

San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

April 14, 2017

TO: All Commissioners and Alternates

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdca.gov)
Sharon Louie, Director, Administrative & Technology Services (415/352-3638; sharon.louie@bcdca.gov)

SUBJECT: Draft Minutes of April 6, 2017 Commission Meeting

1. Call to Order. The meeting was called to order by Chair Wasserman at the Bay Area Metro Center, 375 Beale Street, Board Room, First Floor, San Francisco, California at 1:04 p.m.

2. Roll Call. Present were: Chair Wasserman, Vice Chair Halsted (represented by Alternate Chappell), Commissioners Addiego, Butt, Cortese (represented by Alternate Scharff), DeLaRosa, Gorin (departed at 2:50 p.m.), Kim (represented by Alternate Peskin), Lucchesi, McGrath, Nelson (represented by Alternate Ranchod), Randolph (arrived at 1:26 p.m.), Sartipi (represented by Alternate McElhinney), Sears, Showalter, Sperring (represented by Alternate Vasquez), Techel (departed at 2:50 p.m.), Wagenknecht (departed at 2:50 p.m.) and Zwissler.

Chair Wasserman announced that a quorum was present.

Not present were Commissioners: Alameda County (Chan), Department of Finance (Finn), Speaker of the Assembly (Gibbs), Contra Costa County (Gioia), U.S. Army Corps of Engineers (Hicks), San Mateo County (Pine) and U.S. Environmental Protection Agency (Ziegler).

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

Ms. Betty Kwan from the Bay Planning Coalition addressed the Commission: I am announcing our annual conference, the Spring Summit which will be at the Oakland Scottish Rite Center on May 11th. This year our expert panels are focusing on navigating regulatory uncertainty and short-term and long-term risks followed by a debate. We have a number of professionals who will speak on these issues and other related areas. I encourage you to go to our website for more information and we hope to see you there.

Ms. Laura Thompson addressed the Commission: I am with the Association of Bay Area Governments. I have managed the San Francisco Bay Trail Project. I want to give you an update on the Bay Trail and the Water Trail. We have included 2016 highlights of both projects in your packets. The Bay Trail added about 10 miles to the system this year. We now have 350 complete miles which is 70 percent of the entire system. We also released the San Francisco Bay Trail Design Guidelines and Tool Kit, which we have provided to you and BCDC staff. The Water Trail has also reached its stride. There are now 30 designated sites. In 2016 we had 14 new sites added to the system.

info@bcdca.gov | www.bcdca.gov
State of California | Edmund G. Brown, Jr. — Governor



There are many funding sources for both of these projects but I want to recognize our longstanding partnership with the Coastal Conservancy that has provided a grant program since the late 1990s. This has enabled us to match other sources of funds. Our partnership with BCDC is critical. It is integrated into the way that we structure our work. We work very closely with your Bay Design Analyst on projects in their early stages of permitting. We are getting ready to gear up with Lindy Lowe and her team on the regional assessment of sea level rise. As we continue to complete these trails the contribution from BCDC staff and the Commission is extremely important. The Water Trail is part of the Design Review Board's recent agenda and in May we will be giving an update on the Bay Trail to the Design Review Board.

We have a Trail opening on April 22nd in Richmond. This is a project that BCDC has been a part of for many decades. It is the Dotson Family Marsh restoration and with it comes 1.7 miles of Bay Trail. It serves as a model for shoreline access in the age of climate change.

Chair Wasserman moved to Approval of the Minutes.

4. Approval of Minutes of the March 16, 2017 Meeting. Chair Wasserman asked for a motion and a second to adopt the minutes of March 16, 2017.

MOTION: Commissioner McElhinney moved approval of the Minutes, seconded by Commissioner Scharff.

VOTE: The motion carried with a vote of 17-0-1 with Commissioners Addiego, Butt, Scharff, DeLaRosa, Gorin, Peskin, Lucchesi, McGrath, McElhinney, Sears, Showalter, Vasquez, Techel, Wagenknecht, Zwissler, Vice Chair Chappell and Chair Wasserman voting, "YES", no "NO", votes and Commissioner Ranchod abstaining.

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

a. **New Business.** Does anyone wish to flag new business that they would like us to take up at a future meeting? (No comments were voiced) I do want to note a sad occurrence; the passing of a very great man and great legislator who had a great deal to do with this agency, John Knox. He was a great environmentalist. He will be missed.

Chair Wasserman continued the meeting.

b. **Next BCDC Meeting.** Our next meeting will be April 20th in the Yerba Buena Room where we will hold our 7th Rising Sea Level Workshop.

I would give a very brief report on our Financing the Future Working Group which is the third of our working groups talking about how we are going to pay for what we need to do to adapt to rising sea level.

The presentation this morning focused on Measure AA by the San Francisco Restoration Authority and what it expects to do with the parcel measure that passed which will raise about 25 million dollars a year. This is still very far from what we need.

We also heard a report on Mello-Roos districts which covered an interesting and broad array of financing concerns. The primary illustration for it was a hockey stick. This was done because the problem of adapting to rising sea level goes in the same curvature you have on

a hockey stick. The issue for all of us is going to be how we figure out to finance here before we get to the point that we desperately need it and it will cost all of us a lot more if we wait until the end of the stick where the curve rises sharply.

We will continue those meetings and ultimately those will emerge into workshops for the entire Commission as the Adapting to Rising Sea Level and the Bay Fill Working Groups are doing.

c. **Ex-Parte Communications.** Do we have any ex-parte communications to report?

Commissioner McGrath reported: I did get a phone call from the same person who had sent me an email that I had sent to the staff. I told him I could not talk to him. I also got an email from Keith Miller of California Canoe and Kayak. I did not read it. I assume that versions of that went to other people. Generally as a rule I do not accept ex-parte communications.

Commissioner Ranchod commented: I received a contact on behalf of a representative of Scott's. I did not respond to it. I reported it last week to the staff and they have the details.

Commissioner Techel added: I think there are a few more of us that got that same contact. I did and reported it to staff.

Commissioner Scharff chimed in: I probably did but I don't recall getting it.

Commissioner Addiego spoke: The contact was encouraging me to be here. I did not respond.

Chair Wasserman continued: That brings us to the Executive Director's Report. Larry is on vacation and Steve Goldbeck will give the report.

6. Report of the Executive Director. *Executive Director's Report.* Chief Deputy Director Goldbeck reported the following: First, I know you are all going to be surprised and dismayed to hear that some of the Commissioners have not submitted their Form 700. Please, if you have not done so, submit your Form 700. It is the law.

We were contacted by the staff of MTC and they are going to set up in the foyer pictures of all the boards and commissions that meet here. We will be contacting you to provide us with high-resolution pictures.

Lastly, I will call your attention in your packets you should have received a copy of this letter that is about the funding for BCDC and other coastal management agencies. The Administration's proposed budget zeros out funding for coastal management across the country. This is a joint letter from Chair Wasserman and the Chairs of the Coastal Conservancy and the Coastal Commission opposing such cuts and it is addressed to the California Congressional Delegation.

The State Legislature is also preparing a, "Dear Colleague" letter to the California Congressional Delegation on the same topic. We will get it to you. It is our understanding that the California Congressional Delegation is also participating in a "Dear Colleague" letter in Congress to the same end. We do have some support out there.

That concludes my report.

7. Consideration of Administrative Matters. Chair Wasserman announced: That brings us to Consideration of Administrative Matters. Those were distributed to us. No questions were asked by commissioners.

8. Consideration and Possible Vote on the Enforcement Committee’s Recommended Enforcement Decision Involving Proposed Commission Cease and Desist and Civil Penalty Order No. CDO 2017.01; Scott’s Jack London Seafood, Inc., and the Port of Oakland. Chair Wasserman announced: Item 8 is consideration and vote on the Enforcement Committee’s recommended Enforcement Decision regarding a Proposed Commission Cease and Desist and Civil Penalty Order for Scott’s Jack London Seafood and the Port of Oakland co-permittees.

I am going to recuse myself because I was deeply involved in the negotiations attempting to resolve this matter. The Commission rules provide that when the Chair and Vice-Chair are not available; the Commission can elect a Chair to preside for that matter.

MOTION: Chair Wasserman nominated Commissioner Scharff as Acting Chair, seconded by Commissioner Peskin.

VOTE: The motion carried with a roll call vote of 19-0-0 with Commissioners Addiego, Butt, Scharff, DeLaRosa, Gorin, Peskin, Lucchesi, McGrath, Ranchod, Randolph, McElhinney, Sears, Showalter, Vasquez, Techel, Wagenknecht, Zwissler, Vice Chair Chappell and Chair Wasserman voting, “YES”, no “NO”, votes and no abstentions.

Chair Wasserman exited the room.

Acting Chair Scharff continued: I will introduce the matter and discuss the Committee’s recommendations. Marc Zeppetello will then review the Commission’s options regarding the Committee’s recommendations and provide staff comments on the recommended decision. Then representatives of Scott’s Seafood and the Port will each have an opportunity to comment on the recommended decision and we will go to the public after the presentations.

I want to talk about what we did as the Enforcement Committee. On February 16, 2017 the Enforcement Committee held a public hearing on this matter. The hearing lasted approximately three hours. We considered the staff’s presentation of its recommended enforcement decision and the presentations by Scott’s and the Port. The Committee also considered extensive public comment and we had a robust discussion and deliberation on this matter.

The Enforcement Committee adopted the staff’s recommended enforcement decision and proposed order with the following modifications: First, we dismissed the Port from the enforcement proceedings. The Port provided additional factual background to show that the Port investigated, documented and reported the violations to BCDC. The Port also presented evidence that certain of the violations constitute violations of Scott’s lease with the Port and that the Port made efforts to have Scott’s come into compliance with the permit and its lease. The Port did not contest that the permanent public access guarantee required by the permit had not been recorded. However, the Port argued that it is legally prohibited from complying with the permit requirements due to limitations on the alienation of state tidelands. That issue did not have to be reached because the Port and staff agreed to the inclusion of certain language suggested by

Deputy Attorney General Chris Tiedemann in Condition 3h of the proposed order requiring the Port and Scott's to record a legal instrument that guarantees public access as required by the permit. Based on this evidence and resolution of the required permanent public access guarantee the Enforcement Committee felt that it was inappropriate to fine the Port \$30,000.00 for failing to record the access guarantee as required by the permit and thus it was not appropriate to hold the port jointly liable for the actions of Scott's. Hence, the Enforcement Committee dismissed the Port from the enforcement proceedings. I can answer any questions on that issue if we have any. (No comments were voiced)

We also reduced the proposed penalty from the maximum penalty of \$841,100.00 to \$395,360.00. BCDC staff provided two alternative penalty calculations based on different time periods. With the exception of the time period, all the penalty calculations were as staff suggested them.

Staff proposed a penalty of \$841,100.00 for violations that occurred over an approximately 12-year period from 2004 to 2016. The failure of BCDC's enforcement staff to take any action over a long period, while having actual knowledge of the violations, led the Committee in weighing the equities and applying the legal concept of laches to consider staff's two alternatives to penalty calculations.

Staff asked the Enforcement Committee to also consider using the same daily penalty calculations but over a shorter period of time. The first alternative was to only consider the violations from the date of January 2012, which is approximately when Scott's approached staff to discuss proposed Pavilion modifications to the present time which would constitute a penalty of \$565,910.00. The second alternative, which the Enforcement Committee actually adopted was to impose a penalty for the violations that occurred from January 2013 which is approximately when Scott's knowingly engaged in the unauthorized construction of certain Pavilion modifications to the present time.

The penalty was then calculated \$425,360.00. However, \$30,000.00 of that penalty was for the failure to record the access guaranteed discussed earlier which was required by the permit. As stated earlier, this was entirely within the Port's control and not Scott's. It seemed inequitable to hold Scott's accountable for an action that was not in their control.

Thus, the Enforcement Committee recommended reducing the \$425,360.00 penalty by \$30,000.00 to \$395,360.00. Finally, Scott's did provide some evidence of their inability to pay and many employees of Scott's spoke fearing the loss of their jobs if Scott's was not financially viable. The Enforcement Committee had no desire to see Scott's not be financially viable and thus agreed to recommend that Scott's be able to pay the fine in three annual installments.

The Enforcement Committee also was interested in Scott's timely compliance and continued compliance with the Cease and Desist Order and was informed to incentivize timely and continued compliance portions of the penalty might be waived. Therefore, the Enforcement Committee recommended that as determined by the Executive Director, if Scott's timely complies and maintains compliance with the Order, Scott's will be entitled to a 15 percent reduction in the penalty in the third and final year.

That is what we did. And we are happy to answer any questions on that. But first, we are going to Marc Zeppetello who is going to discuss the options the Commission has.

General Counsel Zeppetello addressed the Commission: I will review the options available to the Commission in considering the Enforcement Committee's recommended decision. And these are based on your regulation that is in 14 Code of Regulation Section 11322(b). And the options are: You can adopt the recommended decision with no changes. Second, you can dismiss the entire matter by voting not to issue any order. Three, you can adopt the recommended decision with regard to one or more aspects of the proposed order and dismiss the other proposed aspects of the order by voting not to issue them. And finally, you can reject the recommended decision and decide to consider the matter de novo yourselves. In this event you would not do so today. You would continue the matter and hold a full public hearing at the next available Commission date.

In brief, the staff supports the recommended enforcement decision of the Committee. The staff initially had some concerns with the recommendation that the Port be removed entirely from the Order. The potential problem was that the Port is a co-permittee and had obligations under the permit and therefore under the Order in cooperation with Scott's.

Staff worked very closely and cooperatively with Scott's and the Port over the past six weeks to be sure that those concerns were addressed and the Port has done what it needed to do to work cooperatively with Scott's and, in fact, essentially comply with those aspects of the Order that required action by the Port.

We have no concerns at this point with the recommendation to remove the Port from the Order.

I am going to summarize the key requirements of the Order but I would mention that one of the things that came from the discussions among Scott's and the Port and staff was that the Port and Scott's have made a joint request that when the permit is next amended that the Port be removed from the permit. Staff has indicated that we could support that given the length of the long-term lease that Scott's has.

This issue is not before you today and I just wanted to mention it.

The key terms of the Proposed Order that is in your packet are as follows: That Scott's cease and desist from further permit violations at the Pavilion, that they make the Pavilion available for unrestricted public access in accordance with the permit and the exhibit to the permit, that they cease storing restaurant equipment and other site furnishings in the public access area, that they remove the planters from around the Pavilion.

With respect to those items Scott's has reported to staff that it has taken steps to do all of those things and, in fact, on March 14th they sent us a series of photographs showing the Pavilion and the fact that those steps had been taken. Staff did a brief walk-through of the Pavilion this morning and reports that the Pavilion appears to be in good shape and no substantial issues were observed.

The next item in the Proposed Order is that within 45 days Scott's and the Port submit a complete application to amend the Pavilion Permit and the application is to include a number of things. It would request, after-the-fact authorization for certain components of the Pavilion that were constructed a couple of years ago without authorization; the retractable wall panel system, a storage shed and a roof extension. Secondly, that they request authorization for a new entrance door system and remove the permanent metal entry doorway which has been a particular issue in this enforcement proceeding. Third, that the permit amendment application includes a public access plan for the Pavilion and adjacent public areas in the Franklin Street Plaza. And the fourth order specifies that the permit amendment may not request an authorization for increased use of the Pavilion for private events. And this is one of the items that came out of the Commission's consideration of this matter. In November the Commission provided direction that the issue of potential increased use of the Pavilion ought to be separated from resolving the enforcement proceeding.

So that is what the Order provides but it does not prohibit Scott's from coming back in the future and making a proposal if they want to request increased use of the Pavilion.

Although under the Order the application to amend the permit is not required for 45 days; Scott's and the Port submitted a joint-application to amend the permit a few days ago on April 4th and it is currently under review by staff.

One of the issues that was in the earlier order before the Enforcement Committee is that staff believes it is necessary to amend the Port's permit for Jack London Square that addresses the Franklin Street Plaza because Scott's will be installing these public access improvements in the Franklin Street Plaza. We took that out of this order but this is an issue where we worked with Scott's and the Port over the past month and the Port has already submitted a letter request at staff's direction that Jack London Square be amended to make conforming changes that will be addressed in the amendment to the Pavilion Permit which is the subject of the Order.

Continuing with the terms of the Order; within 30 days provide all public access area improvements as required by the permit. Scott's reports to us that it has done this and this was part of the photographs that they sent to us a few weeks ago.

Next, that within 30 days record a legal instrument that guarantees the public access area required by the permit. This issue Commissioner Scharff touched upon. Since February 17th staff has reached an agreement with the Port and Scott's on the terms of the legal instrument. We started with the language that was proposed by Deputy Attorney General Tiedemann.

In terms of the legal instrument the Port was in the middle between direction being provided by BCDC and State Lands. I worked with the Port and State Lands and we continued to have a disagreement but decided to accede to the language that was suggested by State Lands and that was acceptable to the Port.

Earlier this week the Port and Scott's submitted a draft legal instrument with language that we have all agreed upon so the only thing left to resolve this issue is to get the exhibits assembled then we don't see any problem in getting that issue taken care of in the next few weeks.

The Proposed Order does have a provision that says, if the application to amend the permit is not submitted on time or if the Executive Director has not filed the application by July 10th of this year the Executive Director shall schedule a hearing before the Commission at which point there would be a report on compliance and the status of the permit application and possibly that the Commission could reopen the enforcement proceeding.

This requirement came out of direction from the Commission on November 3rd where it was suggested that there be a mechanism built into the Order to allow continuing review of this matter if necessary.

Finally, the Proposed Order has a civil penalty provision and as Commissioner Scharff stated, the penalty would be payable by Scott's to the Bay Fill Cleanup and Abatement Fund – a total payment of \$395,360.00 in three annual installments. And Scott's would be entitled to a waiver of 15 percent of that total penalty amount in the third year if the Executive Director determines that Scott's has complied with the Order in a timely manner and has maintained compliance through September of this year.

And the Order has some specific and more-detailed language that is before you but I won't go into it. The Executive Director will provide a written determination by September of this year as to whether Scott's has met those conditions and is entitled to the waiver.

I would be happy to answer any questions either now or later but in summary; the staff does support and recommends that the Commission adopt the Enforcement Committee's recommended enforcement decision. Thank you.

Acting Chair Scharff called on Scott's to comment.

Commissioner Vasquez commented: Was there more time considered? I know you said that three years was the time period for the installment payments. Was there any talk of it being a little longer? That is roughly \$10,000.00 a month.

Commissioner Scharff answered: No, there were not any terms for a longer payment period. Some people thought the fine should be paid sooner and this was a compromise.

Scott's seemed fine with this arrangement so we figured that would meet the concern.

Mr. Michael Verna addressed the Commission: Scott's would be fine with a 10 year plan. (Laughter) I'll keep my comments short because we have been working very diligently with staff. Scott's has admitted that it made mistakes. It is being fined the second most in the history of civil penalties from BCDC for making those mistakes even though it hasn't polluted the Bay or impacted the Bay at all. The message has clearly been received. All of the Condition 3 requirements, of the Proposed Stipulated Cease and Desist Order, have already been satisfied by Scott's. Mr. Zeppetello just confirmed it.

We have submitted the permit application along with the Port to get that resolved. We have already obtained building permits from the City of Oakland to approve the improvements that were made to the Pavilion. There is not much more Scott's can do than what they have already done. Our goal here is to get to resolution and end this and move on; to never run afoul

of a BCDC regulation again. If there are any questions I am happy to answer them. We had a very robust hearing in front of the Enforcement Committee. (No questions were voiced) Thank you very much.

Mr. Joshua Safran spoke: I am outside counsel for the City of Oakland acting by and through its Board of Port Commissioners which is a fancy way of saying, the Port of Oakland. We are here to echo what you've already been hearing which is that we are also in support of the Enforcement Committee's recommended action. In this particular circumstance it is a big deal that we are saying this. We were very, very far apart. The Port of Oakland had very significant concerns about it being named as a respondent. We were literally rooting ourselves to the California Constitution in our conflict in being named. The Port's preferred approach given the thousands of dollars that it has had to pay to outside people like me, but also the hundreds of hours of staff time that was involved in enforcing against Scott' as a landlord and as a co-permittee and then subsequently dealing with its own involvement as a named respondent led the Port to a preferred resolution which was actually the complete revocation of this permit; to just simply let everyone walk away from this and not have this Pavilion use.

I think the fact that we were able to come together in these circumstances by working with BCDC staff and counsel and with Scott's to get this resolution which hopefully is satisfactory to the Commission is a big deal and one that has allowed us to bridge this gap. The Port does really want to remove itself not only as a respondent but from this permit moving forward. I am available for any questions or comments that you may want to lob at the Port of Oakland.

Acting Chair Scharff continued: We didn't schedule a public hearing on this matter, but if anyone from the public does wish to speak you can fill out a card. I have a number of public speakers and I am going to limit it to two minutes. If you have filled out a card I am going to give you the opportunity to speak.

Mr. Raymond Gallagher commented: I am the founder of Scott's. I am here today to take full responsibility for the actions, misunderstandings and events that took place. I feel this is the time to move on. I have been in business in Oakland for 51 years. I am 70 years of age now. You are never too old to learn to follow the rules. Our counsel has worked closely with staff at BCDC and the Port. We accept the resolution and thank you in advance for an affirmative action. Thank you.

Mr. Ignacio De La Fuente addressed the Commission: One of the things that get lost in the shuffle is what the impact on people will be. There is no question that we had some problems but Scott's provides jobs for a couple of hundred families for many, many years in Oakland. I thank you and your staff for the time that has been spent on this for quite a while. Hopefully today will be a good resolution for everyone. Thank you very much for your time.

Ms. Liz Gallagher was recognized: I want to really be done with this. I want you to know that we will comply and I do hope within the near future we will be in front of you again to ask for more community days because who is suffering are the fundraisers that we will have to pass up because we are limited to 73 days. When you look at our history we use it approximately

about 90 to 95 and we do a lot for the community. At this point in time we will turn them away because the fine that we will have to pay; it's just not worth it. I hope to see you again soon and get some more days.

Mr. Sandré Swanson spoke: I am a former member of the California Assembly. I am here to support the agreement. But I would also like to point out that Mr. Gallagher and the staff's motives all this time has been to try to improve Scott's and public access. They have also been about trying to make sure they had a place for these employees that have been involved with Scott's over many, many years. The other thing that I would point out is that the fine doesn't reflect the fact that there is hundreds of thousands of dollars that Scott's has paid in addition to that money just to be here today and to reach this agreement. The other thing that it doesn't point out is that Ray Gallagher himself will have to pay this fine because they are not the kinds of profits that come out of Pavilion activity that can support a fine like this. So this is a tremendous personal commitment for Mr. Gallagher to make this happen. People should know that this is a substantial fee that is before you. Thank you very much for your consideration. I encourage your approval of this agreement so we can move forward. Scott's is a great business and they have a long history of supporting many, many families in the City of Oakland.

Mr. Scott Edin spoke: I want to let you know about all the efforts that have been put out over the past couple of years has culminated in why we are here today. Hopefully this will allow Scott's to stay open and satisfy you purpose of shoreline access. I hope that the permit process for the agreement is a smooth transition. As far as the extra days that Ms. Gallagher has asked for in the future; a lot of the community funds that Ray promotes, they will have to be curtailed a little bit.

Mr. Steve Hanson spoke: I am a 25-year, ex-employee of the Port of Oakland so I helped develop Jack London Square and other attractions along the shoreline in Oakland. Scott's is an anchor tenant of Jack London Square. Without Scott's I don't think Jack London Square could have evolved to a more successful operation that it is today. It is expanding and a lot of people come down to Jack London Square. I have been trying to help Scott's get this done and we hope to resolve this problem and move on. I appreciate your support.

Mr. Benjamin Kibathi was recognized: I am a waiter at Scott's Seafood. I am here with my co-workers to ask the Commission to adopt the resolution that is before you. Scott's does provide employment for us here and we ask that you adopt the resolution. Thank you.

Ms. Katherine Webb addressed the Commission: I am an employee of Scott's. I am a three-year Oakland native. I have been told that Jack London Square was absolutely nothing 20 years ago except for Scott's Restaurant. I do think it is an anchor tenant. We are all here because we do enjoy our jobs. It is a very good place to work. It is a very good place for Oakland. It does a lot of good. We do need this resolution to be taken care of and closed preferably today so that we can get on serving the community. Thank you.

Barbara Vernon commented: I have been employed by Scott's for 30 plus years. It is an amazing company with an amazing owner and we've done amazing work in Jack London Square. People know Scott's because of what it has done for the community and for the City. I just ask that we find a resolution so that we can continue doing the good work that I feel we do for

everybody in Oakland. I have managed at Scott's for 20 plus years and we are some of the finest individuals. We have amazing people who have come through our doors and have gone forward and done so much for the community. Please, let's find a resolution and we'd love to get on with our good work.

Mr. Ramiro Carabez commented: I am the general manager at Scott's Seafood. I am sorry that we unintentionally became the villains in this story. We have learned our lesson and we're looking forward to moving on with our lives. I started working for Mr. Gallagher 25 years ago. I am very proud of the things that we have built together. We have excellent people working for us and in these times of uncertainty we have found in Scott's not only a place to work but a safe haven. It is hard to be an immigrant during these times and being at Scott's and surrounded by all of these wonderful people makes everything that is going on in the world more bearable. You know that you have someone that is always behind you, Mr. Gallagher and Liz Gallagher. You know that the team at Scott's is always there for you when you need them. We make sure that we take care of our guests. It is a great feeling and I'm very proud of everyone working with us and I ask that you let us go back to taking care of our guests and pass this resolution and move on.

Acting Chair Scharff continued: And now we will turn to the Commission for questions and comments.

Commissioner McGrath commented: I am going to support this. I feel that as someone who led the charge against it last time I have the responsibility to say they got it right this time. I was at the Port on March 21st with Richard Sinkoff. I served on a panel to look for new employees for the Port. All the improvements were in at Scott's Pavilion. Since I started at the Port in 1990 I've never seen it look quite so inviting. What is most important is contained pretty simply on page 11 of the findings. It talks about the fundamental issue with a violation. Once you have determined that there is a violation is there an economic benefit and have you created a moral hazard in allowing something to go forward which allows a business to gain more than it would lose. It is very clear to me from the information on that page that there is a very significant penalty here in terms of the business. We have not created a moral hazard. That this has cost Scott's enough so that not only Scott's but others would be not encouraged to take such an action. I appreciate Mr. Gallagher taking responsibility and setting a nice tone. I am going to vote for this and I am going to urge you all to vote for it as well.

Commissioner Vasquez had questions: How is the payment paid. Is it monthly, quarterly?

Acting Chair Scharff replied: It is annually.

Mr. Zeppetello added: It is annually and on page 12 of the Proposed Order the annual payments are broken out in exact amounts and the first payment would be within 30 days which would be May 7th of this year and May 7th of the succeeding two years.

Commissioner Vasquez asked: So by September it would be determined if they had a 15 percent decrease or waiver. Would it not?

Mr. Zeppetello responded: Correct. The 15 percent reduction would be taken off the third annual installment. The waiver amount would be \$59,204.00 as specified in the last sentence in paragraph K. If you look at the last sentence in paragraph M, if Scott's is entitled to the waiver their last payment would be reduced.

Commissioner Vasquez commented: I was involved in a family restaurant for 36 years. It is now in its 40th year of operation. I understand the trials and tribulations of operating a small restaurant. It is very competitive and if you are able to be successful you are only as good as your last customer. That success is determined by the people you have employed for you. Because the Port decided to redo the Jack London Square; just because you build it doesn't mean anybody is going to show up. I see Scott's as an anchor tenant. It was something that drove people to come to the Port and Jack London Square. A few meetings back there was some criticism about an applicant who didn't have enough to bring people down to that walkway because they didn't provide enough things for tourists. I am kind of confused in the message. Do we penalize people because they are successful? Is that part of it? And if they are successful what do they do with that? In the case of a restaurant they generally hire more people and try to expand. I know that space is limited there. I am sure they are very sorry that they've done what they've done and that fine is pretty high. The only thing that I would ask is that we look at maybe extending that three year period to five to make it a little bit easier and a little more doable. Anytime anybody has to pay almost \$400,000.00; that's quite a chunk. With that I am done with my comments.

Commissioner Showalter commented: I wasn't involved for much of this procedure but it seems like you have done a great job. I do have one question and that's how going forward how are we going to keep track of the public access days and the private days? Do we have a system for that?

Mr. Zeppetello replied: There is an exhibit attached to the permit which is a chart that shows the allowable days and there is also a reporting obligation for Scott's to provide quarterly reports. One of the things that we have talked about internally is that when the permit is amended we may seek to clarify some of the reporting obligations. As a general matter it is built into the permit in terms of limits and also it is in the permit now but the Port also has rights to under its lease and under the permit if there are public events that the Port wants to hold or sponsor they have a right to use the Pavilion in its open state. All of that is in the permit and will continue to be.

Commissioner Zwissler commented: There were a couple of comments made about that Scott's will be coming back and asking for additional days at some point. I just want to get confirmation that there is no connection between – in other words that there is not an expectation that by accepting this deal that they are going to get those additional days and that it is a completely separate issue.

Mr. Zeppetello replied: That is correct. It is completely a separate issue. Even under the agreement that was brought to you in November and was rejected it was clear that it's up to the Commission and its discretion when it considers that request. This order limits the permit amendment application which has now been submitted and that does not include anything about

additional days. If Scott's requests additional days in the future that would be a request for a permit amendment that would come before you and there is no guarantees – it would be up to the Commission at that time.

Commissioner Zwissler had a process question: It somewhat troubled me at the last hearing that unfortunately and through no one's fault that no one from the Enforcement Committee was present. We got into a conversation that we may or may not have gotten into. I am just curious whether as a matter of process or procedure going forward we can look at our rules and practice so that we don't get caught in something like that again.

Mr. Goldbeck replied: We will look at that as we look at updating our regulations.

Commissioner Techel spoke: I think we thought we had a very thorough hearing and came to the conclusion that agreed with the staff report. I promise to attend every meeting that is reviewing the Enforcement Committees' decisions.

I have to thank my fellow Committee members. We sat there for a long time. We heard a lot of testimony and heard a lot about the vibrancy and the community sharing and the positive that comes out of Scott's for supporting folks in Oakland.

I am pleased that we got here and incredibly pleased that you have spent all of this time working with staff. I don't want to delay this any longer. I am going to ask Gregg if he is ready for a motion.

Acting Chair Scharff asked: Any other Commissioners wish to speak? (No comments were voiced)

MOTION: Commissioner Techel moved to accept the Enforcement Committee recommendation, seconded by Commissioner Ranchod.

Commissioner Vasquez suggested a substitute motion: I'd like to ask that the terms be five years and the last year be reflected in the 15 percent waiver.

Acting Chair Scharff replied: I don't think you can do that.

Mr. Zeppetello agreed: Correct. You don't have the option to change the decision or to modify it.

Commissioner Ranchod added: I am a member of the Enforcement Committee and I am the one who proposed the three year flexibility to mitigate the business impacts. One of the new pieces of information that the Enforcement Committee had the benefit of two meeting ago was some additional information about the business' ability to pay and also during our discussion we took into account what the settlement proposals had been and those proposed resolutions would have been paid in one lump sum. I don't think that there was disagreement among Committee members that we felt that providing this flexibility to pay this over three years as opposed to one lump sum and also establishing some additional flexibility with respect to the waiver of 15 percent was in recognition of the significance of the penalty but also the business' ability to pay as demonstrated by information before the Committee. I would say that there is no disagreement that the restaurant has been key in the success and revitalization of Jack London

Square. We want to see the restaurant continue to succeed and grow and have those positive economic benefits. We appreciate all that Mr. Gallagher and the restaurant have done for the community.

At the same time Mr. Vernon noted that this is one of the largest penalties that is being levied and there is a reason for that. It's not to penalize the success of the business; it's because there is some extraordinary circumstances here. On page 12 of the Order it does note, no business located within the Agency's jurisdiction, other than Scott's, has made such extensive use of a dedicated public access space for private profit. No other business within BCDC's jurisdiction has so flagrantly, extensively and knowingly violated the terms of its permit and the MPA. It is not to penalize the success of the business. It's in recognition of the facts before the Commission. I think that the resolution that the Enforcement Committee came up with really appropriately strikes a balance between the different considerations here. I do think we have provided sufficient flexibility to mitigate the business impacts. I do want to thank staff for all of their work on this. And this covers disputes and allegations that stretch back over a decade. With that I second the motion and would urge support.

Commissioner Vasquez added: I want to thank you for that and all the work the Enforcement Committee did because it is easy to sit here as a Monday morning quarterback to question decisions made. I know that the Committee does really good work. And the fact that Scott's is here and saying that they are good with all the work; I thought a little bit more flexibility might be useful. But thank you again for all the work.

VOTE: The motion carried with a roll call vote of 18-0-0 with Commissioners Addiego, Butt, Scharff, DeLaRosa, Gorin, Peskin, Lucchesi, McGrath, Ranchod, Randolph, McElhinney, Sears, Showalter, Vasquez, Techel, Wagenknecht, Zwissler and Vice Chair Chappell voting, "YES", no "NO", votes and no abstentions.

9. Closed Session on the Refusal of the U.S. Army Corps of Engineers (USACE) to Accept Certain Conditions to the Commission's Concurrence with the BCDC Consistency Determination No. C2015.002.00 for the USACE's Operation and Maintenance Dredging Program for San Francisco Bay, San Francisco Bay Conservation and Development Commission v. United States Army Corps of Engineers, N.D. Cal. Case No. C:3:15-CV-05420-RS. Acting Chair Scharff announced: We will now move on to Item 9 a closed session regarding BCDC's lawsuit against the U.S. Army Corps of Engineers regarding the Corps' refusal to accept certain conditions of the Commission's concurrence with a consistency determination by the Corps for its maintenance dredging activities in the San Francisco Bay. Therefore, I am now asking everyone to leave the room, except for Commissioners, our senior staff, the dredging program manager and the Attorney General's staff while we hold this session. (The room was emptied of unauthorized people.) Upon completion of the closed session Chair Wasserman announced: There was no action taken in closed session to report.

10. Commission Consideration of Legislation Chair Wasserman stated: That brings us to Item 10 a staff briefing on pending legislation. Steve Goldbeck will make some comments and then ask for a motion.

Mr. Goldbeck presented the following: You have before you a staff report dated March 24th on pending legislation. There are several bills in the State Legislature of interest to the Commission.

The first is AB 733 by Assembly Member Berman. It addresses funding to implement climate change adaptation. It would do this by providing that one of the main methods for public financing projects – enhanced infrastructure finance districts – can be used for financing adaptation to climate change. We all understand the importance of getting funding to implement adaptation to climate change. On the basis of that staff recommends that the Commission support AB 733.

The next bill is AB 388 by Assembly Member Mullin that addresses funding for beneficial reuse of dredged material. It would do this by providing that funds in the State Greenhouse Gas Reduction Fund can be appropriated by the Legislature for beneficial reuse of dredged material for wetlands restoration, flood protection and carbon sequestration. This bill would achieve multiple goals of the Commission in terms of implementing the long-term management strategy for dredging, furthering beneficial reuse, and making wetlands and a resilient shoreline. On the basis of this the staff recommends that the Commission support AB 388.

There are several other bills that the staff recommends that the Commission direct the staff to continue to follow.

Assembly Bill 184 by Assembly Member Berman would make permanent the requirement that the Resources Agency and the Ocean Protection Council maintain an online data base of efforts throughout the state for adaptation to climate change.

The Resources Agency is discussing amendments with the author and we suggest we keep on following that bill.

AB 1121 by Assembly Member Chiu was a spot bill addressing increasing use of ferries on San Francisco Bay. It has been amended since we mailed the staff report and it now increases the members of the Water Emergency Transit Authority from five to nine.

AB 1433 by Assembly Member Wood would also address funds in the Greenhouse Gas Reduction Fund. It would actually earmark 20 percent of those funds for climate change reduction efforts across the state. It is mainly aimed at forests and working landscapes but it also could be used for wetlands projects.

The last couple includes AB 18 by Assembly Member Garcia is over \$ 3.1 billion park and open space bond act that would be put before the voters. It would appropriate many things but it would include \$ 30 million for climate change adaptation to the California Climate Resilience Fund which would then be divided between the Coastal Conservancy, the Coastal Commission and BCDC. This could provide funds to the Commission for its efforts for planning for adaptation to climate change.

SB 5 by Senator De Leon is a competing three billion dollar park bond act that would provide \$400 million in competitive grants. But these would be across the state for climate change adaptation.

And lastly, staff just became aware that Senate Bill 1 by Senator Beale which is the State Transportation Funding Bill that is being pushed vigorously right now by the Governor and the legislative leadership would also include \$20 million for local and regional agencies to work on climate change adaptation.

The staff recommends that you continue to track those bills but recommends that the Commission adopt support for AB 733 and AB 388. I am happy to answer any questions.

Commissioner McGrath had a question: On SB 1 is the \$20 million for planning because it is not much for implementation.

Mr. Goldbeck answered: It is not specific so it could be used for planning and for implementation.

MOTION: Commissioner Zwissler moved approval of the staff recommendation, seconded by Commissioner Scharff.

Commissioner Ranchod asked: On the bills you are asking us to support, is there any notable opposition to them?

Mr. Goldbeck replied: I have not checked in the last couple of days but there is not considerable opposition to any of the bills that we know about.

Commissioner Showalter added: We can't add SB 1 because it wasn't in the report. Right?

Mr. Goldbeck replied: It wasn't on the report so it would be better not to do that.

VOTE: The motion carried with a roll call vote of 16-0-3 with Commissioners Addiego, Butt, Scharff, Gorin, Peskin, McGrath, Ranchod, Randolph, Sears, Showalter, Vasquez, Techel, Wagenknecht, Zwissler, Vice Chair Chappell and Chair Wasserman voting, "YES", no "NO", votes and Commissioners DeLaRosa, Lucchesi and McElhinney abstaining.

11. Strategic Plan Update Discussion Chair Wasserman continued: Item 11 is a Strategic Plan update discussion. Matt Marvin of Kearns and West will make the presentation.

Mr. Eric Poncelet of Kearns and West addressed the Commission: Along with my colleague Matt Marvin we have been part of the team that is working with BCDC staff, the Commissioners and the public to help revise your current Strategic Plan. This process began back in January and about a month ago you had a workshop pertaining to this. That work is ongoing.

The purpose of today is where we come to the end of the information gathering phase and we will provide the Commissioners with a summary of the key input received and to give some highlights on where the process is moving forward and how the Commission will be involved.

Over the past several months we received input on the existing Strategic Plan and needs for the revised plan from a number of sources. There were three surveys conducted in the January and February timeframe; one went to staff and another went to the Commissioners and a third was made available to the general public.

We have convened a couple of workshops; one with staff and one with the Commission that was also open to the public and was attended and participated in by staff members.

The third major area of input to the plan revision process came from an assignment that went to staff, in particular to the regulatory planning and administrative divisions with the request of taking a look at the existing Strategic Plan and doing an assessment on what was achieved and was not achieved. What we are doing today is presenting some high-level findings. What Kearns and West was tasked with was reading and digesting and synthesizing a lot of input here. What we have pulled out and what we will be presenting in contained in a two-page summary in your packet.

These are the common themes that we heard. As a common theme they also represent the recommendations that we have as your contractors here for how to go forward with the revisions to the Plan.

These main findings came in two general areas. We heard a lot of feedback in the area of process around the Strategic Plan; in particular, on how to better implement the new Strategic Plan and then suggestions for how the Strategic Plan should be formatted and the appropriate level of detail. And we got a lot of input on priorities; what should be the priorities of the revised Strategic Plan moving forward. And some of those priorities were comments saying that there are a lot of things in the current plan that were recommended to be continued in the next plan but there were also some gaps identified – key issues that were not called out in the current plan that were recommended to be inserted into the revised plan.

In terms of some of the process recommendations a lot of comments were on the goals and objectives. The most common theme we heard was the goals and objectives need to be more detailed. They need to be more measurable. We need to be able to discuss clearly on whether or not we are achieving these goals.

There was this idea that there was a lot of filler at the beginning of context and purpose statements in the existing plan and a desire to move those goals and objectives up into a much more prominent position. There had been some thinking that maybe this Strategic Plan revision is really more of a tweaking or refinement of the existing plan. We heard clearly that you are going to need to develop new goals and objectives that really reflect where BCDC is today.

We got some process recommendations around the topic of rising sea level. We heard mixed comments as to whether or not it really rises to the level of its own goal or whether it should continue to be an objective within a broader goal. We heard a lot of comments about how it is going to be important to build effectively and incorporate the final recommendations on rising sea level from the Commissioner workshop series that you participated in last year.

We had a couple more process recommendations. We had a lot of comments on things that could be done to improve the utility and the effectiveness of the plan. We got comments to make sure that the plan is strategic rather than comprehensive. What does need to be in it are the most important goals and objectives for BCDC.

We had a lot of comments to make it more effective why not include a section to the plan on how to use this. This is so the general public can better understand how to do that. In that vein there were comments about how it is important to share BCDC's Strategic Plan with new staff, new Commissioners and to better tie it in with day-to-day work so that it is more effectively driving the work of the Commission and staff. We noted the importance of scheduling regular check-ins to make sure that you are achieving progress against the plan. And then finally, there were a couple of comments about, let's look at the Mission Statement every once in a while to make sure that this is relevant. And if it is not let's figure out how to make sure that it remains relevant.

On the topic of priorities and these were comments on many of these were continuations of what was in the existing plan. There was a lot of emphasis placed on the need to have a prominent place for organizational health and performance in the plan. There were comments about the importance of addressing cooperation of governance both inter and intra-agency coordination and inter-jurisdictional issues being addressed in there.

There was the importance of keeping outreach, permitting procedures, proactive planning and enforcement of the plan mentioned on several occasions. Many commenters felt that these topics should continue to be in there. We did hear about some new areas that are important to flag. One area was the idea that the topic of restoration of the Bay really did not have an explicit place in the previous plan and should be given a more prominent one in this one.

Similarly, the idea of addressing issues of environmental justice more effectively was brought up. This was viewed as subsumed or not viewable enough within the outreach objective before.

There were two other items that we heard really needs to be addressed in a much more robust fashion in the revision. One of the items was the stakeholder and public outreach and the second is the rising sea level and incorporating the findings from the Commissioner Workshop series. These are some of the big-picture findings. We would consider these to be the take-away from this input receiving process.

We want to describe the next steps and how we are moving forward over the coming weeks. We have worked with BCDC staff to convene a drafting team. Five members from the staff volunteered to participate in this. They have been given the task of being the wielders of the pen and helping to develop actual text revisions to the plan.

The drafting team is also coordinating periodically with senior staff and certain Commissioners who have been participating. There are six Commissioners participating in this process. The milestone that is driving the drafting team is to prepare an initial, preliminary draft that can be reviewed internally by mid-April. The drafting team has been meeting weekly on that. The introductory section is going to be brief and it will be a couple of pages and set the context for the goals and objectives that will appear.

Similar to last time, it looks like the draft revision that will come before you in the coming weeks. We will have three goals again. Like the last plan the first goal is really focused on the daily work. It is really the work that BCDC does to protect and enhance the Bay.

The big difference between the last plan and this plan is there is now goal two which is really focused on the topic of rising sea level and highlighting BCDC's role as a leader in increasing resilience of the Bay. That is responsive to the input that has been received and I look forward to sharing those draft goals and objectives when they come out for your review.

The third goal is similar to the previous Strategic Plan and it focuses on organizational health and performance; in particular, on expanding resources and staff to meet the many challenges being faced.

The last thing that the drafting team is working on is making the next version of the plan more specific and measurable. So one of the things that you will see in this version of the plan will not only be goals and objectives but under each objective you will actually see a list of proposed actions. These are the actions that would eventually be placed into a work plan or an implementation plan that would accompany the Strategic Plan.

Finally, in terms of key milestones moving forward this combination of the drafting team and senior staff and Commissioners will be meeting on the 18th to look at a draft that will be coming out on the 13th of April.

Staff is scheduled to have a couple of meetings to review that initial draft plan on the 17th of April and also on the 24th. The goal is to incorporate input from those staff meetings and this combination drafting team, senior staff and Commissioner meeting into a revised revision that would then come before the Commission for your review and discussion at your May 4th meeting. To finish up, after that May 4th we will work with the drafting team to incorporate the input heard at this meeting into a final version that will be submitted and presented to you for adoption at your June 1st meeting.

That completes our report and I am happy to take any questions or provide additional details. As you heard our summary of the key findings did we miss something that you were expecting to see along the way? Is there anything else that you want to make sure is being incorporated into that draft that we did not cover?

Chair Wasserman asked: Comments, questions?

Commissioner Ranchod commented: I am really pleased to see the process recommendations in here. I think they are all really important especially having measurable objectives. And the rest of them will help ensure that it's a living document that's utilized and not sitting on a shelf.

Mr. Poncelet replied: One of the challenges that the drafting team is facing is to develop an objective each time and identify actions that would help achieve that objective. They have also been tasked with identifying, how would you measure successful completion or successful achievement of the objective? It makes you think about how you would write it in a different way.

Mr. Goldbeck commented: From the staff's point of view and I know Larry shares this; we really think this is going well and the work with the Commissioners is really appreciated. We particularly like the fact that we have some of the newer staff helping the writing team formulate this.

12. Briefing on Port of San Francisco Waterfront Plan Working Group Process Chair

Wasserman announced: That brings us to Item 12 which is a briefing on the Port of San Francisco Waterfront Plan Working Group process. The presentation will be made by the Port's Executive Director Elaine Forbes and Diane Oshima and the Working Group co-chair Janice Li.

Ms. Forbes addressed the Commission: I am the Executive Director of the Port of San Francisco. We wanted to initiate conversation with you on the process that the Port is going through to update our Waterfront Land Use Plan which is now 20 years old.

We have other Port staff here that worked on the update of the Waterfront Plan. Some of the staff here today were present when the Plan was first developed 20 years ago.

Alice Rogers is here and she is a major contributor and is leading our Land Use Subcommittee Group. Janice Li will also join us and she is a co-chair.

I would like to acknowledge the progress we have made at the Port over the last 20 years. The waterfront in San Francisco has really transformed over the last 20 years and we have delivered so well on the fundamental components of the Waterfront Plan to unite San Francisco and the state with its waterfront while meeting the mandates and mission of our trust.

We are very proud of what we have accomplished with the Plan. Times are changing and it's time for an update. I would like to acknowledge that the progress we have made is in large part due to the collaboration we have had with BCDC and with the State Lands Commission. And we appreciate all of the guidance we have been given to deliver on the promise of a public-facing waterfront with few fences and gates and a really amazing urban place.

We will continue to rely on the coordination and collaboration with BCDC because while our urban waterfront has unique challenges all the waterfronts in this region are facing the threat of sea level rise. San Francisco is facing a very, very significant seismic threat as well.

In order for us to deliver on the modern-day challenges of our waterfront the old playbook is going to stop working for all of us. We have begun that conversation and BCDC's work on rising to adapt to tides is seminal work that we are all relying on as we move forward.

We see this process to update our waterfront land use planning process as very critical to bring us into the next generation of our waterfront and as an important starting point in initiating conversations with you about our regulatory framework.

With that I would like to show a video that goes through what we are trying to accomplish. (A six minute video was shown)

That video gives you a good feeling of what we are doing with the Waterfront Land Use Plan and you will notice that the process is very robust. There are 30 members of the Working Group. We have regional stakeholders involved as well. We created two additional seats, one for BCDC and one for the State Lands Commission and both bodies are participating fully and we really appreciate that.

The success of the Working Group is in no small part due to our fantastic co-chairs Rudy Nothenburg and Janice Li. We are very lucky that the public is willing to invest the kind of time that we are asking the public to invest in this process.

We are putting seismic risk and sea level rise front and center in the process. It is foundational to what we are trying to achieve and if we ignore we will not be able to achieve all of the preservation and improvements to our waterfront.

We have quite a few challenges before us. We have many historic piers that are still waiting to be rehabilitated. We've lost many of our finger piers. We have two beautiful historic districts but they are deteriorating and we have a backlog that we can't get out from under of over one billion dollars as an enterprise agency.

We are looking for the opening of how to continue to march down and see the kinds of improvements we have seen that have served the public so well and to unleash the promise in the southern Bay Front Area.

We have big projects on the horizon at Pier 70 and at Seawall Lot 337. We know we are headed in the right direction but with the threats that we see in the near term with the seismic risks and the longer-term horizon of sea level rise; we know we all our work cut out for us.

Ms. Janice Li spoke: I am serving as Chair for the Waterfront Working Group. We always knew this was going to be a very challenging process because there is so much that goes on in the waterfront. The Port supports so many different uses and activities.

We have had a really thoughtful and collaborative engagement from everyone. And it's not just the 30 members in the Working Group; these meetings are all really well attended.

Our first phase took nearly a year where our Working Group members went through a barrage of orientations to learn about everything from Port finances to sea level rise to governance and beyond. We are really grateful for BCDC and State Lands involvement. The participation has particularly been key because our goal is for Port improvements that meet local, regional and state needs.

Phase 1 wrapped up several months ago and last summer/fall we began Phase 2 where we have broken into three subcommittees; land use, transportation and resilience.

Each subcommittee is developing policy guidance recommendations to Port staff to inform the work of drafting amendments and updates to the Waterfront Plan.

We have been tackling issues one-by-one. We definitely have not been shying away from a lot of the tough topics. We welcome questions and I hope in the coming months we can come back with some of the policy recommendations and amendments that we have come up with.

Ms. Diane Oshima addressed the Commission: I want to, once again, thank you all on behalf of our team. All of the BCDC staff has been very supportive. We have been maintaining regular discussions in between the meetings and the public engagement has been empowered because staff members from our partner agencies are there to be able to dialogue directly with the citizenry. It has enhanced the caliber of the discussions.

We are in these three sets of subcommittee meetings to look at the various topics that are sorted between those three subcommittees. We expect that those will be wrapped up around June. There are still some sub-areas of the waterfront that have particular challenges for the Port in the Embarcadero Historic District.

We will be doing some neighborhood-scale planning into the summer and hope to wrap that up by the end of the year. By that time the intention is to take the amalgam of all of the Port-wide policy issues plus the more location-specific recommendations and ideas so that Port staff can draft amendments to the Waterfront Plan and then it will have to go through a CEQA and environmental review and approvals process.

All of that is work that we really need to continue to coordinate with BCDC, this Commission and staff. The scope of the changes that we are talking about for the Waterfront Plan have direct implications for the BCDC/San Francisco Waterfront Special Area Plan as well.

That plan was also amended almost 20 years ago alongside the Waterfront Plan when it was first adopted. Things like sea level rise and seismic improvements to the waterfront are certainly game changers for both of our plans that we need to update in sync with each other and with the City of San Francisco.

There are other enhancements on the waterfront that neither of our plans really recognizes. There has been an expansion of a Port-wide connected, open-space system. We want the Special Area Plan to have policies that recognize this system alongside San Francisco's policies as well.

We have water recreation, Bay Water Trail and improvements that are not recognized in our plans. Those are just examples of things that we need to do in sync with each other to make sure that we have alignment in our policies that facilitate more waterfront improvements over the future.

While we don't have proposed policy changes to identify or suggest for the Special Area Plan, we do intend on filing an application so we can formalize the collaboration that is going to be necessary to develop some of those amendments.

Our interest is to make our public process work for the needs and issues that your Commission is going to have to be grappling with as well before you consider any amendments to your Bay Plan and the San Francisco Special Area Plan.

Thank you very much again. We are happy to take questions and suggestions on how we can make things better. We are about half way through so there is plenty of time to go.

13. Adjournment Commissioner Butt commented: I would like to have the privilege of moving adjournment in memory of John T. Knox whom we called, Jack.

Jack had been my neighbor for many, many years. The original BCDC organization was a product of the McAteer-Petris Act; McAteer being in the Assembly and Petris being in the Senate. It was in 1965 and it set up a process that resulted in the San Francisco Bay Plan. When that ended in 1969 the future of BCDC was very much in question. There were apparently four pieces of legislation working their way through the State Legislature, two of which were designed to kill the idea of BCDC.

The one that emerged at the end was the one authored by Jack Knox. He introduced it in the Assembly and Petris continued with it. The final legislation that passed was basically Jack Knox's bill.

If you read the intrigue and the politics that followed that it is very interesting. It reads like a novel. It is well documented if any of you are curious I'll recommend you go and take a look at it.

At any rate, it passed and here we are. Jack Knox might not have his name on the McAteer-Petris Act but BCDC would not exist without him, no question about it.

Upon motion by Commissioner Butt, seconded by Commissioner Scharff, the Commission meeting was adjourned at 3:37 p.m., in honor of John Knox.