

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

TO: Seaport Planning Advisory Committee Members

FROM: Erik Buehmann, Long Range Planning Manager (415/352-3645; erik.buehmann@bcdc.ca.gov)

SUBJECT: Minutes of the July 25, 2023 Seaport Planning Advisory Committee Meeting

1. Call to Order.

The hybrid meeting was called to order by Chair Eisen at 1:07 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 Eisen stated the purpose of the Seaport Planning Advisory Committee (SPAC) meeting was to for the SPAC Committee to review and make an advisory recommendation to BCDC regarding Bay Plan Amendment 1-19.

BPA 1-19 is a comprehensive update to the current Seaport Plan. The Chair summarized the agenda for the meeting.

Roll Call

Committee Members and Alternates present were: Chair Rebecca Eisen, BCDC; Karl Hasz, BCDC, Dominic Moreno, Port of

San Francisco; Kristine Zortman, Port of Redwood City; Matt Maloney, Metropolitan Transportation Commission (MTC); Lizeht Zepeda, Port of Richmond; Randy Scott, Benicia (Amports); Bryan Brandes, Port of Oakland; Scott Humphrey, San Francisco Marine Exchange and Cameron Oakes, Caltrans.

Ms. Riley stated that a quorum was present.

Chair Eisen provided instructions for participation in the meeting.

Staff in attendance included: Executive Director Larry Goldzband and Coastal Scientist Cory Mann.

2. Staff Presentation and Committee Discussion.

Mr. Cory Mann, Principal Waterfront Planner, began the staff presentation: In advance of this meeting, BCDC staff had circulated a report containing background information and a preliminary assessment of the major policy issues related to the Amendment. They have not made a recommendation to the SPAC or the Commission regarding Howard Terminal.

Today I will provide an overview of the Seaport Plan Update. The presentation will be in two parts.

Mr. Mann presented the history, background and current status of BPA 1-19 via a slide presentation.

SPAC Questions

Member Maloney asked: Are there any statutory requirements in the McAteer-Petris Act about how often the Seaport Plan needs to be updated. Is it just updated on an

as-needed basis?

Mr. Mann replied: There is nothing in the McAteer-Petris Act for how often the Seaport Plan needs to be updated.

The Bay Plan references the need for a Seaport Plan. However, the Bay Plan does not specify timing requirements for updating it.

We have introduced a policy into the Draft Plan to talk about that.

Member Maloney added: When you make those updates, it might be good policy to do something like that. There is sort of a rhythm to the update of plans.

Member Oaks commented: We are under the same requirements to periodically update with our State Freight Plan. We are required to update it every four years.

It was mentioned that the Cargo Forecast will be updated every 10 years.

Mr. Mann stated: At a minimum, we would expect it to be updated more frequently. It could be more often if BCDC determines it is necessary.

Member Maloney added: We might want to define what, "as needed" means.

Mr. Mann proceeded to present part two of his slide show to the participants.

3. Public Comment.

Chair Eisen opened the public comment portion of the meeting. Instructions were given for participation protocols. Public speakers in the meeting room were invited to give comments.

William Dow spoke: I am with ILWU, Local 6, warehouse retired. I was given permission by our union to represent Local 6 at these meetings.

We objected to the Oakland A's coming at the Howard Terminal. We have been coming to these meetings for over four years now.

At a previous meeting you went along with us and kept port priority use on Howard Terminal. The full Commission voted against it even though they hired a representative to speak against it.

They took Howard Terminal off port designation. We want you to put it back on port designation. The A's did not come through with what it is.

Howard Terminal is a working area. It does go along with real estate and development like that.

Revert it back to port designation. It does not belong in other things. It is a working port. It is too important for this area and the industry to do that. The maritime industry is too important for the whole region.

Mike Jacob addressed the SPAC: I am with the Pacific

Merchant Shipping Association, and I represent ocean carriers, marine terminal operators operating in California's public ports.

We associate ourselves with the comments you have heard from Mr. Dow and other speakers about the importance of including Howard Terminal in the Plan consistent with AB 1191 on a conditional basis.

With respect to the revisions to public access, we think that is a mistake. The existing policy is very strong and states that port priority use designations should control areas and that public access should only occur if it does not impede industrial use. And the primary use of that area should be industrial and should not be impeded by public access.

What is proposed in this language is the opposite. It encourages public access and removes the language that conditions the impedance. That should be flipped.

On climate, we support the inclusion of the language with respect to climate and we think it is very important, including the zero-emission technology with one key difference.

Your policy says that this should be included "whenever possible". Impossibility is not a good standard. It should say "feasible" because that is the standard we use.

On the question of consultation with the SPAC with

removal of port priority use areas, we want that to be included as it is written right now in the existing policy that there be a very, very clear presumption against removal of port priority use unless the SPAC and the Commission both agree that the removal is in the best interests of the Plan in furtherance of its policies.

The SPAC should not be just consultative. It should be provided that same presumption that is in the policy right now.

Lee Sandahl commented: I am a 40-year member of the International Longshore and Warehouse Union, retired. I will be speaking for our Northern California District Council.

Given that the Oakland A's baseball team no longer has an agreement with the City/Port of Oakland, the International Longshore and Warehouse Union's Northern California District Council is requesting that the Bay Plan Amendment be amended to read, if a binding agreement is not evident between the Oakland A's and the Port of Oakland by January 1, 2025 - where does this date come from? Is that an expiration date on what the A's have with their lease at the Coliseum?

Chair Eisen responded: We are not allowed to answer questions on public comments.

Mr. Sandahl continued: - that the port priority use designation will be automatically reinstated at the Howard Terminal property.

The A's have already stated that they have no intention of resuming negotiations with the City/Port of Oakland.

Our District Council also wanted to request that any proposal for residential development or similar incompatible uses at Howard Terminal be required to undergo a transparent and thorough public review process.

Executive Director Goldzband commented: Cory can answer the question of where the date comes from.

Mr. Mann explained: That date is actually written into the state legislation. It was part of Assembly Bill 1191. How they came up with that date; I am not sure.

Susan Ransom spoke: I am speaking on behalf of the SSA Terminal, the largest tenant for the Port of Oakland.

We stand here again in full circle after the A's ran everyone through the wringer for years and stuck it to everybody that supported their agenda.

The A's now and previously have always been looking for a new home that was never rooted in Oakland.

In March of 2022 the SPAC voted to oppose the removal of port priority use designation which BCDC rejected on behalf of the Oakland A's, city of Oakland and Port of Oakland. And the removal of maritime land went forward in support of the A's.

You were right with your initial recommendation, and we thank you for that. We hope that the support is still there

in this new amendment and now BCDC will have the opportunity to look at all this through a different lens and do the right thing.

In reviewing the current 1-19 Bay Plan Amendment, oddly, it says nothing about the reinstatement of the port priority use designation and reverting back to maritime use should there be no final agreement between the Port and the A's by January 1, 2025.

I would ask that you include it in the amendment that the port priority use revert back to maritime use, effective date of amendment or at a minimum, that there be written verbiage that says, effective January 1, 2025 if there is no final agreement between the Port and the A's, that the land at Howard Terminal automatically revert back to maritime use as is law.

I would ask that the land for the turning basin be effective immediately. The turning basin is moving forward at a steady pace with full support of the Port of Oakland. The project is moving forward faster than anticipated.

The agreement between the Port and the A's has expired. I respectfully ask that the reserved land for the turning basin should revert back to maritime use immediately without opposition as a part of this amendment recommendation.

We do look forward to working with the Port of Oakland on alternative solutions for Howard Terminal.

I would like to see on any map with BCDC and everybody going forward, show the turning basin please. Every map we see does not have it on there and it will happen.

Sung Lee commented: I am with Custom Brokers and Forwarders Association of Northern California. I am here to support the trade community of Northern California. I represent the users of the Bay Area Region that uses the ocean and airports here at Oakland.

We encourage the Commission to preserve the maritime nature of the Port of Oakland. It is essential that the Port of Oakland be unhindered in its mission to facilitate the business of trade.

Regarding the Port priority use area; we encourage the Commission to decide in favor of public access should not impinge on industrial maritime usage and priority for sea level mitigation, and zero emissions operations.

And finally, Howard Terminal be reverted back to maritime Port use without further delay.

The trade community favors Port of Oakland for its well-run Port operations. It is easy to access in comparison to other ports in Los Angeles and Long Beach.

Evey Hwang was recognized: I am a customs broker and freight forwarder. I am also part of the Customs Brokers Orders Association of Northern California. I am here today as a member of Port stakeholders who are users of maritime

services at the Port of Oakland.

We want to preserve our home port which is the Port of Oakland. The Port is too important to our region for our commerce, for our exports of our agricultural goods and for our supply chain for our inland markets.

The adjacent Port land should necessarily be preserved and especially land that is adjacent to water. Page 19 of the Seaport Plan specifically says that ports require a flat expansive waterfront location, navigable deep-water channels, and excellent ground transportation, access and services.

Such sites should be protected and preserved as port priority use areas. That is right out of the book. It is hard to source land that is for maritime use.

We should be building for the future. None of the maps show the turning basin which has been promised. That is a 10-year plan and other services that can be added to the Port are essential.

David Lewis spoke: This is David Lewis from Save the Bay. I'm sorry that I cannot be with you in person. I had a flat tire on the way to the meeting and am waiting for that to be fixed.

I am speaking as a member of the public and I want to thank the staff for all the detailed work on the Plan. I also appreciate the clarification on the confusion caused in the Draft Staff Report around changes on Policy 3.

And notwithstanding that clarification, I do agree with Mike Jacob that it would be better to underscore that the Seaport Advisory Committee while being advisory, should be expected to actually consider and make a recommendation on any removal of port priority use area.

The exercise that we just went through with Howard Terminal underscores that the process can work. We made a recommendation, and the Commission made a different decision but at least they had the benefit of a considered recommendation from the SPAC.

I would align myself with the comment letter that was submitted by nine stakeholders including Mike Jacob and the PSNA regarding how this amendment should address the current status of Howard Terminal.

The Staff Report does a good job of explaining this situation. That letter's recommendations for how that could be reflected with note and comment in the Plan itself is entirely appropriate and would not seem to me to create any different or additional legal exposure for the Commission.

It sounds like reluctance to do that is because of pending litigation. But I do not understand why that would be the case. Perhaps the Commission or the Executive Director will want to explain that. But otherwise, I would strongly recommend making those additional changes that describe the current status of Howard Terminal in the Plan

itself.

John Coleman gave public comment: My name is John Coleman, and I am the CEO of the Bay Planning Coalition. Thank you for the presentation.

On slide 24 it talked about feedback. It is not exhaustive. Can I understand that to mean that you have not received a whole lot of feedback?

If that is the case and you have a short timeline to make a decision this year, what efforts are going to be made to get more feedback. And if I am misunderstanding this, please correct me if that is the case.

Also, I think it is essential going forward with this, that we protect port activities, the economy and the jobs that they create. They are critical to our economy, for the Bay Area and California.

If you can correct me on slide 24. The feedback I got is that it was not exhaustive. I want to know what that means.

Matt Schrap was recognized: My name is Matt Schrap. I am with the Harbor Trucking Association. I am the Chief Executive Officer of the Harbor Trucking Association.

One of the recommendations that we definitely echo came from my colleague, Mike Jacobs at PMSA is requiring that any type of consideration for removal of port priority use be leveraged against whatever the SPAC and the full Commission

determine. That it should not just be the full Commission that votes. Both groups should be fully cognizant and aware in support of any type of removal of port priority use from any facility within Port jurisdiction.

We are ideally hoping that staff will take a second look and include Howard Terminal into existing, active marine terminals as is evidenced by anyone who takes a trip down there today. They can see that there is tremendous cargo movement still happening.

It should also be included in Table 3 in the existing marine terminal expansion sites. We and several other organizations had signed on to that Coalition letter that was submitted last Friday which includes the Union Pacific Railroad, the PMSA, the ILWU, SSA Terminals as well as GSC Logistics, one of the largest trucking companies that does business at the Port of Oakland.

One other consideration should be looking at the Cargo Forecast and there should be a provision to take in any considerations for other cargo forecasts. It can be very volatile and the Port of Oakland is competing with gateways across the country that are making every effort to attract discretionary cargo away from the our gateways on the West Coast.

It would be prudent to take a look at those cargo forecasts in a more timely fashion as opposed to 10 years.

And finally, to echo what has already been said, we are supportive of including the stipulation in the legislation that includes the - if no binding agreement is met by January 1, 2025 between the Oakland A's and the city and Port of Oakland, that the port priority use designation be automatically reinstated to Howard Terminal and any proposals for residential development or other similarly incompatible non-maritime use at that site be required to undergo a transparent and thorough public review process.

Adrian Guerrero spoke: This is Adrian Guerrero with Union Pacific Railroad. I do want to underscore the comments made by previous speakers.

Union Pacific hosts two significant yards at this port, a manifest yard as well as an intermodal yard. We have multiple mixed commodities coming in and out of this trade corridor.

And we are likely one of the largest, if not the largest anchor tenant for the goods movement ecosystem. We have a unique perspective on passenger and freight movements considering that all the passenger rail that comes through this corridor is on the Union Pacific which includes Capitol Corridor, various Amtrack services through the San Joaquins, long haul service as well as the Altamont Porter Express.

A lot of my comments are going to be consistent with other public comments. Those comments are focused on the

incompatible land use that the City continues to explore for Howard Terminal and what that means for the larger goods movement system in addition to public access and public safety directly at Howard Terminal.

We have seen that the number one use is maritime use. We want to see it remain as a port priority use designation plan.

We highly identify the issues that Cory mentioned earlier on commuter and freight line conflicts. Those continue to remain unaddressed. They have been largely ignored by our public partners and we continue working with the SPUC and others on specifically addressing those issues.

As long as the City continues to look at Howard Terminal as a potential entertainment district, residential or retail use that is going to go counter to our use and our operations - we switch trains in this corridor in which we typically do 10 to 15 times a day.

And those trains, when they are being switched, stop at Market and MLK and considering those for at-grade use as well as emergency vehicle access, Water Street is a significant problem.

The continued use of Howard Terminal as is, is not only the best economic use of that site, but also the safest use of it.

And we disagree with forecasts that we have seen out

there. We are actively making investments in our port terminal yards as well as support yards in the life of Roseville areas that feed into the Port of Oakland.

As we continue working with ACTC on the Seventh Street Project that recognizes the continued growth here, we greatly appreciate your consideration because once this is gone, we will never get it back in this use and that is what we see as the best use of this property.

Mel MacKay commented: I am the former president of Local 10, president of the NCDC Northern California District Council here in San Francisco/Oakland.

As everyone has stipulated, we have been fighting this fight for quite some time. We look at the port priority use for Howard Terminal to stay open, not closed.

It would be a shame if we turn around and tell the community that we cannot get the goods that they deserve in this community.

Howard Terminal is up and running and has been since the beginning of this fight with the Oakland A's. You have the power to keep it port priority use and hoping that you will do that. This is the last thing that you guys have to do on your agenda - is to make sure that the community strides.

That the maritime stays open and viable for all. If you turn around and do not do this, we need these waterways to assist everyone in this community, not to have apartments,

hotels, condominiums.

If it stays port priority use, we can continue doing business with ocean carriers around the world. This place has been open for business since we started this fight and one thing that we have to understand is - we do not want to go to Portland, Oregon or Los Angeles to get our goods.

The economy has to strive and open California as well as anywhere else. Our goods come from rail, airplanes or vessels. And this is all we have to depend on right now.

As you guys making the sound, right decision. You have the power to do so and hoping that you will. Thank you.

Scott Humphrey addressed the SPAC: My name is Scott Humphrey. I am the relatively new Executive Director of the Marine Exchange of the San Francisco Bay Region. I am really happy to be a part of this group.

I appreciate the opportunity to introduce myself and that is all I have to say.

Chair Eisen continued: Thank you Mr. Humphrey for introducing yourself to us. Thanks to all that have commented. If you have any written comments in addition to or in lieu of oral comments, you can submit them to us at publiccomment@bcdcd.ca.gov.

4. Advisory Vote.

Chair Eisen asked for a motion and a second to close the public hearing.

MOTION: Member Zortman moved to close the public hearing, seconded by Member Oakes. The motion passed with a show of hands with no objections or abstentions.

Chair Eisen continued: That brings us to our Committee discussion and our advisory vote on whether to suggest to BCDC that they approve this Draft Seaport Plan with the comments and the changes that we suggest being noted for them.

Committee Discussion

Chair Eisen called for comments: Ms. Riley will you call on the folks that have their hands raised.

Member Zortman was recognized: I have a procedural question. I also want to recognize BCDC staff for all of the hard work and effort that they have spent over the years including with changes at the BCDC staff level. I appreciate everything that they have done.

There were a couple of things that PMSA brought up that are relative. In particular, when I think about port operations. The first, when he references public access of industrial facilities, that is concerning to me with the new language as proposed only because of safety conditions and other things as it relates to incompatible uses.

I do not understand, if in fact, that is going to be looked at more thoroughly before a formal recommendation is made to the full Commission or not from the staff.

As well as the comment, we all recognize that regulations never get easier. When they also mentioned the fact that we would like to be able to have the word, "feasible" potentially or they would like to have the word, "feasible" put into anything as it relates to ZEV (zero emissions vehicles) development.

I want to understand, from your process, where these comments would fall, and the Next Steps related to those.

Mr. Mann responded: The first thing is public access. Happy to consider language changes to that policy. I hope we did not scare anyone with the change in language there.

I want to clarify that the intent of that draft policy is just to make sure that the Seaport Plan is aligned with the Bay Plan public access requirements.

We are definitely not suggesting requiring public access where it would be incompatible with port operations or create safety concerns or change that general standard.

The Bay Plan has its own public access policies and the Seaport Plan is part of that. Bay Plan Public Access Policy 2 has this clause in it that says, except in cases where public access would clearly be inconsistent with the project because of public safety considerations or significant use conflicts. So, it is already in there.

I think ports are mentioned specifically at the beginning of that policy. The Seaport Plan would not

supersede that at all.

So, we want that standard to be the same. If you also look at Finding K in the Seaport Plan port priority use section, it also states that due to the potential incompatibility of public access with active port operations such as public safety considerations, however, port-related development often may require in-lieu public access as provided in the Bay Plan public access policies.

We will be happy to look at revising that language and making it clearer. But the intent of that policy revision was not at all to change that standard.

The second question was also related to PMSA's Comment Letter. There are the environmental justice and social equity policies. There is a policy about supporting the transition to zero emissions ports.

The intent of that policy also was to introduce any new requirements so much as to voice BCDC's support for those kinds of projects. And this would help them to be found consistent during the permitting process when they are submitted to us by the ports.

Using the word, "feasible" instead of, "possible" sounds great and we are happy to make that change.

Chair Eisen asked: Cory, could you also respond to the question about how these comments are going to be sent up to BCDC or how they are going to be incorporated?

Mr. Mann explained: After this meeting, the next step for staff would be to start working on revising the Draft Plan and incorporating these suggestions. So, we would include a section of the Staff Report for BCDC's Commission that would be clear on issues raised and suggested policy revisions.

We are also happy to meet with anyone individually at their request if they want to talk through any specific changes and make sure that all the SPAC Members are happy with them.

And of course, when that report goes out, it will also go out to all the SPAC Members.

Chair Eisen chimed in: And the SPAC Members will be able at the BCDC meeting where we consider the Seaport Plan, to make comments at that meeting as well, right?

Mr. Mann replied: Absolutely, we would hope so.

Chair Eisen asked: Any other comments or questions?

Member Brandes commented: I too want to thank staff for making the changes specifically to one about combining all the uses. That was one of our earlier requests and we appreciate you including that.

One of the comments that was made about climate change and sea level rise - very robust, we agree. You definitely want to make sure and the ports need to be involved at a very low and high level.

We are doing a lot of work with that, and we need to be kept informed and part of the process.

It is important that everyone recognize that Howard Terminal does revert back January 1, 2025, if no agreement is made with the A's. It is very specific.

And equally important, is we are and continue to use it for maritime use. So, no change is necessary.

We definitely agree to change the word, "possible" to, "feasible". It is consistent with a lot of other language that we use in the industry.

Member Oakes was recognized: Cameron Oakes from Caltrans. In the section dealing with regional coordination and future Seaport Plan updates - I would suggest adding the California Freight Mobility Plan as another critical state plan that supports freight.

There are policies at the state level with regard to that. They would align well with some of the goals and policies of the Seaport Plan, particularly, the connection to the National Highway Freight Program funding with many of those routes going into the ports. It is not just the state highway system. It is also local roads that access the ports.

It might be good to include that as a suggestion to the staff at BCDC.

There might be a suggestion that a sixth goal is needed

with respect to climate change. I see that there are goals for environmental justice and social equity, but I did not see a goal aligned with climate change with respect to seaport vulnerabilities, climate adaptation efforts as well as emergency response. That is something for you to consider maybe consider including some of the language pertaining to this.

Chair Eisen added: I would like to add my heartfelt thanks to the staff for all of the work that they have done. It is very clear from all of the comments that have been made so far that the staff's willingness and enthusiasm for working with all of the stakeholders in this to make sure that we have the best possible Seaport Plan and that it accomplishes its goals, that has been made very clear to us.

We have some work still to go but I want to conclude by thanking the staff.

We need to decide on our advisory recommendation to BCDC. I know that Cory has some potential motion language that he has drafted for us.

Is it possible for you to bring that slide up, Cory?

Mr. Mann replied: Sure, happy to do so.

Chair Eisen continued: And once it is up there, I will be looking for a motion from one of our Members with respect to what recommendation we wish to make and a second.

So, here is the potential language that could be used.

Let's take a moment to look at that.

Does any Member wish to make a motion? And if so, do you wish to make this motion?

MOTION: Member Brandes moved approval of the Staff Recommendation, seconded by Member Hasz.

VOTE: The motion carried by a vote of 9-0-0 with Members Moreno, Zortman, Zepeda, Scott, Brandes, Oakes, Maloney, Hasz and Chair Eisen voting, "YES", no "NO" votes, and no "ABSTAIN" votes.

Chair Eisen continued: Thank you so much. That is our recommendation to the BCDC Commission. Now Cory, you are going to give us a brief, Next Steps before our adjournment, right?

5. Next Steps.

Mr. Mann continued: I will do a brief version of Next Steps just as a reminder of what I had in the presentations.

Mr. Mann revisited the Next Steps slide of his presentation and briefly went over the timeline displayed on the screen.

We are eager for more feedback and if you have any, please get in touch.

Executive Director Goldzband commented: First of all, I want to congratulate staff for their efforts. They have done a tremendous job especially after such a difficult period and really think large-scale about how to make sure that the

Seaport Plan going forward changes to accommodate uncertainty, the future et cetera.

I am really thankful that the SPAC seems to agree with the way that the staff has done that.

While we have provisionally scheduled the Seaport Plan for October, I am still not quite sure whether it will be the first meeting in October or the second meeting in October.

Chair Eisen added: And a further reminder that because of the change back in the rules, we will either have to be here in person or at a designated pre-noticed place to attend those meetings.

6. Adjournment.

Upon motion by Member Brandes, seconded by Member Zortman, the meeting was adjourned at 2:57 p.m.