DRAFT DRAFT

BRISBANE CITY COUNCIL
SUMMARY MINUTES

SPECIAL MEETING TO DISCUSS THE BAYLANDS
THURSDAY, NOVEMBER 17, 2016
BRISBANE CITY HALL, 50 PARK PLACE, BRISBANE

7:30 P.M. CALL TO ORDER – PLEDGE OF ALLEGIANCE

Mayor Lentz called the meeting to order at 7:33 p.m. and led the flag salute.

ROLL CALL

Councilmembers present:	Conway, Davis, Liu, O'Connell, and Mayor Lentz
Councilmembers absent:	None
Staff present:	City Manager Holstine, Interim City Clerk Padilla, City Attorney Roush, and Community Development Director Swiecki

ADOPTION OF AGENDA

CM Conway made a motion, seconded by CM O'Connell, to adopt the agenda as proposed. The motion was approved 5-0.

PUBLIC HEARING

A. Brisbane Baylands Planning Applications (Baylands Concept Plans, Brisbane Baylands Specific Plan Case SP-01-06, General Plan Amendment Cases GP-01-06/GP-01-10) and related Final Environmental Impact Report (SCH##2006022136); Specific topics include Site Remediation, Title 27 Landfill Closure, and related policy issues; Universal Paragon Corporation, applicant; Owners: various; APN: various.)

Director Swiecki introduced Lloyd Zola of Metis Consulting Group. Mr. Zola began the staff presentation [Note: the presentation is available on the City's website].

Mr. Zola introduced Ignacio Dayrit, Programs Director of the Center for Creative Land Recycling. Mr. Dayrit presented information on general principles of site remediation and Title 27 landfill closure procedures.

Mr. Dayrit introduced Dr. Susan Mearns, consultant to the City, who presented information regarding existing contamination conditions and the use of risk-based remediation standards.

Mr. Zola concluded the presentation with a discussion of key policy considerations based on the technical issues addressed by Dr. Mearns and Mr. Dayrit.

CM Davis said if residential land uses were approved, the responsibility for additional remediation would fall on the future property owners' HOA. She asked for examples of this situation in developments in the Bay Area, and if so, who paid for that clean-up?

Mr. Zola noted that Mr. Dayrit had stated in his 30 years of experience, he had not encountered such a situation. He said HOAs or property owners' associations could purchase insurance policies to protect future landowners, which staff could research further. Discovery of a new contaminant would reopen the remediation process.

CM Davis said it was her responsibility to ask the "what if" questions, so they can know what happens in the worst-case scenario. She said the settlement issues of San Francisco's Millennium Tower seemed to result from the tower's foundation which was not secured to bedrock. She asked if Brisbane could require future construction at the Baylands to secure building foundations to bedrock.

Mr. Zola said engineering studies, subject to review by the City Engineer, would be prepared for any development on the site to determine how far foundation piers would need to go.

CM Davis said Universal Paragon Corporation (UPC) had submitted a document addressing developments on other brownfields, including Mission Bay. She asked how similar the Baylands was to Mission Bay in terms of toxins and geological makeup.

Mr. Zola said staff would prepare a comparison of the Baylands to the various site examples provided by UPC. Staff would look at the original levels of contamination, what uses were being proposed, and the risk-based clean-up goals established.

CM Davis said the presentation indicated that there were no adverse health impacts documented on remediated sites. However, some health impacts, such as cancer, develop over longer time periods.

Dr. Mearns said they are considering probabilities, not possibilities. If soil is removed from the property in site remediation, the source is gone. A vapor control system would capture any

volatile migrating through the soil into pipes and into the air, not into a building. After remediation, the exposure potential is further mitigated with paving, landscaping, and buildings.

CM Davis said there is potential for liquefaction in the case of an earthquake, and asked if the engineered cap and volatile capture systems could be disrupted by a seismic event.

Dr. Mearns said an engineered impermeable cap must be installed for the landfill to meet Title 27 closure requirements. There is 30-40 feet of soil on the landfill now, but it is not an engineered cap. If there is liquefaction, it is unlikely that somebody could be exposed if there was a crack in the cap. Risk-assessments are performed conservatively to account for unknown or possible situations.

Mr. Dayrit said an earthquake would be addressed through institutional controls that would require all monitoring equipment and engineering controls to be checked in the field. It could be a potential avenue to reopen remediation assessment.

CM Davis said even though it is unlikely that somebody may develop cancer due to exposure at the site because the measures taken to protect people are stringent and conservative, would a cancer cluster on a particular site trigger additional remediation? What do they have to observe in order to ascertain that the contaminants on the site are the source of the health impacts?

Mr. Zola said a "cluster" implied an unusual rate of disease occurring in a specific geographic area, which would engage the regulatory agencies to investigate the cause.

CM Davis asked if a regulatory agency or a citizen would bring that forward?

Mr. Zola said he would follow up on that, but he believed the County Health Department would be a key partner in identifying any concentrated health impacts.

CM Conway said the railyard should be considered a portion of the landfill, with construction debris from the 1906 earthquake and unknown other contents. He didn't see any discussion of a cap in that portion of the Baylands.

Mr. Zola said that portion of the Baylands was created by filling the Bay before the 1906 earthquake. Title 27 closure applies only to the municipal landfill, not the former railyard.

CM Conway asked for clarification of the staff report's reference to a central drainage channel.

Mr. Zola said Visitacion Creek, in some cases called the "central channel," runs east-west through the landfill.

CM Conway said the City Engineer the dirt over the former municipal landfill would have to be removed down to the garbage in order to be engineered from a compaction standpoint, depending on what land use is designated. Does the impermeable cap depend on the land use? Are there different variations of caps?

Mr. Zola said the purpose of the cap was to prevent human access to the waste underneath and to serve as the base for the land use on top.

CM Conway asked if piles were driven to bedrock after or before the cap was in place?

Mr. Zola said in this case, the landfill would need to be closed before development would be permitted on top. The pilings would be driven after the cap is in place.

CM Conway said the pilings would have to permeate the cap.

Mr. Zola said there was a method to drive piles without creating gaps, which Dr. Mearns could describe.

Dr. Mearns said an impermeable zone would be created around the piling location by driving a casing larger in diameter than the piling.

CM O'Connell said the contents of that landfill debris are unknown until a casing is driven in, debris is drilled out, and concrete rebar put in for the pile. They don't know if they will hit a refrigerator or toxic medical waste until after the landfill is closed, a remedial action plan is prepared, and a building permit is issued. The contents of that debris could have a new environmental impact.

Dr. Mearns said a soil management plan would establish a procedure for the contractor doing the work. The soil removed after drilling would be removed from the site as waste, and tested. There are established protocols governing how many samples have to be taken based on the volume of soil, and how to dispose of the soil, depending on its contents.

CM O'Connell said the removed material from both operating units, especially the municipal landfill, could have a different makeup and need much more toxic clean-up.

Dr. Mearns said State regulations define soil or sludge as wastes that have to be characterized and removed from the site and documented in manifests.
CM O'Connell said the waste would indicate what was in the field, and could impact whether the remediation already completed was effective or of the highest applicable standards.

Dr. Mearns said it would not impact the validity of the completed remediation. Some landfill constituents would have no exposure pathway to an individual, regardless of the end use.

CM Conway said Mr. Dayrit described different degrees of remediation based on the type of land use. He asked how a mixed-use building would be classified for remediation.

Mr. Zola said a mixed-use building would require clean-up to residential standards. The pile core would be tested to verify that the remediation measures are adequate for the toxins present.

CM Conway said there had been unrestricted dumping in the Baylands for decades, including hospital waste. He asked whether any testing was done for nuclear waste on the site.

Mr. Zola said many core samples were taken throughout the site. In the closure process, the County and Regional Water Quality Control Board (RWQCB) must ensure that people are not exposed to the waste, and that waste is not flowing into water or soil. If nothing escapes from the landfill and the public and environment are not exposed, it is contained.

CM Conway asked if there was testing for specific pollutants in OU-1 and OU-2. Pacific Lithograph used several chemicals that were highly carcinogenic. Was there was a test for nuclear waste?

Mr. Zola said he would get back to the Council on that issue.

CM Liu asked why only remediated projects from the past 30 years were given as examples.

Mr. Zola said Mr. Dayrit's experience spanned 30 years, which is why he shared projects from that time period.

CM Liu asked Dr. Mearns if she was aware of remediation projects where remediation was done and subsequent environmental health impacts occurred.

Dr. Mearns said in the 20 years she had worked in brownfield remediation, she was not aware of any health impacts after a development was completed on a brownfield site.

CM Liu noted that the residential remediation standard was the highest. She asked what level of risk assessment should be done for the site in general, and whether the regulatory agencies had made any recommendations on appropriate land uses at the site. She asked if there was an advantage to considering residential-level remediation for the entire site.

Mr. Zola said it was an iterative process. The application of the highest standard, or "unrestricted use" standard, depends on what portion of the site would be used for residential based on the City's land use plan. If residential was considered on the site, the most appropriate location would be near the Bayshore station in the OU-1 area.

CM Liu asked what the clean-up standards were for schools, daycares, and hospitals.

Mr. Zola said the clean-up standards were similar to residential because they had vulnerable populations.

CM Liu said Dr. Mearns had reviewed the adequacy of the description of the contamination in the environmental impact report (EIR). An EIR was completed for the San Francisco portion of OU-1 in 2009. She asked if that EIR was adequate for the Baylands portion of OU-1.

Dr. Mearns replied she thought it was adequate. If the potential future land use is unknown, the default standard tends to be residential. When she prepares risk assessments, she considers the potential exposure to residential and commercial land uses, and construction and landscape maintenance workers. If a risk assessment only uses commercial standards, the regulatory agency will impose a land use restriction on the property. Developers don't like that because it devalues the property. The risk assessment for the Brisbane portion of OU-1 should include a residential scenario regardless of the end use, which will produce conservative clean-up goals to help determine the most appropriate land uses. It was reasonable to request a risk assessment be done to residential standards for the rest of the property, but could include other scenarios as well.

CM Liu asked Dr. Mearns how San Francisco used a commercial risk assessment for a site ultimately approved for residential use.

Dr. Mearns said the regulatory agencies imposed institutional controls in the form of podium-style housing at the Schlage Lock site. Parking would be located on the ground floor of a building with residential units above, to minimize exposure.

CM O'Connell asked what triggers Title 27 closure, and if the property owner had any responsibility to do it if it's not economically desirable? Are there any reasons the property owner would have to do Title 27 closure regardless of land use changes?

Mr. Zola said a change of land use triggers the need for landfill closure under Title 27.

Mr. Dayrit said the local enforcement agency (LEA) has the power to trigger Title 27 closure.

CM O'Connell said the LEA already knows about the landfill. She asked if a change of use, or an issued permit, would trigger Title 27 closure.

Mr. Dayrit said a change in land use is distinct from the landfill closure. A landfill is either operating, or ceases operating and has to be closed. Even if no development occurred on the site, it would have to go through the closure process.

CM O'Connell said it had been nonoperational for 50 years and hadn't triggered closure yet.

Mr. Zola said they would check with the County Health Department as the LEA.

CM O'Connell referred the Planning Commission staff report's discussion of the studies performed for OU-1 and OU-2 and their adequacy for the planning process. The OU-1 study was done 20 years ago and the study for OU-2 was 30 years old. The Planning Commission staff report referenced a conditional approval from the RWQCB for a contamination mitigation plan in 2002 that was never implemented. She requested a copy of that 2002 plan. She asked if the studies performed 20-30 years ago met current standards.

Mr. Zola said staff would check on the 2002 study. He said both CDM Smith, in 2005 and 2013, and Dr. Mearns in 2015, reviewed the studies to verify their compliance with relevant standards and the adequacy of their characterizations for the Council's land use decision. CDM Smith and Dr. Mearns have not determined whether they are adequate to support a health risk assessment or remedial action plan (RAP). Their review found the studies were adequate to make a land use decision to start the RAP process. Whether the studies are adequate to prepare a RAP is up to the regulatory agencies.

CM O'Connell asked if the Council deemed the EIR adequate, would that imply the information contained in it and the studies done 20-30 years ago were adequate?

Mr. Zola said it would imply that the studies of OU-1 and OU-2 are adequate for a general plan land use decision, and nothing beyond that.

CM O'Connell said the Planning Commission staff report addresses hydrocarbons and heavy metals in the southern portion of OU-2 thought to originate from Kinder-Morgan operations. Kinder-Morgan disputed this at a BBCAG presentation.

Mr. Zola said it was a controversial issue. For a land use decision, they know remediation has to be done for that contaminant. For a RAP, however, they need to know where it came from as that will govern the method of remediation. The Council is not determining adequacy for the remediation.

CM O'Connell said the Planning Commission staff report references FEMA floodplain maps from 2013 in the Final EIR. She asked if there were more current flood maps.

Mr. Zola said the EIR referenced 2013 FEMA maps and 100-year flood with 50 years of sea level rise. He would follow up on whether there were more recent maps.

CM O'Connell asked if it was possible for other toxins or constituents to be transported by the methane capture system, and if that would impact the design of the impermeable barrier?

Mr. Zola said staff would follow up on that.

CM O'Connell said one of her concerns with the landfill closure process is that it wasn't lined and there was no barrier between the Bay and the landfill. She asked what kind of solutions could prevent toxins from going out or seawater from coming in. She wondered what the compaction of the garbage would do to the edges of that containment.

Dr. Mearns addressed the previous question regarding the methane and landfill gas collection system. She said all volatiles, including methane, would be captured by the collection system and burned off.

CM O'Connell asked if burning the volatiles would render them inert.

Dr. Mearns said combusting the volatiles would eliminate them from the environment. A building constructed above a landfill with no impermeable cap and no volatile collection system could accumulate volatiles, even with a HVAC system. In open areas like parks, however, the migrating volatiles would dissipate aboveground. She compared it to cigarette smoke in a confined space versus on a park bench. The volatiles migrating through the landfill dissipate into the ambient atmosphere, unless they are captured in a gas collection system.

Dr. Mearns continued that the landfill was not designed to current standards. Based on the literature, there were inert materials placed on Bay mud prior to refuse, which may contain other constituents besides municipal waste. The Bay muds themselves are impermeable clay. They are trying to mitigate a landfill that wasn't designed with best practices to the best of the ability of knowledgeable professionals. It was possible to drive steel piling on one side, but that may not be feasible or could create additional problems.

Mayor Lentz asked for more information on the groundwater remediation efforts at the Schlage Lock site.

Dr. Mearns said they used an Enhanced Reductive Degradation (ERD) process for groundwater remediation, which adds oxygen and other things to enhance microbe's ability to consume the chlorinated solvents in the groundwater.

Mayor Lentz asked if they are pumping and treating the groundwater.

Dr. Mearns said that was a potential strategy, but ERD was chosen because of the high volume of chlorinated solvents.

Mayor Lentz asked if it would be an ongoing regulatory technique.

Dr. Mearns said the regulatory agencies may determine at some point the groundwater was as clean as possible. This was true of pump and treat or other methods. It's impossible to clean-up to pristine standards or to non-detectable levels. Risk assessments are scientifically defensible and allow for projects to be developed on brownfield or previously contaminated sites. At some point the remedial strategy or technology hits a point of diminishing returns. Cleanup goals may not be able to be achieved in groundwater. The regulatory agency may put a plan in place that triggers more action if the pollutant concentration increased over time. Many of the constituents of concern would be consumed by microbes in the environment. The EDR method accelerates that process by providing oxygen and warmth.

Mayor Lentz said the City maintains land use authority, but the regulatory agencies have authority over site remediation. He asked Mr. Zola to talk about the importance of peer reviewing the regulatory agencies' process.

Mr. Zola said the remediation process starts with the City's land use decision. The Sustainability Framework and the Planning Commission recommend that the City be identified as an interested party to have a seat at the table with the regulatory agencies. They could hire an independent consultant to consider the adequacy of documents submitted to and created by the regulatory agencies. That would create a City record of the regulatory process. Dr. Mearns played a similar role for the City of Burbank. If the City disagrees with the solution reached by the regulatory agencies and the developer, the City would become party to the negotiations and ultimately decide whether a specific plan could be approved based on those solutions.

CM O'Connell asked if the City could refuse to allow development of uses on the site authorized in the General Plan if it doesn't believe remediation was adequate?

Mr. Zola said that would be the reason for the City's participation in the process with the regulatory agencies.

CM O'Connell said even if City participated in that process, they still may not like the remediation plan.

Mr. Zola said the City Attorney would advise the Council in that matter. The City would have an established record of involvement in the regulatory process, and would use their seat at the table appropriately. The City could hire a technical consultant to guide their requests and comments, and to identify any holes in the process. The City could also amend the General Plan to define the circumstances under which a Specific Plan would be approved.

Mayor Lentz said he was concerned with monitoring in perpetuity and establishing proper financing mechanisms. He asked Mr. Zola how that was handled at Sierra Point.

Mr. Zola said ongoing monitoring at Sierra Point was funded by the uses on site. That type of system is recommended in the Sustainability Framework, and by the San Mateo County Health System. The City would review any financial proposed mechanisms.

Mayor Lentz asked how financial mechanisms could identify who is responsible should the original landowner leave.

Mr. Zola said the financial mechanisms would be designed to protect future site users in light of unforeseen events. An expert could help the City formulate those mechanisms throughout the regulatory review process, as well as the City Attorney and other city staff.

Mayor Lentz asked about rates of exposure for recreation or open space uses.

Mr. Zola said those uses would fall under the commercial standard as people would not be on-site for extended periods of time.

Mayor Lentz asked if open space areas would be remediated to the same standards as an office building.

Dr. Mearns said one of the inputs in the risk assessment algorithm is how many years the receptor population would be exposed to the contaminant. For a construction worker, the exposure assumption is two years, which is conservative. For open space, the park users could be asked directly how many hours they would spend at the park. Children are the receptor population that drives the cleanup since they have the potential to be harmed the most. Children are defined as ages 0-6, and ages 7-30 are evaluated as adults. They inputs and cleanup goal would be specific to the end use.

Mayor Lentz asked Dr. Mearns to confirm the exposure assumptions for residential and commercial risk assessments.

Dr. Mearns said residential scenarios assume that an individual has direct contact via ingestion or touch of a contaminant 24 hours a day, 7 days a week, 50 weeks out of the year for 30 years from birth. Commercial scenarios assume an individual has direct contact for 8 hours a day, 250 days a year for 25 years. The residential scenario is impacted by the weight of a person. A child weighs less than an adult and has a higher inhalation rate and more surface area exposed to soil because they play in the dirt. The regulatory agencies set those variables, which are put into the algorithm from age zero to 30 using the highest concentrations of the contaminants on the site.

Mayor Lentz said there was a typo on page 14 of the staff report. He asked whether Title 27 closure would cover all land uses.

Dr. Mearns confirmed the goal of closure is to limit exposure pathways from which anyone could be exposed to the landfill. Because metals and carbons do not volatilize, exposure would have to be from direct contact. The landfill gas collection system would be installed for methane and other volatiles. The leachate address impacts to ground or surface water.

Mayor Lentz said Program 175b of the current General Plan relies on the regulatory agencies to oversee the remediation process, which was alarming. He said that needed to be updated to ensure the community has a say in what is acceptable. He appreciated the Sustainability Framework's recommendation to use the highest standards and permanent monitoring and third party testing. That was important to incorporate into the General Plan and subsequent Specific Plan. He asked about the 2009 risk assessment of the San Francisco portion of OU-1, which was for a commercial land use, yet housing was approved with some restrictions. He asked if a daycare or a school would be remediated to residential standards.

Dr. Mearns said they would be closer to residential standards, but not at residential standards.

Mayor Lentz asked Dr. Mearns if children could live at Schlage Lock.

Dr. Mearns said the institutional controls in place at Schlage Lock, including the podium-style housing, would limit exposure to soil. DTSC deemed that appropriate for remediation of OU-1.

Mayor Lentz said it seemed San Francisco wasn't at the table to ensure the residential standards applied to the site.

Dr. Mearns said she couldn't speak to the process in San Francisco.

Mayor Lentz asked if Dr. Mearns would recommend an update of the 2016 assessment of OU-1.

Dr. Mearns said she would.

CM O'Connell said more testing had to be done midstream on the Schlage site, following proposal of a daycare center in one of the buildings. She asked Dr. Mearns if residential could be allowed on land cleaned up to industrial standards if other methods are used. She asked where a daycare use would fall in the industrial or residential standards.

Dr. Mearns said without institutional controls, a daycare would be evaluated at a residential level, with a lesser exposure period. It would be more conservative than commercial.

CM O'Connell said the property adjacent to Schlage was also potentially contaminated, but it was not included in the RAP as it is separately owned. If a daycare had a playground, the adjacent property would not play a part in the discussion of toxins.

Dr. Mearns said if she was the consultant for that developer, she would suggest doing an historic search of the adjacent contiguous property to know what constituents were there. The groundwater, soil gas, and volatiles under the San Francisco portion of OU-1 don't stop at the property boundaries.

Mayor Lentz opened the public hearing and invited the applicant to address the Council.

Jonathan Scharfman, UPC representative, noted he had submitted case studies of properties adjacent to the Brisbane Baylands that were reviewed by the same regulatory agencies overseeing the Baylands, including Schlage Lock and Sierra Point. He said UPC had invited consultants to the meeting who worked on both the Baylands and Schlage Lock projects, including BKF Engineering, methane mitigation and civil engineering experts, and Graff-Con, who interfaced with DTSC at Sierra Point. He offered those experts as a resource to the Council at the meeting, or in the form of a letter request or subcommittee forum.

Mayor Lentz noted speakers could provide a written record of their statements to the Interim City Clerk for attachment to the minutes. He invited speakers to address the Council.

Anja Miller read from her prepared comments. [Mrs. Miller's comments are attached to these minutes as an addendum.]

Deb Horen read from her prepared comments. [Ms. Horen's comments are attached to these minutes as an addendum.]

Dana Dillworth said the staff report was inaccurate and didn't address the most important issues such as the inadequacy of the proposed mitigation measures. The staff report's description of State and Federal oversight of hazardous materials as "highly regulated" is incorrect, as there are thousands of untested and unregulated chemicals in use. Only a small portion are tested, and scientists play games of omission or averaging when they get results they don't like. The City as the lead agency can do better. The 30 years of unregulated chemical waste were carcinogenic, endocrine disruptors, mutagenic, and caused reproductive failure, development delay, and morbidity. She asked for the truth about the Stofford chemical plant and Fry's Tannery Factory. The Baylands is not like recently developed areas. There are acid and chromium pits under proposed housing sites. She requested maps of present and proposed toxic burners and said Kinder-Morgan was ignored. Baylands remediation would not be run of the mill and the residents expect differently. The landfill is not closed- it has ceased operation. Stormwater reporting is voluntary, and sufficient sampling can't be completed under an industrial permit, which uses the lowest standard. The conclusions of Dr. Fred Lee and CDM Smith are inaccurate. Vic Pal from the RWQCB admitted there were major data gaps in CDM Smith's reports, which isn't mentioned in the staff report. She said the Sustainability Framework standards have yet to be negotiated. She asked the Council to look at every line of the documents. Monitoring should occur more frequently than annually. An underground storage tank was discovered and mishandled at the Schlage property. After MACTEC signed off on the project, they found leaking storage tanks. According to Dr. Peter Ward, all reclaimed parts of cities are going to be pulled out to sea, and with three-foot sea level rise, storm surges will remove sediment fill. Any city with reclaimed sediment construction will need to rebuild elsewhere. They failed to look at liquefaction. She has links to YouTube videos about Fukushima and Christchurch liquefaction. She suggests that the Council look up Treasure Island and Alameda Air Force Base and Hunters Point, projects where DTSC signed off and other pollutants were subsequently discovered.

Clara Johnson thanked the Council for their comments and for the Sustainability Framework She supported the Planning Commission's recommendation and previous speakers' statements. She said a consulting expert could monitor health statistics from the County Health Department and check for new research on the site contaminants. She supported forming an HHRA for the entire site. BBCAG is very concerned with the 20-year-old soil studies. She asked for clarification whether the conclusions of the programmatic EIR were the only basis for RAP requirements. Sierra Point was an engineered landfill operated in a regulated atmosphere, and the Baylands was not. It is absurd for a property owners' association to deal with unknown chemicals and future monitoring. "ERD" stands for "enhanced reduced dechlorination." The land should be safe according to existing regulations. Future scientific research might find some chemicals are more toxic than they are thought today, as occurred with benzene. The staff report language is intended to calm the reader but that is not justified. She is heartened at how seriously the Council takes these issues. More is known about the groundwater in OU-1 because it's been studied

more. When contaminants showed up in OU-2, they couldn't get anyone to act. Existing reports must be carefully reviewed. The staff report does not list dozens of other contaminants of concern that are below the maximum concentration level. EnviroStor has monitoring information on dozens of constituents. The City is trying to protect human health. They are not doing it philosophically. They do not want to put people in a place where they will get sick and die.

David Umberg, San Francisco resident, said he was a civil engineer who worked on brownfield sites around the Bay Area including the Schlage site. He advocated for housing. Many people are worried about contamination and there are many hazardous substances of concern. Residential use is compatible with the site. Site remediation would occur in a rigorous regulatory environment that protects human and environmental health. Housing would not be allowed on site until the site was cleaned up to the satisfaction of the regulatory agencies. In his experience the agencies were not easy to please. Testing, remediation, and retesting at the Schlage site has gone on for two decades to ensure remediation moves forward as intended. Detailed testing delineates the extent of the contamination and its concentration to figure out where the remediation needs to focus. The EIR contains enough information to make a land use decision, but there may not be enough to do a targeted remedial effort. They would have to fill the data gap as part of the remedial effort. Heavy metals in the soil were extracted at the Schlage site. They inserted nutrients and beneficial bacteria into the groundwater to speed up the biological degradation of contaminants. Through the process there were dozens of monitoring wells monitored quarterly. After that, the development at the Schlage site still needs land use and engineering controls to make sure exposure is further minimized for sensitive populations, including hardscape, regular inspection and maintenance. The remediation process is robust and has been applied at Sierra Point and around the Bay Area. He is comfortable with the process and he would take the first home.

Tim Colen, San Francisco Housing Action Coalition, said the City's land use decision had regional impacts. His organization supports a mix of uses on the site. He worked for 10 years as a geologist for an environmental consulting firm working with the EPA's superfund program to determine site eligibility for inclusion on the list. The two operating units in the Baylands are not on the superfund list, which indicates the site does not pose an unusual threat to human and environmental health and safety. Dozens of similar former industrial lands around the Bay Area were cleaned up and successfully put back into productive use. Established laws govern the cleanup of contaminated sites. DTSC and RWQCB have a history of successfully monitoring and overseeing environmental remediation. The agency employees are competent and perform good work. The process is slow, but the work always meets or exceeds statutory requirements and protects the health of citizens. The level of remediation for residential use is much more stringent than for commercial use. He urged the City to proceed with cleanup to put the land back into productive use. The Baylands is adjacent to a Caltrain station within a designated Priority

Development Area, which sets expectations for housing and jobs next to transit. Addressing the Bay Area's critical challenges requires the Baylands to be planned for the future, not the past.

Joel Diaz said after a the RWQCB deemed Mount Jackson, a former mercury mine, to be safe, subsequent testing found that mercury concentrations were four times higher than considered hazardous and were migrating into the Russian River and infecting the fish. It is still deemed safe by the RWQCB. The system is flawed. Current technology could allow for development with proper risk assessments, but the long-term liability is severe. The cost could be insurmountable. Liquefaction is a real problem and could lead to a disaster. The railyard is filled with rubble from the City of San Francisco that could contain asbestos and lead. He recommended ongoing and thorough assessments of the entire site. The fiscal analysis showed the liability was not worth the reward, even with special assessment districts. This plan is flawed. Pile driving would open thousands of potential pathways for vapor or water. The Doubletree hotel in Sierra Point required 100 pilings. People would get hurt and potentially die. No school district would want to be bankrupted by long-term liability. He wanted that to be looked at. Environmental insurance policies may not cover the magnitude of the risk and he wanted more information.

Michele Salmon said she used to believe in the system and the regulatory agencies, but she doesn't anymore because of the Northeast Ridge. It's all about money. She recommended a documentary called "Before the Flood." Their discussions might be irrelevant by the time they break ground. She found exposed PVC pipes in the ground by the lagoon. She asked where the monitoring wells were located. They were not covered with 30-75 feet of dirt. She asked how the monitoring wells were being monitored and asked about the wells on OU-2 and OU-1. She'd like to see them and know they are active. Much was unknown. The claim that there was no tire dump on the site was proven wrong by the documentary "No Deposit, No Return." There is radioactive waste from the shipyards from 1932-1967. The expectation is that overburdened public agencies will regulate remediation. Their jobs do not include research, just reviewing the work of consultants like the fox watching the henhouse. She appreciated the work of the Council, Planning Commission, and citizens to do the right thing. She asked they not be swayed by money.

Greg Anderson said piers can and should be required to go straight to bedrock. Probably no piers could be put on the eastern side where the distance to bedrock is 250 feet or more. Houses three stories or less can float, but six stories or more need piers. The east side should be dedicated to light industrial near Recology, open space, and solar panels. He doesn't think it's the best place for a sports field and suggested more solar panels. High density housing is important, but in order for it to be environmentally superior, a lot of renewable energy is required because cities can't provide enough energy. Sites like the Baylands that aren't suited to other uses should generate energy.

Barbara Ebel asked if the meeting would be continued, in which case she would share her comments at that time.

The Council Members discussed the need to continue the hearing to allow for additional speakers to address the Commission and to ask additional questions of staff.

CM Conway moved to continue the public hearing to the December 15, 2016 Council meeting. The motion was seconded by CM O'Connell and approved 5-0.

WRITTEN COMMUNICATION

A. Acknowledge receipt of written communication regarding the Brisbane Baylands Project

Mayor Lentz acknowledged written communications received from Linda Dettmer, County of San Mateo Health, Universal Paragon Corporation, Ceci Hermann, Elna Miller, Carol Quackenbos, Coleen Mackin, Alex Tonisson, John Tyres, Sarah FitzGerald, Marcus Koenen, and Sean Sweeney.

ADJOURNMENT

The meeting adjourned at 11:01 p.m.

Ingrid Padilla

Ingrid Padilla, Interim City Clerk

City Council meeting 11/17/16 -- statement by Anja Miller:

As a resident extensively involved in studying the EIR for the Baylands application, I find there's one area of more recent concern that has not been adequately addressed yet: The impacts of **sea level rise** caused by climate change.

No matter how successful previous remediation efforts of toxic lands elsewhere may (or may not) have been, the long-term effects of sea water rising to inundate the Baylands brownfield and landfill or to contaminate ground water under it must be seriously studied before you proceed with development decisions on this toxic bayfill.

The main official body dealing with the issue of sea level rise in the Bay Area is BCDC, the Bay Conservation and Development Commission. I was surprised to learn today that some staff members of that agency don't even know Brisbane is in San Mateo County, but I'd like to quote here from their website.

"Contaminated lands pose a threat to public health and the environment due to their potential to release hazardous substances in the event of a climate impact. Such a release could occur through groundwater migration, surface water flow, soil exposure and release to the air (vaporization).

Different types of contaminated lands are vulnerable to sea level rise in different ways. Sites contaminated with solvents, for example, are sensitive to rising groundwater because solvents can go into solution in groundwater and spread underground or cause air quality problems in buildings constructed on top of the site. Sites with PCBs, on the other hand, may be more sensitive to storm event flooding because PCBs bind to sediment, which could be eroded and carried to the Bay during flood events, adding to already high levels there.

Some sites can be cleaned up through the removal of contaminated soil, while others, due to technical challenges, additional environmental risks, or funding issues, are more likely to be remediated in place, where, depending on the remediation and climate impact, ***could still pose a risk to human health and the environment*** *in the event of a climate impact."*

Thank you for the opportunity to address you: Mayor, City Council, and the members of our Brisbane and regional community. What surfaces for me from the million details about the toxins at the Baylands site are large looming questions.

I work in science. I know that scientific truths have a shelf life. Truth in science is only good for what we know at the time. Putting leeches on a sick person used to be a best medical practice. Today, that would be considered malpractice. Breakthroughs in science often come from questioning scientific certainties – overturned truths that seem like mythology, in retrospect.

My unease about the Baylands is that there is so much that we don't know and there is no clear path forward to gain the needed understanding:

- First, almost the entire Baylands project is built on bay fill, dating back to when debris from the 1906 earthquake and fire was dumped in and around Brisbane. Part of the site is the old Brisbane dump, where San Francisco sent its trash until 1967, and most of the rest is the old Southern Pacific train yard. There are no records of exactly what toxins are in major portions of this land.
- Second, from 1990 – 2009, soil that has been brought in and piled on the Baylands from construction sites, including excavation from a subway station, has not been tested. There was no testing protocol until 2009. That's 19 years of more dumping. What is in that dirt?
- And last, our safety nets –the many governmental agencies involved in regulatory oversight often admit that we don't know everything about the potential downstream and combined risks of some these chemicals. While there are many good people who work at our regulatory agencies, we sadly sit at the eve of major deregulation and both the policy and financial gutting of these agencies.

We do know that many of the the toxins on the Baylands are dangerous, known and suspected carcinogens, and some perhaps, lethal. Some regulatory bodies say their formula for parts per million will protect our health and safety, etc. What is the shelf life of these protocols, these certainties? Regulations are often designed to promote commerce with some provisions for health and safety, like the 10 different FDA Laws and Regulations enacted between 1964 and 2009 on smoking, most of them not protecting the health and safely of innocent bystanders. Love Canal is the most well-known travesty of failed environmental regulations and oversight in a residential community. In 1979, the EPA warned that there are numerous overlooked Love Canals, perhaps some 100 of such dumpsites across the nation. Love Canal is a lesson about how serious tragedy can be remessaged by environmental experts and stakeholders with vested interests.

Question:

1. How could Brisbane make a far reaching decision that may put families, for generations, in harm's way, 24/7, before knowing the extent of the toxicity, when there are so many unknowns?

This quandary is compounded by the fact that remediation on the Baylands does not mean clean-up – it means capping the toxins on land that can liquefy in a moderate earthquake; land that will be impacted by climate change. Not just sea rise, but extreme storms and floods. Questions for the experts: How secure is a cap on land that has been rated at the highest level of liquefaction risk in an earthquake? Has a cap been tested on

similar land in an earthquake? Is there a guarantee that the capped toxins won't migrate and escape with sea rise?

In summary, this is *not* a NIMBY issue for the residents of Brisbane. The people of Brisbane live our core values: We care about each other's well-being. We care about preserving the environment and creating a sustainable future. We care *deeply* about the health and safety of our current and future community. The Baylands is part of our community, not our backyard. We have no desire to be innocent bystanders, vulnerable to gaps and unknowns in regulatory knowledge and practices that may put our community's health at risk.

There are other opportunities for this land that don't have people living on it 24/7. Uses that make a strong regional contribution to climate change, uses that could pencil out for the developer, uses that don't bring SO MUCH RISK.

That's a topic for another meeting. Thank you so much for your time.

-Deb Horen, Brisbane resident

11/17/2016