

San Francisco Bay Conservation and Development Commission

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April 28, 2023

TO: All Commissioners and Alternates

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

SUBJECT: Draft Minutes of April 20, 2023 Hybrid Commission Meeting

1. **Call to Order.** The hybrid meeting was called to order by Chair Wasserman at 1:06 p.m. The meeting was held with a principal physical location of 375 Beale Street, San Francisco, California, and online via Zoom and teleconference. Instructions for public participation were played.

Chair Wasserman stated: My name is Zack Wasserman and I am the Chair of BCDC. Before we get started I would like to state that Item 11 on today's agenda regarding the general issue of BCDC's laws and policies on liveaboards and marinas, and specifically compliance at Oyster Point Marina, has been postponed. We will schedule it again as soon as we can.

Chair Wasserman gave instructions to all attendees on procedures for participating in the meeting. He asked Ms. Atwell to proceed with Agenda Item 2, Roll Call.

2. **Roll Call.** Present were: Chair Wasserman, Vice Chair Eisen, Commissioners Addiego, Ahn, Arreguin, Beach, Burt, Eckerle, Eklund, Gioia, Gorin, Gunther, Hasz, Lee (represented by Alternate Kishimoto), Lucchesi (represented by Alternate Pemberton), Moulton-Peters, Peskin, Ranchod (represented by Alternate Nelson), Ramos, Randolph, Showalter and Tam (represented by Alternate Gilmore).

Chair Wasserman announced that a quorum was present.

Not present were Commissioners: Department of Finance (Almy), U.S. Environmental Protection Agency (Blake), Department of Business Transportation & Housing (El-Tawansy), Solano County (Mashburn), San Mateo County (Pine)

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

Chair Wasserman gave instructions for participating in the hybrid meeting. He emphasized the following: Commissioners must have their cameras on, instruction for public attendees was given, those in attendance at 375 Beale Street were socially distanced, comments must be focused and respectful and emails received were noted.

Mr. David Lewis addressed the Commission: David Lewis, Executive Director, Save the Bay. I want to call your attention to sea level rise and flood resilience strategy that Save the Bay has put together which we distributed to you last month. I want to call your attention to some of those actions that we recommend.

We wanted to take the time to put together a comprehensive strategy for what the Bay Region needs to adapt not only to rising tides but also to flooding, not just on the shoreline from more extreme storms.

Chief among our recommendations is strengthening this Commission and your ability to do your job with these new challenges.

You will be discussing later giving BCDC additional authority to actually help and require cities in the Bay Area to do planning for this kind of eventuality which we know is actually already here.

I did want to call to your attention that we also need more than just that. We need more actions regionally and at the state and federal level.

Save the Bay is a small, regional organization. We are not equipped on our own to make changes in state law, state policy or federal law and policy. But we are interested in trying to make those happen and we are looking for partners to try to accomplish that.

I will highlight for you just a few of the things that we think are obviously needed. One is updating the state's building codes for areas that are at risk of flooding and future flooding. Anyone who has bought a remodeled home knows that there are extreme and appropriate requirements for seismic safety, electrical, plumbing and other aspects where the state has rightly decided that it is in the public interest to reduce everyone's risk. We have not done that for a long time for building codes standards in flood zones.

Fortunately, some cities in the Bay Area are moving ahead and doing this at the local level – Burlingame is a great example and the San Mateo County One Shoreline District is also pursuing this.

So there is lots of great work to build on but that is definitely something that is needed.

We also need the federal government to reform the National Flood Insurance Program and the way that FEMA does projections for flooding because many people in the Bay Area are living in areas that are at risk of flooding and they do not know it because the federal government is not acknowledging that and the projections themselves are actually based on historical data not on reasonably foreseeable circumstances that are actually a part of the state's guidance for sea level rise that is going to occur and for participation that is going to occur.

San Mateo County is the only county in the Bay Area that has actually made projections based on expectations of increased extreme storms and precipitation.

There is much to be done and we look forward to working with you to accomplish these goals.

Mr. Matt Klein spoke: My name is Matt Klein and I belong to an organization called, Liveboards United. It is newly formed after the closure of Oyster Cove Marina.

Agenda Item 11 has been postponed. We would like to think that this is because, you like us, are in favor of the public process and due diligence with this issue.

We do very much want to have the time to present our case that a minimum 25 percent rather than the 10 percent that is now currently allowed for liveaboards in marinas is accepted and approved and the Bay Plan is amended.

We want to give this very, very, thorough hearings. The public process is something that we are very much in favor of that includes harbor masters, that includes the marinas themselves.

I do not want to live on the upland. A lot of our people have been placed in the upland. That is taking housing away from housing that is needed for other people who do not live on the Bay. It is low-income housing. It is necessary. But we do not want to change the way we live on the Bay. We do believe that because of the closure of marinas we do not see the need for the closure of Oyster Cove.

I have to now find placement for a place to live. We appreciate your diligence in postponing this so you can give it a better hearing. We want to thank you once again.

Ms. Val Hammel commented: I am a 20-year, liveaboard resident at Union Point Marina. I also row out of the Jack London Aquatic Center with the East Bay Rowing Club.

I am extremely familiar with the history of and the conditions in the Estuary and I want to speak today about the anchor-out situation and sunken vessel situation and the lack of enforcement on the part of the Enforcement Committee.

On this coming Sunday the East Bay Rowing Club will be hosting its Second Annual Boats Without Barriers Regatta. People will be coming from all over to participate in this Regatta and they will be rowing around anchor-out vessels that will be obstructing the path and they will be getting a close look at the more-than-half-a-dozen, sunken vessels all over the Estuary.

One near Coast Guard Island Bridge is creating a serious hazard because its prow is just under the water line at low tide. In Enforcement Committee meetings last February, the cities of Alameda and Oakland volunteered a one-year deadline to completely handle all anchor-outs. The city of Oakland said that they could handle the vessels that were not lived in immediately.

They did absolutely nothing. In March of last year the Enforcement Committee reiterated the commitments that were made by Oakland and Alameda. In September of last year Alameda said that they had completely handled everything on their end of the Estuary and Oakland had done nothing.

The year deadline was up in February of this year and in the February meeting of the Enforcement Committee there was not even a mention of the deadline that had been bypassed. The city of Oakland said that it had removed two vessels which were vessels that had already sunk and they had sunk in the pathway of the Jack London Aquatic Center dock and so they absolutely had to be removed.

The city of Oakland, as happened with the homeless encampment at Union Park, will do absolutely nothing until a date for enforcement is set by the Enforcement Committee and that is not happening.

Does the BCDC respect its own deadlines?

Ms. Lucia Lachmayr addressed the Commission: I want to thank you for postponing Item 11. I am a de facto liveaboard at Oyster Cove Marina. The closure of all four marinas over the last several years has really taken a toll on our communities.

It is leading to more anchor-outs which becomes a huge problem, a huge pollution and waterways issue.

The goal that we are asking for is an increase in the percentage of liveaboards. We know all the reasons why it creates for a better environment, cleaner marinas and we appreciate that you are allowing for more time, more communication, more transparency as you reach out to all the constituents that are impacted by this.

We hope to be well informed when the next time this item comes back on to the agenda. We are very grateful that you are giving it more time. We hope that our voices will be heard. Thank you very much.

Ms. Yzobel Dehinde spoke: I am also a former resident of Oyster Cove Marina. I had a boat there for 16 years that I lived on.

We would like BCDC to set the example for all of the state to expanding the apparently randomly chosen number of 10 percent to 25 percent for liveaboards in marinas here.

This would expand low-income housing opportunities to help maintain a broader range and variety of the population in the Bay Area taking pressure off of the overloaded housing situation locally and contributing in a positive way to the safety and livelihood of marinas as well as the general environment.

Liveaboards have an interest in keeping their living surroundings in good order. The standard annual inspection can help guarantee the upkeep on their own boats.

Thank you for letting me express my views.

Chair Wasserman moved to Approval of the Minutes.

4. Approval of Minutes of the April 6, 2023 Meeting. Chair Wasserman asked for a motion and a second to adopt the Minutes of April 6, 2023.

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

The motion carried by a voice/hand vote with no opposition and Commissioner Ramos voting "ABSTAIN."

5. Report of the Chair. Chair Wasserman reported on the following: I want to acknowledge that it appears to be a sad day for the city of Oakland and the Region with what appears to be a decision of the Oakland Athletics to move to Las Vegas. What they have done is purchase a piece of property in Las Vegas.

I am raising this because it is a sad note but more importantly to thank the yeoman work that our staff did on the Howard Terminal Project. As an Oaklander I would note that I do not think that it was wasted although it may take an amendment to the state legislation. There are other potential developments at the Howard Terminal site.

I would note that the Oakland Athletics bought a half interest in The Coliseum in Oakland where they never intended to put a baseball stadium. They are in the real estate business.

Executive Director Goldzband chimed in: Staff very much appreciates your remarks because a number of us remembered the difficulties and complexities and the great hard work that our staff did.

I do want to make sure that the Commission knows something which is not a bad thing. We learned a lot as staff and as a Commission from the Howard Terminal discussion and the process with regard to the Seaport Plan.

We had not as a staff or as a Commission looked at the Seaport Plan for a couple of decades at least. So now the group in Planning are working hard to developing a new framework for the upcoming Seaport Plan discussions that you will have that will follow the discussions that SPAC Chair Eisen and SPAC Vice Chair Hasz will be leading at the Seaport Planning Advisory Committee.

Just note that we very much appreciate the wishes by the Chair and we take those very seriously but we also want to warn you that we are not done yet and you are going to be dealing with the Seaport Plan this year as well.

Chair Wasserman continued: Second, I want to thank the Commissioners who are in the room. A couple of them have pointed out that this is in significant part in response to my request for this. I do believe that we function better if we are together. There is some real benefit to being together.

Having said that, I also recognize that this is a regional agency and some people are coming significant distances. There is a balance here. I will continue to talk with Commissioners and review it with staff. We may decide to emphasize some particular meetings where it is really important or productive and ease off my push for all of you being here all of the time.

I want to make sure you know that we will hold a second combined meeting of the Financing the Future and Rising Sea Level Commissioner Working Groups here in the morning before our May 4th meeting. All Commissioners and Alternates are invited to attend.

The discussion two weeks ago about the Financing Report that has attracted a great deal of attention is in the immediate term and the longer term very beneficial. I look forward to the working groups following that up with a further discussion about how BCDC will be implementing rising sea level planning through the Bay Adapt Program and beyond.

Our Engineering Criteria Review Board provides expert advice to BCDC and our permit applicants to ensure that structures built in the Bay are designed safely. Dr. Jack Moehle, a professor of Civil & Environmental Engineering at the University of California at Berkeley has retired from the ECRB after 11 years of service.

I would like our Commission to recognize his voluntary expertise on behalf of the Bay and all Bay Area residents with a resolution of gratitude for his generous and distinguished service. May I please have a motion and a second to do so?

MOTION: Commissioner Gioia moved to recognize Dr. Jack Moehle with a resolution of gratitude for his generous and distinguished service, seconded by Commissioner Randolph. The motion passed by a voice/hand vote with no abstentions or opposition.

a. **Next BCDC Meeting:** At our next meeting on May 4th – two weeks from today. It will be a regular hybrid meeting, but I do encourage Commissioners to attend in person. At that meeting we expect to consider the following:

- (1) A briefing on our funding and investment framework for rising sea level that will follow up on the combined working group meetings that I have previously noted;
- (2) Consideration of BCDC's Annual Report;
- (3) A briefing on the State's 30X30 Habitat Conservation Program; and,
- (4) A briefing on our Enforcement Program.

Commissioner Gioia was recognized: Did Oakland or the Athletics pay for our processing of the Port Priority Use change on Howard Terminal?

Executive Director Goldzband answered: The Oakland Athletics.

Commissioner Gioia further asked: And so they have fully compensated us for that?

Executive Director Goldzband replied: That is correct so far as I know and I see Jessica Fain nodding her head as well.

Commissioner Eklund commented: When we approved the Oakland Athletics project, we also had one condition and that was that the Seaport Plan, when we look at that, we are going to look at property that is within the Port of Oakland's jurisdiction but is not currently designated for Port use for shipping and stuff like that.

Is that going to be a part of the Seaport planning process?

Mr. Erik Buehmann replied: I am the Long-Range Planning Manager at BCDC. As part of the Seaport Plan Update which is BPA 1-19 a number of the ports around the Bay have requested changes to their Port Priority Use Areas or updating those areas based on their current needs.

And those updates were reviewed in the Cargo Forecast which the Oakland Athletics paid for the Forecast Update.

As part of that they have requested these changes and those changes are analyzed and evaluated as part of the Seaport Plan.

One of those changes is that the city of Oakland is looking to swap one Port Priority Use Area and put it in another area and remove it from another area.

The BPA 2-19 process which was the removal of Howard Terminal from the Port Priority Use Area designation – basically in that decision-making framework we said that; BCDC's staff recommendation was that this area was not needed for future growth in cargo based on the Cargo Forecast.

So no additional area needed to be mitigated, swapped, changed, or added to compensate for that. The Seaport Plan will not be looking at adding more area to compensate for the loss of Howard Terminal.

Another issue is the legislation. So the Howard Terminal Bay Plan Amendment, BPA 2-19, the process was dictated by state legislation that gave us that timeline that we had to work under. That is why we had to crunch on it very quickly. That legislation says that if the Athletics and the city of Oakland do not reach an agreement on developing this site by 2025, that this Port Priority Use Area if it is removed, will return to Port Priority Use Area.

Commissioner Eklund stated: It was my understanding that the Port of Oakland was looking to also try to add some more property into Port Priority Use. I will go back and review the tape and provide information when we talk about it on May 4.

Commissioner Gilmore chimed in: Just a clarification. So we are having a Rising Sea Level Working Group meeting on May 4 and we are also having a Commission meeting the same day?

Chair Wasserman replied: One is in the morning and one in the afternoon.

Commissioner Gilmore pointed out: I just want to note that the Commission meeting is not listed on our website for May 4.

Executive Director Goldzband stated: Well, we will fix that.

Ex Parte Communications: These are required for communications taking place outside of Commission hearings and the public about adjudicatory or permit matters.

Chair Wasserman stated: Mine is not a required disclosure. I want to be transparent and I think this is the appropriate place to do it. This will come up again under Item 9.

This is a policy issue about the legislation on Piers 30/32 that we will discuss later in this Agenda. I have had a number of discussions about that legislation. They include discussions with the author, Senator Weiner and people in his staff, the sponsors of the Piers 30/32 Project, representatives of related state agencies that are affected by the bill, several BCDC Commissioners and members of the staff.

All of these discussions have focused on the purpose of the legislation, its effect on BCDC's jurisdiction and process in the legislature and BCDC. It has not focused on the project itself other than to note that there is a project there.

Commissioner Beach reported the following: There are two federal consistency matters on the Administrative Agenda with the Army Corps of Engineers, San Francisco District as the applicant. And as the District's Environmental Services Branch Chief I have had discussions with my staff about details of the project and the need for the consistency determinations.

Chair Wasserman asked: Anybody else? (No other comments were voiced)

Executive Director Larry Goldzband will now present the Executive Director's Report.

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

The Chair and I are forecasting a somewhat lengthy meeting, so please allow me to be brief.

With regard to staffing and operations, I have two quick announcements.

First, we are pleased that Cory Copeland has accepted the position of the Adapting to Rising Tides Science and Data Manager. He will lead two staff on the ART team focused on ensuring that both BCDC staff as well as adaptation practitioners around the region are receiving current and best available science and data analysis to support adaptation plans and projects.

Cory joins us from the Delta Stewardship Council where he has done plan review, reporting on Delta Plan performance measures, and was the technical lead for Delta Adapts, the Delta's sea level rise planning effort, and many other policy, outreach, and data projects.

Cory is a Scot from Macalester College in Saint Paul, Minnesota with a degree in geography, and as an Aggie has completed his doctoral coursework at U.C. Davis focused on California water policy.

Second, I am very pleased to let you know that the Department of Finance will begin a Mission Based Review of our permitting processes and systems this summer.

You will remember that a similar Finance Review Team worked with our Enforcement staff immediately prior to the pandemic. That review validated our work to implement a new enforcement program and recommended that BCDC be authorized to hire two new staff who would form a compliance team, which we have done.

This new Review Team will work with our permitting staff and our managers and senior staff to learn how BCDC creates, processes, and approves permits, and provides guidance and information to permit applicants.

The purpose of the review is to help BCDC determine how we can best improve that work and to do so in light of the changing nature of environmental laws and policies, rising sea levels, and a changing shoreline. This review will align very well with the work of Ethan Lavine, whom you will remember is our new Assistant Regulatory Director for Climate Change. The work likely will begin around Memorial Day and we'll keep you updated on its progress.

Third, I am happy to share the very good news that Marin County has approved a plan to provide to relocate individuals off Richardson Bay and into safe, secure housing on land.

And the Richardson Bay Regional Authority simultaneously has approved a vessel buy-back program that it hopes will provide a further incentive for the liveaboards to move onto solid ground.

Many thanks to Marin County and the RBRA and our Commissioners Stefani Moulton-Peters.

Finally, I want to let you know that Chair Wasserman and I approved an emergency permit on Friday, April 7th that enabled emergency bank repair work at the Oliver de Silva asphalt facility at 344 High Street in Oakland along the Oakland Estuary.

The storm on March 21st downed a large tree on the bank of the property which severely undermined the bank's stability and left it without protection against further storms or tidal action.

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

Chair Wasserman asked: Are there any questions for the Executive Director? (No questions were voiced)

7. **Commission Consideration of Administrative Matters.** Chair Wasserman stated Deputy Director Goldbeck is on hand to answer any questions on Administrative Matters. (No questions were voiced)

8. **Public Hearing and Possible Vote on Amendments to Commission's Resolution No. 16 Describing Bay Plan Priority Use Areas.** Chair Wasserman stated: That brings us to Item 8, a public hearing and possible vote on amendments to the Commission's Resolution No. 16 that describes the Bay Plan Priority Use Areas. Todd Hallenbeck, our Lead GIS Specialist, will present the item.

GIS Specialist Lead Hallenbeck: Thank you, Chair Wasserman. Good afternoon, Commissioners. As mentioned, my name is Todd Hallenbeck, I serve as your GIS Specialist Lead, and today I am providing a somewhat unique staff report and recommendation for your consideration, which is amending the Commission's Resolution No. 16 describing our Priority Use Area Boundaries.

So as a little bit of background, the Commission has designated areas around the shoreline reserved for water-oriented property land uses such as those designated as Airports, Ports, Waterfront Parks and Beaches, Water-Related Industry and Wildlife Refuges in order to minimize the need for filling the Bay for those uses. These Bay Plan priority use areas or PUAs are published in static Bay Plan maps and also described in the little-known Resolution No. 16.

So what exactly is Resolution No. 16? Well, the McAteer-Petris Act required the Commission to adopt a resolution that fixes and establishes the boundaries of the Bay Plan PUAs by providing descriptions of those boundaries in the shoreline band. Resolution No. 16 was originally adopted in 1971.

The Commission's policies are generally advisory as they pertain to the priority use areas inland of the shoreline band except where they involve in federal activity within or affecting the coastal zone that could be reviewed under BCDC's Coastal Zone Management Authority.

The Commission also has authority to amend PUAs. When those amendments occur they are typically paired with amendments to Resolution No. 16 to change the boundary description language.

For example, as you likely remember, last year you did approve BPA 2-19 to remove the port priority use from Howard Terminal at the Port of Oakland. In that resolution to remove the PUA you also approved modifying the boundary descriptions in Resolution No. 16.

However, unlike with the Howard Terminal Bay Plan Amendment, this action today does not amend or modify the existing priority use areas themselves.

Over time the descriptions of the PUA boundaries become out of date and BCDC needs to make minor edits to keep them current.

So that is largely the reason for today's amendment, to make these minor administrative amendments to improve the accuracy and clarity of the boundary descriptions.

Additionally, we are addressing a need from our staff and from permittees and permit applicants that the static maps in the Bay Plan are hard to use and interpret.

In addition to improving the clarity of these descriptions we are also excited to publish a new interactive web mapping application that provides access to the PUA boundaries to improve accessibility of this information with the public.

I want to repeat that this amendment today does not actually modify the extent of any existing PUA boundaries that are currently fixed and established in the Resolution No. 16 and the PUAs designated in the Bay Plan will not change as part of this.

The inaccuracies that are reflected in the current descriptions in Resolution No. 16 may be due to a number of reasons. For example, over time the county assessors' offices may have changed the numbers that are used in Resolution No. 16 to designate priority use areas, whether through subdivisions, renumbering or other changes.

Additionally, the names of agencies, landmarks, streets may become changed or out of date.

And then finally, there are a number of small grammatical changes that are made to improve the clarity and consistency of those descriptions.

In doing this staff has reviewed the ownership, current uses, the general plan and zoning information to ensure that the recommended amendments to Resolution No. 16 boundary descriptions are accurately reflecting on-the-ground conditions and do not expand, reduce or otherwise modify the extent of these existing PUAs as currently fixed and established and Resolution No. 16.

I have included a small example here from the Staff Report that gives you a sense of the nature of these amendments. In this case a parcel reference in Resolution No. 16 was combined with other parcels and renumbered. Again, when making these description amendments we have confirmed that the intended extent of the PUAs have not changed.

So as mentioned, one of the exciting outcomes of this cleanup has been the ability to confirm the accuracy of our GIS data that BCDC maintains around the priority use areas. This allows us to confidently publish this data for the first time in an interactive web mapping application that permittees and the general public can use to better understand BCDC's jurisdiction.

The PUA web mapping application provides simple functionality to quickly search for a priority use area, click those boundaries to see information like the name and the number as well as the previous Bay Plan Amendments that have modified those boundaries and the Bay Plan map policies that govern some of the uses there. It also provides a link to the amended Resolution No. 16.

Users of the tool can also upload project footprints to determine and print simple maps to determine if their projects fall within a PUA.

So this web mapping application will be accessible through the BCDC website and the BCDC Open Data Portal and we are excited for this information to be in the hands of our permittees, local planners and the public.

So this cleanup today of Resolution No. 16 and the publishing of the web map help BCDC also achieve some of the objectives of our Strategic Plan including the development of engaging communication materials and tools to help improve access to and understanding of BCDC's role in the region.

So it is for these reasons that we are recommending Commission action today.

Chair Wasserman announced: The public hearing is now open. Does anybody from the public wish to speak?

I will now entertain a motion to close the public hearing.

MOTION: Commissioner Gunther moved to close the public hearing, seconded by Commissioner Arreguin. The motion carried by a voice vote with no abstentions or objections.

Chair Wasserman asked: Any questions from Commissioners?

Commissioner Eklund had questions: Thank you very much, Chair Wasserman. I have two questions. One is on page 7; it talks about the Hamilton Field Wildlife. Is this also including the Bel Marin Keys extension of the wetlands or is this just strictly Hamilton?

Mr. Hallenbeck answered: I don't believe this includes Bel Marin Keys. I am not sure if those were included into the PUA.

Commissioner Eklund continued: Okay, well, I am not exactly sure whether they should be or not. I guess that is a question I need to ask is - should they be, because it is going to be an extension of the wetlands for Hamilton?

Ms. Fain explained: Commissioner Eklund, what we are doing today is simply adjusting minor tweaks to existing boundaries. If Bel Marin Keys wish to extend the PUA and someone submitted a request for that we would be happy to look at that and amend it at that time or bring it to the Commission for consideration. But if that was not part of the existing PUA we are not making substantive changes today.

Mr. Buehmann added: Yes, if I could jump in. This is Erik Buehmann, Planning Manager. In that case the parcel number was wrong. So we are just fixing the parcel number. There is no expansion of the priority use area as part of this process. We are just fixing errors like if the assessor parcel number was wrong it is getting fixed so that it is correct.

Commissioner Eklund asked: So, can anybody submit a request to include the Bel Marin Keys into this priority use area?

Mr. Buehmann responded: Yes, any person could apply to amend the Bay Plan. Changing the priority use area would be an amendment to the Bay Plan.

Commissioner Eklund stated: The Coastal Conservancy has been working on this and I am not sure what their completion date is. But I imagine they would be interested in that; I will have to give them a call and find out.

The other question is, this is just a clarification of what the parcel numbers are, that is not such a big change in my mind. But when we do designate priority use designations do we have the local government weigh in on that application? I am talking about cities primarily because counties obviously have an assessor's office and the assessor's office has to get involved in it. But if it is within a city's jurisdiction, like Hamilton is for Novato, is the local government usually engaged in that discussion for that priority use designation?

Mr. Buehmann sought clarification: For modifying priority use areas?

Commissioner Eklund answered: Yes, modifying or adding a new one.

Mr. Buehmann explained: Yes, exactly. Whenever we amend the Bay Plan to change a priority use area very often it is for a project-specific reason, right. Howard Terminal is a really obvious example, right. Usually, it is a public process.

If someone outside of the agency, not the Commission, applies to change the priority use area they have to enter into a contract with us where they have to pay for the staff work involved in that amendment and then it is a stakeholder process where we would involve the city.

But usually because it is a project-based amendment the city is usually incorporated in that naturally because it is part of the process along with permitting and everything else. Hopefully that answers the question.

Commissioner Eklund stated: Yes, thank you very much.

Mr. Goldbeck chimed: And if I could just add for historical interest, the reason that Bel Marin Keys is not in that designation is the priority use change was a change that was on the Hamilton Wetlands, which as Commissioner Eklund knows, I am sure, very well, it was formerly a designation for airport priority use as it was a closed military airfield. And at that time Bel Marin Keys was not a part of the proposed project so that is the rationale.

Commissioner Eklund agreed: Right. But Bel Marin Keys, that area that is going to be included in the wetlands of Hamilton was designated for housing and so I am not exactly sure if that requires a change in the Bay Plan. I will have to ask our planner, she might know. Thank you.

Chair Wasserman continued: My only comment is to thank Todd and all the staff for this piece of continuing to bring our operations into the 21st Century and making our information much more accessible as well as accurate. Thank you.

Now, Todd, a Staff Recommendation.

Mr. Hallenbeck read the following into the record: Thank you, Chair. On April 6 the Commission was mailed the updated Resolution No. 16 and Staff recommends that the Commission adopt the amended Resolution No. 16 describing our priority use area boundaries.

Chair Wasserman acknowledged and continued: Thank you. Is there a motion?

MOTION: Commissioner Eklund moved approval of the Staff Recommendation, seconded by Commissioner Gunther.

VOTE: The motion carried with a vote of 21-0-1 with Commissioners Addiego, Ahn, Arreguin, Burt, Eckerle, Eklund, Gioia, Gorin, Gunther, Hasz, Moulton-Peters, Peskin, Ramos, Randolph, Showalter, Kishimoto, Pemberton, Nelson, Gilmore, Vice Chair Eisen and Chair Wasserman voting, "YES", no "NO" votes, and Commissioner Beach voting "ABSTAIN".

Chair Wasserman announced: The motion passes. Thank you for your work, staff.

Mr. Hallenbeck acknowledged: Thank you.

9. **Briefing and Possible Votes on Legislative Proposals.** Chair Wasserman stated: That brings us to Item 9 on the Agenda, consideration of legislation pending in the state legislature. Deputy Director Steve Goldbeck will present the first item, SB 272 by Senator Laird.

Mr. Goldbeck presented the following: Senator Laird introduced the bill *Sea level rise: planning and adaptation* that has passed the Senate Natural Resources and Water Committee and has been referred to the Senate Government and Finance Committee. This bill was introduced last year as SB 867, you may remember, with essentially identical language to the current bill.

The Commission took a position of support on SB 867, which passed the legislature but was subsequently vetoed by the governor, who cited its costs in light of declining state revenues.

The bill that you have before you today would require local governments within the jurisdiction of either BCDC or the California Coastal Commission to address rising sea level planning and adaptation through a San Francisco Bay shoreline coastal resiliency plan or a local coastal program, respectively.

The bill's stated goal is to have the plan submitted by 2029; however, the plans must be submitted by 2039. Plans approved by 2029 shall be prioritized for sea level rise funding upon appropriation by the legislature for the implementation of projects in the local government's approved sea level rise plan.

BCDC and the Coastal Commission, in close coordination with the Ocean Protection Council and the California Sea Level Rise State and Regional Support Collaborative would establish guidelines by December 31, 2024 for the preparation of the required plans.

The planning and adaptation would include, at a minimum, use of best available science; vulnerability assessments that include efforts to ensure equity for at-risk communities; a sea level rise adaptation plan; and a timeline for updates.

Now, while a policy bill cannot provide funding the bill states that the operation of this division is contingent upon an appropriation for its purposes by the legislature in the annual Budget Act or another statute.

The San Francisco Bay Shoreline Coastal Resiliency Plan referred to in the bill is a new construct. So BCDC would need to provide definition and parameters for preparing these plans. BCDC would use the Bay Adapt program to work with stakeholders as it prepares the guidelines with the other entities named in the bill.

The Bay Area Council, Bay Planning Coalition and the Building Industry Association have taken an opposed unless amended position on the bill and Save San Francisco Bay has taken a position of support. Their comment letters are in your packets.

Staff believes that the bill would provide for consistency not only between and among Bay local, regional and state government bodies, but across the state. The bill's requirements would only be binding if state funds are provided.

Staff recommends the Commission support SB 272 and direct staff to work with the author to further improve and refine the bill language. That is my presentation.

Chair Wasserman acknowledged: Thank you. It is our intent to take these items one by one. I have a number of cards from the public on this Item 9. We did not previously ask you to specify which bill or bills you wish to address. So, if there is anyone who submitted a card who wishes to address this bill, SB 272, who is in the room, please come up to the podium. Ms. Douglas. And just so I know, do you wish to address either of the other bills?

Ms. Douglas answered: Just this one.

Chair Wasserman acknowledged: Thank you.

Ms. Douglas commented: Hi, everyone. I am Sophie Douglas. I am the Director of Policy and Legislative Affairs at Bay Planning Coalition. As you heard, we took an oppose unless amended position on this bill. I believe you have our letter in front of you. Just to touch on two key points.

The first is that we believe that it circumvents existing collaborative efforts, particularly Bay Adapt and the Coastal Commission's Local Government Working Group.

We also believe that SB 272 does not address essential private infrastructure or explicitly identify facilities that support a sustainable economy.

It is going to be heard next Wednesday in Senate Governance and Finance and we hope that you guys will support our oppose unless amended position as well as our suggested amendments. Thank you.

Chair Wasserman asked: Thank you. Do any Commissioners wish to comment on this bill? I will start with Commissioner Eklund.

Commissioner Eklund had questions: Thank you very much, Chair Wasserman. This is a clarifying question. On the second page it says that: "The operation of this division is contingent upon an appropriation for its purposes by the Legislature in the annual Budget Act or another statute."

Is this the provision that would then give local governments the funding in order to do these plans? Because just to explain, the city of Novato, for an example, we are the poorest property tax city in Marin County. We only get 7 cents on the dollar. Mill Valley gets 26 cents on the dollar and San Anselmo gets 23 cents on the dollar.

Since our 7 cents does not pay for a lot and we do have a deficit this year, if this bill does require locals to develop these plans, the city of Novato would have to get money from the state in order to do it. So does this bill provide funding for cities and counties to put together these plans?

Chair Wasserman called on Mr. Goldbeck: Steve, do you want to answer that?

Mr. Goldbeck explained: Yes. Thanks for the question, Commissioner. This is a policy bill and policy bills do not include funding. The provision you are referring to basically states that if the local governments do not get such funding to prepare that planning then the requirements of the provision do not apply to them.

Commissioner Eklund acknowledged: Okay. Thank you.

Mr. Goldbeck added: It is the short answer.

Commissioner Eklund stated: Thank you. I just do not support unfunded mandates from the state.

Chair Wasserman continued: Thank you. Commissioner Showalter.

Commissioner Showalter spoke: Yes. I am glad to see this. The specifics might need to be tweaked some but the general principle that everybody needs to plan and have a plan is excellent and we certainly should be supporting that.

But one of the things I would like to see in this, or something very soon, is a requirement for there to be a regional body that was put forward that would check projects against what were the hydraulic impacts of them with other projects.

In other words, would they induce flooding somewhere else or that kind of thing? It is a complex modeling project. I do not think it is the kind of thing that any single jurisdiction could take on by itself but we are going to need it long-term. So I just want to bring this up as something that if we are suggesting things that should be added to this when we discuss this bill with Senator Laird, I certainly would like to have the idea of a group that does modeling about the impacts of projects all over the Bay at it.

Chair Wasserman asked: Steve, do you want to respond to that?

Mr. Goldbeck replied: There is definitely a need to do that work. Whether that could be addressed as a part of the guidelines is one question, but it sounds like you would like to establish a group that would oversee such work or maybe do such work. I think that would be something appropriate to discuss with Senator Laird.

I do know that he thinks that he has had a bill that passed the legislature once and he, obviously we cannot know whether he would be interested in such an amendment, we certainly can discuss it with him.

Chair Wasserman added: My only add-on to that would be I certainly agree that effort is necessary. And we have talked about it in the past in a number of contexts. Regardless of whether it gets added to the bill it is my belief that it will be part of the guidelines that we would develop under this bill. And oh, by the way, we are developing anyway. Thank you, Pat.

Commissioner Gioia chimed in: Let me just say, I think this is a really important bill. Frankly, as someone in local government in a county, we are glad to do this type of planning and already are starting this.

There was an issue raised about the cost of doing such a plan. Well, let's be real. The cost actually to cities and counties is the cost to actually build the protection and to actually protect their shoreline. And this bill specifically says, local governments, this is in 30985.5, local governments that receive approval by the Coastal Commission or BCDC on or before January 1, 2029 shall be prioritized for sea level rise funding upon appropriation by the legislature for the implementation of projects in the local government's approved sea level rise adaptation plan.

So, what this bill also does is say, if you have done this planning we are going to prioritize you for helping fund your sea level rise implementation projects. I think that is a big deal.

And look, we all do, we all are called upon to do major planning all the time. If we do not do the planning, we will absorb tremendous cost in local government to address sea level rise. It is far cheaper to do the planning, protect against it, and then be prioritized for state funding.

So, I think the money issue really is not an issue because no action by a local agency means we are going to incur costs to address sea level rise issues.

I think this bill is great. The ideas that you are talking about to tweak them as needed, including raised by the former speaker, my colleague, the former director Pat Showalter all make sense. But I think we should support the bill.

Commissioner Nelson commented: I very much agree that we should support the bill. I am really pleased to see this. I think there is enormous value in having a legislature and, assuming the governor signs the bill, the governor bless this effort.

With regard to one of the comments from the Bay Area Council witness. I do not see this effort circumventing existing planning efforts, quite the opposite, unless I missed something. I see this very much supporting the effort.

And in particular, to follow up on Commissioner Gioia's comment. It is far easier to go to the legislature and ask for funding down the road if you are asking the legislature to implement a plan the legislature said they wanted.

I do not see this as a dramatic change. As a matter of fact, I would be interested in a comment from staff about whether there is any fundamental change in direction in the adaptation work, the planning work that we have been doing so far. That I think is an important issue for us to understand if there is.

But I think there is enormous value here in getting the legislature and the administration to tell us to do this planning work so we can go back when it is time to fund that enormously challenging work and already have laid the groundwork in the legislature. I think it is a great bill. Thanks.

Mr. Goldbeck chimed in: To answer your question, staff does not believe that this is a large change in the planning program. As stated previously, we will be using Bay Adapt in promulgating the guidelines, which will be based upon the Bay Adapt program, which is one of the things that the Bay Planning Coalition and others had mentioned as a priority for them.

Commissioner Nelson acknowledged: Thanks, Steve.

Commissioner Eckerle stated: As part of the administration I cannot take a position on bills without approval from the governor's office but I did want to provide a little context for this discussion and first address Commissioner Eklund's comments.

The Ocean Protection Council received \$37.5 million in the recent budget to implement SB 1. As a reminder, that is directing the state to provide funding to local and regional governments for sea level rise adaptation planning.

So, we are actively standing up that grant program and it is for the exact purpose and need that Commissioner Eklund had highlighted. So just wanted to make sure everyone was aware, we actually have an item on our Council meeting agenda for this Monday requesting approval for funding to stand up a technical assistance program that will run parallel with the grant program itself.

And then just to Commissioner Showalter's point about the critical need in having this comprehensive planning and overview of how decisions in one place are affecting other places. That is the whole intent of the Regional Adaptation Shoreline Plan for San Francisco Bay and you heard Steve reiterate that. So that is definitely consistent with work that the Ocean Protection Council has funded and complementary and building on Bay Adapt and the work that the great team at BCDC staff is moving forward.

So just providing that context and happy to answer any questions from the state perspective.

Chair Wasserman acknowledged and continued: Thank you. I do not see any other Commissioners' hands. I would make a brief comment that I too support this bill. I think it is a very important step forward. I want to emphasize as a number of the speakers have, that this is a bill that has carrots, not sticks. If it did have sticks some of the concerns that have been raised in the letters I think might have more validity and we would have to deal with. I do not see this as interfering with the collaborative and collegial approach that we have been taking to Bay Adapt and our planning on these issues.

I think it is a significant step forward. I think as Commissioner Nelson said, it is a very important step forward in looking to get funding from the state for both planning as well as implementation.

As Commissioner Eklund pointed out, there are unquestionably some communities who simply do not have the funds to do the kind of planning that is necessary and they are frequently jurisdictions with a higher number of underserved, underrepresented communities.

If there are no other comments, Staff Recommendation, please, Steve.

Mr. Goldbeck read the Staff Recommendation: Thank you. The staff recommends that the Commission support SB 272 *Sea level rise planning and adaptation* and direct staff to work with the author as he improves and refines the bill language.

MOTION: Commissioner Showalter moved approval of the Staff Recommendation, seconded by Commissioner Peskin.

VOTE: The motion carried with a vote of 19-0-3 with Commissioners Addiego, Ahn, Arreguin, Burt, Eklund, Gioia, Gorin, Gunther, Hasz, Moulton-Peters, Peskin, Ramos, Randolph, Showalter, Kishimoto, Nelson, Gilmore, Vice Chair Eisen and Chair Wasserman voting, "YES", no "NO" votes, and Commissioners Eckerle, Beach, Pemberton voting "ABSTAIN".

Chair Wasserman announced: The motion passes, thank you very much.

That brings us to the second of the three bills we are considering. This is Assembly Bill 748 by Assemblymember Villapudua regarding abandoned and derelict vessels. Steve, please make the presentation.

Mr. Goldbeck presented the following: Thank you. So, this bill, as you stated, Chair, introduced by Assemblymember Carlos Villapudua, is pending in the Assembly Judiciary Committee. The bill is identical to SB 1065 from the 2022 legislative session.

Again, the Commission took a position of support on that bill, which passed the legislature but was subsequently vetoed by the governor who cited its cost in light of declining state revenues.

This bill would prohibit from state waters commercial vessels at risk of becoming derelict and authorize a peace officer to find the vessel at risk of becoming derelict. The bill would subject violations of this prohibition to a civil penalty of not less than \$1,000 and not more than \$5,000 per day and would prescribe other related requirements. The bill would also authorize a peace officer to order the removal of or to seize a commercial vessel at risk of becoming derelict.

The bill would establish a program within the Natural Resources Agency and administered by the State Lands Commission to bring federal, state and local agencies together to identify, prioritize and remove abandoned and derelict commercial vessels, subject to funding. The bill would establish a trust fund for the removal of such vessels. The bill would require the State Lands Commission to identify abandoned and derelict commercial vessels on the waters of the state and develop a plan to reduce or prevent them. Lastly, the bill would establish a coordinating council with 11 members to oversee and provide policy direction for the program, develop a system for prioritizing removal, and coordinate the removal of such vessels. This bill would provide critically needed sanctions and a funding mechanism to abate these vessels.

Staff recommends that the Coordinating Council, which is mainly composed of statewide or federal agencies, but includes two members from the local Delta area and the Delta Protection Commission, also include a BCDC representative.

That is my presentation. Thank you.

Chair Wasserman asked: Do any of the speakers who have submitted cards on Item 9 wish to speak on this bill who are in this room? (No comments were voiced)

Seeing none, Peggy, do we have any speakers remotely?

Ms. Atwell replied: No, no hands raised.

Chair Wasserman asked: Questions from Commissioners?

Commissioner Randolph was recognized: Could somebody clarify what the terminology, at-risk of becoming derelict, means? I can see a derelict boat but who determines what is at-risk? I could see this as a sea of possible litigation.

Mr. Goldbeck responded: I am checking to see. There is a long list of things in the bill definition, such as taking on water without an effective means to dewater, spaces on the commercial vessel designed to be enclosed are incapable of being sealed off and can be flooded, a commercial vessel that has broken loose or is in danger of breaking loose, is left aground, is unable to maintain buoyancy, has lost propulsion, and has deteriorated and becoming awash or creating a pollution or navigational hazard. Those are some of the things, So, you get the flavor of what it is about. These are vessels that are on their way down.

Commissioner Randolph continued: I guess. That still seems to leave a lot of room for interpretation. Like what is on its way down? At what point in a vessel's life is that determined? It just feels like there's a lot of room for debate in there. Just a thought.

Mr. Goldbeck replied: Probably some of the folks who have these vessels would argue that they are not derelict and that determination would be made by a peace officer who would have to use their best judgment.

Commissioner Randolph acknowledged: Okay, thanks.

Chair Wasserman added: As we know, police actions regarding abandoned vessels is not quite as quick as arresting someone on the street. So that the owners will probably have some time to pursue potential remedies.

Commissioner Eklund inquired: My question here is, is the definition clear on what an abandoned and derelict commercial vessel is? Because it is really hard sometimes to distinguish whether the vessel is commercial or not. So how would that be used and how is a police officer going to know whether it is a commercial vessel or not?

Mr. Goldbeck answered: The definition is a definition that is already in state law in the Public Resources Code.

Commissioner Eklund responded with an example: Okay. That apparently has not been clear on some of the abandoned vessels that we have been dealing with in Marin so you might want to try to get a little bit more clarity on what that is and how is a police officer going to really make that determination? I am not sure police officers in Novato have been trained on how to identify what is a commercial vessel or not. Just some comments.

Chair Wasserman asked: Any other questions or comments from Commissioners? Seeing none, Staff Recommendation.

Mr. Goldbeck stated: The staff recommends the Commission support AB 738, California Abandoned and Derelict Commercial Vessel Program, and request that a BCDC member be added to the Coordinating Council.

Chair Wasserman continued: Do I have a motion?

MOTION: Commissioner Addiego moved approval of the Staff Recommendation, seconded by Commissioner Kishimoto.

VOTE: The motion carried with a vote of 19-0-3 with Commissioners Addiego, Ahn, Arreguin, Burt, Eklund, Gioia, Gorin, Gunther, Hasz, Moulton-Peters, Peskin, Ramos, Randolph, Showalter, Kishimoto, Nelson, Gilmore, Vice Chair Eisen and Chair Wasserman voting, “YES”, no “NO” votes, and Commissioners Eckerle, Beach, Pemberton voting “ABSTAIN”.

Chair Wasserman announced: The motion passes. Thank you.

This brings us to the final legislative issue this afternoon, Senate Bill 273 introduced by Senator Weiner regarding a proposal to construct a mixed-use project on Piers 30-32 along the San Francisco Waterfront. I would first like to recognize Executive Director Goldzband.

Executive Director Goldzband read the following into the record: Thank you, Chair Wasserman. I want to make sure that this is written or that this is stated for the record:

With regard to the Initial Staff Report and Recommendation on Pending Legislation for the Commission's April 2023 Commission meeting, I regret to inform the public that it contained a significant FACTUAL error by including the following sentence in that report during its creation relating to SB 273: “California Natural Resources Secretary Wade Crowfoot has consistently signaled his support for this type of legislation specific to Pier 30-32.” This statement is incorrect. While Secretary Crowfoot has urged BCDC staff to work closely with the Port of San Francisco, the State Lands Commission, the project proponents, and Senator Wiener’s office, he has not CONVEYED support for such legislation. IN FACT, Administration officials do not take positions on proposed bills in advance of the Governor's Office.

I take full responsibility for that mistake, I have apologized to Secretary Crowfoot for that error, and I do so as well as to the public.

As a result, staff has posted this “Revised Staff Report and Recommendation on Pending Legislation” that deletes that sentence.

Thank you very much.

Chair Wasserman acknowledged and continued: Steve, please make the Staff Report.

Mr. Goldbeck presented the following: Introduced by Senator Scott Wiener, this bill is pending in the Senate Natural Resources and Water Committee and is scheduled for its first hearing on Tuesday, April 25. This bill addresses replacement of the dilapidated Piers 30-32 along the San Francisco Waterfront.

The current redevelopment proposal would construct a major mixed-use development including general office on a new pier that would be seismically safe and resilient to rising sea levels at 2100. It would also provide a deep-water berth for visiting ships. The project would bolster the seawall adjacent to the pier to make it seismically safe and resilient to rising sea levels. SB 273 would provide the development proposal with public trust consistency, thus, in effect, eliminating BCDC's authority to find the development inconsistent with the public trust.

As the Commission knows, the Bay is a state-protected resource and for over 50 years your law and policies have reserved the Bay for Bay-oriented uses that are public trust consistent such as ports, marinas and public recreation.

In that time BCDC has not approved such a major project on the Bay with a large amount of general office unless that general office space is ancillary to the project itself, such as San Francisco's Pier 27 which houses the Cruise Terminal, because these uses are not consistent with the public trust and can be built on upland areas.

Absent this legislation, therefore, neither the SLC nor BCDC could find the proposed project consistent with the public trust and issue approvals.

The legislation would overcome this impediment by making a legislative finding of public trust consistency, predicated on the State Lands Commission making certain findings provided in the legislation. These findings would include providing the deep-water berth, upgrading the seawall and providing public benefits that bring the public to the shore. And I am sure that if they make a presentation today, they will talk through all of them.

The bill would also remove, as part of any Commission consideration of a permit for the mixed-use project, the requirements in the McAteer-Petris Act that any Bay fill be for a water-oriented use and not have an alternate upland location. As stated previously, it would also remove BCDC's authority to make the public trust determination.

Proponents state that the high cost of removing the pier and constructing it in the Bay requires significant revenues. There are limited public trust revenues for such uses and therefore the large volume of general office and public retail are needed to pay for the project.

BCDC staff believes that other avenues should first be pursued to further reduce the amount of non-trust uses needed to finance the project, hopefully leading to a smaller project more consistent with the trust. Staff also believes that the issues surrounding the public trust and defraying the cost of providing resilience to rising sea level should be addressed in a statewide context rather than in a single proposed project.

BCDC and State Lands staff have agreed that we should jointly undertake such a public policy study through a process that includes a wide variety of stakeholders. In order to accomplish this study, the bill could be made into a two-year bill, further considered in the second year of the legislative session.

Through the removal of the water-oriented use and alternative upland location requirements of the McAteer-Petris Act the bill grants permitting exceptions to the project and the Port that would not otherwise apply.

The Special Area Plan for the Port provided for such permitting exceptions to wholly reconstructed piers along the San Francisco Waterfront in the historic district, in exchange for public benefits along the waterfront consistent with the public trust and state goals outlined in the San Francisco Bay Plan.

This bill would expand those exceptions to this project, which is not wholly constructed but would be entirely removed and replaced with a new structure. Staff believes the Port should ensure those public benefits due under the Special Area Plan are completed at the time the project comes before BCDC. I would note that the Special Area Plan conditions right now are met. But there are conditions that will become due in the future.

Staff has identified four major areas of concern:

The first is that the bill should specifically state that no residential uses be established within BCDC's Bay jurisdiction.

Secondly, that the bill should specifically authorize the study that I just referred to.

Third, that BCDC's permitting authority should not be limited by the legislation outside of a specific public trust finding.

And fourthly, that the Port of San Francisco should be in compliance with the Special Area Plan at the time that the development is brought before our Commission for a permit.

We have received 19 letters of support and one letter of opposition to the bill. That completes my presentation.

Chair Wasserman acknowledged: Thank you. Thank you, Steve.

Commissioner Gioia chimed in: Question.

Chair Wasserman recognized Commissioner Gioia: Yes, go ahead, John.

Commissioner Gioia continued: Yes. I know you said we are going to hear from the proponent of the bill. I just wanted to raise just a process question. And that is that obviously what we have here is a bill by an interested party that wants to circumvent or go around established BCDC process. I know we are going to hear about the substance and the reasons why. Ultimately, that is the purpose of generally when we have permit applications or we have a process to hear all that. And I realized we are going to hear why this proponent wants to go around BCDC authority.

So my question, we have had these bills come up in the past. They have not been frequent and they have not usually been successful. So, I just want to ask staff, when was the last time? Because I know it probably happened on some rare occasions. The last time there was a bill that actually was successful to essentially make a determination, having the legislators and the governor make a determination that would normally be within BCDC's authority?

Mr. Goldbeck cited the following: I will say that the Howard Terminal bill that was discussed earlier for the Oakland Athletics did address some aspects of the alternative upland location and use. In part because while that area has been filled for a long period of time it was still considered Bay because the Commission granted a permit; and when you grant a permit for Bay fill that area always remains Bay. So that was the last one that I know that did that.

Commissioner Gioia noted: It did not take away our authority to make the final determination on whether there was Port Priority Use, right?

It established some parameters that said we needed to consider certain things, but it did not take away our final authority to actually make the final decision, right?

I know the Warriors had some bills to try to do this but those were not successful and then they moved their project to be outside BCDC jurisdiction. What are the other cases? Just trying to understand. I know we occasionally get these.

Chair Wasserman interjected: John, I appreciate the thrust. I am going to focus it for a moment and then start to move on because I think we do have a number of speakers.

Commissioner Gioia agreed: Okay.

Chair Wasserman continued: Staff, have there not been two previous bills on 30-32 in which the legislature did take action?

Mr. Goldbeck responded: Yes, there was a prior bill earlier for a cruise terminal at Piers 30-32 that included ancillary non-trust uses. And then more recently the Warriors bill carried by Senator Ting for putting their arena for public-oriented recreation and ancillary non-trust uses also passed. This bill essentially would amend the latest version of that with the new proposed language.

Chair Wasserman stated: Thank you. John, you will hear in a moment, I am going to give at least one significant opponent additional time if he so requests as well.

Now, the sponsors of the bill.

Mr. Beaupre addressed the Commission: Good afternoon, Commissioners, Chair Wasserman and Director Goldzband. My name is David Beaupre, I am Deputy Director of the Port, managing the Planning and Environment group. I am joined by Michael Martin who is the Chief Operating Officer. We are going to present in about 10 minutes or less if we can. Thank you for your time today.

And maybe just for a point of clarification right off the bat, this legislation almost exactly aligns with prior legislations that we have done in the past for the Cruise Terminal Plaza that was referenced and the Golden State Warriors Arena that was referenced.

The Port working with the State Lands Commission staff on this legislation had no intention of taking away the permitting authority of BCDC on this project. However, what we are asking for is the legislature to make the decision on the public trust finding and benefits for the project.

So, we are not seeking a waiver around seeking a major permit, we are aligning the legislation similar to the ones we have in the past.

So just a quick overview of our presentation:

We want to talk about the collaboration that we have had with both State Lands Commission staff and BCDC staff since we were last in front of you on this in June of 2021.

Show you a little bit about the great input we received from BCDC and State Lands staff to craft and manage and shape the project.

Talk a little bit about the new aspects of the project.

And talk about how when we collaborate we think we lead to successful projects as demonstrated along the San Francisco Waterfront today.

When I was walking down to the meeting from Pier 1 the crowds were incredible, the kids were incredible, and we attribute that to the great partnership that we have had with both BCDC and State Lands.

So here is the site, Piers 30-32. It is approximately 13 acres just south of the Bay Bridge. It is a critical asset to the Port.

It has a self-scouring, self-dredging, deep-water berth that is critical to crews, emergency response and visiting and ceremonial cruise ships.

However, it has a 10-to-15-year lifespan and at its current elevation it is below OPC's likely sea level rise curve.

Since June of 2021 when the Commission directed us and directed their staff to work with the Port, our sponsors and State Lands towards modifying the project, moving towards legislation, we met with BCDC staff and State Lands staff 14 times. We met with the project sponsors an additional 11 times. We have gone to our Northern Advisory Committee meeting and other stakeholder meetings, public meetings, 14 times. And the project sponsors have met 50 times with other stakeholders throughout the process. Throughout that process, we think we got great input to shape a revised version.

On the left was the original proposal with the distinct Piers 30 and 32 with the valley, including an aquatic center and swimming pool.

On the right was a revised version based on the great collaboration we had with the agencies and public stakeholder input, where you will see in a moment how we have activated the Embarcadero Waterfront, maintained that important deep-water berth, opened up the aquatic center and removed a significant amount of Bay fill.

Here are some details on that revised version. Again, through the collaboration we maintained the deep-water berth, we have activated the ground floor spaces, distributed the public amenities throughout the project to bring attractions out along the entire project and out to the end of the pier, activated the Embarcadero with a market hall, improved the aquatic center for the swimming pool, in-Bay swimming, human-powered boating, a Bay Area Water Trail destination, indoor and outdoor publicly-accessible space, second-level public space and a rooftop above the market hall.

This is just a 3D version of that same concept.

Through that collaboration we arrived at a project which we are calling Version 2.0 that includes 6.2 acres of Bay fill removal. So, an additional 8,000 square feet of Bay fill removal. We have added and doubled the amount of retail to bring more attractions to the site. We have added open space for a total of 5 acres of open space. So again, through collaboration we think we have arrived at a much-improved project and we thank BCDC's staff time for helping us through that process.

Another critical part of this project is to deliver resilience along the waterfront. This is an enlargement of the South Beach area. Between the black dashed lines is about a mile of waterfront. We think in order to address sea level rise it is going to take more than just tax dollars to do it and this project will help leverage private equity to invest in resilience with the projects that we have before us today.

We have an early project, Piers 26 and 28 that will be funded through the City General Obligation Bond. Our partners Strada would improve 600 linear feet of the shoreline. We have a development project at Piers 38 and 40 and we have the South Beach Harbor. With these three projects combined, leveraging both public money and private equity, we can address sea level rise for a mile of San Francisco's Waterfront.

And I recall back in June where Chair Wasserman said that in order to address sea level rise, we are going to need to find other resources than just the tax dollars to pay for dealing with sea level rise resilience. So, this is one of the ways that we are investigating it.

So just to reiterate, and I sent a letter to Steve Goldbeck yesterday and shared it with the Commissioners, we felt that there were several omissions and oversights in the Staff Report.

We are not asking for elimination of BCDC authority in the legislation.

We have met all of the obligations of the Special Area Plan to date.

We think that this project has been well shaped with the collaboration we have had.

And the project today has the community benefits as outlined here before.

With that I will turn it over to Mike Martin, thank you.

Mr. Martin presented the following: Good afternoon, Chair Wasserman and Commissioners. My name is Michael Martin, I am the Assistant Port Director and Chief Operating Officer of the Port of San Francisco. I am here today on behalf of our Executive Director, Elaine Forbes. She very much wanted to be here to testify herself but when we received notice of this hearing, she had a commitment that she could not move.

What I want to communicate today is very much in line with Mr. Beaupre's comment about walking down the waterfront today. The San Francisco Waterfront as it stands today is a testament to the success of the collaboration between the Port of San Francisco, BCDC and the State Lands Commission.

I get frustrated when I read all the national media talking about the empty downtown of San Francisco when I would beg them to turn their cameras to the waterfront on a day like today where it is back to the pre-pandemic levels and even beyond that in terms of people enjoying the waterfront. I think a lot of that had to do with the careful consideration of our agencies working together to improve what was there when the Embarcadero Freeway came down.

Looking ahead from here and looking at the item that is before you today I think we can say very clearly to you, we definitely see a path forward on the proposed amendments that have been suggested.

We received proposed legislative language on Tuesday and are reviewing it since then. We really think that with a chance to work with your staff, as well as State Lands staff and the staff of Senator Scott Wiener, we can find common ground that will address all four of those issues once we have understanding of each other's goals and intentions for the legislation.

We want to do that. We want to collaborate with your staff to try to find a way to align ourselves to make this project come to fruition.

I think two other places we would very much appreciate collaboration is on the Special Area Plan that we mentioned a few times today. The Port just completed a five- year update of our Waterfront Plan after a stakeholder engagement and environmental review process. Earlier this month the Port Commission approved that plan.

Over that time, we have been speaking with BCDC staff about the corresponding amendments to the Special Area Plan we think would be appropriate to set the stage for the transformation of the waterfront that we all are grappling with as we face rising Bay water levels.

We have a proposal in with BCDC staff that we would very much like to see a response to. We sent it the end of last year. We want to be able to bring that to you for your consideration so we can again work together to visualize and realize the future of the Bay Waterfront.

In closing I just want to say, we are undergoing a flood study with the US Army Corps of Engineers to look at adaptations for the full seven miles of Port property.

Hearing the discussion today, we know you are grappling with the same thing in terms of how are we going to pay for this? How are we going to do this in time to save what is great about the Bay. I think the only way we are going to succeed is if we collaborate, if we work together on these things. Because if we keep separate, we are not going to succeed and we are going to let down the people that depend on us.

So, we very much hope that we can work with you coming out of today, not only on this item but on other items, to really set the stage for the waterfront of the next century. With that, I am happy to answer any questions.

Chair Wasserman acknowledged and continued: Thank you.

The next speaker is David Lewis. Mr. Lewis, if you would like additional time, you may have it.

Mr. Lewis addressed the Commission: Thanks very much, Mr. Chairman and Commissioners. I do not think I will need 10 minutes, you have our opposition letter, but I will summarize a few points that have been raised this morning and appreciate the extra consideration.

To start with I have also met with the Port Director, with Senator Wiener and other stakeholders. I met with Jesse, I think four years ago, our first conversation about this project.

We mostly agree with the Staff Report's analysis of what is in the legislation and your characterization of the bill. But I want to make the point that the appropriate tactic for the Commission at this point is to first and foremost outright oppose the bill as it is currently written and that is what Save the Bay has done.

We are very proud as an organization to have done some very early work in the 1960s that led to the creation of this Commission and of the work that you have done over the decades. A top concern of ours is always preserving this Commission's authority and strengthening your power to do your job to protect the Bay, public access and the public's interest.

Today's discussion should actually not be about the details of a proposed development on Pier 30-32 but about who decides what is best for the Bay and the public, consistent with your regulations and with state law. Does this Commission do that with its expertise, with its public process, with its longstanding and actually increasing record over time of engaging all of the interested parties? Or do we let a legislator do that at the behest of an influential developer and lobbyists for the city of San Francisco.

The state code is still cluttered with obsolete language, as you heard in the answer to Supervisor Gioia's question, from previous efforts to mandate developments on this pier and to fast-track them, notwithstanding BCDC and other agencies' usual authority to evaluate those kinds of projects.

Those projects may have been well-intentioned but in the end they were ill advised and they ultimately failed. I will say that after each of those failures we specifically recommended to the legislature removing that obsolete language from the Code, in part because we thought the existence of that language would continue to be used as a precedent for legislatively mandating a future project; and that is what is happening here.

SB 273 does try to do again, with some different details, what the legislature has tried to do in the past, which is go around BCDC and go around the State Lands Commission. So, we are strongly encouraging you to vote today to oppose Senator Wiener's bill.

As the BCDC Staff Report notes, and Steve underscored, BCDC has not supported this kind of development on piers where massive office use has been the primary purpose and it just happens to be on the water; but has been open to approving projects where that office space on piers has been an ancillary use.

So, although the Staff Report outlined some potential amendments to the bill, those amendments would not change the core negative impacts of SB 273, which is gutting BCDC's authority, weakening the public trust throughout the state, and fast-tracking an otherwise impermissible development on fill in San Francisco Bay before any serious public or regulatory evaluation of the specific project proposal, its environmental impacts, or alternatives. And Executive Director Goldzband highlighted that to the Port in a letter more than two years ago, made that exact point.

So instead of suggesting superficial amendments that try to protect some aspects of BCDC's ability to do its job as the Staff Report outlines, we believe you should oppose the bill outright. Defeating the bill, or at least expressing your clear opposition, would be consistent with what your goal should be, which is allowing for the regular process at BCDC.

It would also create space for alternative approaches, as the staff has suggested, to finding the funds to secure removal or partial removal of that pier, such as mitigation for other Bay fill projects that are being proposed or will be coming to you, including in connection with sea level rise protection.

One example is significant fill that is being proposed at San Francisco Airport to protect that airfield from rising tides.

So, to protect BCDC's authority, integrity and ability to perform its core responsibilities to protect the Bay and the public's interest we would recommend that you vote to oppose SB 273 and work for its defeat in the legislature.

We have suggested some alternatives that I do not believe are credible or likely to be included as part of this bill but do underscore what the legislature should be doing.

First, the legislature should remove that part of the code that is obsolete from those previous projects, the Warriors and the cruise ship terminal that actually Assemblymember Kevin Shelley led that bill in I believe 2000 or 2001.

Those projects have been constructed elsewhere, there is no need for this old language in the statute.

Secondly, similar to a suggestion that the Port has made, we need legislation that asks or tells BCDC and other state coastal agencies to study and report back to the legislature on what statutory or regulatory changes you need to find sea level rise adaptation and climate resilience projects on the shoreline, on piers and in other parts of your jurisdiction, to be consistent with public trust requirements. That is the region-wide approach, the statewide approach that would make sense.

And in fact, as I have highlighted many times to this Commission and to the legislature, California's first climate adaptation strategy in 2009 under Governor Schwarzenegger called upon the state's coastal and ocean agencies to identify areas where their jurisdiction and authority should be clarified or extended to ensure effective management and regulation of resources and infrastructure subject to potential sea level rise; 14 years ago.

Neither the legislature nor Governors Brown or Newsom, ever acted on that recommendation and required or encouraged BCDC and other agencies to make those suggestions to the legislature. It is overdue for that to happen and the legislature could request and require it.

Finally, I will just say that if there is an imperative or a major benefit, as I believe there is, for resilient access to a deep-water berth that is self-scouring, that could probably be accomplished with a pier that is a fraction of the size of Pier 30-32 and without a massive new office building being put on the San Francisco Waterfront at a time that the city of San Francisco and most of the Bay Area has record and rising office vacancies. Adding a floating swimming pool does not really change that calculation.

So, if that should be the priority goal then that should be the priority of a project that the Port and other collaborators are looking to create. Thanks very much.

Chair Wasserman acknowledged: Thank you.

Ms. Hernandez spoke: Good afternoon, Commissioners. My name is Sabrina Hernandez and I am a member and representative of the International Brotherhood of Electrical Workers, Local 6 in San Francisco. I am here to make the following comments in support of SB 273.

For decades Pier 30-32 have been a sleepy stretch of the waterfront. This despite having incredible regional, excuse me - this despite having incredible regional transit access and despite thousands of new residents and large employers like the Gap and Google locating nearby. And with thousands of people coming from the ferry and BART to go see the Giants and the Warriors, Go Warriors. You have a unique opportunity to dramatically increase public access with this project and help celebrate the Bay.

The addition of the market hall directly on the Embarcadero is a game changer. It creates a welcoming set of amenities in an area that is currently limited.

And thanks to the developer's diversity, equity and inclusion strategy, plans include a focus on attracting diverse food entrepreneurs, artists and makers for the market hall, as well as micro-retail opportunities along the public promenade, all of which will have programs to support their growth.

And of course, it has committed to preserving Red's Java House, our beloved Red's Java House, a neighborhood institution and a woman-owned business.

At BCDC's staff insistence, the project will also have continuous public promenades around the entire pier. So now members of the public will be able to walk along the edges of the project. This means that people visiting the pier will be able to enjoy all of the amazing views. To the Bay Bridge and City skyline to the north and west, to Oakland and Alameda to the east, and south to the ballpark and beyond.

And the public swimming facility and aquatic center will be a beacon for swimmers and kayakers all around the Bay Area. It is worth noting that this plan will build the only 100-percent, publicly-accessible, Olympic-sized swimming pool in all of San Francisco. Not since the long-gone Fleishhacker Pool, once the largest public pool in the nation, has such a grand public swimming venue been proposed in our City.

This new venue will have heated and clean water, not cold water pumped in directly from the ocean like at Fleishhacker, thank goodness. This venue has the potential to be a regional destination not only for public recreational swimming but for competitive swimming, water polo and other water-based recreational competitions.

The developer will be creating a mission-driven nonprofit to manage the aquatic facilities and to partner with other nonprofits like the Boys and Girls Clubs and YMCA to provide free and reduced-cost access for learn-to-swim programs, and also competitive swimming for the kids in their programs.

And they will be using best practices in the design and management of the facilities to make sure that the facilities are inviting for generations of new swimmers.

The opportunity to help diverse and underserved communities learn to swim is huge. Did you know that drowning is the leading cause of unintentional deaths for children? For children under five it is the leading cause of death. Black children between the ages of 10 and 14 are nearly eight times more likely to drown in a swimming pool compared to a white child of the same age. These are scary and disturbing numbers and this project can do something to change the statistics and save children's lives. So, Commissioners, I urge you please to support SB 273 and the proposed project on Piers 30 and 32. Thank you.

Mr. Lavery commented: Good afternoon, Chair Wasserman and Commissioners. My name is Charley Lavery. I am a representative with the Operating Engineers Local 3. Our members construct critical infrastructure. They perform surveying and dredging and the testing and inspection of soils and construction materials.

I am speaking in support of this project.

The proposal including the seawall development across the street is a \$1.3 billion project. If that \$400 million has been invested in resiliency that will address rising sea levels and seismic risks along this stretch of the Embarcadero.

Building a new state-of-the-art pier above projected higher sea levels will create thousands of construction jobs and secure employment for our brothers and sisters in the Longshoreman's Union.

We appreciate your close attention to this process and urge support today for the project and the corresponding legislation. Thank you.

Ms. Liddell was recognized: Good afternoon, Commissioners. My name is Katy Liddell and I live right across the street at Port side. I have been there since 1998 and I have been in the neighborhood since 1995. I co-founded the local neighborhood association and I am currently the co-chair of the Port's Northern Advisory Committee. So, living here for so many years and being very involved in the neighborhood I am intimately familiar with all the proposals that have gone forth for Piers 30-32.

It is my understanding that BCDC has committed a lot of time to this project. As co-chair of the NAC I know that the developer has made a number of significant concessions at the request of the BCDC. The developer changed the project from two piers to one and added 40,000 square feet for a market hall to ensure continuous public access.

The project is the first proposed for this site to balance financial self-sufficiency, support of maritime activity, public access and removing fill from the Bay.

As co-chair of the NAC I personally witnessed the very favorable public response to this new plan.

The retention of the deep-water berth and the investment to strengthen the seawall are unbelievable gifts on top of everything else.

I am not sure why the Staff Report does not reflect all this work. It seems to me to paint kind of a negative picture of the project and I am a little disappointed in that. At a time of rising sea levels where private investment in resiliency will have to be part of the funding picture, and by the way, the project sponsor is committing \$400 million to infrastructure improvements, we need to stop the bureaucratic infighting and focus on getting something done. It has been twenty-plus years of failed efforts. I know, I have been here the whole time.

Lastly, and again as a longtime resident of the neighborhood and one who has been very hands-on involved, I can tell you that we are very anxious to finally fill in this spot on the Bay with a welcoming recreational and commercial area for not just our neighborhood but for anybody who comes to San Francisco to enjoy.

We need this project, and we have the best developer to deliver it. Commissioners, I urge you to support SB 273 and the proposed project on Piers 30-32 Thank you.

Mr. Blout commented: Thank you, Commissioners. I am Jesse Blout; I am a principal at Strada Investment Group. We are one of the two developers that are working on this project, the other is Trammell Crow Company. We have been at this for about three years now and thankful for being here today.

I was thinking back to the June 2021 hearing where we first talked about this project and at the time staff was very concerned about the proposal we had made, which was just a proposal in response to an RFP, it had not gone through any community vetting or regulatory agency vetting. And I remember, Chair Wasserman, you made kind of a poignant statement, which still rings true to this day, I think, which is that great things happen when these agencies collaborate.

And I think this is an example. Actually, the project is an example of great things that happen when these agencies collaborate. Because as David and some of the speakers have indicated, the project has gotten better because of the participation of both BCDC staff and State Lands staff.

Obviously, we are here to talk about a legislative bill that would hopefully enable the project. But I just wanted to make sure that, you know, from my perspective, the engagement with staff here has been actually really value-add in terms of making a better project. So, I just want to acknowledge staff for that.

I also wanted to agree with David Lewis, which is not always, we do not always agree. We like each other, I think, but we do not always agree. He just said that he thinks this east berth can be delivered with a fraction of the pier. And I do too, it is 55 percent. We are proposing to remove 45 percent of the pier as part of the project.

So with that, thank you very much and I urge you to move forward with the SB 273. I think the amendments that staff has offered are eminently reasonable. There are some issues to talk about around the Special Area Plan obligations but otherwise, they seem like very reasonable amendments. Thank you.

Chair Wasserman thanked the speaker: Thank you. I believe that concludes the public comments.

Ms. Atwell noted: In the building. We have two hands raised.

Chair Wasserman acknowledged: Thank you.

Mr. Sanders commented: Good afternoon, everyone. My name is Joe Sanders. I am a union member and representative of Painters and Drywall Finishers Local 913 in San Francisco. I am here to speak in support of SB 273.

Pier 30-32 is currently an environmental hazard. The 13-acre pier is deteriorating and large parts of it are red tagged and cannot be used. The only use for the remaining occupiable sections are parking, COVID testing and occasional food trucks. The Port estimates that there is only a 10-to-15-year remaining lifespan for Pier 30-32 so over time this pier will continue to rot and contaminate the Bay.

Speaking of contamination, there is currently no way to treat storm water runoff on Pier 30-32 so all the oil from cars parking there runs directly into the Bay.

In addition, Pier 30-32 is bigger than it needs to be and there is a real opportunity to reduce its footprint and therefore positively impact the ecology of the Bay. That is why this proposal for Pier 30-32 is so important. This project will reduce the size of the pier from its current 13 acres down to 7, a 45 percent decrease. By removing all of that fill this will help Bay sea life tremendously.

In this future project there will be no more parking on the piers, thereby reducing car dependency and eliminating a source of air and surface contamination, air pollution and surface contamination.

The project would also have green roofs and other onsite treatment systems that would contain and treat storm water runoff.

And by investing hundreds of millions of dollars in new resilient and strengthened pier and seawall this project is providing environmental protection for this stretch of the Embarcadero.

And because the east berth sits at the edge of a natural deep-water shelf, there is no need for environmentally harmful dredging for this important maritime use. There will be clean power hookups at the east berth so ships can turn off their polluting diesel engines while they dock.

And finally, this project represents a wonderful opportunity to bring people to experience the Bay that might not otherwise have the opportunity. The aquatic center and swimming facility allows direct access to the Bay for swimming and human-powered watercraft.

And the facilities, the facilities will be run by a nonprofit with the core mission of teaching disadvantaged communities to swim and experience the Bay and learn more about its ecology.

Commissioners, I urge you to support SB 273 and the proposed projects on Pier 30-32. Thank you.

Mr. Robinson spoke: Chair Wasserman and Commissioners, thanks very much for having this hearing today. I am Andrew Robinson, the Executive Director of the East Cut Community Benefit District.

The East Cut neighborhood immediately adjacent to this project and the surrounding waterfront neighborhoods have evolved and transformed in ways that are both faster and greater than anyone could have imagined just a decade ago. The planning and community investments have resulted in San Francisco's fastest-growing, densest and most transit-rich neighborhood.

Additionally, just so you know, in the East Cut neighborhood the housing that has happened on the former redevelopment lands has 35 percent below market-rate housing as well. So, building housing across the spectrum for San Franciscans. Pier 30-32 presents another opportunity to build on this momentum and dramatically enhance a section of San Francisco's Waterfront to create a new landmark that would be a major destination and would see over 700 housing units built, 25 percent of which would be below market rates.

Coming out of COVID and in the midst of a struggling economy, we need to be supporting projects like this that will bring vitality, economic opportunities and jobs to the city and the region.

As you have heard from almost every speaker, the project does include a huge investment in resiliency and the infrastructure for the Embarcadero seawall, addressing sea level rise and seismic risks.

The project sponsor is proposing to demolish the pier and rebuild a smaller pier, as has also been discussed. The new pier will be built for resiliency and will be structurally sound, at a height that meets sea level rise standards for the next 100 years.

In addition, the market hall, the retail shops, and more importantly to maybe the community, the swimming pools, the kayak launch and the public promenades will become a must-visit destination for locals as well as tourists and new visitors to the Bay Area.

Additionally, I see this as being a better connection from landside to waterside, which currently is a bit of a challenge and something we would like to see improved.

I am here to urge you to support SB 273 and the proposed project. Thank you.

Mr. Johnson addressed the Commission: Good afternoon, Commissioners. My name is Colin Johnson and I am a member and representative of the Bricklayers and Allied Crafts Local 3 of Northern California.

I am calling to urge your support for the proposed proposal of Piers 30-32. In addition to direct benefit of good jobs for working class people in the Bay Area, this proposal comes at an important time of our economic recovery.

The project will also be a huge benefit for the tourism sector by providing a fully functioning cruise ship berth on the east side of the newly rebuilt pier. This will ensure that San Francisco will be able to accommodate the increasing demand for cruising berths in the City, and in turn will mean tens of thousands of new visitors to San Francisco every year, which will mean millions of dollars spent on struggling local restaurants and retailers.

With the market hall, swimming pools and public promenades this will also become a must-visit waterfront destination attracting new visitors from around the Bay Area including from the East Bay and additional tourists. This will bring life and vibrancy to what is currently a sleepy stretch of the Embarcadero.

Commissioners, I strongly urge you to support SB 273 and the proposed project on Piers 30-32. Thank you.

Mr. Chisolm was recognized: Yes, my name is Bill Chisholm, I am with the Elevator Constructors Union Local 8.

Becoming a journeyman level worker requires thousands of hours of state-approved classroom and field experience. And to help our communities achieve good, middle-class, union careers we must support responsible development with strong labor standards like the legislation and proposal before you. Please consider the impact to the local community. Supporting the legislation and proposed project will help apprentices and future apprentices realize the promise of a strong middle-class and jobs in the Bay Area. Thank you.

Mr. Meiners spoke: Good afternoon, Commissioners. My name is James Meiners and I am the President of San Francisco Tsunami Water Polo.

The proposed Pier 30-32 project is going to be an amazing opportunity for us to enhance the San Francisco Waterfront and create an exciting new landmark that would be a major destination for tourists and also people like me who live in the City alike.

Our team is an active member of the International Gay and Lesbian Aquatics, IGLA, that hosts an international tournament of LGBTQ teams from across the world. We would love to host such an event here, attracting hundreds of athletes to San Francisco, but have been unable

to because we do not have an adequate facility right now. The proposed pool complex at Pier 30-32 would be perfect for us to host such an event, including a swim meet and artistic swimming.

In addition to using this new complex regularly for hosting tournaments we are in need of additional facilities right now to practice.

Currently, our team only has one practice a week, two less than what we need. We usually use MLK pool in the Bayview but Rec and Park staff do not currently have enough staff to allow us to use the pool. This is the only Rec and Park pool that can be used for water polo in the City. We have to use UCSF's pool right now and we only have the ability to use it once a week. Our members would love to have another practice location that is more accessible to the entire Bay Area as we have active members from East Bay, the City, the Peninsula and South Bay.

This pool complex includes an Olympic-size, 50-meter pool, which would be one of only two in all of San Francisco. This facility would allow water polo matches, recreational and competition swim events, swim dance contests, lifeguard training and other family aquatic activities.

Additionally, a purpose-built Learn-to-Swim pool is included to help address the shortage of Learn-to-Swim water safety programs in the Bay Area. This swim facility would also provide support facilities such as changing rooms, lockers, showers, saunas, hot tub to cater to swimmers of all levels and ambitions.

The mission of the sponsor's nonprofit operator of the aquatics complex is to introduce aquatic sports to underrepresented populations of the Bay Area. Their proposed program provides a unique opportunity to draw in an entirely new demographic to open-water swimming, which we wholeheartedly support as many of our members do open-water swim as well.

The pier is currently in a deteriorated condition and is projected to become unusable in 10-to-15 years. This project will remove the existing pier and replace it with a newer, smaller pier and build a floating pool complex with a swim program like I discussed above.

In closing, I find it surprising that the Staff Report to this agenda item made no mention of the aquatics complex, despite the significant amenity it would become, drawing thousands of people to the waterfront who otherwise would not do so. Commissioners, I urge you to support SB 273 and the proposed project on Pier 30-32. Thank you for your time.

Ms. Atwell informed the Chair: Thank you, Chair, no more hands raised.

Chair Wasserman acknowledged: Thank you very much.

I am going to exercise the Chair's prerogative and make a few remarks to start before I ask for comments from other Commissioners.

As we have discussed, and I think people understand, Piers 30-32 have been before us a number of times before in the past years. I did not participate in the Warriors discussion because I was recused, totally different circumstances. But following that I had a number of

discussions with our staff and with Port of San Francisco and recognized that Piers 30-32 as the tip of a major problem for piers on the San Francisco Waterfront that are dilapidating, causing significant problems, without any clear ways to finance removal, rehabilitation or anything.

I actually got a Stanford leadership class to try and take a look at the issues and see what creative, innovative solutions they might come up with. And they did come up with some creative and innovative and unfortunately not terribly practical solutions.

I think we, BCDC, are in a very different position today than we were when those issues were considered. We are today, both by our own decisions and I think by necessity, the leader, not alone, in collaboration and cooperation. But the leader of the efforts to figure out how we are going to adapt to rising sea level in this San Francisco Bay.

And the report that we got a piece of at our last meeting and we will hear some of at our next meeting on financing, demonstrates how difficult the problem is.

Just a few figures. If we do not do anything, we are looking at more than \$230 billion in loss of natural environment, built environment, people and property.

The estimated cost, which we know is low, of creating adaptations to significantly mitigate that loss, probably cannot prevent some of it, is \$110 billion and we know that is a low figure. And not as much advertised but it was in that report, we have identified about \$5 billion. Now, we know there are other sources for more. We are going to have to get state funds, we are going to have to get federal funds, we are going to have to do more regional economic bond or other similar measures. And I cannot remember who it was who quoted one of the things I have said before, but I have said it many times, we are going to have to be creative about this, we are going to have to look at a variety of ways to do this.

And this project is one of those. Now, this project is not before us for permitting. The details of this project, while relevant to our discussions, are not what is before us, however attractive some of the speakers may think they are.

The issue is indeed the public trust issues and a couple of provisions of the McAteer-Petris Act separate from public trust. Which if not changed means this project cannot proceed. I have certainly not heard anybody credibly say this project is consistent with the public trust as currently defined.

I am afraid I am going to take a little issue with my much-respected Commissioner John Gioia. The public trust is governed by the state legislature. This entity, this agency, was created by the state legislature. Yes, with the inspiration of three absolutely wonderful women and the efforts of an organization whose representative spoke to us today, Save the Bay. But we are a creature of the legislature. Public trust is a doctrine of the legislature. Our authority over it is delegated authority.

Certainly as individuals, as public officials, and arguably as the entity, we can take a position as this agency has in the past, that says that proposal, that bill which suggests redefining public trust for the purpose of this project, is wrong. I think we need to be very, very careful about that. And I think it is because we are in this new era where if we are going to successfully lead the efforts to adapt, we need to work much more closely than we have, I believe, in the past with the state legislature as well as other organizations.

And that is, frankly, one of the very significant reasons why over the last month, give or take, I have been much more involved in the discussions that I discussed during the ex parte disclosure because I think this agency needs to be involved at that level at a very significant discussion level, frankly, to be at the table and in the room. And I think too many times in the past we have not been there.

With being in the room with leadership comes responsibility. We can stand up and say we absolutely disagree with you. This should not be changed.

My own belief is, as an entity, I am not talking about anybody individually, it is important for us not to get into that fight at that level.

I think there are some elements of the bill that are problematic. Senator Wiener has reassured me directly. You have heard from the Port it was not their intent to limit our permitting authority outside of that redefinition of public trust and the two provisions of the McAteer-Petris Act about water-oriented uses and upland alternatives. I do think there is language that somebody could challenge our authority in it and particularly with the list of specific findings that the State Lands needs to make and that is why some of the changes I think need to be made. The residential piece is just you define something as mixed-use. If that is done by the legislature we just want to make very clear, it is not residential on the Bay. That is a whole different discussion we are not prepared to get into at all.

The issue of the San Francisco Special Waterfront Plan and the meeting of the requirements I think does need some more discussion. I frankly think that this controversy, the sort of clash, to some extent, is going to promote a better, higher level of discussion. I very much appreciate the Port's comments and I fundamentally agree with them and yet we know on each side there have been some miscommunications that I think can be improved. So, there are some things that need to be changed in the bill.

I am sure there is going to be robust discussion amongst the Commissioners and this will probably not be my last remarks this afternoon. But I am going to urge us to take the fourth alternative, which is not to take action today. I want to be very clear, I am not advocating that we do not take action, whether it be oppose-unless-amended support, or be neutral.

There is a hearing on the 25th before the Senate Committee, it is the relevant committee. It is an important hearing. I do not want to diminish that. It is not the last time it is going to be considered. It has got to go to Appropriations, it has got to go to the Senate itself. It has got to go to the Assembly, where historically many of these fights get worked out. So, we will have other opportunities. And if this were the last opportunity, I probably would not be making all these long remarks. It is not.

I think we and our purpose and our leadership is better served at this moment in time by saying, and it is not a hope and a wish, we are in active discussions with both the senator as well as the sponsors on the details of it. And it is conceivable that if it is considered at a later time a majority of this Commission might disagree with me and say, Zack, that leadership is all very nice. Yes, we are in a different position. But we have got a responsibility to stand up and say no.

I urge you not to have that discussion today. Again, I am not saying we will not have the discussion. I think we are better served, and our purposes are better served this day by taking no action, no motion, continuing to negotiate over the issues. And you have heard them, we are not hiding the ball on what they are.

With that I will open it up to other Commissioners and I will start with the Supervisor whose district this is in.

Commissioner Peskin commented: Thank you, Chair Wasserman. As I think the second-longest standing member of this body and wearing two hats, one as a policy overseer, albeit somewhat distantly of the Port of San Francisco, and second as a BCDC Commissioner, I am troubled in a number of ways that transcend the current issue around SB 273 but go back at least 27 years to the battle days when the Port of San Francisco and BCDC were at loggerheads for many, many years.

That started to resolve in 1996 when then-BCDC Executive Director Will Travis and then-Port Director Dennis Bouey and Save the Bay entered into a conceptual tripartite framework, which ultimately rolled out into the Special Area Plan, changes to BCDC's way it dealt with the 50 percent rule and other things and changes to the Port Code and Planning Code of San Francisco.

Albeit that my then-Mayor Willie Brown continued to offer square pegs to round holes that were never going to fit the McAteer-Petris Act and that the Port may or may not have really supported. But for the most part the ensuing three decades have been pretty good and respect has been built between the two institutions.

I am trying to figure out, because there has just been a lot of staff finger pointing between the agencies, what went wrong and how this bill got introduced without some basic staff level buy-in. I would love to get the Port and the State Lands Commission and Mr. Goldzband in the same room because everybody is telling completely opposite tales to the supervisor; and I have not corralled them all in the same room, but it is kind of pissing me off.

I think there is also relative to the Staff Recommendation I am really hearing two things. I think the four issues that staff raises, and we have heard it from the project sponsor, and we have heard it from the Port, can be addressed in the bill. I have talked to Senator Wiener, my former colleague, and he claims that he did not intend beyond the public trust issues, the upland feasibility to in any other way impinge upon BCDC's permit authority. But you certainly could read the bill that way. And how that language ended up in there, proposed by the Port through the Senator with presumably no review or concurrence by BCDC staff, is troubling.

I have heard two completely different things. One said by my friend Mike Martin today which was that they put something on the table in late December. One from my friend and former BCDC Commission colleague, Larry Goldzband earlier today which was they put stuff on the table in September that the Port did not respond to. But this is an ignominious beginning.

And I do not necessarily share, respectfully, Chair Wasserman's thought that well, you know, it is going to get to the Assembly side and there is plenty of time. In politics, once things get momentum they inevitably generally move. Unless the Governor, as the Governor did in 867 Laird, vetoes the damn thing, in which case you are just out of luck.

I completely acknowledge, embrace and support the fact that the McAteer-Petris Act and the relations between this regulatory agency and a host of different counties and governmental agencies is changing and evolving, and that we have an imperative to address sea level rise.

We do not have that authority. I was kind of hoping, and Mr. Blout knows this, and this is just politics, I am just being straight up honest, that there would be some sort of deal where we would get a 272 and an acceptable 273. But I have not even heard that conversation happening, which is more troubling.

Yes, we have got to invest in sea walls and here's 600 feet in a potential mile stretch along an area of the City that has to be armored. I acknowledge that. But we do not have that authority. So staff is not wrong that that is not a legal consideration for this body today.

I would actually, just to cut to the chase, given my fear about momentum, given that I think maybe things can get worked out. And the project sponsor has certainly shown a massive change in the design that I think everybody and BCDC staff acknowledge is good and right or at least in the right direction. But I would propose a different alternative, which is, if things are not going well, given that this body does not, it is not like a board of supervisors that meets every week and you can make a decision along the way. That we, this body, consider vesting in staff the admonition that they continue to negotiate and that Senator Weiner and the parties make the suggested amendments. But short of that, that staff is given the ability to oppose. All of these things are very similar iterations. But that it is basically an oppose. It gives staff the ability to oppose if not amended. It is just a nicer way of going about it. I could do group therapy for the rest of the day, but I will stop with that.

Commissioner Randolph commented: I was trying to think back to the last time this came before the Commission. What I recall saying then was that we need to evolve our thinking with the times and really how we approach waterfront development in the larger public interest. How we treat issues such as housing and the seawall on property across the street. How we factor in considerations such as sea level rise that were not on the table before.

I recall that I had requested of staff at that time was to work constructively with the project proponents to devise in a constructive, open way, resolution to these issues but not to get overly hung up on past regulatory constructs.

Listening to the discussion today it strikes me that it is important that I was hearing different things from staff and from the proponents, from the Port. It is important that our basic permitting authority be intact and not affected. But I would personally be very comfortable with a resolution that removed the public trust considerations in the service of the larger public good that I think we are looking for here in the San Francisco Waterfront.

So generally speaking, I would be supportive of our Chairman's suggestion but really looking at the larger theme, the need to not get overly hung up on existing regulatory constructs. Preserve our permitting authority but show flexibility when an amendment to the public trust would benefit the public interest. Thanks.

Commissioner Nelson was recognized: I find this a really challenging question for a number of reasons, the question before us today. The first and obvious place to start is that Pier 30-32 is a long-neglected part of the waterfront, and we need to find solutions to resolve the situation there.

A lot of the public testimony, the vast majority of the public testimony described a really appealing project. But I have two concerns about that.

First is the project is not before us today. We are not taking action on that project. Matter of fact, most of the uses the members of the public discussed are uses that are eminently able to be permitted under the McAteer-Petris Act and the public trust today.

The real question before us is whether we are going to potentially support legislation that would waive the public trust for the purposes of allowing office development in this place.

I cannot help but note that the legislature has twice taken legislative action on this pier unsuccessfully, meaning the projects were not realized. I have to say that it strikes me as a real risk that we may be seeing that movie again; we may be experiencing that same dynamic again.

I just happened to read a week ago an article that says that San Francisco has got 35-million-acre feet of empty office space, 30 percent of the office space in the City, and that is the highest vacancy rate in City history.

It does cause me concern that if we were to support this legislation we could see exactly what we saw with the stadium, and that is that the project proves not to be viable as currently proposed. It certainly raises real concerns about whether this is a viable approach.

But mostly my concern is that this discussion here about waiving public trust protections in order to allow other development to take place, even though some of that is shoreline protection and other developments that have real public interest, is taking place outside of a larger context. We only heard a brief mention by I think it was Save the Bay about the potential for some of this site to be used to provide needed mitigation for needed upgrades and adaptation investments around the Bay. That to me seems really important.

I am really troubled by the fact that we are having this discussion before our next meeting about Financing the Future. Because it seems to me there really is a very real risk here that we could unintentionally be sending a message that the way to finance adaptation is to waive the public trust and allow non-trust uses to take place in order to help finance adaptation. To me that is a Pandora's Box we do not want to open.

I am certainly not ready to support legislation that we would send a message to the staff that we would be comfortable with legislation that would waive the public trust on this facility.

I am torn a little bit between taking action in opposition today, which is where I am leaning, or delaying until after the discussion regarding Financing the Future and revisiting the issue. And I would love to listen to other Commissioners. Thank you.

Commissioner Gioia chimed in: I want to start by saying I really appreciate all the comments that have been made, very thoughtful comments by our Chair and by the three Commissioners that spoke earlier, because I think it all reflects a deep knowledge of the history of this agency, the parameters that we operate under, and yet acknowledged some of the local challenges that exist on projects.

There was a reason the legislature established public trust as one of the factors for us to consider. I think, as my colleague just indicated, the real issue here is whether the legislature does away with the public trust requirement and therefore opens up this development to

offices that otherwise would not have been possible. I think that is what this boils down to because all the other components of this project, as my colleague just said, are all probably within our authority to permit.

I think Supervisor Peskin, who has been on this Commission on and off for decades as well as on the Board of Supervisors on and off for decades, understands this history well.

So, without repeating maybe what others have said, a thought here is that having some type of ad hoc subcommittee here of Commissioners that involves Supervisor Peskin, to have some discussions with the Port of San Francisco, of course BCDC staff would be involved in these, to see if they come back with some type of resolution or compromise here.

Because I think it is really important to be very careful when some interest goes to the legislature to change the authority of this Commission for one particular development. Because we have to be cautious about how it opens the door to others who may not have the same community and public interest as the Port does here, to basically minimize our authority. It could be a private developer that wants to build on the salt ponds, right? I am sort of carrying this out. So, we have to be cautious of supporting any legislation that changes our authority or opens the door to others.

So, my suggestion is that we have Supervisor Peskin and staff and possibly others in some discussions to talk through these issues and come back to us. Then the question is whether their discussions will be more empowered if we stay neutral or do oppose unless amended. I think if we want to give the staff and the subcommittee the leverage and ability to have meaningful discussions that we may consider, oppose unless amended, so it puts the heat on having those discussions and then coming back with a recommendation for us that then would involve removing the, oppose unless amended. We could take a position of no position, as the Chair suggested. I just think this oppose unless amended would empower the staff and the subcommittee of Commissioners to have more ability to come up with some kind of solution that could work.

Commissioner Gilmore spoke: I want to thank all my colleagues. I think this has been a really fascinating discussion. I am going to take this project out of the discussion for a hot second because what we are really discussing is when or whether and under what conditions we sell out the public trust in favor of green-lighting a project. That is basically what is going on here.

Regardless of what happens with this particular project, I believe that this is a question that is going to face us again and again in the future.

So, I think that is something that we need to have a very robust discussion about, for all the reasons I think my colleagues have stated this afternoon.

I am also quite mindful of the fact that I think Barry was right about putting that in the context of Financing the Future because we do not want to be our top priority to protect against sea level rise at the expense of the public trust. I think it is going to come down to some sort of balancing act so I would like that Committee's input on it.

I would also be interested in hearing what happens at the Senate hearing next week and how that might influence where we go on this bill.

So right now I am leaning towards opposing unless amended. But I think this is a discussion that we are going to have to have regardless of what happens with this bill and regardless of what happens with this particular project if and when it comes before us. Thank you.

Commissioner Ahn was recognized: My comments will be brief. I have not discussed this legislation and more generally my views on this project are probably driven by my personal perspective on the history of Piers 30-32, which I see to be a slow-motion train wreck, it is an environmental disaster really in the making.

That said though, I do hear Commissioner Peskin's concerns and frustrations about – I have heard differing stories today. I have heard oh, look, the project has improved due to collaboration and input amongst the agencies, and yet I also hear a lot of handwringing about how we are not cooperating as well.

I think first and foremost I would like a staff response, perhaps, to a letter I see in the record from Senator Wiener, Senator Wiener's Office, about how particularly BCDC staff and the Commission have not been responsive to the legislation and that does bother me quite a bit. It is pretty strongly worded I would say. And just understanding why, for instance, we now have a recommendation from Deputy Director Goldbeck about making this potentially a two-year bill would also be helpful for context.

Personally, right now, having heard all the discussion from fellow Commissioners, I am leaning toward not voting yes to any oppose motion. In other words, I think it is premature given all this muddy water I am seeing to oppose the legislation outright. But rather maybe some combination of what I am seeing in 3 and 4 in the Staff Report, essentially requesting amendments to the bill and/or take no action at this time as Chair Wasserman indicated. Thanks.

Vice Chair Eisen chimed in: Well, I am glad that Commissioner Ahn went first because he said some of the things that I would say, most importantly, premature.

So, we have been asked to support this legislation, we have been asked to oppose this legislation, and we have sort of been asked to predetermine the permitting decision that we would at some point make. That is my biggest concern. I do not think we are anywhere near a place to be predetermining this permit decision.

I totally agree with Commissioner Gilmore that there are some real issues here about whether this project has got enough public benefit to it to allow us to permit it even if we did take the public trust issues out.

I am inclined towards Chair Wasserman's position that we do not take a position at this point. We continue to work with the legislature who, as Chair Wasserman correctly said, is beholden to the public as much as we are. We take all of the learnings that we have received from this meeting and better the process and work towards solving some of the real conflicts that we have been facing in this conversation. But not take a decision on whether we oppose or support this legislation at this point in time.

Commissioner Kishimoto commented: I do not have the history, the long history of all that has happened on these piers but I have listened to everyone's very interesting comments and read most of the Report. I am willing to think differently, to try to mitigate and pay for sea level rise. You do sometimes just have to challenge the way you think.

But I also think that we have to use some common sense. Just the idea of allowing offices in the Bay to pay for mitigation of sea level rise, it just does not seem to make sense to me. I could see, for example, allowing eventually see office development elsewhere and allow that mitigation to pay for sea level rise, some other scenarios that that might be possible. But just that inherent design of the project and the mitigation just does not seem to make sense to me.

So just based on what I what I see in front of me I would either oppose or oppose unless amended. Thank you.

Commissioner Moulton-Peters was recognized: Great discussion, I appreciate all my colleagues' points. I was struck by Commissioner Peskin's comments. He is closest to it, I think. To the extent that he feels things are unsettled, a lot of things have not been worked out among the different staff, for me this one just does not feel ready or fully baked.

I think that not voting on it today, I think amendments are needed. I am undecided about oppose unless amended or just amend. But I do think things are in a state of not being settled and that we need to look at Financing the Future. We need to have the different staff try to get to some agreement on these unsettled issues and bring it back for another vote. So that is where I am.

Commissioner Burt spoke: While I concur with a number of my colleagues on the aspects of the unsettled issues needing to have a better understanding before we take the clear vote, I am willing to defer any action as the Chair had proposed, but I am torn. If I had to make a decision today it would be between oppose or oppose unless amended. So, I am willing to defer it a couple of weeks to try to reconcile these differing claims that we have heard. Thank you.

Commissioner Gunther was recognized: You have got to love BCDC where you get to have biologists talk real estate. Zack, did I understand you to say, and I defer to your expertise here, that the public trust is in essence what the legislature says it is?

Chair Wasserman stated: Yes. To be fair, and I do not know who was commenting on me, there are some fundamental doctrines of public trust that are very much wrapped up in state lands and that they belong to the public that the legislature cannot willy-nilly run over and change. I suppose I could envision the legislature taking a position that exempts something from the public trust that is so crazy it would be challenged in court and successfully challenged in court.

Commissioner Gunther acknowledged: Okay. So, there are some boundaries.

Chair Wasserman agreed: There are boundaries to what they are doing. But having said that, they do have significant discretion to determine what public trust is within that basis of, I am going to label it Common Law Public Trust.

Commissioner Gunther continued: Okay, thank you. I wanted to thank all the presenters and my colleagues; I am learning a tremendous amount here.

The project has certainly changed significantly since the last time we saw it. While I think I understood one of our commenters to sort of be decrying the bureaucratic process, I see that the bureaucratic process here has actually really produced something that everybody is saying is better than the first time around so that is really great.

I want to make sure I understand this correctly, and whoever wants to tell me. If the Port of San Francisco had qualified for some non-existent currently federal program that allowed for piers in this kind of state to be rebuilt to be safe and to provide resilience, then we would not be talking about putting office buildings in the Bay. Am I correct on that?

Chair Wasserman replied: Yes.

Commissioner Gunther continued: Okay, all right. So inherent in our discussion then is that it is not possible to build a resilient shoreline without some kind of way to attract private funding. It seems to me that is inherent in our discussion today. I just wanted to bring that out in case somebody wanted to tell me, you are missing the point.

Chair Wasserman noted: I think you are both getting the point and slightly missing the point. When we talk about funding, at some level anything can happen.

Commissioner Gunther offered some levity: You sound like the guy who would remodel my kitchen. (Collective laughter)

Chair Wasserman acknowledged: Yes. So, two examples of that that are relevant here, I think, and cut on both sides.

One is, could somehow something break through and suddenly there is a realization on the part of Congress that this is absolutely critical and they provide funding? Sure.

Larry Goldzband has in a slightly different context said that he really wishes we had the H word, that there were a hurricane. That produces money out of Congress. Not a good solution for us but it is there.

Second, and it is one of the ones that David Lewis talked about and one that we are still working on. It is possible that there are some projects, although the only one I know specifically that has any reality to it at the moment is the San Francisco Airport Project where they do need to do fill, not to expand the runways but to protect them. They will need mitigation.

We are in the process of educating them about what that mitigation may be. And it could result in funds to help address the problem of taking out, repairing the pier and creating a berth.

It is extremely unlikely it would be enough money. And it is extremely unlikely it would be enough money to do that and provide anywhere near the kind of amenities that have been talked about. Which may or may not be important but just to put it in context.

Again, part of the reason I said, and not only am I not alone I am a small tip of it, people have been looking at ways to do this for a long time. So, if you say, you look at that sort of historically, I might almost say scientifically, is it likely that some amount of money that is going to do these things will appear from other sources? Probably not.

Commissioner Gunther continued: Okay. As I look at the future of a resilient shoreline and I look at some of the recent indications that there is a possibility that the melt in Antarctica is accelerating, it would be irresponsible on my part to not be engaging and thinking about how we can attract private capital to help us address the problems that we face.

But that leads me to my last question, which is, and I do not know who might be able to answer this for me, but how do we know that such a project with an office building in the middle of it is actually capable of making sure that we have the resources that are described to create the public interest and protect the public on the shoreline as is described? Is there some way that we can be assured that that is going to happen or that the project will not grind to a halt for some reason?

By the way, I have become incredibly impressed as I have seen these development projects come before me as a Commissioner with how much work is involved in getting these things across the finish line. I am really, really impressed.

And so I understand how difficult that is, but I would like also for us to ponder what it means to have a project like this. How could we really make sure that the private capital that we see coming to build the resilience that we know we need is actually going to be there as the project moves forward? And I know no one can necessarily answer that question but it is a question in my head here.

Chair Wasserman responded: If this project moves forward, if the public trust issue is addressed so it can move forward, when it gets to us for permitting, part of it indeed is what is the level of resiliency that we will require? And then either that is built into the project by the financing or there is no project.

None of the proponents could credibly guarantee they will have the financing to meet all of that. At the same time, both Port and developer have invested a fair amount of time and money that says they believe they will do that.

But that is part of our review. It is also part of why if this bill goes forward it is, from my view, absolutely critical that we get these amendments in there. I will come back to that. But I am trying to make my responses at the moment short.

Commissioner Arreguin commented: I think this has been a thoughtful discussion, raising, I think, some very legitimate questions around, does this create a precedent for future projects trying to bypass the regulatory process. I think that is certainly something that we will have to consider and I think express our opinion to the state legislature about.

And there is nothing precluding as part of communicating any position to talk about the need to respect. And I recognize that is delegated by the state legislature, but it is important that we make it clear that the state has established a Commission. We need to respect the authority that has been provided to this Commission, that people should go through the normal permitting process.

But my comment was about how do we move forward. I think there is nothing preventing our staff to communicate to the legislature that these four things, which I think are legitimate issues that should be addressed in the bill, should be addressed. I am sure conversations have been happening with the bill author.

I know there is an upcoming hearing in a committee. I guess there is nothing precluding us from providing that feedback about these are bill amendments that we would like to see.

And then as people said, to come back and see what the progress has been of either getting those amendments included or negotiating with the author, and to evaluate at that time about whether we should take an oppose position.

I think if we are not going to take action today, which I agree with the Chair is probably appropriate course of action, we should really be working in the coming weeks to try to make sure that these issues are addressed and reflected as the bill moves through the process.

Chair Wasserman stated: I will say more but my immediate response is, I guarantee you that.

Commissioner Randolph chimed in: I just wanted to come back with a final thought on the public trust. We talk about it. It is a wonderful term and we put it on a pedestal. It has been there for a long time and for a reason. But I guess my question is, I think we should ask ourselves, does it as currently interpreted and applied, does it serve us well today? I am not sure it really does from a jurisdictional standpoint at BCDC. I feel like the critical thing is to preserve and use our core permitting authority and I think we need to look at amendments that may be necessary to achieve that.

But other waterfronts in other cities around the world have vibrant waterfronts with housing on piers and offices on piers and they are arguably more vibrant than ours. You can go to Seattle. You can go to Boston. You can go to Vancouver and you will see the kind of development that happens on piers and they are they are doing just fine, thank you. There may be reasons still not to do this kind of development on piers, but it strikes me still that I think we need to be open to evolving.

So, I support taking no action today. Have staff, maybe Commission discussion about necessary amendments. But hope we can avoid any language at this stage that uses the term, oppose.

Commissioner Peskin chimed in: Today is April the 20th. The Committee of the Senate meets on Tuesday, April the 25th.

Mr. Martin, on behalf of the Port who is, I assume, the sponsor of this bill, are any of the four staff supported amendments that are before for us likely to be amended into the bill on or before the 25th day, five days from today, or Mr. Beaupre?

Mr. Beaupre fielded this question: Commissioners, David Beaupre with the Port of San Francisco. My understanding is that at this point in time in the process we cannot introduce any amendments now. There could be amendments made in the Committee meeting but we would have to work with the senator's office on that.

Commissioner Peskin noted: The senator seems to think that he did not intend to impinge upon BCDC's general permit authority. I think the Port represents that, staff represents that, the senator has represented that to me, the project sponsor has represented that. So, do we think there is going to be clarifying language that the sponsor, the Port of San Francisco, is asking the senator to do? It sounds like conceptually all four of these things are okay but words on pieces of paper are what rule the day.

And what I am getting ready to suggest is to take Commissioner Gioia's recommendation. Of course, that means Commissioner Gioia would have to be on said subcommittee. If you guys make those amendments and work with BCDC over the next five days we continue not to take a position and try to iron things out. But if the 25th rolls around then we take a formal position and delegate to said committee the ability to adopt an opposed or oppose unless amended in the future position so that we are not sitting around here doing nothing, which everybody can take however they want, because we made no formal statement. So, I am trying to move us, I am trying to leverage the situation.

Mr. Martin chimed in: Michael Martin, Port of San Francisco. Commissioner Peskin, I would like to say that we would very much like to engage on the specifics of the amendments. As I have said, we have had no direct dialogue yet with BCDC staff about the specific language they are looking for behind the four topics. I think we can work them out if we understand each other and where we want to go and we would very much like to do so. I think that is our message from this hearing.

We have invited this conversation and we want to do it and if we can do it in five days, we can. But I do not want to promise something when I have not actually engaged with Senator Wiener's staff, anybody else on the specifics that we saw on Tuesday.

Chair Wasserman intervened: I need to address this a little bit. Number one, we have not been sitting back. The very reason I disclosed to you what I have done and had the discussions is because we have been pushing with the senator's office, with the sponsors, including some specific language, but I am happy to get it out again. That is number one.

Number two, I do not want to diminish the importance of the hearing on the 25th, particularly in getting amendments on the floor. If we move towards what I have suggested or some slight variation with the formation of the subcommittee, which I think would be a good idea, ad hoc committee, that we will do that. But that is not the end of the discussion.

The bill has to come, it is going to go through appropriations, probably not as relevant but it is still a committee where things can happen, and on the senate floor. It does not have to be acted on until the end of June. I am not saying it will not happen before then. But this is not a be-all end-all.

We can certainly have as a placeholder on our agenda on the 4th and indeed every meeting thereafter, this item. We do not meet weekly but typically we do meet twice a month, to do that. So, I think that there is timing.

I want to say one other piece and I know I have got some remote speakers. I want to say this in part because I think it is relevant to some of the comments and I left it out of my initial remarks and I am sorry.

There is one of the four items that the senator in concept and the senator's staff even in language has not had a problem with, and that is a study, primarily BCDC and State Lands and Natural Resources, but it will have to involve the Department of Justice to some extent, be part of this bill. Now, this is a policy bill not a funding bill so there is always that issue. But again, as Commissioner Nelson pointed out, you get the policy in place, funding starts to become much easier.

And the purpose of the study is to evaluate whether, and if so, how, adaptation, resiliency should be considered part of the public trust purpose. And it is my belief that assuming that gets into the legislation and is passed, that becomes a pretty strong basis to say if anybody else tries to do this kind of exception before that study is completed, assuming it is moving along - to say, this study is going on, it is critical.

We are making sausage, troops. It is what many of you do in your local jurisdictions. You try to avoid it but sometimes you have to do it and I think that is part of what is going on here.

In an ideal world, I agree, we would have this study done before we consider this issue for Piers 30-32 or any other project. We do not live in an ideal world.

The other piece that I think helps us on this concern is that the long-standing challenge of how to deal with the dilapidation of Piers 30-32 is itself a distinguishing factor. Not sufficient, in my opinion, but if you couple that with a study, I think we are making some progress there.

Commissioner Eklund chimed in: First of all, I wanted to align myself with the comments made by Commissioner Nelson, Commissioner Gilmore and Commissioner Peskin as well. I really feel very strongly if I were to vote today it would be to oppose unless amended because, frankly, BCDC needs to have a voice in this issue.

I totally agree with what Commissioner Gilmore said that we need to have a discussion about public trust. Frankly, having served and worked for the US government for 43 years, 7 months, 11 days, we talked about public trust all along working for the Army Corps of Engineers and the US Environmental Protection Agency. So really, we need to have a voice in this issue and we need to have some discussion about public trust with respect to BCDC.

And I do not think that we should try to undermine that public trust at all because that is huge relative to what the originators of the bill to establish BCDC put upon this organization in the 1960s.

I would really suggest that the suggestion by Commissioner Gioia and Commissioner Peskin form, we tell them today to have some discussions. I would add a fifth position on that list of staff concerns, that we maintain public trust. I do not want to undermine that at all. But I agree with having a subcommittee. I would suggest Commissioner Gilmore and obviously Commissioners Peskin and Gioia and maybe even Commissioner Nelson as well, in my opinion.

You know, guys and gals, our world has changed. The pandemic has shut down a lot of offices and they are not coming back. And so, what is going to happen, in my opinion, is that the square footage that is all vacant in San Francisco is not going to come back at the rate that we would like it to. I am not sure it is ever going to come back to normal. I believe that some of the offices will turn into residential, which is probably going to happen anyway. But what is going to happen?

Commercial does not belong on the Bay. What you are doing by having that office there, in my opinion, you are shutting out the public from being close to the Bay. I do not know how high this building would be but there is no talk of even what the visual impacts may be for those people that would be walking along the Embarcadero.

So, I really would like to have this subcommittee come back with some recommendations to the Commission at our next meeting. Because obviously if this legislation is going to be going through, and I do not know what the expected process is going to be on how long amendments can be taken, but we really need to have an agreement amongst the Commission of what those changes are.

If I had to vote today, I would say oppose unless amended. But I would be willing to give some time for this ad hoc committee to meet and come back to the Commission with a recommendation.

Commissioner Gorin spoke: Very, very briefly. A lot of great comments. I am very concerned about the potential for precedent of other projects coming forward in a similar way through legislation and without adequate, perhaps, conversation with BCDC.

I think the legislation may move quickly and so I am concerned about it. My preference is to take no action but it may move quicker than we are able to respond to. It might be a great project. It looks really interesting, thank you for the modifications. But take no action today. But it may move quicker than we are able to respond to. So, thank you.

Commissioner Gioia added: Yes, I wanted to say, the purpose of my comments was really having Supervisor Peskin's leadership with our Chair on this. I trust the Chair will put on who he thinks is best. The purpose was not in asking for myself to be on there; I will serve on whatever I may need to. But it was it was really about getting Supervisor Peskin who has got deep knowledge of both the local issues as well as being on the Commission, with the Chair and whoever else needs to be on it.

And I need to add, the legislature is not the only entity defining what public trust is. Public trust is a longstanding doctrine based a lot in common law and interpreted by the courts that predates the California legislature's existence. So, while the legislature has a role in it I think we need to be clear, it is a doctrine with lots of interpretation by the courts.

I trust this ad hoc committee process to work issues and come back to us. While it is not our authority to decide land use issues, only with regard to how public trust impacts it. Some may question if we are trying to fund shoreline resiliency, can you truly fund it with a land use, like office, that has a 30 percent vacancy rate in downtown San Francisco? That is a legitimate question. You are trying to build office space when there is a 30 percent vacancy with the highest rates in the country in an urban area. We would want whatever happens there to be successful to fund it. If it is not successful we are not going to fund the shoreline resiliency.

I am fine with no position. I do think, though, we may want to say to this committee, if there is no progress made in discussions that we then institute a oppose-unless-amended position because if they do not make progress we need to have time.

My suggestion is, one, set up this ad hoc committee. The Chair sets it up with Supervisor Peskin having a role with the Chair. And giving them the authority to move to a oppose-unless-amended position if there is no progress in their discussions.

Commissioner Nelson noted: Two quick comments about two of the options before us. First is Commissioner Gioia's suggestion and Mr. Peskin's of creating a subcommittee, a working group. I think that makes a lot of sense. It makes sense for the Chair to appoint whoever the Chair thinks would be appropriate for that working group.

The other option that we have heard quite a bit of discussion around is opposed unless amended. I just want to make sure that that if we consider that option that we are clear about what we mean by that. Because as I look at the four bullets in the Staff Report, on page 6 of the Staff Report that Steve walked us through, on their face each of those things has a lot of merit.

But as I read those four in the context of that bill, to me, what it suggests is if the author were to make those four amendments we are fine with waiving the public trust for office uses.

Personally, I do not feel comfortable with that and I do not know where all the Commissioners land on that issue. We have talked about the potential for an oppose-unless-amended position. But I just want to be clear, if we have a discussion around going down that road, we are clear about what those amendments are. Because I think we need to make sure the Commission is clear about the implication of that position with regard to what is clearly the core issue and that is waiving the public trust on this site for office uses. Thanks.

Commissioner Addiego chimed in: I wanted to be the very last. So, we are really talking about Senate Bill 273. While it was fun to hear about the project and all the amenities that it will bring, that is not what we are dealing with today. I, like Commissioner Peskin, the initial reaction being protective of my charge with this body would be to oppose unless amended. But I am very appreciative of the slightly more nuanced, more subtle approach that the Chairman suggested, that we take no action today and we put this ad hoc committee to work.

Chair Wasserman announced: I would request a motion to authorize the Chair to appoint an ad hoc committee to work with the sponsors of the measure and the senator's office and other legislators as appropriate; and to report back to this Commission at our next meeting and potentially meetings after that.

Commissioner Addiego chimed in: I would like to make that motion.

Chair Wasserman acknowledged: I thought you might, thank you.

Commissioner Arreguin chimed in: Second.

Chair Wasserman noted: And I have a second from Commissioner Arreguin.

Chair Wasserman recognized Commissioner Peskin: Commissioner Peskin.

Commissioner Peskin commented: Thank you, Zack. I am not trying to be a pain in the butt, but I cannot vote for that and I will tell you why. I appreciate the sentiment of it. And I can clearly tell that I am stuck on it. But I would have to know who is on it and what authority it has before I could vote for it. So, it has to have some interim delegated authority to oppose unless amended if the committee comes to that conclusion and I have got to know who the participants are before I can vote for it. Not that I do not trust you, Zack, I have just got to know it.

Chair Wasserman responded: As to who is on it, I need to give it a little thought. But I guarantee you and anybody here that I know two people who are on it and that is you and me and I am happy to talk with you about who else.

Second, the senator knows, and I think the sponsors know that oppose unless amended is a very likely event. I assure you that is why I got a call from Senator Wiener.

I think we have time. I think it is extremely unlikely the senate is going to act between the 25th and May 4th. Which is part of why in asking for the motion I asked for the reporting back here so it is very clear to anybody on the ad hoc committee but also to all of those we will be dealing with that this is not slow. We are going to have to do this fast and we are going to report back fast.

This ad hoc committee I envision will have some discussion about, indeed, what the amendments are and that will include the substance. But I also want to be clear, this is not a hiding the ball and we are not making this decision now. That if the amendments were to not do the changes to the public trust and those issues, that is not oppose and amend, that is oppose. Or to use terms that are used in the sausage factory, that is gut and amend. But I do not know whether that satisfies your concerns or not, sir.

Commissioner Gioia chimed in: It sounds like what he is saying, though, is granting authority to this committee to move to a oppose unless amended if there is not satisfactory progress.

Chair Wasserman replied: John, I will be honest. I have a little trouble with the concept of delegating to a group that much authority. Steve, you are probably the one most knowledgeable about legislative process. Is there any significant chance the senate would act before May 4? It has got to go to Appropriations before it acts.

Mr. Goldbeck replied: It has to go to Appropriations before the Senate floor, if that is what you are asking?

Chair Wasserman continued: Well, I am asking that, and is there any likely chance that the senate itself would act before May 4?

Mr. Goldbeck answered: No.

Chair Wasserman acknowledged: Thank you. So, I think we have got the time to come back here, this ad hoc committee. It will be formed, if not by the end of the day because it is 20 to 5:00, sometime tomorrow. We know that we can meet by Zoom. So, I think there is plenty of time without formally delegating it to that group to take that formal position.

I think it is time to call for a vote on the motion unless anybody else wants to make a comment.

Commissioner Peskin stated: Respectfully, Zack, I just do not see the utility, which is just, you guys all go get in a room and figure it out. I am not going to get the brain damage unless I have the leverage. This is how I play the game.

Commissioner Pemberton asked for clarification: I just wanted to see if I could get clarification on the subcommittee and on the motion. I am not fully understanding what authority the subcommittee would have and what its role would be.

Chair Wasserman explained: I believe as it stands its authority is to: A, discuss amongst itself what amendments and positions are appropriate; B, to communicate that in whatever form to both the sponsors and to the senator and any other appropriate legislators and report back. What Commissioner Peskin is arguing for, suggesting, is that it, in fact, be given the authority on behalf of the Commission to register opposition unless amended if there is not sufficient progress being made. Is that accurate, Commissioner Peskin?

Commissioner Peskin concurred: Accurate.

Chair Wasserman recognized Commissioner Randolph: Commissioner Randolph.

Commissioner Randolph asked: Is there any reason why the recommendation from the working group would not or could not be brought back to the full Commission for consideration? Because I think ultimately it is the authority and responsibility of the full Commission.

Chair Wasserman acknowledged: I apologize. We are now down to what you are making the casings out of for the sausage.

I am not saying this is an unimportant piece, but it is very much a tactical piece of what leverage, that is what we are talking about here, is both appropriate and necessary in dealing with the sponsors and the senator's office.

I do not think that additional piece is necessary; A, because of the timing I have talked about, and B, because of the assurances that both the sponsor and the senator's office has made that the thrust including some language with some tweaking, particularly about the Waterfront Plan, is fully acceptable.

However, I have never been an elected official and I will defer to the expertise of the elected official who is involved in this willingly or not; and request the mover and seconder to accept the friendly amendment that the group would be authorized to register opposition unless amended if there is not sufficient progress, in its opinion.

Commissioner Addiego asked: And it would be the agreement of?

Chair Wasserman answered: Of the ad hoc committee.

Commissioner Addiego continued: Which is going to be a three member, a five, what do you propose?

Chair Wasserman replied: It is going to be small. It will be under five. And supported by staff.

Commissioner Addiego continued: So, there would have to be unanimous agreement? If there is dissension in the ad hoc committee it needs to come back to the full body.

Chair Wasserman stated: Yes, I think that is fair. Yes, I got a semi-nod.

Commissioner Addiego replied: That is probably all we are going to get tonight.

Chair Wasserman continued: Yes. So that it would be that they could register that if they unanimously concluded that.

Commissioner Addiego stated: Okay. Okay. So, I am amending the motion to reflect that.

Chair Wasserman acknowledged: Yes. So, the mover and seconder accepts. Yes, Commissioner Pemberton.

Commissioner Pemberton had questions: Yes, thank you. I just have a couple more questions. It does not seem to make sense to me given that the Commission will meet again on May 4 that there would be authority delegated to the subcommittee to take an oppose position when it is only a couple of more weeks between the time the subcommittee would start operating and the next BCDC meeting would occur.

I also wanted to get clarification on how many members the subcommittee would be comprised of, before the motion?

Chair Wasserman answered: Somewhere between three and five is the answer to your last question.

Commissioner Pemberton continued her questioning: And one more question, I do not know if maybe this is a question of legal, but is there precedent for BCDC delegating to a subcommittee the authority to represent a position to the legislature on behalf of the full Commission?

Chair Wasserman noted: The Executive Director points out that there was a similar delegation of authority, somewhat similar, for the Bay Plan Amendment in 2011. It is not common, let's not kid anybody. As to whether it is legal or not, I have no opinion, and if it is not legal then we cannot do it. But again, there will be time to bring this back. This is a matter of very fine tactical differences.

Commissioner Gilmore asked for clarification: Okay, I am confused. Something that Commissioner Nelson said stuck in my head. So, if we vote to amend, if it works out that we get it amended the way the Staff Report has said, basically that means that we as a Commission are okay with giving up our vote on the public trust. And regardless of our discussion today, and I thought we made some great strides, I do not think it is as robust as a discussion that we need to have and I would not be okay with that. So, let's just be clear about what the amendment means, right.

Chair Wasserman explained: So, what I want to be very clear, this ad hoc committee is not given authority to approve or endorse, it cannot do that. It is only given the authority, as the motion now stands, to oppose. Second, even if amended, we have got the alternative not to take action to approve. Whether we choose to do that or not is a different discussion.

Commissioner Gioia chimed in: After listening to this discussion, our discussion revolving around this subcommittee having leverage. Maybe the simplest way is just to say our position is oppose unless amended; with the subcommittee's goal is to make the amendments and come back to change the position. In other words, we are saying we are obviously against this unless you amend it and we need to have some discussions. So, we are opposed unless amended but we have a committee that wants to work with you to reach those agreements so that we could then remove that opposition. Essentially, that is what we are sort of saying. That may be the best way to achieve this. And it gives them the leverage and it puts the onus on the sponsors of the bill to work hard to get the bill amended. And then that way I think Supervisor Peskin also realizes that there is leverage here. And I get it. All of us understand that it is about having leverage to make the changes to get the amendments. So that is my suggestion and if you want, I am willing to make a substitute motion on that.

Chair Wasserman recommended: I would ask you not to do that, but of course, you are free to do it. I am going to lay it out as straight as I can. I think that is a bad tactical mistake. I think it is very clear to the sponsors and to the senator that if this bill is not amended this organization is going to oppose it. I do not think there is any doubt in their mind. However, but I think putting it in that course puts us in a weaker rather than a stronger position.

Commissioner Gioia pushed back: I am not sure I agree with that but I understand there are different points of view about that. There are a couple of Commissioners here who expressed some good ideas from Commissioner Gilmore and Nelson and others. I think maybe you decide to put them on the subcommittee, willing people on the subcommittee. And that may help also to understand who is on the subcommittee. Just make that, as you say, it should be no more than five. There have been several Commissioners who spoke who would contribute to this process and have been involved so that that may be helpful.

At a minimum, then we would all know who they are and they would have, at a minimum, the authority to have an oppose-unless-amended position if there is no progress. And they could state that, look, if we do not make progress, we have the delegated authority to change to oppose unless amended.

And just identify the five. You have two of them. Just pick the other three and then Supervisor Peskin will know who they are.

Commissioner Burt stated: I am good with giving the ad hoc the ability to negotiate and I am ambivalent on whether it should be clear in their mandate that we would take an oppose unless amended unless they can resolve this. But I do think that any decision to support would need to come back to the Commission.

Chair Wasserman acknowledged: There is not an iota of doubt about that last statement. Period, finis.

Commissioner Burt replied: All right, thanks. I was unclear on that.

Chair Wasserman continued: Okay. I would suggest, assuming they are willing, that the ad hoc committee consist of myself, Commissioner Peskin, Commissioner Gilmore and Commissioner Nelson. I have a thumbs up from Commissioner Gioia.

Commissioner Gilmore chimed in: Chair.

Chair Wasserman acknowledged: Yes, Commissioner Gilmore.

Commissioner Gilmore stated: While I appreciate the honor, if this has to be done by May 5, I am unable to serve because I am going to be traveling next week, or that week, sorry.

Chair Wasserman replied: I hope it is enjoyable.

Commissioner Gilmore acknowledged: Sorry.

Chair Wasserman continued: No, that is okay, realities interfere.

Barry, I assume you are willing and able?

Commissioner Nelson affirmed: I am.

Chair Wasserman acknowledged: Thank you, sir.

Commissioner Eklund suggested: Chair Wasserman, why not put Commissioner Gioia on there if Commissioner Gilmore cannot serve? Because I think that he was the one that came up with the idea of an ad hoc committee and I think he brings up a lot of points that would be very helpful for the Commission when we discuss this on May 4.

Chair Wasserman acknowledged: I appreciate that suggestion. I will be very honest; I was trying to get a feminine voice into this group. I think for any number of reasons it is important, but I may not be able to do that.

Commissioner Gioia asked: How about Pat Showalter? I will throw her name out because she has expressed thoughts similar supporting this.

Chair Wasserman asked: Pat?

Commissioner Showalter stated: I think I could help you out with that, yes.

Chair Wasserman acknowledged: All right, so those are the people. Myself, Peskin, Showalter and Nelson. And I am telling you I will do that. I am not asking that it be part of the motion.

Any other comments?

Commissioner Gioia requested a restatement of the motion: Could you restate the motion, just so it is clear, about the authority with regard to position.

Chair Wasserman obliged: That we appoint an ad hoc committee to consider SB 273 and proposed amendments to discuss, and as appropriate, negotiate with Senator Wiener's office, the sponsors and any other legislators as appropriate; to have the authority to put on the record an oppose-unless-amended position on behalf of BCDC if progress is not being made; and to report back to this Commission on May 4. Can we call the roll, please?

MOTION: Commissioner Addiego moved that Chair Wasserman appoint an ad hoc committee to consider SB 273 and proposed amendments to discuss and as appropriate negotiate with Senator Wiener's office, the sponsors and any other legislators as appropriate; to have the authority to put on the record an oppose unless amended position on behalf of BCDC if progress is not being made; and to report back to the Commission on May 4. The motion was seconded by Commissioner Arreguin.

VOTE: The motion carried with a vote of 19-0-2 with Commissioners Addiego, Ahn, Arreguin, Burt, Eklund, Gioia, Gorin, Gunther, Hasz, Moulton-Peters, Peskin, Ramos, Randolph, Showalter, Kishimoto, Nelson, Gilmore, Vice Chair Eisen and Chair Wasserman voting, "YES", no "NO" votes, and Commissioners Beach and Pemberton voting "ABSTAIN".

Chair Wasserman announced: The motion passes. I thank you all for your participation and input. These are not easy subjects. They will not be easy when they come back to us, and they will come back to us. I thank you very, very much.

10. **Briefing on Strategic Plan.** Item 10 was postponed.

11. **Briefing on Oyster Point Compliance.** Item 11 was postponed.

12. **Adjournment.** Upon motion by Commissioner Peskin, seconded by Commissioner Gunther, the Commission meeting was adjourned at 4:59 p.m.