BRISBANE CITY COUNCIL
SUMMARY MINUTES

SPECIAL MEETING TO DISCUSS THE BAYLANDS
THURSDAY, DECEMBER 15, 2016
BRISBANE CITY HALL, 50 PARK PLACE, BRISBANE

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

Mayor Liu called the meeting to order at 7:41 p.m. and led the Pledge of Allegiance.

ROLL CALL

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

Interim City Clerk Padilla announced that Councilmembers Conway, Lentz and Mayor Liu were present at the study session prior to the meeting.

ADOPTION OF AGENDA

CM Conway made a motion, seconded by CM Lentz, to adopt the agenda as proposed. Mayor Liu moved to include discussion of the Baylands schedule at the end of the agenda. The motion was approved 5-0 as amended.

CONTINUED 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.)

Mayor Liu invited Director Swiecki staff to present the agenda report.

Director Swiecki noted that staff was able to answer questions posed by the Council and public from the previous hearing of November 17, 2016 at the evening's study session. He introduced Lloyd Zola of Metis Consulting Group to review those questions and answers. Mr. Zola gave the staff presentation. [Note: the presentation is available on the City's website.]

CM O'Connell asked if allowing soil processing on the Baylands was considered a change in use that would have triggered Title 27 landfill closure.

Director Swiecki said the soil processing operation had started over 25 years ago as a temporary operation.

CM O'Connell asked if responsibility for site clean-up would be "cradle to grave," or rest with the entities who originally deposited the toxins.

Dr. Susan Mearns, consultant to the City, said there was no record of which entities deposited materials in the landfill, due to its the age and lack of manifests. As a result, the Title 27 process would not adhere to a "cradle to grave" process.

CM Davis asked staff to give specific examples of sea level rise mitigation measures.

Dr. Mearns said sea level rise mitigation measures could include sheet piles driven into the landfill, a geosynthetic membrane placed in subsurface trenches, and cement, slurry, or clay walls to contain the sides of the landfill material.

CM Conway said those mitigation measures would require digging into the soil.

Dr. Mearns said in order to maintain the waste layers, they would need to dig down to bedrock.

CM Conway said they would be going through landfill material on the outer edges.

Dr. Mearns said the containment would be to the depth of the landfill material.

CM Davis asked who determines what types of mitigation methods are selected?

Dr. Mearns said the landfill closure must comply with waste discharge requirements, which are set by the Regional Water Quality Control Board (RWQCB) along with institutional controls.

CM Davis asked what happened if a cancer cluster was documented by the County of San Mateo and sent to the California Cancer Registry.

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Mr. Zola said if the County Health Department determined a cluster existed, they would investigate the potential causes of that cancer. Once a cause was determined, then remediation of the cancer-causing factor would be required.

Mayor Liu opened the floor to public comment.

Keith Moreau presented a short video documentary consisting of interviews with Brisbane residents Linda Dettmer and Joel Diaz regarding the Baylands project.

Todd David, Executive Director of the San Francisco Housing Action Coalition, said his organization would continue to follow this process. The organization supported housing development on the Baylands as the Bay Area needed housing. He distributed a blog post written by the Coalition on remediation to the Interim City Clerk.

Mary Gutekanst thanked Keith Moreau for his video. She had been involved in the Baylands process for over 14 years. Some of the contamination has been reduced by transferring leachate from the north end of the lagoon to the Bayshore Sanitary District. Injecting chemicals designed to break down the chlorinated compounds into less dangerous substances into the groundwater at the Schlage site may result in reduced toxicity. Mr. Zola had said in the past that the Baylands could not be cleaned up to pristine conditions. The proposed containment system would be "good enough" by California Environmental Protection Agency (CalEPA) standards, but would degrade over time. The information published to date on the Baylands is incomplete. Dr. Lee's report shows many contaminants are not covered by California's standards, which are adopted through a political process. She said the European Union requires manufacturers and importers to provide information on the hazards posed to human health and the environment. Hormones and phthalates are not included on the State's list. Many chemicals were not tested for. She wants lagoon sediments to be tested to determine the danger posed to humans and aquatic life. She wants to conduct bioassays of aquatic life to determine if they are bio accumulating the most toxic substances. The EIR's mitigation measures could be ignored or lied about.

Mayor Liu indicated the three-minute time limit had expired. Ms. Gutekanst requested additional time and the Council agreed.

Ms. Gutekanst continued that consultants told the City there would be no contamination in the lower water bearing units, in the Merced formation, because there was an artesian affect. However, the artesian effect doesn't hold up during construction. The wells in the Schlage site exhibited artesian conditions, as did the Sunnydale sewer line construction. When soil is disturbed, conclusions and information change. Consultants told the City that the bunker oil was so thick it wouldn't travel, but it does in contact with water. Bay mud isn't continuous, and the upper water bearing formations intersect. Drilling into Bay mud will affect other areas. The

Council should be concerned about the effects of Baylands contaminants on human beings. She was concerned with the effects on wildlife. She said wetlands developed in the Baylands should proactively clean up the water.

Danny Ames said there was no excuse to not follow the Planning Commission's recommendations. He wanted real-time data from the monitoring wells to be available to the public. He asked what the limit would be to environmental insurance policies. He asked for specific circumstances and liability amounts. He did not support UPC's plan.

Paul Bouscal said there were known contaminants in the rail yard side, unlike the unregulated landfill. He thinks the landfill is a Class 1 landfill. He proposed moving supposedly clean fill from the rail yard side to the landfill side on a conveyor to avoid use of trucks and minimize clean-up costs. He wanted the City to create floating structures on the cleaned area. The Director of BCDC supported this idea several years ago. Floating structures are earthquake proof and adaptable to sea level rise. The sewer system could be built similarly. BCDC doesn't allow floating structures outside of marinas. Industrial uses in the south bay that that were once wetlands and marshes are now salt ponds. Conventional building methods are costly. He said it could be a model for other areas such as Sierra Point. He said San Mateo County Supervisor Dave Pine supported his ideas.

Deb Horen respected those who had extensively studied the Baylands. She said remediation was containment, not clean-up. The Northridge earthquake was a bad analogy, because the Baylands would liquefy more quickly. She asked what happens with the impermeable cap in the event of a moderate earthquake? She asked what happens with extreme storms, flooding, and sea rise? Mr. Zola had said that some toxins could surface in those events, similar to Love Canal. She asked what the difference was between a "brownfield" site and a Superfund site. She said the rail yard could qualify as a Superfund site. Federal funding was available to clean Superfund sites. The businesses that created the toxic situation should be responsible for the clean-up. She wondered if the City of San Francisco could be found responsible.

Barbara Ebel asked for a response to Ms. Horen's comments regarding the potential for the site to be a Superfund site. She could not find any Superfund sites redeveloped with housing. She asked if housing should be developed even if the site didn't fully qualify as a Superfund site. She said clay liners fail frequently. She doubted that a barrier installed at the landfill edge could stop seawater intrusion. She requested reports of the recently prepared soil analysis from the soil processing operations. She said it was implied at the study session that the developer gets to determine whether mitigation measures are too expensive to implement, and the Department of Toxic Substances Control (DTSC) must defer to the developer's financial capabilities. She was very concerned with that.

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Bill Dettmer thanked the City Council for their work. He had reviewed the EIR with interest about the structure of the fill area and the pollutants in the water table. He was skeptical of the remediation described in the EIR and wanted to see the well data himself. He had a Bachelor of Sciences degree in geology from UC Berkeley. The proposed remediation could be a never-ending process involving geologists, civil engineers, and lawyers. He called DTSC and talked at length with a project coordinator about remediation. He urged all people concerned with the remediation to call DTSC. If the risk of living on a piece of land is the same as other parts of town, and if the risk is orders of magnitude less than the risks taken every day, that was okay to him. He supported housing on the rail yard to lessen the housing and commute nightmare. He welcomed future Brisbane residents.

Jonathan Scharfman said in 2006 the former mayor of Pittsburg, Pennsylvania, Tom Murphy, gave an informative talk on the steel industry collapse in 1996 as part of the Council-initiated Brisbane Speaker Series. Mr. Murphy discussed Pittsburg's rebirth, including revitalization of waterfronts where there had been slag heaps for over a century. Beautiful housing projects were built. Mr. Murphy's presentation was well received. San Francisco representatives discussed their efforts at Mission Bay and Treasure Island that night as well. Last month, UPC submitted a list of local examples of redevelopments of very toxic sites where thousands of families are now living, including Mission Bay, Mountain View, and Emeryville. He asked if the Council believed that those city officials cared less about the health and safety of their citizens than Brisbane's Council does. He invited Council members to talk to their colleagues in other communities who had to make the same decisions they are facing.

Dana Dillworth was concerned with the last meeting's presentation. She had been asked to present what she had submitted and she did not see it in the city roster or the minutes of the last meeting. She was concerned with Dr. Mearns statement that the Baylands wasn't a Superfund site. She said there were nine different federal Superfund sites proposed, including the PG&E Martin substation, Bayshore Childcare Station, the Schlage site, the landfill, and Kinder-Morgan. The State told the Federal government they wanted to address the site under the State's regulations instead. She said the City could ask for it to be designated as a Superfund site. She was concerned that Dr. Mearns didn't recommend the City look at earthquake risk. She thought the Council received incomplete information. They had gone to the State health board in the past and asked if there was a cancer cluster in Brisbane based on observed cases in a certain street. The State said their population was too small to determine a cluster. The State said if they removed the AIDS and age-related illness it is not a cancer cluster. She was concerned that the State regulators deemed them not worthy of consideration. She said Northridge was not a good example for landfill closure. The correlation to Love Canal was that water was pushing things out of the soil in spite of the two-foot soil cover. The concern with volatile organic compounds (VOCs) was that explosions could occur during construction. The monitoring wells south of

Kinder-Morgan collapsed and DTSC had not required them to be restored. Some of the wells are not functional or accessible, so there are no continuous readings. Paid consultants glorify what is possible and are not telling the truth.

Michele Salmon said there should not be such egregious data gaps after preparation of the EIR. Access for testing was impeded. She asked how radioactive materials could be tested if they are 75 feet below the surface. She said the consultants were not concerned with sea level rise in the railyard area, but it was subject to sea level rise and regularly floods in wet years. There were many nasty chemicals used in that area, such as at the bone rendering plant. The criteria and definition of "feasibility" was a problem. The developer knew what it was getting into when it acquired the property. The housing proposal is an attempt to move the infrastructure and remediation burden to the public from the current property owner. Regulatory agency oversight makes her uncomfortable. BAAQMD is supposed to monitor the dust levels from the soil processing from the Baylands and the quarry, but nothing happens when she calls. She was concerned with Title 27 landfill closure. The City permitted a different land use, and that should have triggered Title 27 closure. Other new uses of the property include the handicapped transit services. Tunnel Road is part of the landfill and has many potholes. She worried about a sinkhole. The proposed housing development would not solve the Bay Area's housing problem. There was a greater need for renewable energy in the region. She supported the Planning Commission's recommendation to help millions of people through renewable energy. She said the human species faced serious long-term survival issues.

Greg Anderson referenced the protests of the Dakota Access Pipeline in North Dakota. Another pipeline spilled oil into the river, which was undetected by the installed monitoring equipment. Nearer to Brisbane, the courts dismissed expert testimony that linked the deaths of residents at Midway Village to un-remediated contamination on the site. DTSC stated that the contaminants oozing from the ground did not pose a health risk. He said he didn't know if the development at Hunters Point was safe, but homes there started selling at $600,000. The developer is staging release of the housing units with the approval of the governing bodies because of the housing crisis. He didn't think local governments approving housing would solve the housing crisis, because developers can't afford to build if prices are declining. He said none of the many housing advocates who came to the City Council meetings gave evidence that housing prices would actually be lowered if housing was built at the Baylands. He said the Council had to decide the risk level of building housing. The risk increased with housing density. The Baylands was not the right place for high-density buildings. In North Dakota, federal action did not help the people; local action did.

Joel Diaz said the site testing was not thorough enough. The limited samples from existing wells did not paint an accurate picture of the entire site and the results were misleading. Rain or water in the wells could dilute results. He said development of a typical 5,000 square-foot lot in central

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Brisbane required boring of three soil samples. The dump was unregulated and undocumented. In the 1950's, people did not recognize the safety risks of asbestos and other materials. In the 1940's, radioactive waste had been dumped in the ocean. There was no proof there was no hazardous waste dumped from the shipyards in the Baylands. It was incorrect to assume that they know what contaminants are in the Baylands. He suggested more peer review and said the project was too big for the Council's bandwidth. He asked for the process to be improved.

Barbara Ebel said she didn't approve of the comparison to the Northridge landfills as they were engineered and regulated. All comparisons to regulated, engineered dumps were inaccurate. She asked that the Council ignore those examples.

The Council took a five-minute break.

After reconvening, Mayor Liu invited Council members to continue asking questions of staff.

CM Lentz asked staff to describe the standards used in the previous soil sampling and characterization studies compared to current standards.

Dr. Mearns said the methodology for VOC testing has changed. Current methodologies fix the VOCs in the collected soil in the field so nothing is lost on the way to the laboratory. Had that method been used in the past, it was likely greater concentrations of VOCs and different volatile types would have been detected. The remediation technique used for VOCs is effective for all volatiles. Methods have been promulgated in Massachusetts for examining carbon chain ranges for total petroleum hydrocarbons. Modern technology can be applied to data collected in the past. The California Office of Environmental Health Hazard Assessment (OEHHA) and DTSC weigh differentials by slope factors and reference doses to determine the potential risk inherent in those constituents. That classification can be applied retroactively to the existing data. The data set can be infilled through selective sampling during a risk assessment.

CM Lentz said the community and Council were concerned with the data gaps. He was not confident with the agenda report's discussion of the potential for radioactive and other contaminants in the Baylands.

Dr. Mearns said when the project moves forward, the City can participate in the risk assessment process as an interested party to ensure their concerns are addressed. Constituents that weren't sampled for could be identified as data gaps to be filled by the risk assessment.

CM Lentz asked if the list of constituents tested for at the Baylands were similar to the constituents tested for at other similar sites.

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Dr. Mearns said the constituents tested for in the Baylands were standard. She said soil vapor must additionally be analyzed.

CM Lentz asked what types of bioremediation could be applied at the Baylands and what timeframe is required for the constituents to break down.

Dr. Mearns said for petroleum hydrocarbon contaminated soil, microbes in the soil can consume hydrocarbon chains with adequate time and warmth. Vent pipes can allow oxygen to enter the soil, or oxygen could be aerated with permits from the BAAQMD.

CM Lentz asked how long would it take for constituents to break down if bioremediation techniques were implemented on the rail yard site?

Dr. Mearns said total petroleum hydrocarbon bioremediation would not take years.

CM Lentz said no techniques had been implemented on the rail yard side.

Dr. Mearns said she didn't know if the total petroleum hydrocarbons were mixed with other contaminants on the rail yard side. As the project moves forward, they will look into the nuances of the appropriate remediation techniques for the property based on the constituents present. Other methods included thermal desorption, which can occur on or off-site. She said the applicant and regulatory agencies would look at available methods after the data gaps are filled. The remediation investigation looks at whether the site is accurately characterized, the data gaps, the best remedial techniques, and the feasibility of implementing those technologies.

CM Lentz asked if bacteria could break down metals.

Dr. Mearns said they could not. She said metals are elements and many naturally occur in soil, such as arsenic. She said regional background levels for soil metals are used to determine clean-up levels. They would also consider the location of metals within the soil to determine the likelihood of exposure. The State agencies look at the most appropriate, scientifically defensible way to remediate a site so it is safe for its intended use.

CM Lentz said a citizen had proposed transferring soil from the rail yard it into the landfill prior to performing Title 27 closure. He asked Dr. Mearns if that was feasible.

Dr. Mearns said current regulations do not allow disposal of hazardous or landfill waste in a landfill.

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CM Lentz asked if there were other contaminants at the rail yard site that would be more difficult to remediate than metals, oils, and VOCs.

Dr. Mearns said she was not aware of any.

CM Lentz said it was important to establish a responsible monitoring system with peer review. He asked Dr. Mearns to discuss that further.

Dr. Mearns said she assumed there would be different monitoring requirements on the different portions of the project. There would be monitoring for methane at the landfill. The data would have to be submitted to the regulatory agency and the City. Data submitted to the regulatory agencies is uploaded to Geotracker (RWQCB) or EnviroStor (DTSC) websites, available to anyone with Internet access. The regulatory agency's review of reports are available online. Monitoring for soil vapor would involve sampling under a regulatory agency umbrella so the data would be made available to the public.

CM Lentz asked whether monitoring obligations could be included in a development agreement.

Dr. Mearns said that was possible.

CM Lentz said the regulatory agencies would use the State standards, but the City could suggest that the Dutch standards be applied in areas where the California standards were less stringent. As an interested party, the City could not require the regulatory agency to agree with their suggestions. He asked if the City could negotiate directly with the developer.

Dr. Mearns said as an interested party, the City could request more stringent standards be used. The regulatory agency would decide whether or not to apply that standard.

CM O'Connell said Mr. Zola had previously said the City could not require standards stricter than the State's. She asked Dr. Mearns how the City would prove that the stricter standard was necessary.

Dr. Mearns said the Dutch standards have already been promulgated by another country. The City could request they be considered. The City can also negotiate with the developer. When environmental consultants do risk assessments, they run statistical analyses on all the data and compare it to naturally occurring exposure pathways. They come up with a monetary number necessary for the project to move forward.

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Mayor Liu said the agenda report noted the Dutch standards do not represent the conditions in the Bay Area or the Baylands. She asked if the City had to present data showing why the stricter standards were required when lobbying the regulators.

Dr. Mearns said the only information they would present to the regulating agencies was that the stricter standards had been promulgated by another country.

CM Lentz asked Mr. Zola to discuss the role of the City's land use authority in the risk assessment process.

Mr. Zola said the Planning Commission recommended the City use their seat at the table to suggest the use of stricter standards to better protect public health. That is different than requiring certain standards to be used. If the City makes recommendations and requests that the regulatory agencies do not agree with, the developer has the choice to negotiate a solution with the City. The Sustainability Framework proposes that when the City and regulatory agencies do not agree, the City would negotiate a solution through the development agreement.

CM Lentz asked for clarification on the risk assessment performed for commercial uses at the Schlage Lock site, when housing development was approved.

Dr. Mearns said the Schlage Lock site risk assessment set clean-up goals not typical for residential development. When risk assessments are performed, the environmental consultant looks at the least costly clean-up option to allow the project to move forward. At Schlage Lock, the clean-up goals were predicated on the podium style housing style proposed, where housing is above ground level.

CM Lentz asked if the prohibition of certain uses on the site, such as daycares, was standard.

Dr. Mearns said the land use covenant restrictions for sensitive populations- the young, old, ill, and infirm- were standard. The clean-up goals are predicated on not having exposure to the ground surface.

CM Lentz asked if a podium-style daycare would be allowed.

Dr. Mearns said she did not know, but that the land use restrictions placed on the Schlage Lock site were deemed necessary by the regulators.

CM Lentz said OU-1 is a joint county Priority Development Area (PDA) with a risk assessment from 2009. He asked Dr. Mearns what she recommended for new risk assessments for that site.

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Dr. Mearns said she recommended the City ask for a baseline human health risk assessment, which looks at the risk of the property for commercial, residential, and construction worker standards. At that point, the City can consider appropriate uses for those portions of the property.

CM Lentz said if the City allowed some housing, they would want housing level clean-up standards. He asked how they could ensure the residential standards were used.

Dr. Mearns said if they want residential risk-based clean-up standards, they would need to designate the site for residential land use.

CM Lentz asked how San Francisco dealt with the clean-up standards used at Schlage Lock.

Dr. Mearns said the consultant had assumed there was no exposure pathway due to the project design. If there are mitigation systems or institutional controls, the risk is assumed not to exist.

CM Lentz asked how the Council could obtain missing data in order to have the confidence to adopt General Plan land use policies.

Mr. Zola said the current General Plan land use policies prohibit residential uses and allow a mix of commercial, office, and industrial uses. The General Plan EIR caps the intensity of development at 1-4 million square feet. The General Plan also requires a remediation plan to be prepared prior to site development. The City could retain its current land use policies, and consider residential use only if an applicant comes back with a baseline assessment. The City Council could confirm the Planning Commission's recommendation, which caps the square-footage of new development, establishes the City's intent to participate in the risk assessment process, and to hire a third party to monitor the process. Alternatively, the Council could say that residential uses could be allowed in the Baylands subject to specified requirements. They could require that unrestricted residential standards be applied in the risk assessment process.

CM Lentz asked if that would be enough to start the risk assessment process.

Mr. Zola said the City did not need to specify that residential uses would be permitted in order for the applicant and regulatory agencies to look at the potential for those standards. The City would be precluded from requiring residential standards be applied to nonresidential uses.

CM Lentz asked staff to explain the General Plan amendment process.

Mr. Zola said the Commission had recommended revising only the portions of the General Plan dealing with the Baylands.

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CM Lentz said he had discussed the liner with Dr. Lee, who had said that they wear out over time. He asked how are liners are repaired and maintained once a development is completed.

Dr. Mearns said it depended on the type of liner. Liquid boot can be sprayed or injected sub slab after a structure is built and could be used after the liner is no longer viable.

CM Lentz asked how a leak is fixed?

Dr. Mearns said if a concentration is detected, it would be compared to the established clean-up level. If levels are above the clean-up threshold, indoor air sampling would be taken and compared to the established thresholds by CalEPA. If those tests results show the liner is damaged, Liquid Boot could be applied to the area of the break.

CM Lentz asked how long technologies such as Liquid Boot was remain effective.

Dr. Mearns said Liquid Boot is a vapor barrier applied under building slabs along with a series of other barriers and vent pipes and allows VOCs to be vented into the atmosphere.

CM Lentz said a visual representation of that system would be helpful. He asked whether the Baylands was ever designated a Superfund site.

Dr. Mearns said the Baylands was on the "Cortese List," a historic list maintained by CalEPA. To be on the federal Superfund list, it would have to be ranked by environmental consultants retained by the federal government. The Baylands is not on the National Priorities List (NPL), which guides the EPA in determining which sites warrant further investigation for Superfund status.

CM Lentz asked if different clean-up standards would be applicable if it was a Superfund site?

Dr. Mearns said no.

CM Lentz asked if Superfund sites received federal dollars for clean-up?

Dr. Mearns said yes.

CM Conway said Dana Dillworth said that it had been designated a Superfund site, but was removed by request of the State of California.

Dr. Mearns said the historical data shows it was not on the Federal NPL list.

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CM O'Connell asked if Brisbane allowed housing on a portion of the rail yard and negotiated with the developer to apply non-restricted residential standards to the risk assessment and clean-up goals, could a regulatory agency disagree with the use of those standards and prevent their use?

Dr. Mearns said potentially yes, but the City could require use of those standards as a condition of approval.

CM O'Connell asked if the City risked legal action if it denied a project because it did not use the standards the City had required.

City Attorney Roush said if the Council determines that the residential development area requires the most stringent standards, and the regulatory agencies did not impose those standards, the Council retains the land use authority to negotiate with the developer that residential would not be developed in that case.

CM O'Connell said having a seat at the table would not mean that the City would have input in the final outcome, as BBCAG did not have input on how the regulatory agencies handled responses to questions.

Dr. Mearns said as a municipality, the City has more weight than a community group.

CM O'Connell asked if it was possible to request a concept Title 27 landfill closure plan from the State based on the constituents that are known to date?

Dr. Mearns said that request could be made.

CM O'Connell said it would be helpful to understand what remediation measures may be required on the site so the Council could be more comfortable with what closure would actually mean on the site.

Mayor Liu said one speaker had requested the lagoon contaminants be tested. She asked if the lagoon sediments had been tested and if so, was the testing adequate?

Mr. Zola said the lagoon was not tested. The EIR addresses the impacts of the project on the environment. The historic studies looked at the groundwater table. The City could adopt a General Plan policy to pursue lagoon sediment testing, analysis of the impacts of water quality on aquatic life, and a mitigation program for the lagoon.

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Mayor Liu said there could be environmental impacts at the lagoon associated with the proposed recreational facilities in the Specific Plan.

Mr. Zola said the EIR's mitigation measures for biological impacts include prohibiting recreational use in the lagoon.

Mayor Liu said in Keith Moreau video, Joel Diaz suggested that the City separate the risk assessments for the east and west sides of the site and that the landfill site not be cleaned up until the rail yard was developed. She asked staff why all portions of the Baylands were being considered in the EIR and risk assessments.

Mr. Zola said the Council had an application before them for the entirety of the Baylands and was obligated to review it. At the beginning of the process, there was an application for a Phase 1 Specific Plan. After discussions with the Council and community, the applicant submitted a full Specific Plan proposal. A General Plan concept plan for the entirety of the Baylands was required to give a comprehensive view of Baylands buildout. CEQA requires the entirety of the project to be considered.

Mayor Liu said theoretically the Council could look at separate Specific Plans for the east and west portions of the site. She asked if the regulators would study uses again once specific plans come forward.

Mr. Zola said the regulators will look at the Baylands in three pieces: remediation of OU-1, remediation of OU-2, and Title 27 landfill closure. The Commission recommended remedial action plans for OU-1 and OU-2 and the landfill closure plan be reviewed and approved prior to preparing a specific plan for the entirety of the Baylands. The Council could establish a policy to review a specific plan for the west half of the site following approval of remediation action plans (RAPs) for OU-1 and OU-2, and review a specific plan on the east side of the site following landfill closure. Before that policy is pursued, the Council should discuss the economics and infrastructure components, as well as phasing considerations.

CM Lentz asked if the City Council could require that all portions of the site are cleaned up simultaneously.

Mr. Zola said different regulatory agencies were responsible for the various parts of the site and the City could not control the timing of their actions. A mitigation measure in the EIR proposes that the City require the plans for OU-1, OU-2, and landfill closure be reviewed and approved by the various regulatory agencies prior to approval of a specific plan anywhere in the Baylands. In that case, the City could review subsequent Specific Plans and phasing.

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CM Lentz asked if the developer was obligated to complete Title 27 landfill closure within a specific timeframe after a landfill closure plan was approved.

Mr. Zola said landfill closure was development driven and there was no regulatory timing requirement.

Dr. Mearns said the developer would want to move forward quickly with closure because they are investing money to fill the data gap and complete the other actions required by the regulatory agencies.

CM Davis noted the time and asked Council to consider the remaining items on the agenda.

CM Lentz moved to extend the meeting to 11:15 p.m.

CM O'Connell amended the motion to extend to 11 p.m. No vote was taken on the motion.

Mayor Liu asked for examples of unregulated landfills that had been redeveloped. She asked the consultants to respond to the recommendation for additional monitoring well locations from a member of the public

CM Davis said the consultants should respond in writing to all questions from the public and Council.

BAYLANDS HEARINGS SCHEDULING

After discussion, the Council directed staff to examine the current schedule and rebalance the workload in March to accommodate additional topics with the goal of dedicating the June and July meetings to deliberations.

CM Conway and CM Lentz, Baylands subcommittee members, discussed their recommendation to continuing to hold workshops prior to the public hearings to engage the public and Council members in the meeting topic.

Mayor Liu suggested that public comment and questions be presented at the public hearing. She thought more than an hour will be necessary for the next workshop.

CM O'Connell shared her discomfort with the workshop process and its lack of transparency. She requested future sessions be held in the community room and televised for those that can't attend. She also asked that the hearing schedule respect the time of Council members who work during the day.

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The Council members supported CM O'Connell's proposal to televise future workshops.

City Manager Holstine said that could be accommodated, likely with a 6:00 p.m. start time.

CM Davis stated her preference to submit her questions to the consultants prior to the hearings so they could answer them at the public hearing.

There was discussion with the City Manager and City Attorney of the proposal to shorten Council member terms pursuant to new State requirements relative to the Baylands hearing schedule. After discussing the issue, it was determined that the decision needed to be made by May or June of 2017. The item was scheduled for discussion at the January 5, 2017 meeting, at which the Council could vote to continue the item to June 2017.

Due to a scheduling conflict, it was the consensus of the Council to reschedule the next Baylands meeting from January 19, 2017 to January 24, 2017.

WRITTEN COMMUNICATION

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

Mayor Liu acknowledged the written communications received since the last Baylands hearing from Piers Dodd, Michael Barnes, San Mateo Community Choice Committee, SF Housing Action Coalition, Clara Johnson, Universal Paragon Corporation, Kathleen Ogden-Caine, Dolores Gomez, and Bruce Peltier.

ADJOURNMENT

The meeting adjourned at 11:30 p.m.

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Ingrid Padilla, Interim City Clerk

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