

November 5

M E M O

TO: Executive Board

FROM: Ezra Rapport, Executive Director

SUBJECT: Bay Conservation and Development Commission Proposed Bay Plan Amendment

Introduction

The Bay Conservation and Development Commission (BCDC) has been working on proposed amendments to the Bay Plan since early – 2009. The main subject of these amendments is the effect of Climate Change on the Bay and its potential impact on the Bay Shoreline. Using the analysis of several scholarly reports, BCDC staff finds that “Global warming is expected to result in sea level rise in San Francisco Bay of 16 inches by mid century and 55 inches by the end of the century.”

Background material for the proposed amendment is presented in BCDC’s staff report entitled, *Living with a Rising Bay: Vulnerability and Adaptation in San Francisco Bay and on its Shoreline*, dated April 7, 2009. Over the past 18 months, BCDC’s staff has briefed MTC, ABAG and the Joint Policy Committee on the proposed amendments.

Proposed Amendments

BCDC has conducted numerous public hearings on its proposed changes to the existing Bay Plan. There are four categories of proposed changes:

- a. Amend the findings and policies on tidal marshes and tidal flats to ensure buffer zones are incorporated into restoration projects;
- b. Amend the policies on safety of fills by updating the findings and policies on sea level rise to bring them into conformity with the goals of SB 375;
- c. Amend the policies on protection of shoreline to address protection from future flooding; and
- d. Amend the findings and policies on public access to avoid significant impacts from sea level rise.

Long Term Adaptation Strategy

The proposed Bay Plan Amendments recommend that the Commission, in collaboration with the Joint Policy Committee, and other regional, state and federal agencies, local governments, and the general public formulate a regional sea level rise adaptation strategy incorporating a long list of considerations. The regional strategy “should

determine where existing development should be protected and infill development encouraged, where new development should be permitted, where existing development should eventually be removed to allow the Bay to migrate inland.”

Interim Approach Development Guidelines

The proposed Bay Plan Amendments also propose an interim approach for dealing with development until a regional sea level rise adaptation strategy can be completed. As required by state law, the Amendments would be used by the Commission in making regulatory decisions within BCDC’s permit jurisdiction. Outside of BCDC jurisdiction, the policies are by statute “advisory only” for local governments “when planning or regulating new development in areas vulnerable to future shoreline flooding.”

Concerns Regarding Interim Approach Development Guidelines

Many stakeholders in the Sustainable Community Strategy (SCS), including local governments, private developers, and regional agencies have concerns regarding the potential impact of the interim approach guidelines on what is today considered infill development in a large zone (213,000 acres outside of BCDC jurisdiction) that could be inundated a 16- 55 inch sea level rise unless protected by infrastructure that could result from the adoption of a regional long term adaptation strategy.

While the Bay Plan Amendments are advisory only outside BCDC’s jurisdiction, they could have a serious impact in the CEQA process that is required to implement the infill development assumed under the SCS. BCDC’s staff recognizes this potential CEQA impact and is working together with the regional agencies to eliminate this unintended impact. (It should be noted that BCDC’s staff believes this problem will be exacerbated if the proposed Bay Plan Amendments are not approved because the existing Bay Plan policies are more restrictive and do not support the SCS as do the proposed amendments.)

Joint Policy Committee Approach

BCDC staff has committed to working collaboratively with the other regional agencies to deal with the CEQA issue before BCDC takes action on the Bay Plan Amendments.

A report on this subject will be brought before the Joint Policy Committee (JPC) in January following additional analysis and evaluating various options.

BCDC has postponed action on the proposed Bay Plan Amendments until April, which provides ample time to incorporate the results of the analysis into BCDC’s final action.

ABAG staff believes this is the right approach and recommends that the ABAG Executive Board advise the BCDC to work through the JPC prior to taking any formal action with respect to the proposed Bay Plan Amendments.