



# **SAN FRANCISCO PORT COMMISSION**

**JANUARY 11, 2022  
MINUTES OF THE MEETING**

**MEMBERS, PORT COMMISSION**

**HON. WILLIE ADAMS, PRESIDENT  
HON. DOREEN WOO HO, VICE PRESIDENT  
HON. KIMBERLY BRANDON, COMMISSIONER  
HON. JOHN BURTON, COMMISSIONER  
HON. GAIL GILMAN, COMMISSIONER**

**ELAINE FORBES, EXECUTIVE DIRECTOR  
CARL NICITA, COMMISSION AFFAIRS MANAGER**

# CITY & COUNTY OF SAN FRANCISCO PORT COMMISSION

## MINUTES OF THE MEETING January 11, 2022

### 1. CALL TO ORDER / ROLL CALL

This meeting was held by teleconference pursuant to the Governor's Executive Order N-29-20 and the Fifth Supplement to Mayoral Proclamation Declaring the Existence of a Local Emergency.

Port Commission President Kimberly Brandon called the meeting to order at 2:30 p.m. The following Commissioners were present: Kimberly Brandon, Gail Gilman and Doreen Woo Ho. Commissioner John Burton joined the meeting during closed session at 2:45 p.m. Vice President Willie Adams joined the meeting 3:17 p.m.

### 2. APPROVAL OF MINUTES – December 14, 2021

ACTION: Commissioner Gilman moved approval of the minutes. Commissioner Burton seconded the motion. In a roll call vote, the minutes were approved unanimously.

### 3. PUBLIC COMMENT ON EXECUTIVE SESSION

No Public Comment.

### 4. EXECUTIVE SESSION

A. Vote on whether to hold a closed session and to invoke the attorney-client privilege regarding the matters listed below as Conference with Legal Counsel.

#### (1) CONFERENCE WITH LEGAL COUNSEL REGARDING ANTICIPATED LITIGATION MATTER (Discussion and Possible Action)

Discuss anticipated litigation matter pursuant to California Government Code Section 54956.9(d)(2) and (d)(4) and San Francisco Administrative Code Section 67.10(d)(2) (Discussion and possible action):

As Defendant       As Plaintiff

Discussion of anticipated litigation by and among the Port, Chevron Environmental Management Company, BP Remediation Management, Phillips 66 Company, and Union Pacific Railroad related to contaminated sediments in the vicinity of the Mission Bay Ferry Landing site and Pier 64 and possible action approving an extension of an existing tolling agreement.

Present:           President Kimberly Brandon  
                  Commissioner John Burton  
                  Commissioner Gail Gilman  
                  Commissioner Doreen Woo Ho

Also present:     Elaine Forbes, Executive Director  
                  Carl Nicita, Commission Affairs Manager  
                  Michael Martin, Assistant Port Director & Chief Operating  
                  Officer  
                  Katharine Petrucione, Deputy Director of Finance &  
                  Administration  
                  Rebecca Benassini, Deputy Director of Real Estate &  
                  Development  
                  Ming Yeung, Acting Deputy Director of Planning &  
                  Environment  
                  Carol Bach, Environmental Affairs Manager  
                  Kathryn Purcell, Senior Environmental Planner  
                  Michelle Sexton, Port General Counsel  
                  Rona Sandler, Deputy City Attorney  
                  Rebecca Bers, Deputy City Attorney  
                  Molly Alarcon, Deputy City Attorney

The closed session adjourned at 3:10 p.m.

## **5. RECONVENE IN OPEN SESSION**

- A. Possible report on actions taken in closed session pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

Commissioner Gilman: In closed session, the commission unanimously approved a [tolling] agreement for 12 to 18 months for the anticipated litigation listed on the agenda. Wanted to state that for the record.

- B. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

ACTION: Commissioner Woo Ho moved reconvene in open session without disclosing closed session discussions. Commissioner Gilman seconded the motion. In a roll call vote, the motion passed unanimously.

At 3:15 p.m., the Commission reconvened in open session.

**6. PLEDGE OF ALLEGIANCE**

**7. ANNOUNCEMENTS**

A. Announcement of Time Allotment for Public Comments: Please be advised that a member of the public has up to three minutes to make pertinent public comments on each agenda item unless the Port Commission adopts a shorter period on any item. Please note that during the public comment period, the moderator will instruct dial-in participants to use a touch-tone phone to register their desire for public comment. Audio prompts will signal to dial-in participants when their Audio Input has been enabled for commenting. Please dial in when the item you wish to comment on is announced.

**8. PUBLIC COMMENT ON ITEMS NOT LISTED ON THE AGENDA**

No Public Comment.

**9. EXECUTIVE**

A. Election of Port Commission President and Vice President

President Brandon: Yeah. [laughter] Okay. I would like to call for nominations of the Port Commission president.

Commissioner Gilman: I so nominate Vice President Willie Adams to be president of the Port Commission.

President Brandon: Thank you. Are there any other nominations? Commissioners, any other nominations? Hearing no other nominations, nominations are now closed. We will open the phone lines to take public comment on the commission president nomination from members of the public who are joining us on the phone. Jenica will be our operator and will provide instructions now for anyone on the phone who would like to provide public comment.

No Public Comment on Election of Port Commission President.

Roll Call Vote on the Nomination of Willie Adams as Port Commission President:

President Brandon – Yes  
Vice President Adams – Yes  
Commissioner Burton – Yes  
Commissioner Gilman – Yes  
Commissioner Woo Ho – Yes

President Adams: [laughs] Thank you. Be careful what you ask for. But anyway, to my fellow commissioners, I just wanted to say thank you, President Brandon, for your leadership, guiding us through so many s -- and being president and being a friend to me and a mentor.

So thank you. And to working with Gail and to John and Doreen, it's a pleasure. And I look forward to working with you all. And hopefully, we can continue to get a lot of work done. Sorry. I'm down here in L.A. I was down here today with the secretary of transportation, Pete Buttigieg.

I just came from the press conference. So I'm kind of in -- the best right now. I'm kind of in the airport trying to do the best I can. So I'll do the best I can today. Thank you.

Commissioner Brandon: I would now like to call for nominations of Port Commission Vice President.

President Adams: I'd like to nominate Doreen Woo Ho.

Commissioner Brandon: Thank you. Are there any other nominations? I'm hearing no other nominations. Since I'm hearing no other nominations, nominations are now closed.

We will now open the phone lines to take public comment on commission vice president nomination from the members of the public who are joining us on the phone. Jenica will be our operator and will provide instructions now for anyone on the phone who would like to provide public comment.

No Public Comment on Election of Port Commission Vice President.

Roll Call Vote on the Nomination of Doreen Woo Ho as Port Commission Vice President:

President Adams – Yes  
Commissioner Brandon – Yes  
Commissioner Burton – Yes  
Commissioner Gilman – Yes  
Commissioner Woo Ho – Yes

Vice President Woo Ho: Okay. Well, first of all, I want to thank you, Commissioner Brandon, for your absolutely stellar and outstanding leadership along with President Willie Adams over the last few years. We've worked together for a long time.

And it's been a real pleasure to see you in terms of your leadership over the past few years of which I'm very grateful. And working now obviously more recently with Commissioner Gilman and with Commissioner Burton, this is an honor and a burden in terms of what we still have to face in terms of the challenges of the Port.

But I look forward to working with everybody including Executive Director Forbes and the staff to make this Port the best it can be for the City and County of San Francisco and to help in our economic recovery and to make this a vibrant place to visit again as we've envisioned it in our strategy over the years. So thank you.

Commissioner Brandon: Thank you. And I'm really looking forward to working with you also. Commissioner Gilman, did you want to say anything? No? Yes? Commissioner Gilman, do you want to comment?

Commissioner Gilman: No. I'm happy for my colleagues to be in these leadership roles. So thank you.

Commissioner Brandon: Thank you. Thank you so much. We really appreciate you two stepping up and carrying the Port through the challenges that we have ahead of us. And I know it's been a pleasure working with both of you over the years. And I'm sure you're going to do a phenomenal job. So thank you so much. So I will now pass the gavel over to President Adams to continue the meeting.

President Adams: Thank you, President Brandon. Carl, next on the agenda is 9B, right, executive director's report?

## B. Executive Director's Report

Director Forbes: Good afternoon, President Adams, commissioners, Port staff and members of the public. Congratulations to our new officers, President Adams and Vice President Woo Ho. I look very forward to working with you and to your continued partnership.

I would like to take a brief opportunity to commend outgoing President Kimberly Brandon. I've worked under her leadership for six years either in the president or vice president role when I was interim Port director and five years as Port director.

And I just want to say a couple of words about her traits -- I know I'm in my executive director's report, but I'm taking this time -- and how much those have really benefitted our organization. So I just want to say three things I've learned about her from these years of working together.

First, she is a true visionary. And she pushes ideas and concepts that folks don't understand fully. And she is early to come with a vision. Equity is one key example. She's very, very prepared, a detailed memory. And she supports me. And she has supported the staff.

And she values public process and transparency. And I really feel she's uplifted our staff in public dialogue and with the commission to set policy. And finally, she really, over these six years, has done her best to teach me to be ready to lead.

And sometimes, you've had to coax me, Commissioner Brandon. I remember my first year you told me to reduce my number of direct reports and get a chief of staff. And I've finally taken your advice six years later. So I had to take the opportunity just to recognize our outgoing commission president.

Now, I'd like to say happy new year to everybody. I am Elaine Forbes, the executive director of the Port. Let's go to the next slide. Today, I'm very excited to present the Port's tremendous impact in 2021 and the challenges and opportunities expected in 2022.

Go to the next slide. First, I want to thank all Port employees for their patience and flexibility during this constant time of change. I'm really grateful for staff's perseverance, ingenuity and dedication. It's really inspiring to see.

The pandemic -- although the worst of times -- has brought out the best in our people and in our staff. The year 2022 began again with more changes for our staff. Late last year and just last week, we received communications from the city's public health department that the COVID-19 Omicron surge is propelling the city to its highest virus rates since the start of the pandemic.

As a result, the city updated its policies to ensure employees whose job functions must be performed on site are safe. And employees who can work from home are strongly encouraged to do so through February 14, 2022.

There's been a lot of change for employees already. But despite it, we continue to excel in our work. Maritime has had to pivot early as well to ensure the safe cruise experience. Effective January 7, our public health officer is now requiring all cruise vessels that disembark passengers at our Port to test for COVID-19 if they are not updated on their vaccinations and boosters before coming ashore.

This is a temporary measure. And it's in place through the surge. The Port has and will continue to do everything possible to keep our community safe. And as

we look ahead to 2022, we know that the new COVID-19 variants could create challenges in our return of cruise.

Staff is rising to the challenge and quickly acting with our city partners to ensure a safe return that exceeds CDC guidelines and still activates our waterfront and city. I'd like to commend our maritime director, Andre Coleman, for his incredible leadership and for his team's dedication to this effort.

The Port will ensure a continued safe experience for everyone that visits, enjoys and does business on our renowned waterfront. Let's go to the next slide, by the numbers. Now, I want to show you a bit of our tremendous impact in 2021.

This graphic gives you a small glimpse into really enormous contributions. Even in constant challenging times, we rose to the occasion. One of my favorite graphics on this slide, which we will not be able to repeat in 2022, is zero COVID-19 onsite transmissions.

This really speaks to the safety efforts and the conscientiousness of our employees that we did not have one workplace transmission in 2021. The Omicron variant is too contagious to repeat this wonderful outcome. But it's something really to celebrate.

I also love to accentuate the 700-plus outdoor seating that was activated. And you see on this graphic from leasing to shipping to community partnership, engagement, the Port has made contributions to be proud of in 2021. Next slide, please.

The next few slides, I will provide highlights of our work. But if you want to learn more on the detail, please visit [PortSF.com/about](https://PortSF.com/about), and select the 2021 impact report. The cover is shown here. It provides all the details. Next slide, please.

I do want to first talk about our phenomenal contribution to the pandemic which we have done since 2020. Just last year, the organization contributed tens of thousands of hours to citywide pandemic-response efforts including leadership strategy, delivering PPE supplies, setting up Port-owned land to serve our residents in various capacities and much, much more.

And when the city wanted all employees to return to onsite work with full vaccinations, we looked at it as an opportunity and returned essential and all telecommuting employees to safer and more humane working conditions.

Because Port staff was informed, empowered and prepared for changing policy, we were able to deliver services safely with exceptional dedication. Next slide, please.



As you know, the COVID-19 impacts hit the Port hard. Early in 2021, the organization was faced with disastrous staff layoffs and a grim financial picture for years to come. Port leadership and staff was laser focused to generate short-term economic recovery proposals.

Staff, with strong support from this commission, produced key results in obtaining federal stimulus resources that protect the Port for two years. I want to highlight that this is one of the biggest achievements last year. It was to successfully obtain the American Rescue Plan funding.

This is the first-of-its-kind stimulus for tourist ports. And it will allow us to continue our capital improvements and keep up our services.

In 2021, we really benefitted from prudent decisions in 2020. I can't emphasize enough how important these decisions were to keep us into a stable position. The expenses that were cut, the capital that was deferred and the services that were retained were really, really critical.

And I thank the Port Commission for all that hard work guiding our budget in 2020. With secured stimulus funds -- and, of course, we secured federal stimulus funds -- we weren't just focused on our internal organization.

Last year, the Port was relentless in supporting our local small businesses and waterfront tenants, so they could survive during this unprecedented pandemic. We really adopted the value of shared prosperity, understanding that our tenant and our partner success is our success.

So we created and implemented the micro-LBE loan program and provided nearly \$800,000 of funding to small local businesses, most of whom are BIPOC-owned businesses. We also provided rent forgiveness and continue to work for our tenants -- work with our tenants to ensure their success whenever possible.

We not only provided monetary resources. We provided people too. We enhanced waterfront offerings through the shared-spaces program and the pop-up RFQ. And of course, the return of safer cruise was critically important to drive visitors to the waterfront as was important public events.

As I said, we created 700 outdoor spaces. And we had events like the only-in-the-nation National Fleet Week, Juneteenth at the Waterfront and the Fourth of July. Additionally, the Port supported key objectives in tenant recovery including our live crab sales and the new pilot vending program.

We hope that these new innovative programs will bring more and more people down to enjoy all that the waterfront has to offer. Also in the Fisherman's Wharf area, we opened a more inviting open space and promenade along Jefferson Street, thanks to the Department of Public Works and all of our city partners

including Port planning staff that was on this project a decade ago. People want to enjoy the space and visit the area to enjoy, shop, dine and more. Next slide, please.

On to our economic outlook in 2022, the federal stimulus funds plus the Port Commission's prudent budget decisions in 2020 -- again, shout out to Katie Petrucione and her team for leading that important work -- really set the stage for a stable financial outlook in the short term and a very uncertain financial future in the long term.

As I said, we avoided disastrous layoffs. This is critical because we would not recover economically without our services, operations, policies and programs. This reprieve has given us time to develop and implement a long-term plan to solve for our financial issues that start in 2024 and beyond.

A successful plan will require lots of Port Commission guidance, staff ingenuity and resources and new ways to figure out how to create a lean organization. Strategies will include identifying new revenues and savings, retaining staff levels to deliver on key functions.

This is important. We've looked internally now several times. And we are a very lean organization with key functions that provide for our economic recovery, stability and vibrancy. We have and we need to continue to identify programs and policies that drive tenant recovery and new, exciting leasing.

We need to foster a workplace willing and resourced to evaluate systems and rules that no longer work for the Port and are also time intensive in staff labor, implement our strong financial policies including fund-balance savings, debt coverage, etcetera. Next slide, please.

Now, I'd like to discuss opportunities in 2022 for our economic recovery. We have an opportunity once again to capture generational federal and state funding for Port resilience and infrastructure.

Our team is looking hard at these opportunities and how they may fit for us to drive improvements in 2022 and beyond. We see a possibility to make maritime and other business investments that we have had before been not available to us.

We have the opportunity to foster strategic leasing, one that attracts and retains diverse tenants and activates our waterfront. Economic activation for our tenants and the entire waterfront has been a priority and will remain a priority in 2022.

This is not an easy picture. Some tenants continue to struggle with maintaining viable businesses. Unpaid rent is at an all-time high. But even in the struggle,

there is opportunity here. We can think innovatively and creatively about establishing viable and productive tenant conditions.

The mandate to fill vacancies requires an urgent obligation and an opportunity for new leasing that complements existing tenancies and enhances the vibrancy and diversity of the waterfront. We will also be focusing on the safe return of cruise, excursions and ferries to pre-pandemic passenger numbers and beyond, continue to work on these public events and activation opportunities to bring more and more return visitors to our waterfront.

In our long-term recovery, our revival plan, we need to consider our development projects. We're continuing to advance Piers 38 and 40 and Piers 30-32 and Seawall Lot 330. These development opportunities could result in dramatic investment into our waterfront, incredible equity and resilience.

But we need community collaboration to make this happen. And this will require deep collaboration with our community, our regulatory partners and other stakeholders. But now is the time to think creatively, to answer our financial feasibility questions and to think smarter to tackle these costs, so we can create the equitable and resilient waterfront for this and future generations that we seek. Next slide, please.

Now, let's review and celebrate the equity achievements we've made in 2021 as we commit ourselves to continuing our equity journey with collaboration and willingness to forge ahead to achieve deeper results. If we could go to the next slide, please. Thank you.

So in 2021, I'm very proud to say we developed infrastructure to support an anti-racist Port organization. When we started this journey, the concept of an anti-racist organization is clearly one we seek to achieve. But identifying how to do it is the important work of our DEI program.

Senior leadership attended 10 months of training and won engagement with our equity champions which will accelerate into 2022. And some asked me, what are you doing in 10 months of equity training?

Well, we learned the history of racial injustice, the impacts to programs and policies. We developed skills to normalize and facilitate conversations about race. And we were given tools to advance our DEI program at the Port.

Our trainer taught us about shared meaning making, which we'll tell you more about down the road and how to co-create because we are always better as a collective. And this work is really important because our DEI program -- we can't take a book off the shelf and just implement.

We're really having to forge new paths toward an anti-racist, equitable organization. We facilitated many community engagements, the Port chat, inclusive roundtables, cultural awareness content and, as I mentioned, leadership and equity champion collaboration.

We made significant progress and implemented 30 REAP actions. We also have notable equity achievements, small and large. We opened 125 affordable homes at 88 Broadway and 735 Davis Street. We saw 16 trade women come through the Mission Rock Academy to work on the Mission Rock project.

I'm happy to say Commissioners Brandon and Gilman were with me to witness that incredible day. We now have a youth sailing program to seed lifelong connection to love of the bay. And we provided 800K to local businesses in a loan program with targeted outreach and programming for BIPOC-owned businesses. Next slide, please.

So what will we do in 2022? [First focus] on the internal of the organization -- taking -- we need to take building an anti-racist organization to the next level. Critical in this is uplifting employee voices, breaking down siloes and breaking down hierarchy. So all are welcome at the table to co-create solutions.

Staff and leadership need to collaborate more. We have to develop staff with the necessary skills and relationships to tackle next steps in our equity program. And we will be creating goals tied to racial disparities within the Port that we can implement and evaluate as we move forward.

We need to make policy changes and create programs for BIPOC staff inclusion and belonging and to have better representation at the Port. We will be implementing the 2022 REAP actions to foster community and trust, to address racism, to provide tools to support staff career advancement and to advance policies and procedures that result in equitable hiring, promotion and retention.

And I just want to take a moment to really acknowledge my HR team, Katie Petrucione, Lavena Holmes, Suzette Love and others in the team that are really working to undo policies and procedures that have been in place for decades that actually don't produce the equity results that we seek. This is hard and laborious work. And they've been hard at it. Next slide, please.

Now, I'd like to discuss equity externally. We will have more successes from Port partners who are advancing and fulfilling equity commitments. I don't know [unintelligible] are cradle to grave. But we are looking at equity across the programming and implementation of efforts.

And that goes into contracting, from identifying subcontracting opportunities, doing outreach, targeted outreach, having conversations with contractors early, so they're able to compete and earn public contracts -- to leasing, to how we

develop our RFPs, to provide more community benefits, to who we do outreach to and to public-private partnerships, which are really, really a great place for developing equitable outcomes.

And we've seen this in the deployment of Mission Rock and Pier 70 and in the proposals for 38-40 Seawall Lot -- Piers 30-32 and Seawall Lot 330. So I'm very inspired by the equity program. I want to acknowledge Toni Autry, who is our fearless leader leading the effort. And I look forward to have more to come for you.

Now, to resilience -- like equity and resilience, we have much to celebrate. The program advanced considerably last year and -- to the next slide, please -- ended the year delivering on the promise to identify early projects for Prop A spending.

This identification took lots of work and effort. The projects are laser focused at reducing risk and preparing the waterfront for sea-level rise. [The] reduction of risk is in a very strategic manner in these 23 projects, which is critical.

It also advances necessary geographic strategies so that future capital projects form a holistic plan. This was an important understanding by the team. In some areas, a holistic strategy is really critical to understand the line of defense and prepare for the future.

The 23 projects also position the program for future funding. And they form deeper understanding of city collaboration value, which is very critical for these projects and for our flood study with the Army Corps of Engineers.

Next, we had -- in addition to identifying our early projects, which is a major milestone for the program, our federal partners confirmed their commitment to our waterfront coastal flood study by approving a waiver. And the work continues. [We did] all of this while engaging the community, our partners and stakeholders in a transparent and genuine manner. Next slide, please.

Now, to opportunities for resilience in 2022, what is the outlook? We have strong program on the definition and public engagement for the 23 projects. We will be collaborating much more with our city agencies.

It is very clear that, without the PUC, the MTA in particular at the table, the infrastructure, planning and programming simply will not work. We need the city planning department and the city administrators office from Public Works and capital planning to be key partners in the large efforts that we will undertake to secure our waterfront and the downtown.

We have the opportunity to advance the flood study and waterfront flood solutions. And this work that we did to secure this Army Corps study is so critical.

The Army Corps providing its expertise, guidance and ending with alternatives for our shoreline is incredible value to San Francisco.

Now to our resilience strategies -- these strategies -- next slide, please. These strategies are simple. They're straightforward. And they've remained the same. We need the public-private partnerships. The development projects contribute enormously to making our waterfront safe and secure from earthquake and flood risks.

The city partnerships remain critical to appropriately plan for and implement these projects. And our state and federal partnerships are critical. There is real possibility and opportunity here opening up for our resilience work.

Federal government investments in infrastructure may result in new funding for capital investments and reinvestments for resilience and safety. We are determined to move forward and look very much in expectation of Port Commission direction and policy as we advance in 2022. Next slide, please.

As we look ahead to the new year, we do see many challenges and constraints, as I went over in my presentation. But for every challenge, there appears to be an opportunity. And the Port is ready to -- [audio gap] to create a safe, equitable and [audio gap].

The Port's strategy of economic recovery, equity and resilience is a winning strategy. We see equity and resilience as foundational to economic recovery. And you can track in this report, as I jumped from equity to resilience to economic recovery, many of the programs and policies and efforts to hit all three values and goals. Next slide, please.

I want to say thank you to our commissioners, our stakeholders, our partners [and our staff for ingenuity] and commitment. We're all in this together. So finally to the next slide, I wanted to outline more to come as we discuss Port strategy for 2022 and our strategic plan.

I plan to come to discuss economic recovery the second second. That means second meeting in February. And we'll also be covering the equity, resilience sections of the strategic plan for review and update and other sections too time permitting. So in closing, I want to say thank you. And that concludes my director's report.

No Public Comment on the Executive Director's Report.

Commissioners' Discussion on the Executive Director's Report:

Commissioner Gilman: Thank you, President Adams. First of all, I just want to commend you for this incredible overview and report that you issued.

Particularly over the last two years, we have been facing this pandemic and so many challenges at the Port.

And your report was both comprehensive, uplifting and positive. So I want to thank Director Forbes for that. I want to call out -- before I make comments on how we can move forward in 2022, I just do really want to elevate and lift up all the work that we've done around economic recovery and equity.

You outlined them brilliantly in your report. But again, I do want to say we were cutting edge among all city departments in two particular categories. The LBE access-to-capital loan program was, as far as I know, first of its kind in San Francisco.

I know other departments are looking at that. So I want to commend that strategy. And I know that President Brandon really spearheaded that. And also, our rent-relief program to our tenants and rent forgiveness -- I know the airport and other enterprise departments came in on our coattails to do that for their tenants and their vendors. I just really wanted to commend the staff on that.

Looking forward to 2022 sort of on that similar theme, I just wanted to make a couple of comments. First of all, as we move towards economic recovery into 2022 particularly with our equity framework, I hope we can focus on a couple things from a strategic perspective.

I hope that we can look at how to activate the waterfront with more neighborhood-based small businesses to come to the waterfront to bring their businesses, San Franciscans -- those made from the Bay -- to come and do business on the waterfront and particularly BIPOC-led small businesses.

I see tremendous opportunity at the Ferry Building, as I stated before. And I know that our master tenant is working on those solutions. But I see also tremendous opportunity with Port-owned property.

So I hope we will be looking at direct leasing strategies that possibly could take place as a pilot to attract small businesses and BIPOC-led restaurant groups, bar groups, small business groups and looking at a different way to lease outside of the RFP process with a framework developed by the commission.

Leasing is different than contracting and development. And I think there's opportunities we could give to really enhance small-business attraction. I also think, as someone who's spent time this weekend on the northeast waterfront, that we have tremendous opportunities both at Pier 39, Little Embarcadero and the Fisherman's Wharf area.

We have an opportunity to bring in new businesses, to modernize and revitalize that area. I think we constantly need to be looking at how we bring locals to the

waterfront. While tourism is incredibly important and the driver of our economic engine, bringing neighborhood-based services, bringing folks who live on the edges of our waterfronts from Dogpatch and Bayview to Chinatown, North Beach and Barbary Coast to the waterfront I think is really important.

So I hope we continue with our tremendous outdoor-seating program, working in partnership with the CDC because I know that they are responsible for some of that outdoor space. And I hope that we can really think about how we drive home activation that makes the waterfront both a tourist destination and a local destination.

So those are just some of my comments while working on resiliency so that we have a waterfront that we can participate in in the next 30 to 40 years. So thank you, Elaine, for an incredible report. That sums up just some of my comments. I look forward to working in 2022 on all these issues with my fellow commissioners and with Port staff.

President Adams: Thank you, Commissioner Gilman. Commissioner Burton? Do you have any comments on the executive director's report? You're good?

Commissioner Burton: No comment.

President Adams: Okay. Thank you. It's hard to say this. Commissioner Brandon?

Commissioner Brandon: Elaine, thank you so much for such a great report. It's inspiring on how the Port staff has taken on all of the challenges over the last couple of years and just really have done a stellar job in maintaining the Port, keeping it safe for everyone and also just making it a place that everybody wants to come and enjoy.

So you and your staff have done an incredible job over the past two years. And again, you know, this is one of the best commissions in the city, one of the best-run city agencies in the city. And just from your report over the last year just shows the commitment that the commission and the staff has to the Port. So I just want to really thank you.

President Adams: Thank you, Commissioner Brandon. Appreciate it. Vice President Woo Ho?

Vice President Woo Ho: Thank you. I think I will echo the sentiments of all my fellow commissioners. Elaine, that was a great start to the new year. I think that, despite what we're seeing outside with Omicron, I still think that we are in a very positive trajectory.



You are articulating and I feel like we are now standing up on our legs again and ready to charge forward. So I think you've put all the elements in place. You've got the staff motivated. We have a plan. And we're going to march on all three initiatives, I think, very strongly.

So I look forward to it. And I think it's great that we start the new year with the spirit that we will make progress this year. And we will put this pandemic behind us. Thank you.

President Adams: Thank you, Vice President Woo Ho. This is a massive body of work that was accomplished last year. I hope that we can continue it. I know that we've done so much work progressively. But also, I know there's a conservative side as we look at our finances and have to be careful.

But I want to say a couple things is that -- I really -- and I know Vice President Woo Ho especially too -- this cruise-ship thing -- I really want to see our cruise ship recover. I don't know -- because I see so many of my members getting the work down there and people coming off the ships, I don't know if this is going to be the new norm. Or is this thing -- it's kind of hit and miss.

I just don't really know. This just may be our new norm that we're going to have these different viruses and stuff, and we're going to have to live with them. But I'm hoping that we don't lose -- I mean, we spent \$120-125 million. And we got a world-class cruise terminal.

And I'm hoping that people will start coming back to San Francisco because I would love to see us recover. And I think that's important. Today, I was down in L.A. with Transportation Secretary Pete Buttigieg.

And as we all know -- and I'm going to tie the two things together. Yesterday, Governor Gavin Newsom, for the first time, has allocated over \$2 billion for ports. And usually, the state doesn't do that. Normally, it's the federal.

But they had a surplus of about \$30-some billion. And Governor Newsom had came to the ports. He's heard the cry. He knows we have the infrastructure of our grandparents. So that money is available. And I hope that the Port of San Francisco will get their share.

And I will say to you, Director Forbes, Secretary Buttigieg said today that there is money in the federal budget for ports, for infrastructure. And I would say to the Port of San Francisco, let's go get that money. Let's go after it. Let's be aggressive about it. And let's do whatever we can to help our ports.

On all the other stuff, I mean, it seems like you and your staff and President Brandon were just moving along very quietly getting work done. And I don't know how any other commission in the city could even compare or compete. But I

would hope they would use this as a blueprint and as a good starting point that we can do a mixture of both and yet know that we are a business.

And we are to make a profit, but also, too, we have a service that we're supposed to do for our community. So I want to say again thank you. Thank you. Any other commissioner? Seeing none. Carl, next item, please.

## **10. CONSENT**

- A. Request approval of a resolution adopting findings under new State urgency legislation to allow remote meetings during the COVID-19 emergency; continuing remote meetings for the next 30 days; and directing the Commission Affairs Manager to agendize a similar resolution at a Commission meeting within 30 days. (Resolution 22-01)
- B. Request authorization to advertise for competitive bids for Construction Contract No. 2841, Heron's Head Shoreline Resilience. (Resolution 22-02)
- C. Request authorization to award a sole source contract for the testing and re-commissioning of the shoreside power system at the James R. Herman Cruise Terminal in the amount of \$400,000 and a four-year term. (Resolution 22-03)

ACTION: Commissioner Brandon moved approval of the consent calendar. Commissioner Gilman seconded the motion.

No Public Comment on the Consent Calendar.

Roll Call Vote:

President Adams – Yes  
Vice President Woo Ho – Yes  
Commissioner Brandon – Yes  
Commissioner Burton – Yes  
Commissioner Gilman – Yes

President Adams - The motion passes unanimously. Resolutions 22-01 through 22-03 are adopted.

## **11. PLANNING & ENVIRONMENT**

- A. Request approval of a Cost Reimbursement Agreement between the City and County of San Francisco and Pacific Gas & Electric for Management of Residual Petroleum Hydrocarbons on City Property within the

shoreline and submerged land along the former Potrero Power Plant and Pier 70 in San Francisco. (Resolution 22-04)

Carol Bach: Good afternoon, commissioners. I'm Carol Bach. I am the environmental affairs manager for the Port of San Francisco. And I'm here this afternoon to request your approval of a cost-reimbursement agreement between Pacific Gas and Electric and the Port and your approval to take this same agreement to the Board of Supervisors for their approval. Next slide, please.

I'm sorry. I just slid my mouse and muted myself. Sorry about that. The Potrero Power Plant site is on privately owned property located on the south side of the Port's Pier 70 development project area. Beginning in the mid-1800s, Pacific Gas and Electric or its predecessors began a variety of industrial operations there including operation of a manufactured gas plant on the north side of the Potrero site.

Manufactured gas is a petroleum gas that was historically used the way we use natural gas now. And it was produced by burning liquid petroleum fuel to produce gas and a heavy hydrocarbon waste that has a lot of a particular class of constituents called polycyclic aromatic hydrocarbons, or PAHs for short. They are hazardous materials and toxic in particular concentrations and settings. Next slide, please.

The historic manufactured gas plant operations contaminated soil throughout the Pier 70 site and also the southeast portion of the Port's Pier 70 property. You can see the yellow highlighted area in this image is where PAH contamination related to the former manufactured gas plant operations was.

On the Pier 70 side of that property line, the manufactured gas plant waste material was completely excavated and back filled with clean material, and the surface was restored to its original condition. That work was done in 2018 and 2019. And no significant residual contamination remains there. Next slide, please.

The Potrero site was broken down into different subunits which were remediated in phases. And the approvals of those remediations happened between 2016 and 2020. The remediation varied with the physical location, the concentration of the hazardous material.

So the actual activity varied a little bit throughout the Potrero Power Plant site but generally consisted of a combination of excavation to remove material, solidification by mixing with cement to sequester the contaminants and capping, all of those measures virtually eliminating the risk of exposure or migration of the residual contaminants that remain on site.

Along the shoreline, the soil was treated through this solidification process. The image in the upper corner of this slide shows the material being excavated from the shoreline. Soil that was remaining along the shoreline was then mixed with concrete to form these large cylindrical basically interlocking concrete piles along the shoreline.

And then, the surface was covered with clean material. That's what happened along the Potrero site, which includes some portions of Port shoreline property. Next slide, please.

So this figure shows those small areas of Port-owned shoreline along the southeast corner of Pier 70 and the shoreline of the Potrero site. And residual contamination does remain beneath the shoreline and in the sediment offshore from the south side of the Potrero property all the way to the north side of Pier 70.

Consequently, those areas are subject to land-use restrictions and risk-management measures. Next slide, please. The land-use restrictions are documented in an agreement between the water board and the Port. And they restrict the Port from using the land generally for things that we wouldn't do anyway such as residential development, growing food for human consumption, extracting groundwater for drinking-water supply.

These are regulatory mandates from the water board that we are not allowed to use our shoreline property to do and aren't things that we would do anyway in the areas where these land-use covenants apply.

Additionally, there are risk-management measures required for the Port and other Port-authorized users including tenants, development partners, contractors, any other agents of the Port or its partners. And we must implement these risk-management measures to make sure that the remedy to protect the bay and human health remain effective.

Examples of these risk-management measures that might cost money include, for example, if we were to dredge material and it had PAH contamination in it, it might cost more to dispose of that than it would have were the PAH contamination not present.

If we were excavating in the shoreline, we might need more extensive worker health and safety protections such as specialized training for the workers. Or they might need to have the contamination in their breathing zone while they're working. That might need to be monitored.

There are a lot of administrative requirements that go with the risk-management measures -- or risk-management plans that apply in these areas where residual contamination remains including notification, ongoing monitoring, reporting.

For example, the Port or a development partner might need to hire consultants to develop a project-specific assessment of whether a particular project was going to impact contamination or not.

So we have negotiated a cost reimbursement agreement with PG&E through which PG&E would pay back the Port or any of the other Port-authorized users who might incur these additional expenses. And PG&E has committed to retain financial responsibility for managing the contamination in place in perpetuity.

And this cost reimbursement agreement establishes how they will do that. It basically sets forth a process through which PG&E will reimburse parties to the agreement for increased costs that are related to leaving contamination in place. Next slide, please.

The key terms of the cost-reimbursement agreement are that it applies to the Port or any of our authorized users of Port property including tenants, licensees, development partners, their agents or contractors.

We needed to set some initial boundaries on term and reimbursement amount. And those are a \$5 million anticipated reimbursement amount over a 20-year term. However, the agreement documents that, should we reach the \$5 million amount before 20 years is over or should we reach the 20-year end before we've spent the \$5 million, that we will, at the end of the 20-year term or reaching the \$5 million, whichever comes first, negotiate a new agreement or extend the existing agreement.

The agreement describes what reimbursable costs are and includes the requirement that whatever actions are taken that result in these reimbursable costs, a priority will be placed on protecting human health and the environment. And cost effectiveness for all parties will also be considered.

The process includes a pre-authorization step for the Port or other parties seeking reimbursement to work with the water board and PG&E in advance to clear those criteria and make sure that the action that's being taken is protective of human health and the environment as well as being cost effective.

There is an exception for emergency work. So in the event that the Port or any of our authorized users who could be parties to this agreement have to do emergency work. It is not subject to that preauthorization requirement.

The agreement specifies that disputes would be resolved through a designated mediator. And the agreement does not release PG&E from any claims or liability or preclude the Port from seeking other remedy with respect to managing residual contamination in place. Next slide, please.

So our next step from here would be to take this agreement to the Board of Supervisors for their approval because it is an agreement of a greater-than-10-year term. That concludes my presentation.

ACTION: Commissioner Gilman moved approval of the resolution. Commissioner Brandon seconded.

No Public Comment on the Item 11A.

Commissioners' Discussion on Item 11A:

Commissioner Brandon: Carol, thank you so much for that report. It was very detailed and left me with no questions. So thank you so much for being so thorough.

Commissioner Burton: No question.

President Adams: Okay. Commissioner Gilman?

Commissioner Gilman: I too have no questions and am supportive of the item.

President Adams: Okay. Vice President Woo Ho?

Vice President Woo Ho: I think I'm also in unanimous agreement. Very comprehensive report. And I hope we can proceed smoothly with this. Thank you, Carol.

President Adams: I along agree with my fellow commissioners. Great report, Carol. Thank you. Roll call, Carl?

Roll Call Vote:

President Adams – Yes  
Vice President Woo Ho – Yes  
Commissioner Brandon – Yes  
Commissioner Burton – Yes  
Commissioner Gilman – Yes

President Adams - The motion passes unanimously. Resolution 22-04 is adopted.

## **12. REAL ESTATE & DEVELOPMENT**

- A. Informational presentation and update on the Port's pilot Mobile Vending Program.

Assistant Director Martin: Good afternoon, commissioners. Mike Martin, assistant Port director and chief operating officer here today to deliver an informational update on our pilot mobile-vending program. There's been a lot of activity since your last hearing on the program back in August. So I'm going to try to roll through sort of a summary.

I'll do a bit of a recap to start for those that weren't following along as closely as we were. But I know you recall most of this information after having so many meetings on it last year. Next slide, please.

So like I said, by way of recap, in 2018, the state legislature passed Senate Bill 946, which created a new vending regime for cities and counties within the State of California. Basically, it decriminalized sidewalk vending and required cities to adopt new regulatory regimes sort of within the frame of SB 946 or else the cities would not be able to enforce the rules on their books.

Over the course of the pandemic since last March, Port staff saw a rise in unpermitted vending activity along the Port's waterfront with a high concentration of vendors at Fisherman's Wharf but also other vendors sprinkled along the Embarcadero and certainly around the Ferry Building at high-traffic times.

A number of concerns were raised about this activity including public health and safety issues as related to the COVID social distancing and masking rules, violation of other public health regulations on the sale of prepared food, sale of alcohol, sale of cannabis, the inability of there to be a path of travel, especially along the Little Embarcadero in the Fisherman's Wharf and also fire-code violations so a lot of things sort of grouping together and leaving the Port with a desire to address this growth in unpermitted vending in an effort to try to regain control of the waterfront and allow all visitors and residents to enjoy the benefits of the natural beauty and recreational opportunities along the Embarcadero and the Port's waterfront and the southern waterfront. Next slide, please.

These next slides show some of the vending activities. This was last summer where -- at the height of the vending. So we see a number of mobile food vendors without permits on the right hand of this slide but also a number of other vendors, you know, making it difficult for people to pass by on the Little Embarcadero. Next slide, please.

This overhead view, I think, shows that congestion issue and the passenger right of way. This was last August, I believe, so sort of the height of the sort of unpermitted merchandise vending in particular up at Fisherman's Wharf on the Little Embarcadero. Next slide, please.

So in response to this growth in vending activity, Port staff worked with other -- primarily worked with the city administrator's office's leadership to join an

interagency working group to address these activities on Port property.

We had weekly discussions of tactics and strategy and coordinated deployments by agencies that still retained regulatory jurisdiction under some of these activities such as the Department of Public Health as it relates to the food vending.

We also held weekly education and outreach efforts alongside DPH with Port staff to try to educate the vendors on the need to become permitted and address these public safety violations. But really, I think what we found in the early part of 2021 was that the remaining regulatory tools really weren't enough to regain some semblance of an orderly waterfront where vending can happen alongside sort of public enjoyment of these public spaces.

So Port staff worked with the mayor's office as well as Supervisor Peskin towards introducing a new ordinance that would comply with SB 946 and give us additional enforcement opportunities. In May, Supervisor Peskin introduced that ordinance. Next slide, please.

The mobile-vendor regulation ordinance -- can we back up one? I think we went two there. Thank you. The mobile-vendor regulation ordinance brought local law into compliance with SB 946, established the Port's ability to institute a pilot permit program for vending on Port property and authorized the Port Commission to adopt time, place and manner requirements for that program. Next slide, please.

In August, the Port Commission met and approved a resolution approving operational standards for the program so sort of the key foundational pieces to the program structure and also delegated authority to the Port's executive director to issue more detailed program regulations to sort of put more definition around the program beyond those bedrock operational standards.

So together, these documents delineated requirements for permit issuance, established a schedule of fines for administrative citations and set forth more details on the allowable time, place and manner of vending by permit holders. Next slide, please.

The regulations were issued by the executive director on October 14, 2021. And in between the August Port Commission resolution and that date, Port staff pursued a number of tasks to get the program up and going including designing and procuring program decals and application materials as well as citation forms, coordinating with other agencies so that we can verify compliance by our applicants with all the other regulatory requirements and selling their wares.

And we developed a workflow process for permit issuance internally at the Port as well as a website presence so that applicants could access key documents



and application materials for the program on the Internet. Next slide, please.

Program implementation really hit the ground with the operationalizing of the actual vending location. So after the Port Commission identified the generalized locations interspersed along the Port's waterfront where vending could happen, Port staff worked closely with various divisions including maintenance, real estate, engineering in some cases, planning and environment in other cases to develop more detailed site plans for where we could paint out the stall locations and signage locations for identifying where vending could take place.

For the locations that are within the BCDC shoreline band, these installations of these vending stalls, which are effectively paint on the ground and signage, still require BCDC approval as they affected public access and, obviously, from our perspective, improved it by allowing vending to take place but also keeping the path of travel clear for residents and visitors.

BCDC was very helpful in moving ahead quickly on getting these approvals together. And we really appreciate their partnership on this effort. Next slide, please.

Here is the overall map that was approved by the Port Commission in August. A couple of notes -- Bayview Gateway Park has been under construction. So those vending spaces have not been operationalized yet. We'll move ahead on that when we're able to clear an appropriate location there for vending.

We're also looking to tweak a little bit some of the vending stall locations to address some conflicts with safe path of travel for bikes and peds as well as other street-performer locations in Fisherman's Wharf. So these locations are Pier 43, Pier 45 as well Pier 48 1/2.

So we'll be working with BCDC on those. It doesn't change the overall map. But again, I think we have to continually look at what we're doing and whether the stalls are really working the way they're intended to and working closely with BCDC on authorizations as that moves forward. Next slide, please.

I think a critical task that we updated you on back in August was vendor engagement and technical assistance. With the assistance of some budget authority provided at the direction of Supervisor Peskin's office as well as taking advantage of an existing relationship between the Office of Economic and Workforce Development and the Mission Economic Development Agency, we were able to retain MEDA to perform technical -- well, first of all, vendor engagement with those vendors that were operating on Port property without permits to let them know of the program that was forthcoming and then technical assistance for those vendors who were interested in becoming permitted and joining the Port's new program.

The goal was to ensure awareness of this program, so it wasn't a surprise and also to provide these entrepreneurship opportunities in the way that the Port intended to sort of not only bring more sort of regulated order to the Port's waterfront but also to have this activation move forward in such a way that these entrepreneurial opportunities can happen while other opportunities for recreational benefits and views, etcetera, would not be impeded the way they are at times with overflowing unpermitted vending.

MEDA has done great work for us, held one-on-one vendor assistance for over 30-plus applicants as well as two public workshops. And their linguistic capabilities were really helpful with some of our monolingual applicants.

We've invited Edwin Rodriguez from MEDA to join this presentation. I'll ask him to share some thoughts on their engagement after I finish up the slide presentation. Next slide, please.

So moving ahead as to implementation and enforcement experience thus far, we're happy to say we've issued 37 permits for permitted vending on Port property. All of this are for sale of non-food items. We invited applicants to voluntarily provide race/ethnicity data. And data that we were able to receive is shown here.

So a vast majority of these permits have been issued to BIPOC permittees. We note that a significant part of our strategy as Port staff in managing this is to -- we implemented a vending space allocation lottery for high-demand locations in Fisherman's Wharf to avoid conflicts over those locations, realizing that I think the vendors appreciate the foot traffic that continues to happen up there.

But we want to make it as orderly an opportunity for each vendor to have a fair chance at that particular location as possible -- or those locations at Pier 43 and Pier 45. We've also instituted weekly enforcement actions at different times during the week, oftentimes more than once during the week. And over the time since program initiation, we've issued eight administrative citations. Next slide, please.

That note about citations is significant as we look ahead to next steps and in particular our enforcement strategy. I think what we've found is that the issuance of citations alone is not a significant deterrent, that what we see is, even when we issue citations and invite unpermitted vendors to leave Port property, they return to the locations that they've been asked to leave pretty frequently after the enforcement effort is over.

So what we, as Port staff, are trying to do with our city agency partners is, again, come back to our multi-agency enforcement efforts at a variety of times of day. And in particular, we want to start impacting the set-up period so that unpermitted vendors don't start their days on Port waterfront.

They get met there and told that they cannot vend on Port property without a permit and then, hopefully, continuing that enforcement presence for extended periods of the day so that those vendors don't return during those high-traffic times.

This is obviously a challenge with staffing and resourcing with our agency partners. So it's something we're going to have to work at. But we really see that as being -- the way to take the next step towards more effective enforcement so that the time, place and manner regulations are followed on Port property.

We also would like to move ahead with regular meetings of permitted vendors as we do with our street performer program to sort of hear back from them on their feedback and ways to improve the program.

We're going to work with BCDC, as I mentioned earlier, on adjusting the vending stall locations as needed for public safety. And we're also interested with working with the Department of Public Health to see if there are ways to address the hurdles that prepared-food vendors have found in getting those full permits.

Now, unfortunately, a lot of those regulations reside at the staff level. So there isn't a lot of wiggle room to try to make it less obstructed to get to those permits and approvals. But we do want to work to try to see if there are ways that we can optimize what we do on the Port to make sure that people are able to have that opportunity if they want to pursue it subject to, of course, all of the permit requirements of both DPH and the Port. Next slide, please.

The last thing I wanted to update the commission on was that, on December 14th, an ordinance creating a citywide vending program along the lines of the Port's pilot was introduced at the Board of Supervisors. This proposal was something we were consulted on and have worked with the mayor's office's staff as well as staff of Supervisor Safai, who introduced the legislation to ensure that the proposal includes the ability for the Port Commission to make rules for the program on Port property and for the Port to engage with Public Works, which is the administering agency on the proposed citywide program to hopefully collaborate on enforcement activities and hopefully also any technical assistance provided to vendors.

So moving forward, I think our goal is to remain engaged with the legislative process as hearings kick off later this month. Our issues to keep an eye on are obviously the Port's ability to make rules for Port property but also, you know, anything we can do to ensure a smooth transition so that those that have joined the Port's program will gain the benefits of what they've paid for in terms of a year's worth of the permit but also hopefully having some interoperability with the city program.

And in addition, as I mentioned, if there are new resources being brought forward as part of the citywide program, we want to be able to benefit from those as well, be those resources, be channeled towards enforcement and sort of the somewhat staff-heavy strategy that we've been t -- I talked about earlier as well as any additional resources for technical assistance and vendor compliance so that we can get more people enjoying the benefits of the permitted program and, again, hopefully grow that in such a way that it continues to enhance the waterfront rather than detract from it.

So that concludes my remarks. As I said, I'd like to hand over the mic for a moment to Edwin Rodriguez, business development program manager for MEDA and project manager for MEDA's work with the Port's vendor-outreach program. Edwin, please take it away.

Edwin Rodriguez: Thank you. And good afternoon, commissioners. Thank you for this opportunity. I would like to go over briefly three different tasks that we've been implementing since day one. So we started this partnership with the Port in late October.

So since October, we identified three major tasks. One was outreach, community activities to bring the information to the vendors, meet with the vendors where they are. The second major activity was the organized workshops, occasional sessions as well as more groups workshops to provide more in-depth information about this particular project.

And the third activity was to provide one-on-one technical assistance. So since day one, two of our members at MEDA has been working closely with the Port, one dedicated staff that has been working mainly in -- only on this particular project in the last couple of months.

And we organized different activities. On the outreach activities, during the first four weeks -- six weeks, we were visiting different site in the Embarcadero as well in the Fisherman's Wharf and meeting one-on-one with them and provide the general information about this new law that was coming for the month of September.

So we organized three different informational sessions in partnership with the Port and as well in collaboration with DPH, the Small Business Assistance Center from the city, the fire department. And they were invited also to present in the informational sessions on their particular role on this specific pilot project.

The first informational session, we were able to bring up to 72 people that attended the session. And all of them were vendors. That included not just merchandise but also food vendors. And after that particular session, we started to identify those that were more ready to apply for the permit and provide technical assistance at one-on-one.

After the first informational session, we organized two more informational sessions with more small groups. But important information was provided to the participants. I think, since day one, we have been able to do outreach and to meet individually and to provide the information to at least 100 participants, 100 vendors that have been able to come to the sessions and as well that we met inside with them.

The workshops has been small groups workshops with the intention to provide more specific details about the project and especially with the food vendors because, the food vendors, they have to go through a more lengthy process.

So they need more information, more details and more assistance to submit all the paperwork that they have to, that the DPH require for them to submit. And the third activity, which is the one-on-one session -- so we'd been working with at least 40 to 50 vendors.

And we'd been supporting these particular vendors in different ways. One, for those who needed [to raise to the business], so we were able to provide that support, [to buy the insurance that] is required for the project, in some cases, [to raise to the business -- fictitious] business name in order to apply for the sellers permit as well to find other resources that they might need.

So we've been able to complete about 20 packages that were submitted as part of this process. And all of them were approved. All of them were merchandise vendors. Now, we're still working as of today with a group of 14 food vendors that bec -- and they need more in-depth assistance because they have to comply with all the requirements that DPH asks for them to be ready to apply for.

So that's the main reason why, as of today, only merchandise vendors has been able to receive their permit. So we're still working with food vendors.

Some of the first recommendation that we would like to make to the commission are -- one is, since this has been a pilot project, it is important to meet again with the vendors that they already received a permit just to get their feedback, continue with that communication and see how -- identify things that can be improved.

Second -- obviously, because this is a pilot project, more resources are still needed to continue with the work and continue providing technical assistance, meeting with one-on-one especially with the food vendors.

But we're very confident that, with the technical assistance that we are providing, we should have ready a group of food vendors' applications, I would say, in the next few months -- few weeks. Thank you again for this opportunity. So I don't know if we will be answering some questions.

No Public Comment on Item 12A.

Commissioners' Discussion on Item 12A:

President Adams: Okay. Thank you. Once again, Mike and Edwin, great job. Great informational presentation. Commissioner Gilman?

Commissioner Gilman: Woops. Give me one second. Sorry. Apologies.

President Adams: No worries.

Commissioner Gilman: Thank you, President Adams. And thank you, Mike and Edwin, for your report. I have a couple of comments and a couple of questions about the report. I'm going to say this within the context of really supporting this program.

I really feel strongly that we need to permit all of our vendors, both those selling goods and those selling food for a variety of reasons. One is that we do a brick-and-mortar retail on the waterfront. And we want to make sure that everyone sort of has an even playing field for having their merchandise or food stall and also for the health and safety of visitors.

So my understanding, Mike and Edwin, from your report is that currently right now no food vendors have been permitted under the program.

Assistant Director Martin: That's correct.

Commissioner Gilman: Okay. And that, when we permit folks selling goods, we sort of are going to sort of have a -- I don't know if you meant like a physical demarcation on the sidewalk that would have their stall space but similar to the vendors that are on Market Street leading to the Ferry Building, that there would be identification and sort of demarcations where they could do their vending.

Assistant Director Martin: Yeah. So our stalls are open to any stationary vendors whether it's merchandise or food. And then, there's also an ability to get a mobile-vending permit. So you wouldn't be stuck with the stalls, but you have to continue to be mobile as you sell your merchandise.

Gail Gilman: Okay.

Assistant Director Martin: But as of now, no food vendors have a Port decal. So when we see food vendors, we have a good idea that they're not permitted.

Commissioner Gilman: Okay. So I do want to comment Port staff and MEDA for the incredible outreach and the number of folks that you've been able

to bring to the permitting process and the folks you're working with. But I do just want to flag for Port staff, for MEDA and for how we think of our enforcement moving forward, as I previously stated in my comments, I spent time this weekend on the waterfront.

And while the situation particularly at Little Embarcadero, I believe, was a vast improvement over the way it was during the summer, it seemed very organized and orderly. Leading up Powell Street walking into Little Embarcadero, there were six food vendors selling food.

And they looked incredibly orderly. So I had assumed they had been permitted, the way they were lined up, showing their coolers, doing their business. And that led into about a dozen stalls selling goods and then ended coming towards the Fisherman's Wharf back side to three other food vendors that were much more chaotic, playing music and also had vehicles illegally stationed right behind them.

So I do want to say this -- while we've made incredible progress and I am so happy we're moving forward, I do want to see us get to a point where everyone is permitted and complying with health and safety guidelines. So if there's any way the commission can support those efforts, my comment is, I guess, please reach out and let us know.

Edwin, if there's anything, you know, from MEDA's perspective that we can do to support as well -- it was such an improvement over the way it's been, which I want to commend that. I had thought everyone was permitted.

I was like, my gawd, this is beautiful. Everyone's gone through the permitting process. But obviously, now, those vendors were still all acting in a manner that was unpermitted and illegal, particularly the food vendors now.

You know, there was close to nine to 12 of them. That's still a major concern for me. Those are just more comments. And I commend the actions and want to be helpful in moving forward in a positive way.

President Adams: Thank you, Commissioner Gilman. Commissioner Burton?

Commissioner Burton: No comment.

President Adams: Okay. Thank you, Commissioner Burton. Commissioner Brandon?

Commissioner Brandon: Mike and Edwin, thank you so much for the report. I think it's great the progress that we've made in such a short period of time. And it shows that something can be done. So I guess -- I'm just wondering -- so what is a citation? Does a citation come with a fine? Or how do we think a citation is going to stop some of this behavior?

Assistant Director Martin: So state law limits our ability to punish violations of our regulations to an administrative citation. So the amount varies. For unpermitted vending, I believe the first citation is \$250. And then, it increases from there.

For other violations by permitted vendors, the first citation is \$100. All eight of our citations have been to unpermitted vendors. And unfortunately, we have not received payment for any of them. So that is part of the challenge of the limitations of the state tools that we've been given.

So that's part of why we're not relying on -- or we don't want to rely on citations as our deterrent. We really have to be more of a presence on the sidewalk enforcing the rules in real time.

Commissioner Brandon: Thank you. Are we able to work with SFPD to help with enforcement?

Assistant Director Martin: We are. And they've been very helpful in terms of working with us to staff for safety of our Port staff that are enforcing. And I think that's really the posture we want to be in. It's the Port's program. We are the ones that are designated to enforce it.

But we do have PD available in close proximity so that, if any conflicts arise or unsafe situations, we'd have that assistance and backup. And then, we've also tried to incorporate and will be incorporating more robustly other agencies like DPH for specific topics of enforcement that are under their jurisdiction.

Commissioner Brandon: Thank you. And then, with the city's program that they're looking at, does it have enforcement within it?

Assistant Director Martin: It designates the Department of Public Works to be the enforcement agency. In terms of how that will work in terms of staffing and resources, that's still unclear. And that's part of why we really want to monitor that legislative process closely to understand how that's going to work and see where we fit in.

Commissioner Brandon: Great. Well, thank you. I think we've come a long way, but yet we still have a lot of work to do. But I commend the staff for their efforts to date. So thank you.

President Adams: Appreciate it. Thanks, Commissioner Brandon. Vice President Woo Ho?

Vice President Woo Ho: Yeah. Thank you, Mike and Edwin, for this report. As everybody noted, we've made a lot of progress. And I'm glad to hear some of



the answers that have already been given. But I have a couple questions.

One, you know, there's no food so far. And we've issued 37 permits. So what happens if there are more applications than spaces available? Is there a rotation system that is set up so that everybody has a chance to be able to vend?

And what is the length of the permit? And is the permit good for X period, and you can rotate on for X period within a certain time period? How does that work? Because I can see that this could grow over time. So you're going to have to accommodate where the demand is greater than the supply of space available.

Assistant Director Martin: Good questions all. So right now, you know, spaces are issued on a daily basis. So except for the Fisherman's Wharf spaces that we allocate via a lottery for Fridays, Saturdays and Sundays, basically the rest of the spaces are available on a first-come, first-serve basis for vendors who want to show up and vend that day.

So right now, I believe our total roster is approximately 44 spaces, I think, give or take depending on some of the tweaking we're doing with BCDC. So if all 37 showed up on the same day, we would have enough spaces for them.

But what we've seen in our experience is there aren't a lot of -- there are several spaces that just generally don't get used for lack of foot traffic. So I think, as we grow the vendor group, I think we'll have to think about whether we can add stalls at high-demand locations, which would be a negotiation with BCDC to make sure we're not impeding public access too excessively.

And to the extent we would need to come back to the Port Commission and identify new locations beyond the ones that we've identified, we'd have that as a potential way to make sure there's capacity for a growing program.

But what we've found is the vendors do not generally operate every day, at least not in the terms of what we're seeing on the street. So I think we're sort of biding our time for now to see what the -- the ebb and flow of the program demands in terms of additional spaces or additional allocations so adding other spaces to the lottery when we see that they're in high demand.

Vice President Woo Ho: Okay. That sort of answers my second question because, if they get a Port permit to operate and it's a daily permit and they decide then they want to go to another location in the city under this new ordinance, which is being administered by the DPW -- so they would have to apply for a separate permit.

There's no extension of the permit issued by the Port to another location in the city. Let's say, even within the same day, morning I'm at the Port. Afternoon, I'm somewhere else. How is that going to be handled?

Assistant Director Martin: Right now, that is not clear from the city legislation. So that is one of the things we really want to keep an eye on is whether there's interoperability between the programs. My suspicion is that we'll wind up with two separate programs to start.

But we'll just want to make -- so someone that wants to do both, like you're saying, will have to go apply to the city program if they're already in the Port program. But again, we have to monitor that and try to see what can work best for the two programs sort of starting up side by side.

Vice President Woo Ho: Okay. So the enforcement, I think you answered, is really done by our own staff, which is time consuming. I understand that. And I guess -- I don't know whether it's, you know -- issuing citations doesn't -- I guess you issue the citation. That's like a parking ticket. Right.

You don't have to pay immediately. You get to -- but I'm wondering if you can change that process and say we need you to give you -- your credit card or something right now, which would then make people take this more seriously if payment was on demand, if you could think of a way of making it more onerous and that they can't just walk away.

And then, you have no way -- well, I guess, if they're unpermitted, you won't have an address. You can't find them again anyway. But if they're permitted, then obviously you do have some information on file on how to locate them. But the unpermitted people just -- all they have to do is disappear.

Assistant Director Martin: True. And on top of that, I'm not sure we can require them to give us credit-card information under current law. So this is something -- you've put your finger on the challenge. Right. The point of these citations is to create a deterrent.

And if they're not going to actually serve that role, it's not really helping us. So we were talking with our attorneys about what we're able to do to make that stick better. But again, I think, for the time being, while we continue to have that citation tool, because of its limited efficacy, I think we're looking at more sort of enforcement presence in the time being to sort of address some of the conditions that Commissioner Gilman was describing earlier.

Vice President Woo Ho: All right. So enforcement -- normally speaking, we'd give them what? What time period do we say, "Okay, you have to pack up and leave since you don't have a permit"? Is there sort of a -- what is our own internal operation process? Do we actually see that they actually leave? Or we just sort of see that they're starting to pack up, and we walk on? Or what?

Assistant Director Martin: So we want to make sure things are safe for our

enforcing staff. So we have the engagement with the potential offender. Typically, we'll invite them to leave. And we'll say we're staying until you leave.

And if they refuse those instructions, eventually we can move towards confiscating their sale materials and their stuff. So it's sort of an escalating enforcement, you know, asked to leave. If you're refusing to leave, then we'll move into citation and potential confiscation.

But again, we're not looking to have significant conflicts on the sidewalk. If someone's willing to leave willingly, we'll allow them to do that and hopefully move on with our day.

Vice President Woo Ho: Okay. I'm just trying to anticipate how -- at some point, I'm just hoping there won't be some major conflict that occurs either from enforcement or citations or something. It sounds like right now things are running fairly smoothly given the program's roll out.

But I can see this becoming much more contentious over time as -- [crosstalk] yeah. I mean, more demand to do this by vendors and, secondly, you know, people who say, hey, it's my right to whatever. I mean, we're in a very different social environment these days.

Everybody thinks they have a right to do everything in spite of rules and administrative policy. So I guess we just have to be very careful and also try to give opportunities as we can. But you know, there's no free lunch everywhere. I mean, there is no free lunch and something that we also have to abide by.

Assistant Director Martin: Agreed.

President Adams: You done, Doreen?

Vice President Woo Ho: Yes. I'm done.

President Adams: Commissioner Gilman, you have your hand up.

Commissioner Gilman: Thank you. I just had one more comment that I wanted to make. It spurred from Commissioner Woo Ho's comments, which I thought were spot on.

President Adams: Go ahead.

Commissioner Gilman: Thank you so much, President Adams. I did want to just say I hope we get to a point where permitting is the goal. I will say, even though obviously what I observed over the weekend was all unpermitted vendors, it did bring a level of activity and connectiveness, I will say, between Pier 39 and Fisherman's Wharf that, as someone who lives blocks from there,

was not existing when Little Embarcadero was just empty.

So I do hope MEDA and the Port and the city, that we can work together to get folks permitted and that DPH -- which I know is not here today, so this is just my self-edification to say this -- that we can also get to a point where we can license food vendors.

As someone who's traveled internationally, street vending food sometimes is the most culturally rich food when you visit another country. And I just -- my goal is I hope we get to what I saw over the weekend which was very orderly except for the folks at the end, that that could be the norm of folks who are permitted, who are paying their fees and who are working with health standards.

So I just wanted to say that I hope we all share that vision and the end goal of activation and vitality from folks who are abiding by the rules and doing it in a health and safety way.

Assistant Director Martin: Totally agreed. We want to get that compliance.

President Adams: Are you done, Commissioner Gilman?

Commissioner Gilman: Yes. I am, President Adams. Thank you.

President Adams: Thank you. Mike and Edwin, great report. You know, [laughs] Doreen hit the [head on the nail], I'll tell you. People can't even fly on the same plane anymore without getting into it. Right. And this is a hot-button issue.

I just don't want anybody to get hurt. But I mean, we go down some paths at this commission and the Port. And we take some risks. And I understand that. I just hope nobody gets physically hurt or assaulted or somebody calls the police.

But what -- Doreen is spot on. Sooner or later, something's going to give in the road. And we might have an altercation. And the police comes out and stuff like that. And you're going to have to report back. I just hope and pray that nobody gets hurt too badly.

But tempers fly today. And everybody's pretty short tempered. Let's not kid ourselves. This is pretty competitive. We've got to keep a leash on this. I mean, we've got to have a strong hand. And certain behavior cannot be tolerated. I will just leave it like that.

I'm all about everybody -- free enterprise, capitalism. It's all good. But I don't want people getting hurt or hit or assaulted on Port property. I don't think it looks good for us as a Port. And I just hope that we have some guidelines, that we're able to rein people in. Other than that, I'm good.

Assistant Director Martin: Thanks, President Adams. Thank you, commissioners. I really appreciate the feedback. We'll take it into account and move ahead.

**13. NEW BUSINESS**

No New Business.

**14. ADJOURNMENT**

ACTION: Commissioner Brandon moved to adjourn the meeting. Commissioner Gilman. In a roll call vote, the motion passed unanimously.

President Adams - The meeting is adjourned at 5:02 p.m.