

DRAFT  
BRISBANE PLANNING COMMISSION  
Summary Minutes of October 29, 2015  
Special Meeting

A. CALL TO ORDER

Commissioner Do called the meeting to order at 7:30 p.m.

B. ROLL CALL

Present: Commissioners Anderson, Munir, Commissioner Parker (arrived at 7:33 p.m.), and Chairperson Do  
Absent: Vice Chairperson Reinhardt  
Staff Present: Community Development Director John Swiecki and Senior Planner Ken Johnson

C. ADOPTION OF AGENDA

Commissioner Anderson moved and Commissioner Munir seconded to adopt the agenda. The motion carried 3-0.

D. NEW BUSINESS

1. PUBLIC HEARING: Brisbane Baylands Final Environmental Impact Report and related Planning Applications. Baylands Concept Plans, Brisbane Baylands Specific Plan, General Plan Amendment Case GP-01-06. Specific topics include: Public Services and Facilities, Recreation, Utilities and Service Systems, Water Supply. Universal Paragon Corporation: Applicant. Owners: Various. APN: Various.

Community Development Director Swiecki introduced Lloyd Zola, Metis Environmental Group, who gave the staff presentation on Public Services and Facilities, Recreation, Utilities and Service Systems, and Water Supply. During the presentation, Mr. Zola answered Commissioners' questions regarding development impact fees for school districts, the State Quimby Act related to park fees, wind impact modeling, water supply and water recycling. He said he would come back with water demand and recycling numbers for Phase 1 of the developer-sponsored plan.

Leslie Moulton-Post, Environmental Science Associates, gave the remaining portion of the staff presentation summarizing water supply issues and impacts in the Program EIR.

Chairperson Do reminded the audience of the guidelines for public comment established by the Planning Commission and invited speakers to the podium.

Davide Verotta, San Francisco resident, said he has been a windsurfer for 25 years and enjoys windsurfing at Candlestick Point. He appreciated the proposed development shown on a map in the Public Phase Plan, Page 27, and said it could be improved by pushing the development back, if not all the way to Caltrain, at least to the Class 2 trail in development. He said dedicating this area to open space will gain support of environmental organizations; retain the windsurfing

resource that would otherwise be compromised; and show San Francisco how sensible and ecologically sound development can happen in the Bay Area.

Heidi Kearsley, San Francisco resident, said lower winds require use of a bigger the sail which is harder to maneuver for intermediate windsurfers. She said she would be highly affected by any changes in the wind at Candlestick.

Leora Vestel, San Francisco resident, said she and her family windsurfed for several years at Candlestick, which is well suited for intermediate windsurfers but not for beginners. She said most of the windsurfers present who frequent Candlestick are some of the best in the Bay Area, if not California and beyond and Candlestick was a world class windsurfing site. She appreciated that the City evaluated the impacts on windsurfing in acknowledgment of its importance to the area which is worth preserving. She asked the Planning Commission to safeguard the area as an irreplaceable resource that enables residents to engage in a healthy, athletic and inspiring activity in an area that is unhealthy in so many ways. She supported the suggestions of the Candlestick Preservation Association and the comments of Mr. Verotta.

Sofien Sehiri, Emeryville resident, said he windsurfed at Candlestick about 60 days a year. He said Candlestick is already affected by some structures upwind of Highway 101. In particular, Recology can be smelled from the water and the building causes a lull that affects the wind direction and kills the wind. Traveling farther south or west, windsurfers encounter mud and get dirt in their eyes.

Louis Manila, San Francisco resident, supported the comments of his windsurfing colleagues and others who use the area for recreation, though he also supports development of jobs and housing. He said the City should consider smart growth to ensure resources are not impacted. He has been windsurfing at Candlestick for about 15 years and it was a world class location.

Tim Rebbert, San Francisco resident, said he'd been windsurfing at Candlestick since 1988. The consistency of the wind at Candlestick is historically unique and very important for quality windsurfing. Wind consistency has been degraded, and the proposed development would only degrade it further. He asked on behalf of the Candlestick Point Association that the Planning Commission look at the letter they submitted. Some of the letter's key points are that the wind study in the EIR is limited, flawed and inaccurately predicts the impacts of the proposal. He said the developer is proposing building a huge barrier between the wind and the windsurfing area.

Henry Dubois, San Francisco resident, said Candlestick was a world class windsurfing destination, with a unique location close to urban areas. He repeated previous speakers' comments regarding existing development impacts on wind consistency and odor. He said the 5-10% reduction in wind found in the EIR seemed inaccurate, and the statement that this reduction would not impact intermediate or beginner windsurfers does not seem plausible. He said he was an intermediate windsurfer. On days with light winds, 5-10% lower winds would make the site unusable.

Juan Vargas, Alameda resident, said he has windsurfed at Candlestick for the last 12 years. He said previous speakers' comments are valid and echoed by the windsurfing community at large. Staff's explanations of the metrics used to analyze the environmental impact on windsurfing were disturbing to him. He said if the ability to launch and to return to launch safely is the only metric being considered to measure the impact to the wind quality and the sport of windsurfing, that was naïve and lacks understanding of what is involved in the sport. He asked the Planning Commission to seek out requests from the public and to explain the subtle characteristics of the sport to non-windsurfers, which he thinks are missed in the development plan.

Anja Miller said she would yield to the rest of the windsurfers.

Dan Siskind said he wanted to clarify why the windsurfing community thinks the EIR's measurement is inappropriate. He supported the comments of Mr. Dubois regarding the 5-10% wind reduction. He referenced the comment letter submitted by the Candlestick Preservation Association which sets specific guidelines in terms of miles per hour (MPH) of the wind as a minimum threshold; under that threshold, windsurfers can't sail. A 5-10% wind reduction isn't meaningful. Any time the wind drops below 16 MPH and the gusts are less than 20 MPH, the site is rendered un-sailable for all levels of windsurfers unless people use specialized, expensive gear. He asked that the City consider the effects of the winds in all development scenarios as the impacts to windsurfing would differ based on building size and location. The windsurfing season runs March through September, comparable to the baseball season, and during that time, Candlestick is the most consistently windy place in the Bay Area, much more than half of those days.

Anja Miller read from her written comments [attached to these minutes as an addendum].

Clara Johnson supported the windsurfers' comments as well as Mrs. Miller's statement about the impact of General Plan Amendments on the 1994 General Plan and how that might affect the aspirations of the people of Brisbane. She read from her written comments [attached to these minutes as an addendum]. She objected to the idea that the Commission should be limited in their review of the project as suggested by staff. Having been a Council member, she suggested that if the Commissioners want to say something about that water agreement they feel is important, they owe it to the City Council to do so. She said she hoped the Commission will be audacious in their judgments about what they can say and not say.

Chairperson Do acknowledged four written communications pertaining to the meeting from Jon Dapple, Candlestick Preservation Association, and Heather Buckley, all regarding windsurfing; and from Peter Drekmeier, Policy Director of the Tuolumne River Trust, regarding water supply.

After a five minute break, Chairperson Do announced that the Commission would not deliberate until December 10<sup>th</sup>, unless there was a vote to do otherwise. She noted upcoming public hearings on November 4<sup>th</sup>, November 12<sup>th</sup>, and November 16<sup>th</sup> and invited community organizations interested in presenting to the Commission at future meetings to speak with staff.

Chairperson Do invited speakers who had questions to address the Commission.

Dan Siskind asked if the windsurfers would have other opportunities after the EIR process to speak to the Commission as the development plans become clear and the City makes decisions about how the development is going to move forward.

Community Development Director Swiecki responded that the Planning Commission's action is advisory to the City Council, so there would be another series of public hearings before the Council before a final decision is made. Commissioner Anderson asked if the Planning Commission would hear public comment at deliberations. Outside legal counsel Allison Krumbein said she could work further with the Commission on structuring their deliberations.

An unidentified gentleman asked when specific answers to questions posed by the windsurfing community would be answered.

Community Development Director Swiecki responded that after public testimony is completed staff has the opportunity to address issues brought up in the testimony. He said ultimately the recommendations to modify the land use program wouldn't be addressed until the Commission's deliberations.

Joel Diaz said CEQA requires that mitigations and basis of the conclusions in the EIR be feasible and enforceable. He recognized that the physical delivery of water was feasible, but was not enforceable because the necessary agreements weren't in place. The Oakdale Irrigation District (OID) agreement was contingent upon getting an agreement with Modesto Irrigation District (MID) and other agencies, and was not a valid mitigation measure. He requested that MID and other responsible agencies provide a written response addressing their commitment. He said the Planning Commission has a responsibility to analyze all potential impacts, and are not absolved of the responsibility to disclose their significance and to identify mitigation measures.

Mr. Diaz said if the City Council would like the Commission to defer consideration of certain issues, it would be helpful to have that in writing. He found it hard to believe that the City Council would direct the Planning Commission to ignore material impacts. He noted organizations like Sierra Club and San Bruno Mountain Watch are going to look at what happened here and potentially take action. He said the City owns the EIR and would be the defendant in any lawsuit.

Mr. Diaz referenced Section 9 of the Specific Plan, which identifies a significant amount of financing sourced from the Redevelopment Agency, which has been eliminated. He asked that the funding sources for the substantial cost of a new fire station and a new police station be reconsidered. He requested that the City determine whether the Mello-Roos proposals would actually be sufficient to offset those costs.

Mr. Diaz said nobody has any clue what the project will do to the windsurfing conditions and the different variables that come into play when people are windsurfing. He said the patterns and consistency of winds were not addressed by the EIR's simple calculations and generalizations. He said windsurfing had intangible value to the community and should be preserved. He stated the renewable energy alternative was compatible with protecting the windsurfer's rights if solar

was used, and it would generate a lot of money for the City in addition to helping the windsurfers, with Phase 2 developed more quickly.

Danny Ames voiced his support for the windsurfers' concerns and with the comments of Ms. Johnson and Mr. Diaz. He thought it was dangerous to go forward and didn't think they had covered everything. It might be reckless if there is still an opportunity to keep this project hampered down. He said he was concerned about the cost of water and sewer service when he moved to Brisbane. He asked how many days the water supply would last if Hetch Hetchy was lost, and what would happen if this project goes in and the water supply is lost? He said he also agreed with Mrs. Miller's comments.

Chairperson Do requested that staff respond to questions raised by Mr. Diaz and Mr. Ames.

Community Development Director Swiecki responded that the EIR analyzes the impacts to water supply and that is under the Commission's purview. However, the decision to enter into a water supply agreement and what the terms of a water supply agreement might include are up to the City Council. He added while the Planning Commission has no official role in the water supply agreement it can offer whatever advisory comments to the City Council that it wishes.

Chuck Bennett, consultant to the City with Environmental Science Associates, discussed the wind tunnel study's methodology. He said CEQA instructs the City to analyze the impacts of the proposed development scenarios. Simultaneously, weather is constantly changing which makes it difficult to determine a methodology to establish the physical changes that would occur. To determine the physical affects, they used a wind tunnel which is a physical model with an atmospheric boundary layer simulating the flow of air over the surface of the ground to develop the correct profiles of wind velocity. This is a very reliable mechanism that represents one static condition. The wind speeds in the tunnel were measured using a hot wire anemometer, a very fine wire that measures wind velocity and intensity with accuracy within a few percentage points of the actual value. Models with the final topography, including site grading, and the potential buildings were created for each scenario and placed within the wind tunnel. He said increasing the surface roughness over the site will slow the wind down and add turbulence. Subjective factors such as skill cannot be accounted for by the wind tunnel. He said numeric methods aren't appropriate for this type of study because they have to be calibrated. This is the most accurate metric of the physical effects using current technology and meets all CEQA requirements.

Commissioner Anderson asked about the height of the soil operations used in the models for the unchanged conditions. Mr. Bennett said they used an existing topographic map for existing conditions. Mr. Zola added that the existing conditions used 2010 soil levels, and the models for the development scenarios were based on the grading plans for the site. He would double check the soils height of the existing conditions used in the EIR versus the condition at the site today. Commissioner Anderson said the windsurfers' first choice was for the entire shoreline to be flat; if that wasn't possible, they requested the buildings not be any higher than the current soil height at the site. He wondered if those conditions were already studied since the current soil height is greater than the proposed project grading. Mr. Zola said he could provide current soil heights and

the proposed soil elevations following grading to give an idea of where ground elevation would be, which would be lower than today.

Commissioner Munir said he had used wind tunnel modeling. There were numerous potential configurations of buildings and at this point they didn't know what those combinations would be. The model could propose a scenario that is different than what would actually be built. He asked if the study took into account the resistance of the wind tunnel walls and if that contributed to changes in wind speed. He said turbulence is caused by highs and lows in profiles, so straight buildings would have more laminar flow. He said it was difficult to come up with precise estimates of wind characteristics and speeds in this situation. He thought a numerical analysis to compare the results would be necessary.

Mr. Bennett said the building shapes used to develop the scenarios were based on the maximum building heights and bulk proposed in the specific plan, and the resistance of the tunnel walls was taken into account. He said the atmospheric boundary layer tunnel mimics the boundary layer in the simulated area. By developing a long enough test section they can sustain the correct boundary layer which self-adjusts because of the surface roughness of the models. The bulk models are very square, with sharp edges to develop the maximum turbulence and the results are conservative and overstate the impacts of the project.

Commissioner Munir asked about the tunnel's scale. Mr. Bennett said they used 2,000 to 4,000 foot scale upwind fetch and 2,000 foot width to develop the correct boundaries, which is commonly used.

Commissioner Parker asked if impacts to pedestrians were included in the model's findings. Mr. Bennett said yes, the model measures impacts at the bottom of the atmospheric boundary layer. During previous investigations for wind turbines in the area, they found the wind is reliably strong at Candlestick compared to what is measured on the ground. The problem is not measuring what's going on close to the ground, but modeling the development that could occur.

Commissioner Munir asked if the model took into account air humidity. Mr. Bennett said the humidity and density of air wouldn't impact the model's findings.

Tim Rebbert asked the consultants to confirm that their model precisely reproduced what was going to happen on the Bay once the development is built.

Mr. Bennett responded that simulating a physical situation and studying the atmospheric boundary layer is a very common place and accurate method. There are some measure type errors but those cannot be really controlled. The focus of the studies was to assess the physical dynamics of the wind around a particular building configuration, and the rough accuracy of the method was within a few percentage points of the actual conditions.

Davide Verotta said he has been a mathematical modeler for 30 years. He was concerned that a model that uses an infinitesimal scale of 1 inch to 50 feet could accurately represent ground conditions and predict influences. Wind impacts during sailing typically occur 10 feet from the ground, and he doubted any wind tunnel can predict that condition. He was concerned with the

statement that humidity is unimportant, as sailing on a humid, dry day makes a very big difference when it comes to the power of the wind. That may not be represented at the model's scale.

Mr. Verotta said he wants to know the precise elevations of the buildings and where they will be built. He stated that Oyster Point used to be a prime location until Genentech developed the land.

Mr. Zola responded that the maximum building heights are laid out in Specific Plan. The highest building would be about 120 feet tall. The mitigation measures require reducing the heights of the easternmost buildings within 300 feet to 80 feet of Highway 101.

Mr. Bennett added that they measure 5 feet in scale from the surface to get the measurements, which is done regularly. It does not represent the Bay, as they measure a flat surface and not the waves on the Bay resulting from wind activity. The resulting data are on the conservative side but are within a few percentage points of accuracy.

Barbara Ebel asked for an explanation of the CEQA threshold in relation to the EIR's percentage reduction study versus the miles per hour (MPH) metric requested by the windsurfers who are knowledgeable about their field. She said if the average wind speed is 17 MPH and 16 MPH was needed to windsurf, and the project resulted in a 10% reduction, then those days are all going to fall underneath the threshold so that the 10% reduction in wind speed would mean a 50% reduction in wind-surfable days. She said the CEQA threshold was absurd and the study should be redone after a specific project was approved. She said it was possible to use meteorological data and a spreadsheet to flag any days that fall underneath the threshold.

Mr. Zola noted Ms. Ebel's comments and questions were addressed in the EIR's Master Responses 30 through 34.

Joel Diaz said it was more complicated than just measuring the velocity of the wind as the wind patterns in that area were very complex. He thought it was highly likely that a group of buildings in close proximity would shadow that area even if the model doesn't show it. He said they had heard empirical evidence from people at the meeting about what occurred at another location. Wind is drawn by onshore flow that could be changed by the buildings interrupting it. He said the wind was a precious resource for windsurfing and a benefit to the public at large. He disagreed with the models' findings.

Chairperson Do confirmed with Mr. Zola that a summary of what was heard in the public comment and responses to that comment would be presented at the Commission's deliberation hearings.

Commissioner Munir moved and Commissioner Anderson seconded to continue the Public Hearing to the special meeting of November 4, 2015. The motion carried 4-0.

#### E. CONSENT CALENDAR

Anja Miller asked to remove the draft minutes of the October 1, 2015 special meeting so changes could be made, per her written comments provided to staff. Chairperson Do noted that all written communications received would be included as part of the record that goes on to the City Council. She encouraged the public to turn in written comments to staff before the meeting so the Commission can assess it and provide feedback to the audience.

Commissioner Anderson had several changes he would send to staff. It was the consensus of the Commission to withhold a vote on the October 1, 2015 meeting minutes pending the submitted changes from Commissioners and the public.

#### F. ORAL COMMUNICATIONS

None.

#### G. WRITTEN COMMUNICATION

Chairperson Do acknowledged the written communications indicated earlier regarding windsurfing and water supply, as well as written comments from Clara Johnson from Public Hearing #4.

#### H. ITEMS INITIATED BY STAFF

None

#### I. ITEMS INITIATED BY THE COMMISSION

Chairperson Do reported her participation in a stakeholder interview for the Parkside Precise Plan on October 28 with representatives of other city commissions and committees. She said MIG will meet with the Planning Commission on November 12<sup>th</sup> at 7:00 p.m.

#### J. ADJOURNMENT

Commissioner Munir motioned and Commissioner Anderson seconded to adjourn to the Special Meeting of November 4, 2015. The motion carried 4-0 and the meeting adjourned at 10:27 p.m.

Attest:

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John A. Swiecki, Community Development Director

NOTE: A full video record of this meeting can be found on DVD at City Hall and the City's website at [www.brisbaneca.org](http://www.brisbaneca.org).



**Planning Commission FEIR hearing 10/29/15  
Comments by Anja Miller**

**General:**

At the Oct. 22 hearing your consultant stated that the EIR is “not an aspirational document.”

However, the city’s General Plan, as adopted by vote of the people, is such an aspirational document. And because this EIR has been noticed to cover not only the developer’s application but also about the myriad amendments to the General Plan that it would require, the EIR therefore in effect proposes to radically alter our residents’ aspirations regarding the Baylands.

Those existing aspirations include mainly the maintenance of our unique small-town quality of life through careful, reasonable improvements and developments, as well as full recognition of the hazards created by the polluted and unregulated bayfill over time.

That is why you should keep in mind the primary question: Do we really need to amend the General Plan? If not, what kind of development should be approved? Now if you determine that the General Plan must be changed, then the question is by how much? How would the proposed development affect our basic community goals?

What should be changed is any reliance on the outdated zoning map used in this EIR. The map should have been brought up to date long ago to be consistent with the current, adopted General Plan. Or at least there should have been a disclaimer in the EIR that the map is incorrect.

**Master response 2.4.19, Land Use near Hazardous sites, p. 2.4-61:**

“Mitigation Measure 4.G-3 specifies that Grade K-12 school facilities shall not be located within 0.25 mile of a facility with hazardous emissions or that handles hazardous or acutely hazardous materials, substances, or waste, unless approved by the School Facilities Planning Division of the California Department of Education in conformance with California Code of Regulations (CCR) Title 5, Section 14010, which sets forth California Department of Education criteria for school site locations.”

Based on that restriction, the EIR determined that the charter high school shown in the DSP plan cannot be located where proposed, as it would be too close to the Kinder Morgan flammable liquids storage tanks. Similar restrictions should be indicated with reference to the Recology hazardous waste treatment site.

As stated at the previous hearing, a map showing the potentially acceptable sites for schools should be included in the EIR before any certification.

**Master response 2.4.21 on Public Facilities:**

“the increased demand a project will place on public facilities and services (and the individual or entity responsible for meeting this demand) is not itself an environmental impact required to be evaluated under CEQA”

In response to the DEIR there is no comment received from the Bayshore Elementary School District. As that district would be responsible for building any K-8 schools required under the DSP, a statement of the District’s understanding of the plan and their capacity to implement their role should now be sought and included in the FEIR before certification and any planning considerations.

Clara Johnson Comments Baylands FEIR Public Hrg #5 Plan. Com 10/29/15

Public Services & Facilities, Recreation, Utilities and Service Systems, Water Supply

It is difficult to believe that considering all the above named items included in this public hearing, there are only two related mitigations in the mitigation monitoring and reporting plan. They are:

MMR Pg. 4-97, MM 4.0-1a

It relates to an agreement between the Baylands developer and the City of Brisbane regarding the fair share of cost of city constructed water storage facilities that should be paid by the developer. In the interest of equity and transparency, the agreement and the supporting data that declares what percentage of city constructed water storage and connection facilities are the fair share of the developer for the fire flows and peak daily water demands to serve the project site development must be reviewed and evaluated by an independent qualified engineering firm in a peer review audit, after which the proposed agreement, supporting data and audit would be sent to the City Council for approval. The approval should take place in a public meeting with the agreement, supporting data and peer review audit would also be available to the public. Transparency is essential to assure the integrity of the process.

MMR Pg. 4-98, MM4.0-1b

note: The state requires that large developments prove that they have a water supply for their development

This mitigation is vague and incomplete. It appears that the amount of water that will be diverted to the meadows of the Poopenaut Valley from the total of 2million gallons per day (2400 acre feet per year) agreed to be purchased by Brisbane from the Oakdale Irrigation District will vary greatly from year to year depending on the weather and the water conditions in and around the Poopenaut Valley. It is possible that the required diversion may result in there being less water available than is needed to sustain this project. The whole point of this agreement is to provide an adequate water supply this mitigation may not permit the amount of water needed to reach Brisbane. The allocations of water from the SFPUC will be under pressure because of limited supply and no additional allocation may be available. The result could be that in order to supply enough water to the Baylands, the amount of water available to residential Brisbane and GVMID would be lowered and water rationing might have to be imposed.

Clara Johnson Comments Baylands FEIR Public Hrg #5 Plan. Com Pg 2 10/29/15

## Public Services & Facilities, Recreation, Utilities and Service Systems, Water Supply

The Modesto Irrigation District must sign agreements in order for the water agreement scheme to work. The District has voiced considerable doubt about the ability of the OID (Oakdale Irrigation District) and the City of Brisbane agreement to work since there are multiple entities that in some cases must make multiple agreements to do so. The Modesto Irrigation District, the Oakdale Irrigation District, the SFPUC and the City of Brisbane are the organizations involved.

In Master Response 21 at 2.4.21 on Page 2.4-68 & 69, it states "CEQA requires an EIR to evaluate the *physical* impacts that would result from the expansion of facilities, services or utilities to serve a project and therefore, to the extent that the proposed development of the Baylands would require such expansion, the impacts have been evaluated in the relevant sections of the EIR."

I have not been able to find the evaluation and any necessary mitigation of any of the following:

Water storage and connections, Water facilities, Sewer, Water Recycling Facilities, Sewer and Water Piping Facilities, Piping, Electrical, Telephonic, Internet, Fibreoptic: lines, cables, vaults and other enclosures, Natural Gas or Storm Water Facilities. Police, Fire, Hazmat, other Emergency Response Facilities, and Recreation Facilities Infrastructure.

Where is the consideration of physical impacts for the above mentioned facilities to be built to serve the Baylands and where are any necessary mitigations needed to reduce their impacts?

The Response volume contains this statement of page 2.4-68, "The Final EIR includes mitigation measures to reduce significant environmental impacts of the infrastructure construction."

There is neither an evaluation of the impacts on infrastructure construction nor are there any mitigations for it. There are water storage facilities mentioned in Mitigation Measure 4-1a but there is no provision for any mitigations since there is no evaluation of the impacts. The water storage tanks may have numerous impacts to eg: views, open space, wildlife and others . The facilities may be onsite or offsite. The Recycled Water Plant is infrastructure yet there is no mitigation for it despite the impact of reduced open space, increased impervious surface that increases storm water runoff, increased energy use and potential air pollution increases.

Clara Johnson Comments Baylands FEIR Public Hrg #5 Plan. Com Pg 3 10/29/15

## Public Services & Facilities, Recreation, Utilities and Service Systems, Water Supply

There are no mitigation measures that indicate <sup>or</sup> any assessment nor mitigation for the impacts of infrastructure construction.

In reviewing Master Response 29 about the water supply in the response volume, the description of the impacts is inadequate and the process of acquiring all the agreements needed to secure and deliver the water is not assured and if the water supply acquisition and delivery is not assured then the project is not possible.

I recommend that you read the Modesto Irrigation District's comments in the Comments Volume Pages 5-42 through 5-47. It explains why this EIR is legally insufficient. I suggest you read it all but if that isn't possible, then read pages 5-45 and 5-46.

There is a section on page 5-46 that mentions the problem that Brisbane needs the OID water year round but the Modesto Irrigation District canals only operate during the irrigation season. The developer would say well that is only a water credit system but the truth is that it create a situation where all the parties, OID, MID, SFPUC must all agree to that part of it and there may be times when it isn't possible for the SFPUC or others to accommodate the water deficit of 2million gallons a day for up to 6 or 7 months at a time. This does not make for a secure water supply.

There are also some instructive comments made by the California State Lands Commission, a powerful state agency that you don't hear much about. They have some jurisdiction in the Baylands. The comments are begin on page 5-11 (Comments Volume) I recommend reading page 5-14 items 2 through 5 and on Page 5-20 items 3, 4, 5.

Here are excerpts from Page 5-14, "Renewable Energy Alternative. Page 5-67 of the Draft PEIR states that the Renewable Energy Alternative would be environmentally superior as it is "consistent with the Brisbane General Plan, involves minimal impacts compared to the other scenarios and alternatives, and meets key project objectives." To (CSLC) staff's knowledge, the Draft PEIR does not contain a statement declaring the Renewable Energy Generation Alternative to be infeasible."

Pursuant to CEQA, "public agencies should not approve projects as proposed if there are feasible alternatives or mitigation measures available which would substantially lessen the significant environmental effects of such projects"(Public Resources Code , sec 21002) Therefore, barring specific evidence the the Renewable Energy Generation Alternative is

Clara Johnson Comments Baylands FEIR Public Hrg #5 Plan. Com Pg. 4 10/29/15

## Public Services & Facilities, Recreation, Utilities and Service Systems, Water Supply

economically, environmentally, legally, socially or technologically infeasible, the City is obligated to select the Environmentally Superior Alternative over the Proposed Project.”

The Lands Commission also expresses concern for the threat that the proposed project would bring to Public Trust values that protect water quality and wetlands. It also suggests improvement a more detailed description of how remediation and construction activities would be conducted in the Programmatic EIR.

In a prior hearing, a commenter mentioned that given enough money and time that any hazardous contamination could be remediated to safe conditions. That might be true in many cases but the point is, the owners of contaminated land are only required to clean the land to the current acceptable standard, the maximum contamination level of each contaminant. The level of what is considered an acceptable risk is one that can and does change over time for some contaminants that are found later to be more dangerous than was known in the past. The landowners are not required to remove all of the hazardous material and we should all keep in my mind that we are being exposed to what someone else thinks is an acceptable risk.

What if the Stanislaus River does not have enough flow to satisfy all the water rights granted to water rights holders?

Please listen to the windsurfers. Their presence is peaceful and aesthetically pleasing on the Bay.