. While the problem of the liveboards is an acute problem, and at least certainly to me a sympathetic problem, in terms of the scale of the things that we are dealing with, and frankly, even the scale of our housing issues, I do not know, as a policy matter, how much of our resources it is worth expending on this.

But I do not agree with the bottom line that the staff report says, which we simply do not have the resources to deal with it and that is going to end it. And I am not saying that is in truth what staff is doing, but that is what was presented in the slide.

I think there is a significant distinction that has gotten blurred over in some of the presentations between houseboats, liveboards, and anchor-outs and I think it is appropriate to deal with them differently. Staff has not said any different, but they tend to get mushed together and I think the liveboard issue is a separate one.

I am going to suggest to staff, Chairman's prerogative, occasionally you can ignore me, that this needs some more thought on how we may be able to gather some information, look to gather some resources that do not require a three-year Bay Plan Amendment.

I actually think I could make an argument that for a number of the liveboard situations it could meet the McAteer-Petris Act requirements. Unfortunately, the applicants to do that are not the liveboard people, they are the marina operators who are probably not going to want to do that.

I think in terms of addressing our housing problem and crisis in this area, certainly the country too, but our area, our home, we are not a housing agency, that is absolutely true. We are not going to solve it. We most certainly do not have the resources to solve it. However, there may be some water-based living that may provide some, even if it is a small part, of addressing the issue. So, a couple of suggestions, none of which may be sensible.

Actually doing a simple survey, maybe you know the information but my guess is not, of how many liveaboards there are in marinas and how many empty berths there are on average in marinas, and probably a couple of other questions I have not thought of, is not very hard to send out. Now you send out a survey and you do not know the response. But particularly if we enlist the cities who govern these marinas in different ways. We might get something. I do not think takes a lot of staff resources. That is a piece.

Second, I think a little bit more background, and Alison's letter was actually helpful, on some of the distinctions that I said at the beginning of my remarks that get blurred over a little, may be sensible. I would like to hear, not this afternoon because I am going to step out in two minutes, a little bit more analysis of this difference in the policies between houseboats and liveaboards.

All of that is simply to say, we are not a housing agency. We have limited resources, but let's think about ways we may be part of the solution and not part of the problem. And with that, I pass the gavel over to our Vice Chair.

Acting Chair Eisen continued: Thank you. We still have time for further discussion on this matter.

Commissioner Gunther was recognized: I also want to thank the City. It is wonderful to hear not only how comprehensive your work is, but how compassionate it has been as well. And that is, I think, an important issue for us to consider here, that we have some compassion for the situation.

I was going to suggest exactly what Zack did, not only to find out how many people are actually living aboard, but we now have, if I understand it, we have had a one-year period where we have had 25 percent liveaboard at Oyster Point.

What has that done? Has that been any kind of a problem whatsoever? I would like to know whether that is the case. I also have a lot of compassion for what Erik has presented and the issues the staff faces. But I think this is a pretty unique situation that we find ourselves in. I think that to make sure there is not some compassionate way to deal with this is, I think we would do ourselves a favor to just think about this and see if we can really find a way that does not require completely redoing the recreational policies. We somehow managed to make the change at Oyster Point without doing that, and I do not know if there is a way we can think about it.

I do know for a fact that there are going to be more people living on the water in the Bay Area in the future. That is going to be one of our solutions to a resilient shoreline. I think that is another way that we can think about this as well.

Obviously, I am not either a long-term BCDC Commissioner, nor a lawyer. I am not a marina owner. I know these things are complicated, but I think that this issue has touched us in particular because of this. I would hope that we can maybe find a way to be a little more helpful than to just say that we do not have the resources to deal with it.

Commissioner Arreguin commented: I agree with the last two speakers. I appreciate the Chair's comments that we should really look at the distinction of the different types of situations and are there things that we can do within the scope of the McAteer-Petris Act and the Bay Plan.

But this, I think, raises a much bigger issue that is tangential that we have dealt with on a number of instances, whether it is Richardson Bay or Union Point Park in Oakland, where because of the housing crisis that we are seeing in the Bay Area, people are either living on boats, or people are living in tents on property within BCDC's jurisdiction, or within the jurisdiction of the State Lands Commission.

That is not an allowed use. It is not public access oriented. It is not maritime oriented. I do think at some point we are going to have to have a bigger conversation with the State Lands Commission and probably here too and other agencies about how we deal with this issue statewide because it is not going to get any better. I do think we need to be compassionate and a bit more open-minded and creative about how we try to deal with these types of situations.

I also do agree that I do think that having some amount of people living on boats or on the water, obviously we need to balance all these things in terms of how it impacts the Bay. I do agree with Commissioner Gunther's comment that, did that create impacts? There is a lot of infrastructure you need to support people living on the water so that is another thing that we have to take into consideration.

I appreciate the interest in trying to look further at what can be done. But I just want to bring it in a bigger context that ultimately we are going to have to think of something in terms of, do we allow emergency exceptions? Is there flexibility in statutes? Whether it is BCDC statute, whether it is the authority provided by the State Lands, because this problem is going to be an ongoing issue. It does not just impact the Bay Area. It impacts the entire coasts of the state of California.

Mr. Scharff chime in: I just wanted to jump in for a second if that is all right and address Commissioner Gunther's points.

I just wanted to bring everyone back to realize, this was us being compassionate. We allowed more people in Oyster Point than the McAteer-Petris Act allows and we agreed to do it for a year and not to do enforcement. That was us being flexible, it was being creative in allowing that to happen.

Without changing the Bay Plan we obviously cannot allow it for a real long period of time. We actually thought doing it for a year was a fairly compassionate, long-term solution in a compassionate way that got us over that hump. I think we are doing that, but legally we cannot do it without changing the Bay Plan; permanent changes to that if that is what the Commission was looking at.

Acting Chair Eisen continued: I am wondering if there are other Commissioner comments? I definitely have a couple of questions but I would like to hear from everybody.

Commissioner Lee chimed in: Actually, I am here with Commissioner Pemberton. This is Commissioner Lee, as you can see. Yes, I just want to echo the same comments as spoken by my fellow Commissioner regarding this issue.

Given that I understand BCDC is not a housing agency, that is obviously clear. The issue of housing on boats is something that is not going to get any better. It is going to be something that we will have to deal with for a lot longer. I think it is just a reality of where things are. I do think that we need to have a more engaging approach to this issue.

One thing I was just asking to see, how difficult would it be to get an RFI, a request for information, from the various marinas, to get a census of how many people are living on boats currently throughout our jurisdiction in the various marinas. Is that something that we could provide? I think it will be good to better understand the scope of the situation. How many boats are already occupied? How many have exceeded 10 percent and how many have not and what those numbers mean. If the number of 10 percent is something that might potentially change down the road how would that really affect the numbers we are talking about?

Out here in my other hat as a supervisor of Santa Clara County we are constantly talking about finding housing, whether it is interim housing, permanent supportive housing, for our residents here. This is clearly not just a topical issue. It really is the issue of the day and there is no silver bullet to try to solve it.

Some of the housing on boats is now certainly one of the solutions that people are seeking. I certainly think that in order for us to completely ignore this problem and say we do not have resources to do it, I would say that would not be wise. I think we need to get ahead of this issue and not try to duck our responsibility on it. Thank you.

Acting Chair Eisen asked: Any other comments, questions from Commissioners?

Let me ask the question that I have first. What I am hearing from a number of people is that we do not really understand the scope of the issue right now without some more facts about how many slips are out there? Are those slips going away? What percentage of them are filled with liveaboards?

For example, if you wanted to talk about a creative solution this is, and I do not know if it is a good idea or a horrible idea, but we say 10 percent per marina. Could we say 10 percent of available slips? If some of them have none and some of them have 15 percent, does it average out to 10 percent? Basically, what I am hearing is that people would like to understand better, really, what the situation is. Is adding 5 percent going to make any difference at all, really, given the numbers that we are talking about?

The other question that I have is my understanding, and I am sorry Commissioner Peskin has left because he probably knows and maybe others of you do. My impression is that the cities around the Bay each have their own housing obligations that have been assigned to them, essentially, by the state to help solve the state's housing problem. What I do not know is if the cities are asking for space on the water to meet their housing obligations.

Are they asking us or are they asking the state? Is there a pressure to? I am hearing from some of you that we are going to need to put more people on the water; but is that the state's view of how we should be solving this housing problem? Because I have not heard that yet, it might be. Anyhow, at least for now it sounds like just getting a little better handle on how many folks we are talking about would be beneficial for the Commission.

Commissioner John-Baptiste commented: If you all do ask the questions about what the current state of affairs is with liveaboard I would encourage you to also include demographic information, so we know not just how many but who.

And then secondarily, but I think probably more important, I do think that as the Commission grapples with what it means to have a deep-seated commitment to equity, as we start to see that come into conflict with elements of the Bay Plan or elements of the McAteer-Petris Act, we should be thinking about what is the strategy to resolve those tensions. In some cases you have been, I think, creative in finding workarounds and it may be that at some point there is just a more structural element that needs to be considered.

Mr. Buehmann chimed in: I would like to just really quickly clarify something that I am worried maybe did not come across well in my presentation. I did say we do not have staff or funding to do this, and even a survey of marinas we are really stretched thin.

But that is not the main reason why I am not recommending doing this. The main reason why is because it is not consistent with the public trust or the McAteer-Petris Act to have residences on the Bay. To say, we should increase the liveaboard amount from 10 to 15 to 20 because we want to provide affordable housing, is not consistent with the public trust or the McAteer-Petris Act. That is not a legitimate reason to increase the amount.

The legitimate reason to increase the amount might be this particular marina has security issues, or it has problems like that, or it needs some kind of other thing that I cannot make up right now that supports the public trust use. That is the main crux of the reason. And that also goes to the process, which is not preordained. I can look and go, if I had the staff and capacity, go to the different marinas, and go and see what it is. But the result might be it is going to impact recreational uses. It would not do anything to decrease a crime problem in recreational marinas. It is not something that is supporting that trust use. If it is just for affordable housing it is not going to be a reason to change it.

I just wanted to clarify that because I feel like it sounds like oh, you guys are just not doing it because you do not have the resources or something or it sounds like too much work. But it is really a fundamental inconsistency with that use. It is a nonconforming use with the McAteer-Petris Act.

Acting Chair Eisen asked: If we were to increase it to 15 percent, just hypothetically, the marinas themselves do not have to accept that, do they?

Mr. Buehmann answered: That is correct. Another thing that has come up is the enforcement, creative enforcement solutions we have done for different situations. Like Oyster Cove, a stay of enforcement. Or in the anchor-outs in Richardson Bay we had like a whole big solution with a settlement agreement.

One of those tools was that you adopted a regionwide permit that allowed for marinas in Richardson Bay to increase their 10 percent liveaboard amount for a temporary period to accommodate anchor-outs so that they could get off the anchorage and into marinas. As far as I am aware, no marina has applied for that. One.

Executive Director Goldzband chimed in: Thank you, Erik, you are channeling me. I want to make sure people here do not think of you as BCDC's Simon Legree. A couple of things.

On the Richardson Bay issue, Erik just channeled me. What you did at our suggestion, our recommendation, was to basically say that for five years, through the adoption of a regionwide permit, any marina could increase its liveaboard population from 10 percent to 15 percent without fear of any enforcement if it did so in order to take existing boats into the marina, the anchor-outs into the marina.

Two things to note with regard to that. Number one, so far, one as far as I know, boat has gone from the anchor-outs into a marina. As far as I know, one. And that is because most of the anchor-outs have totally unseaworthy vessels that could not even think about qualifying to be part of a marina.

Second, the five-year window was created in order to give flexibility for the locals to work with marinas. The most important thing I just said was, "work with marinas". BCDC, in theory, the Commission could say 25 percent, the Commission could say 50 percent. That does not mean that any marina is going to do so. Indeed, it is up to the marinas to decide who lives in those spaces and it can only allow a certain number of them.

The interesting thing that I am going to really wonder about if we are able to do a survey, is how many empty spots there really are in marinas and what the ability would be to get new boats into those slots, into those slips, given that the population you are talking about that are anchor-outs probably do not qualify for that. Even if they were to get housing funding like the county of Marin is doing in order to try to move them into slips, their boats do not qualify. They are not seaworthy.

Commissioner Gunther interjected: We are not talking about anchor-outs.

Executive Director Goldzband responded: I know, but it is the idea being that the issue is whether a marina wants it. It is up to the marina. It would be up to the marina to decide what percentage it would want. BCDC could say, in theory, if BCDC amended the Bay Plan, 25 or 50 percent. But BCDC does not have the ability to say, go do that.

Mr. Buehmann chimed in: Can I also add one thing? As Chair Wasserman mentioned, there is a distinction between houseboats, anchor-outs and just liveaboards in a marina. And that is not, I am very mindful of that. I brought up the anchor-outs more because when you are dealing with an enforcement situation you can be more creative, go a little bit outside of the bounds of what you would normally be able to do in a permitting process or in a policy process. So that is why we were able to do the things like Oyster Cove and the anchor-outs in Richardson Bay. It is sort of a separate thing. It definitely is separate.

It also goes back to Commissioner John-Baptiste's, the second part of her question, which was about how the Commission over the time has treated houseboats, anchor-outs and liveaboards. They are kind of treated in different ways in the policies and in a special area plan called the Richardson Bay Special Area Plan. It has been, beginning in something called the houseboat wars in the 80s, a long-term issue of how to deal with mostly existing communities in the Bay like houseboat communities, the anchor-outs. The liveaboard boat policies came out of that process in a separate way.

Acting Chair Eisen stated: We do have one more agenda item.

Thank you, Erik, for spending this much time with us on this issue. Complicated for sure.

12. Briefing on the BCDC Enforcement Program. Acting Chair Eisen stated: That brings us to our last agenda item before we close, a Briefing on the BCDC Enforcement Program, which I do believe is going to involve a Matthew.

Enforcement Policy Manager Trujillo addressed the Commission: Good afternoon, Commissioners. Greetings to all the members of the public who are in attendance today and have stuck this out with us.

Thank you, all, for your interest and concern about the activities of the BCDC Enforcement Program. Your dedicated staff works hard every day to protect our precious resources and preserve the public's access to the Bay and to the shoreline. What we do is we hold violators to account for their actions. My name is Matthew Trujillo and I am the Enforcement Program Manager and I have been in this position since March of last year.

So today I am going to report on the Enforcement Program's activity in the second quarter of the year, that is from April 1 through the last day of June. This presentation will cover reports on the number of new cases received in this quarter, the number of files we closed, the amount of penalties or fines collected from the enforcement activities and deposited into the Bay Fill Cleanup and Abatement Fund, and then we will take a look at the pending matters that we are working on in this current quarter, Quarter 3.

I am going to start with new cases received. Between April 1 and June 30, we received 25 new reports through our online Violation Report Form. This is an increase of 10 reports over the new reports received in the first quarter. Here I have divided them up by the type of violator.

We opened 13 cases where the alleged violator is a commercial entity, such as a business; we received 4 cases where the alleged violator is the owner of a single-family residence; and we received 8 cases where the alleged violator is a public entity such as a city or is a non-governmental organization.

In Q2 there was roughly a 50/50 split in the number of reports received involving a for-profit versus a nonprofit entity, as you can see from this slide.

Looking further at this same data we see that the majority of new cases involved alleged violators who were existing permit holders, that is 56 percent, the blue shaded section of the pie here. In looking at this I think that it might be a preliminary, and I word this very carefully so as to not get too far ahead of my skis, but I think in looking at this we can think of it in terms of this might be a preliminary indication of an opportunity. Thinking long-term to reduce new cases that we are receiving on a quarterly or annual basis through robust compliance actions. That is monitoring our permits and the actions around those. That is all, of course, resources permitting.

Also worthy of note is the location from which we received all of these 25 reports. We received the most reports from San Francisco. You can see we received 6, followed by a tie for second from Alameda, Marina and Solano Counties. We received no reports at all from Napa or Santa Clara Counties. And in thinking about this I am thinking it might be a preliminary indication of a need to increase our agency's visibility, especially in counties from where we are not receiving any reports, or very few.

This slide is the number of cases closed over the quarter; 17 cases were resolved. The histogram on the right illustrates the number of cases we closed this quarter, broken out by the years in which the cases were opened. The majority of these cases, that's the gray bar on the right, were opened in 2023. As you can see, we closed 3 from 2022 and 2 from 2021. This indicates that our new enforcement process continues to enable us to address new cases in a timely manner, while we are also able to continue to systematically chip away at the historic backlog of cases that once numbered in the high two hundreds around 2019.

Your Enforcement Program this quarter, Q2, collected an impressive \$205,127 and penalties for deposit into the Bay Fill Cleanup and Abatement Fund. These monies were collected from one Cease and Desist and Civil Penalty Order issued in the first quarter of the year. Also, the bulk of it, \$131,497, was collected by a court order when one of these cases went to litigation. This was to resolve a lawsuit involving the unauthorized development of the East Lagoon portion of White Slough in Vallejo.

Finally, as per usual, I will end my report with a review of the issues we are working on in Q3, this quarter, which extends from July through the end of this month.

First, we are still short-staffed on the Enforcement Team since last November. We have had a position opening for a CPA II. We took the extraordinary step of temporarily elevating our CPA I, Rachel Cohen, to a CPA II, to help to alleviate some of that burden, but an opening on the team still remains.

Additionally, in July we lost our enforcement attorney, Brent Plater, and so that is a current opening on the team.

We do have a formal enforcement case pending a hearing before the Enforcement Committee, which we intend to bring forward at the end of the month. Which means that if that happens then sometime in October, I believe, you will be asked to vote on the outcome of that Enforcement Committee hearing.

We ended the second quarter with approximately 86 unresolved cases in the queue.

Finally, in doing this data analysis what I discovered was that while we were doing a great job of attacking and resolving the 2023 cases, I think we need to spend a little more time and attention into addressing cases that were opened in prior years in order to really wear away at that backlog.

This concludes my report. I thank you for your attention and I will gladly take any questions you have now.

Acting Chair Eisen acknowledged: Thank you, Matthew.

Before we get to Commission questions, are there any members of the public who wish to address us on this issue?

(No members of the public addressed the Commission.)

Acting Chair Eisen continued: Any comments, questions from Commissioners?

Commissioner Gunther chimed in: Yes, just one, which is, in our packet, there was an article about a rather wild, lawless situation developing on the Oakland Estuary. I don't know if my fellow Commissioners read that, but I would encourage you to read it. There is not much to say about it now other than that Union Point Park was identified in one of these articles as a location where stolen property is being taken to be fenced or whatever.

We had spent a lot of time trying to turn that back from a homeless encampment into a park and now it appears to be not serving at the permitted purpose again. I was wondering whether, Larry, we might be able to get a little more information about this at a subsequent meeting? I do not know whether there is anything for us to do. We are not a law enforcement agency, but it was a pretty remarkable situation along the Bay shoreline that I think we should be paying attention to.

Executive Director Goldzband commented: Matthew, while this is not agendized, if you could give a very, very brief update on the Enforcement Committee discussion and what staff is doing and then we will go from there.

Mr. Trujillo sought clarification: Okay. With regard to Union Point Park specifically?

Executive Director Goldzband stated: The Estuary.

Mr. Trujillo added: Okay. With regard to the Estuary, then. What we have been doing, or we have done for the past I would say year and a half or so, is we have been meeting regularly with the cities, including the city staff and police departments of the cities of Alameda and Oakland, to get regular updates as to what steps they are taking to mitigate the issue of anchor-outs on the Estuary as well as to clear homeless encampments from the shoreline. This would include Union Point Park, although Union Point Park is kind of a separate matter because there is, I believe, a Cease and Desist Order that is currently in effect at Union Point Park, an Order or a Settlement Agreement, at this time it escapes my mind which.

What we are looking at doing at this point, a year and a half on and having provided regular updates to the Enforcement Committee, is that now we are looking at entering into settlement negotiations with the City of Oakland specifically to help clarify what the issues are, to clarify what steps they are going to take to address the issues of anchor-outs on the Estuary and continue to address homeless encampments. I do not know how far down the rabbit hole you want me to go, but I will say this--

Executive Director Goldzband advised: That is about as far as I want you to go.

Mr. Trujillo acknowledged: Okay, very well.

Executive Director Goldzband stated: Thanks, Matthew.

Acting Chair Eisen continued: I will just add to that because I chaired that Enforcement Committee meeting where all of those conversations occurred and resulted in that article. A number of public, television, and a lot of people commented on this.

Piracy, I think is the word that a lot of the public speakers used. Like the other issue we discussed today, is that in our remit? To what extent can we do something about it? Homelessness, law enforcement issues, all colliding on our shores. It is not a simple problem. Certainly, with only two of us left on this meeting we are not going to resolve it here.

13. Adjournment. Upon motion by Commissioner Gunther, seconded by Commissioner Addiego, the Commission meeting was adjourned at 4:30 p.m.