

San Francisco Bay Conservation and Development Commission

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

Meeting Notice

Commissioners:

Mark Addiego
Geoffrey Gibbs
Marie Gilmore
Sanjay Ranchod
Greg Scharff
Jill Techel

Enforcement Committee

9:30 a.m. to 12:30 p.m.

Thursday, October 20, 2016

Port of San Francisco Board Room

Ferry Building

Second Floor

San Francisco, CA 94111

(415) 274-0400

Staff:

Adrienne Klein
Maggie Weber
Matthew Trujillo
Marc Zeppetello
John Bowers

1. Call to Order

2. Roll Call

3. Public Comment

4. Approval of Draft Minutes for October 6, 2016

5. **Public Hearing and Possible Vote on a Recommended Enforcement Decision Involving Proposed Stipulated Cease and Desist and Civil Penalty Order No. CCD 2016.03; Scott's Jack London Seafood, Inc. and the Port of Oakland.** The Committee will hold a public hearing and possible vote on a recommended enforcement decision including the proposed Stipulated Cease and Desist and Civil Penalty Order No. CCD 2016.03 that would be issued by the Commission, for alleged violations at the Public Pavilion at Scott's Seafood Grill and Bar, located within Jack London Square in the City of Oakland, Alameda County. The alleged violations are: (1) construction of an unauthorized metal-framed doorway, storage area, and stage, and installation of multiple planters, in a public access area; (2) failure to obtain BCDC staff approval of design and construction plans prior to replacing the former tent walls with a retractable wall panel system used to enclose the pavilion; (3) failure to provide six years of reports of private events in the pavilion; (4) failure to permanently guarantee all the public access improvements at the pavilion; (5) failure to install and maintain all the public

access improvements at the pavilion for at least 292 days per year (80% of the year); and (6) extensive unauthorized use of the pavilion for private events during an approximately eleven-year period.

The recommended enforcement decision would generally require: (1) removal of certain unauthorized structures within 15 and 75 days of November 3, 2016; (2) a permit amendment application to authorize modifications to the pavilion and improve public access in Jack London Square's Franklin Street Plaza within 56 days of November 3, 2016; (3) if desired by the Permittees, a permit amendment application to simplify the authorization for shared public and private use of the pavilion within 56 days of November 3, 2016; (4) payment of a \$250,000 penalty within 14 days of November 3, 2016; and (5) payment of established non-appealable fines for missing any deadlines. The recommended enforcement decision would also allow the permittees to increase the number of private use days from 73 days per year to 124 days per year, 20 of which would be for non-profit events.

(Adrienne Klein) [415/352-3609; adrienne.klein@bcdcc.ca.gov]

- 6. Public Hearing and Possible Vote on a Recommended Enforcement Decision Involving Proposed Stipulated Cease and Desist and Civil Penalty Order No. CCD 2016.004; Marina Village Associates, LLC.** The Committee will hold a public hearing and possible vote on a recommended enforcement decision including the proposed Stipulated Cease and Desist and Civil Penalty Order No. CCD 2016.004 that would be issued by the Commission to Marina Village Associates, LLC for alleged fill and public access violations at Loch Lomond Marina located at 110 Loch Lomond Drive, in the City of San Rafael, Marin County.

The recommended enforcement decision would generally require: (1) cease and desist from all activity in violation of BCDCC Permit No. 2006.010.03; (2) remove unauthorized items located in the Bay and shoreline band that cannot be authorized after-the-fact; (3) apply for after-the-fact authorization for unauthorized activities in the Bay and shoreline band; (4) submit an engineering report that evaluates: (a) the frequency, duration, and extent of tidal flooding and post-flooding standing water in the public access area and (b) potential alternatives to reduce tidal flooding and post-tidal standing water in this area; and obtain authorization to implement recommended flood control measures; (5) pay a civil penalty of \$210,000 to the Bay Fill Cleanup and Abatement Fund; and (6) pay established penalties for late compliance with any term of the Stipulated Order.

(Marc Zeppetello) [415/352-3655; marc.zeppetello@bcdcc.ca.gov]

(Maggie Weber) [415/352-3668; maggie.weber@bcdcc.ca.gov]

7. Public Hearing and Possible Vote on a Recommended Enforcement Strategy.

The Committee will hold a public hearing and possible vote on a recommended enforcement strategy and policy to set enforcement priorities, improve compliance, improve regulatory and legal effectiveness, and use resources more efficiently.

(Adrienne Klein) [415/352-3609; adrienne.klein@bcdcc.ca.gov]

8. Adjournment

Speaker Sign-Up and Time Limits. If you would like to comment on an item scheduled for a public hearing or speak during the public comment period, please fill out a "Request to Speak" form and give it to a staff member. Each speaker is limited to a maximum of three minutes during the public comment period, and the Chair may set time limits for each speaker at the beginning of a public hearing. You are encouraged to submit written comments of any length and detailed information to the staff. This material will be distributed to the Commission members. Applicants are responsible for presenting their projects at the public hearing.

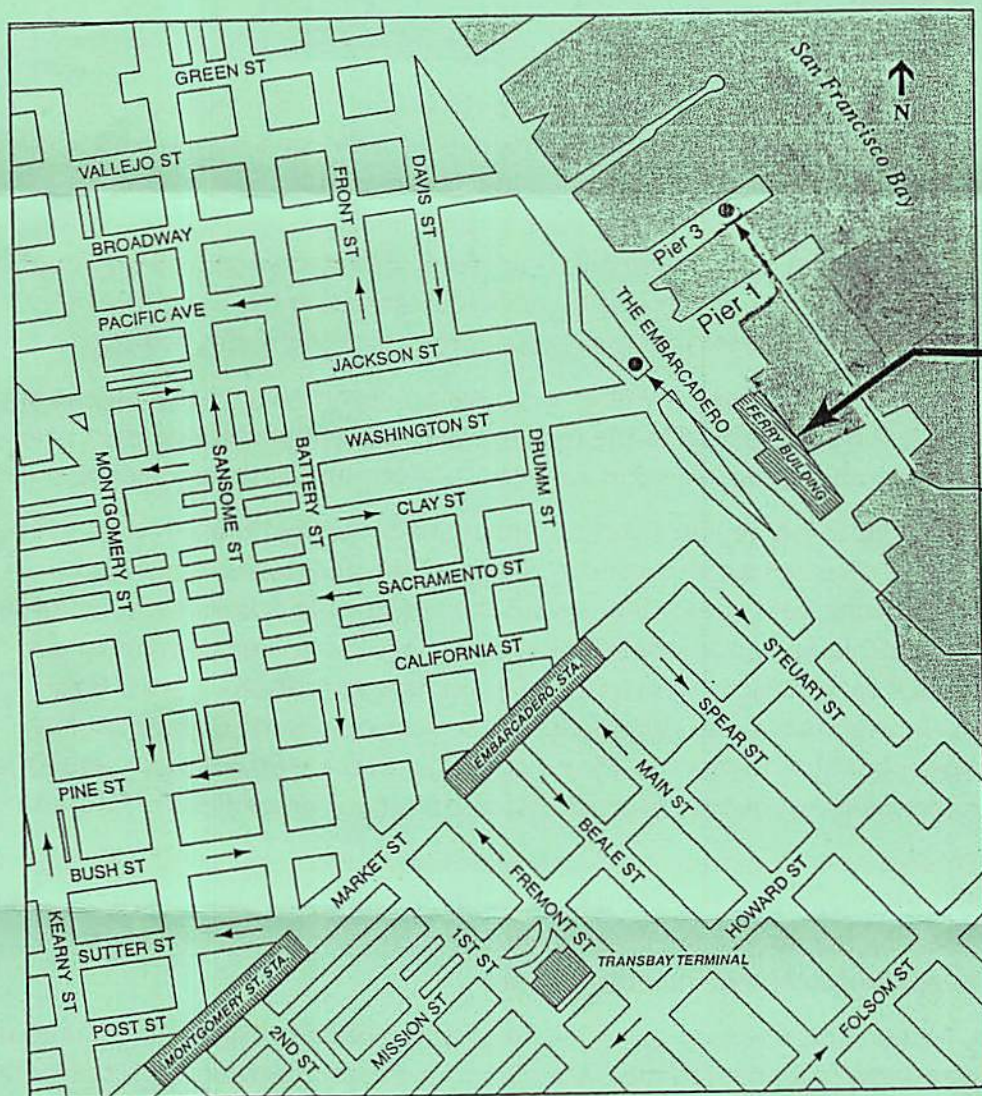
Questions and Staff Reports. If you have any questions concerning an item on the agenda or would like to receive a staff report related to the item, please contact the staff member whose name and direct phone number are indicated in parenthesis at the end of the agenda item.

Campaign Contributions. State law requires Commissioners to disqualify themselves from voting on any matter if they have received a campaign contribution from an interested party. If you intend to speak on any hearing item, please indicate on the "Request to Speak" form or in your testimony if you have made campaign contributions in excess of \$250 to any Commissioner within the last year, and if so, to which Commissioner(s) you have contributed. Other legal requirements govern contributions by applicants and other interested parties and establish criteria for Commissioner conflicts of interest. Please consult with the staff counsel if you have any questions about the rules that pertain to campaign contributions or conflicts of interest.

Internet Access to Enforcement Committee Meeting Materials. Public notices of Commission meetings and staff reports dealing with most matters on the meeting agendas can be found on BCDC's website by selecting the date of the meeting after logging onto <http://www.bcdc.ca.gov/enforcement/meetings.html>.

Access to Meetings. Meeting facilities are accessible to persons with disabilities. If you require special assistance, please contact any staff member prior to the meeting. An interpreter for the deaf will also be made available upon request to the staff at least five days prior to the meeting.

Bagley-Keene Open Meeting Act. As a state agency, the Commission is governed by the Bagley-Keene Open Meeting Act which requires the Commission to: (1) publish an agenda at least ten days in advance of any meeting; (2) describe specifically in that agenda the items to be transacted or discussed; and (3) refuse to add an item subsequent to the published agenda. In addition to these general requirements, the Bagley-Keene Act includes other specific provisions about how meetings are to be announced and conducted.



**BCDC
Meeting Location
Ferry Building**

Limited parking
available at:
Pier 3

255 Embarcadero
(NW corner of
Embarcadero &
Washington Sts.)

NOTE: BART and MUNI Metro are accessible from the Embarcadero BART Station. There is ferry service from Oakland, Alameda, Larkspur and Sausalito to the Ferry Building.