

Regular Public Session of October 26, 2010

## SANTA CRUZ HARBOR

Gateway to the Monterey Bay  
National Marine Sanctuary

Santa Cruz Port Commission  
**MINUTES**

**Members Present:**

|                 |               |              |              |
|-----------------|---------------|--------------|--------------|
| Jeff Martin     | Chairman      | Dennis Smith | Commissioner |
| Reed Geisreiter | Vice-chairman | Toby Goddard | Commissioner |
| Bill Lee        | Commissioner  |              |              |

### REGULAR PUBLIC SESSION

Chairman Martin brought the regular public session to order at 7:00 pm at the Harbor Public Meeting Room, 365A Lake Avenue, Santa Cruz, CA.

1. Pledge of Allegiance
2. Report on Findings of Dredging Demonstration Project #3 Scientific Monitoring by Curt Storlazzi, United States Geological Survey **(Discussed out-of-order – see below.)**
3. Approval of Minutes **(Discussed out-of-order – see below.)**
  - a) Special Public Session of September 2, 2010
  - b) Special Public Portion of Closed Session of September 21, 2010
4. Oral Communication

Discussion: Dave Harrison, Operating Engineers Local No. 3 union representative, discussed the recent labor contract agreement reached, noting it is the worst contract ratified by the crew in 24 years, and occurred at a time when other employees of the District have received raises. Mr. Harrison added that the contract was achieved by contracting for costly legal assistance, separating labor and management during negotiations. Mr. Harrison stated that the union will not be willing to accept more of the same in next year's negotiations. Mr. Harrison commented that prevailing wage used to be required to be paid to dredge operators prior to the Operating Engineers, so in his opinion, the union is a great alternative for all.

**(Oral Communication was continued later in the meeting.)**

2. Report on Findings of Dredging Demonstration Project #3 Scientific Monitoring by Curt Storlazzi, United States Geological Survey **(Discussed out-of-order.)**

Discussion: Curt Storlazzi of the United States Geological Survey reviewed findings of the Dredging Demonstration Project #3, in which an intensive survey was completed to determine the fate of fine-grained material in the nearshore area. Mr. Storlazzi reported that the monitoring and subsequent analysis conclude that nearshore conditions are energetic enough so that mud will not settle in the nearshore area – mud is driven offshore in a southwest direction, replicating the long-term historical pattern of deposition of watershed material.

3. Approval of Minutes (*Discussed out-of-order.*)
  - a) Special Public Session of September 2, 2010
  - b) Special Public Portion of Closed Session of September 21, 2010

MOTION: Motion made by Commissioner Goddard, seconded by Vice-chairman Geisreiter, to approve the minutes of the special public session of September 2, 2010.

- *Motion carried unanimously.*

MOTION: Motion made by Commissioner Goddard, seconded by Commissioner Smith, to approve the minutes of the special public portion of the closed session of September 21, 2010.

- *Motion carried unanimously.*

4. Oral Communication (*Discussion continued from above.*)

Discussion: Commissioner Goddard announced that County Redevelopment will host a public meeting on the East Cliff Drive Improvement Project on October 28, 7 pm, at Simpkins' Swim Center.

A discussion ensued about the AGWA's bi-annual report which is due soon. Port Director Ekers reported that Ms. Haver will be invited to November's meeting to give a final report.

Chairman Martin requested that the Commission's election of officers for 2011 be included on November's meeting agenda since he will not attend the December meeting.

5. Written Communication

- a) Letter from M. Cubillas, Big Brothers Big Sisters, to Santa Cruz Port Commission
- b) Letter to Congressman Farr, from Santa Cruz Harbor, Monterey Harbor, Moss Landing Harbor
- c) Letter to vessel operators engaged in assistance towing, from G. R. Wheatley, United States Coast Guard
- d) Call for Nominations from P. McCormick, LAFCO, to Port Commission

Discussion: A discussion ensued about the letter received from the U.S. Coast Guard about assistance towing services. Harbormaster Izenstark explained that it does not impact the harbor patrol's ability to provide assistance in the event of an emergency. Port Director Ekers added that there are no restrictions on vessel towing related to maintenance / management of the marina. She explained that the towing referred to in the USCG letter deals with assistance tows, e.g., from a slip to the boat yard.

Audience member Joseph Rodgers expressed his concern that this ruling from the Coast Guard gives the towing service operating out of the harbor a monopoly. Mr. Rodgers expressed his belief that the fees charged by the current towing / salvage service are outrageous, and their practice of turning a tow into a salvage operation is a questionable practice in his view. Chairman Martin noted that there is no prohibition on competition with regard to vessel towing services operating out of the harbor.

Commissioner Lee questioned whether Vessel Assist / Pacific Salvage may be willing to provide a rate sheet, which could be posted in the harbor office. Port Director Ekers noted that Ms. Wagner is willing to give a presentation on salvage law, under which her business operates. A discussion ensued about whether this matter should be referred to committee. It was generally agreed that committee review of this matter will be postponed, unless deemed necessary at some point in the future by the Chair.

The call for nominations from LAFCO was briefly discussed – no Commissioner expressed an interest in serving on the LAFCO board at this time.

6. Approval of Lease Assignment – Monterey Bay Marine, 555 Brommer Street Extension / Current Lessor: Monterey Bay Marine (Tom and Mary McGuire) / Assignee: David Babica

Discussion: Port Ekers reported that David Babica purchased Monterey Bay Marine from the McGuires and is requesting assignment of the lease. There is one year remaining – the current lease option ends October 2011.

A discussion ensued about Monterey Bay Marine's temporary use of available dry storage spaces in the north harbor for queuing vessels awaiting repair. It was noted that while harbor staff has been flexible in allowing this use as needed when space is available, it is not memorialized in the lease document. Port Director Ekers commented that this can be re-evaluated next summer, when extension or renewal of the lease is discussed.

MOTION: Motion made by Commissioner Lee, seconded by Commissioner Goddard, to approve assignment of the lease of 555 Brommer Street Extension, Monterey Bay Marine, from Tom and Mary McGuire to David Babica.  
*- Motion carried unanimously.*

7. Approval of Month-to-Month Lease – 275B Lake Avenue  
Tenant: L. Rabb-Jancola, California Real Estate

Discussion: Port Director Ekers reported that the McGuires previously subleased part of the Lake Avenue space used for their sales office to Laura Rabb-Jancola. Port Director Ekers reported that Ms. Rabb-Jancola has a record of making on-time rent payments to the McGuires, and now proposes to rent the space directly from the Port District.

MOTION: Motion made by Vice-chairman Geisreiter, seconded by Commissioner Goddard, to approve the month-to-month lease for 275B Lake Avenue to Laura Rabb-Jancola.  
*- Motion carried unanimously.*

8. Approval of Implementation of Credit Card Convenience Fee for Payment of Rents

Discussion: Port Director Ekers reported that the Port District has been paying substantial credit card fees, with annual expenses approaching 1% of slip rent for the prior three years. She reported that the Business-Finance Committee reviewed credit card fees and the pending launch of an online bill pay system. The committee recommended a credit card convenience fee to offset these expenses that applies to marina account payments and landside rent payments only – the committee did not recommend the fee be applied to other services such as visitor berthing, RV, parking and fuel.

Port Director Ekers reported that online bill pay will allow customers to pay by credit card. If a credit card convenience fee is implemented, the fee will apply to payments made online and in person. In the future, ACH (Automated Clearing House) can be added as an option, which debits payments directly from a customer's bank account – ACH merchant fees are minimal.

Port Director Ekers reported that public agencies are allowed to charge a fee for credit card use, and reviewed other entities charging such fees.

Commissioners Lee and Geisreiter recapped the discussion that took place at the committee meeting, and expressed their support of charging a 3% convenience fee for credit card use.

Commissioner Goddard stated that the merchant fees have been embedded in the revenues in the past, and he believes that the District would be better off embedding them into the rates in the future, as opposed to charging a fee which will alienate many credit card users. Commissioner Goddard stated he does not support charging a 3% fee for credit card use, but does support the \$10 transaction fee for phone-in credit card payments.

Chairman Martin stated he dislikes the automated schedule of payments with ACH. Port Director Ekers explained that the online ACH option will be one-time, not recurring.

In response to a question posed by Commissioner Smith, Port Director Ekers reported that approximately 23% of customers pay by credit card. Commissioner Smith commented that approximately 75% of the customers are subsidizing the merchant fees incurred by those who choose to pay by credit card.

Further discussion ensued about whether the convenience fee will be a deterrent for some customers, and whether it may increase the number of bad checks processed by the District. Commissioner Lee commented that if the goal is to make merchant fees revenue neutral, then he would support a 2% fee, which is more reflective of actual costs. Port Director Ekers reported that merchant fees vary, but are approximately 1.98% overall.

Commissioner Smith expressed his support of charging a convenience fee, and expressed his hope that future accounting software upgrades will further simplify the process.

Chairman Martin stated he is agreeable to recovering actual costs. He also expressed his belief that the ACH option should be concurrent with the credit card option when online bill pay is launched.

Commissioner Goddard reiterated that he cannot support the convenience fee, which he views as a deterrent that will be perceived by many as a nickel-and-dime approach to generating more revenue.

**MOTION:** Motion made by Commissioner Lee, seconded by Vice-chairman Geisreiter, to establish a convenience fee of 2% for credit card payment of rents (marina account payments and landside leases), and an additional \$10 transaction fee to process payments by phone. Fees to be reviewed in a couple of years. Delay online credit card payment option until such time that ACH option can be launched concurrently.

**Discussion:** Chairman Martin questioned whether the amount should be set at a level which fluctuates with actual cost. Vice-chairman Geisreiter noted that because fees vary, this type of fee assessment would be burdensome on staff.

Port Director Ekers noted that she will be reviewing a cost recovery analysis with the Commission next year, and these fees will be included in that study. She stated that the convenience fee will cover basic costs, but noted there are some additional associated costs. Commissioner Lee stated he would be open to amending his motion to change the fee to 2.5% if there is a second.

Audience member Bruce Krogstad suggested the fee be set at the actual cost, and adjusted as needed. Vice-chairman Geisreiter noted that this is closer to 2%. Commissioner Lee stated he will not amend his motion, leaving the convenience fee at 2%, and called for the question.

Chairman Martin called for a vote on the motion.

- *Motion carried; Commissioners Martin, Geisreiter, Lee and Smith voting YES; Commissioner Goddard voting NO.*

9. Reallocation of Election Reserve to Unfunded Capital Needs

Discussion: Port Director Ekers reported that in response to the Commission's request that staff review unfunded capital items in the FY 11 budget, she is recommending that \$75,000 for the fuel pipeline replacement be deleted from the capital budget, and funded in FY 12, perhaps by a grant from the Department of Boating and Waterways. Port Director Ekers noted that the \$75,000 estimate is to replace the existing fuel line and trenching. After a review of the current pipeline configuration, which travels underneath an aggregate sidewalk, she estimates that it is short by at least \$30,00 to \$40,000. Port Director Ekers stated that the County is not currently pressuring the District to complete this replacement project, and the District's consultant has indicated to County representatives that the District is exploring funding options. Port Director Ekers recommended deferring this item in this fiscal year, with the goal of obtaining grant funding for the project next year and with the understanding that the County may require replacement sooner. Port Director Ekers noted that a different pipeline configuration will be studied, which may lower replacement costs.

Port Director Ekers stated she intends to develop a Capital Improvement Plan "CIP," and is assembling known information about the condition of harbor facilities. She proposes that any data gaps be filled in with inspections, video imaging of pipelines, etc. The CIP will review a list of all wants and needs, review cost estimates and project funding needs over time. She explained that once all information is gathered, the next step in the process is to prioritize projects at a public Commission or committee meeting, and identify funding sources. She stated that a draft CIP would be a public document, and will take 6 to 8 months to complete. She stated that a consultant would be retained for this project.

Port Director Ekers reported that an electronic gate key system was previously estimated to cost \$38,000 with installation by in-house labor – approximately half of this cost (\$18,000) was funded in the FY 11 budget. Port Director Ekers reported that she has recently heard that the cost range for an electronic gate key system is \$3,000 per access point – with 48 access points it raises the estimate to approximately \$150,000, opening this item for further discussion by the Commission. Commissioner Smith expressed his belief that the \$20,000 estimated for concept development and engineering seems high.

Port Director Ekers stated this is an educated guess on her part, estimating engineering costs at 8% to 10% of the project cost.

Commissioner Goddard expressed support of the proposal to develop a CIP. He also expressed his belief that the Commission should reconsider the electronic gate key project. Commissioner Goddard discussed whether the CIP should be for a 5 or 10-year period, expressing his belief that while the longer, 10-year period is good for financial planning, he supports a 5-year period which he believes is better for what can realistically be accomplished. Commissioner Goddard also expressed his support of putting the remaining election reserve in the Capital Reserve fund.

Commissioner Lee expressed his belief that development of a CIP is vastly important. He also stated that if an electronic gate key system is \$150,000 vs. \$38,000, then he believes it should go back on the list of items for Commission review / consideration. Commissioner Lee suggested removing the \$20,000 engineering for the electronic gate key project.

Vice-chairman Geisreiter expressed his support of contracting with a third-party for development of a CIP, and added that he would also recommend removal of the \$20,000 for engineering and concept development of an electronic gate key system.

Commissioner Smith agreed with the comments made and also expressed support of development of a CIP. He also expressed his belief that the electronic gate key system should be removed from the mix for now, and questioned what will happen with the money set aside for this project in this fiscal year. Administrative Services Manager Olin stated that \$18,000 was originally budgeted for replacement of hard keys, but was then set aside to fund half of the electronic system. Commissioner Smith commented that new keys are needed, and discussed his concerns with security of the docks and gates, which are often propped open.

Chairman Martin stated the CIP concept is acceptable to him, though he would like to use as much in-house staff for development as possible. He expressed his disappointment about the electronic gate key system, and questioned whether it was time to re-key the current locks. Commissioner Lee commented that re-keying and the concept of electronic gates was back on the drawing board.

There was consensus that the Construction-Maintenance Committee should review the concept of development of a Capital Improvement Plan, bringing issues to the full Commission for review at logical points along the way.

**MOTION:** Motion made by Vice-chairman Geisreiter to approve the staff recommendation and direct staff to adjust the budget for engineering services as outlined in the staff report with the following adjustments:

- Eliminate \$20,000 for concept development and PS&E for an electronic gate key system;
- Re-allocate the \$18,000 budgeted for replacement of hard keys in the current budget to Capital Reserve fund.

**Discussion:** A discussion ensued about the need to re-key the current lock system. Commissioner Goddard suggested the \$18,000 be left in the line item. Vice-chairman Geisreiter agreed to amend his motion.

MOTION: Motion made by Vice-chairman Geisreiter, seconded by Commissioner Lee, to approve the staff recommendation, deleting the \$20,000 for concept development and PS&E for the electronic gate key system.  
- *Motion carried unanimously.*

Discussion: Chairman Martin tasked the Construction-Maintenance committee with studying the CIP.

10. Approval of Resolution 10-12 – Adopting Section 108 of the Ordinance Code electing to become subject to the Uniform Public Construction Cost Accounting Act and establishing the Port District's contract approval level

Discussion: Port Director Ekers reported that the next step in the process is to file the resolution with the State Controller's office.

MOTION: Motion made by Commissioner Goddard, seconded by Commissioner Lee, to approve Resolution 10-12.  
- *Motion carried unanimously.*

11. Approval of Resolution 10-13 – Accepting a Vessel Turn-In Program Grant from the CA Department of Boating and Waterways (\$6,000)

Discussion: Harbormaster Izenstark reported that this program gives boat owners an alternative to abandoning their vessel. With proof of identification / ownership, vessel owners can turn their vessel over to the Port District, and associated disposal costs would be reimbursed under this grant.

Chairman Martin questioned whether a vessel can be sold, if it has value. Harbormaster Izenstark expressed his belief that the grant only applies to derelict vessels, but he will confirm and report back.

MOTION: Motion made by Commissioner Lee, seconded by Commissioner Smith, to approve Resolution 10-13.  
- *Motion carried unanimously.*

12. Port Director's Report

Port Director Ekers reported as follows:

1986 USACOE / SCPD Cooperative Agreement Amendment Status: Consultant Brian Foss reviewed the formula matrix used by the Corps to analyze the federal interest in amending the cooperative agreement. He stated that even though the formula does not apply well to Santa Cruz Harbor's channel, the initial result was good – approximately \$500,000/yr. However, in a subsequent review at the Division level, the annual sum was reduced to approximately \$300,000/yr. At that point, it became necessary to challenge the basis for the formula. Mr. Foss discussed the approach taken in challenging the formula, explaining that the breaking wave condition in the Santa Cruz Harbor entrance can hazard vessels despite entrance depths and what a vessel draws – he also noted that approximately 36% of all vessel transits are commercial in nature. Mr. Foss stated that he will continue to negotiate with the Corps to reach a satisfactory conclusion, and expressed hope that the Corps will be able to accommodate flexibility in their formula based on Santa Cruz Harbor's unique situation.

2222 East Cliff Drive Deck Repairs: The final phase of work is being completed.

North Harbor Dock Construction: Second to last 100' section of G-dock is being replaced south of the G-1 gate – the project is scheduled for completion by December. Port Director Ekers reported that Boating and Waterways confirmed that the funding proposed in the budget submitted to the state was approved, which is a positive indication for this project's financing.

Miscellaneous Contracts: The following contracts will be signed – CBIZ payroll outsourcing and GARDA armored car service.

Dredging: Port Director Ekers reported that the Coastal Commission permit approval has been delayed. The current permit expired October 18, so at the Coastal Commission will consider a waiver at its November hearing, that will allow dredging under previous permit authority through mid-January 2011. In the meantime, entrance depths will be closely monitored. Administrative Services Manager Olin reported that "Seabright's" new pump was successfully installed in one piece on October 14, using an 80-ton crane. The 22,000 pump was placed in the bilge with inches of clearance. Administrative Services Manager Olin also reported that because of timing issues with the Coastal permit and to ensure entrance dredging can commence on time, dredging of the north harbor will be delayed until later in the season. She reported that the window extends through February 28, 2011, though the ability to accomplish north harbor dredging will depend on entrance conditions.

13. Financial Report

- a) Quarterly Financial Reports as of September 30, 2010
- b) Cash / Payroll Disbursements – September 2010
- c) Employee Count
- d) Delinquent Accounts over 90 Days
- e) Comparative Revenue Graphs

Discussion: Port Director Ekers reviewed the quarterly financial statements, reporting that operating income is 55% overall and expenses are 49% overall. She reported that the fuel dock has been separated into its own department on this report, and will be further refined for the next report. Expenditures relating to the fuel operation are shown. She reported that in addition to the expenses shown for the fuel operation, there was a capital outlay of approximately \$26,000.

Port Director Ekers reviewed departmental expenses, reporting that temporary salaries in the Operations Department are high due to higher seasonal staffing needs; however, it is not anticipated that this line item will be overbudget.

Vice-chairman Geisreiter suggested he would like to see the number of weeks budgeted vs. what has been worked, noting it is helpful in reviewing dredge labor expense. He also questioned if the CMIA reserve is a new break-out. Commissioner Goddard stated he was surprised to see cash at \$1.6 million, expressing his belief that it was closer to \$1.3 million – he questioned whether this difference may be related to the CMIA reserve. Vice-chairman Geisreiter also expressed his opinion that deposits being held for customers are not actually the District's money, and he would like to see this accounted for differently.

MOTION: Motion made Commissioner Lee, seconded by Vice-chairman Geisreiter, approve the cash / payroll disbursements for September 2010, in the amount of \$482,948.11.  
- Motion carried unanimously.

Discussion: The delinquent accounts report was briefly reviewed. Commissioners commented that Harbormaster Izenstark's efforts have improved collection of past due accounts.

Port Director Ekers briefly reviewed the revenue graphs, reporting that the slip vacancy rate is somewhat higher. Harbormaster Izenstark commented that the vacancy rate is expected to continue to rise as the winter season approaches. He also noted that this report does not account for inside-ties.

14. Harbormaster's Report
- a) Crime / Incident / Citation Report (September 2010)
  - b) Slip Release Surveys

Discussion: Harbormaster Izenstark reviewed the crime / incident report.

Harbormaster Izenstark reported on a small electrical fire at M-dock, which was caused by old wiring. As a result, maintenance is inspecting the electrical wiring on all of the brow piers and gangways that supply electricity to the docks in the north and south harbor.

Harbormaster Izenstark reported that rotting leaves in a west side storm drain prompted several reports of a propane smell in the area.

Harbormaster Izenstark also reported that:

- Intero Real Estate Services hosted an e-waste recycling event on October 9;
- a slip renter died of natural causes aboard his vessel on October 13;
- surfers were cited in the entrance on October 25;
- sport crab season starts November 6; commercial follows on November 15.

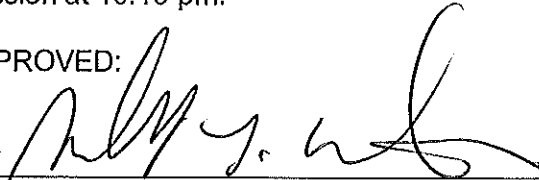
Harbormaster Izenstark reported that he is working with representatives of the City and County who are studying the feasibility of acquiring a fire boat.

Harbormaster Izenstark reported Far West Marine purchased less than 100 lbs of white sea bass for the month-to-date.

Harbormaster Izenstark reported that three self-rescue ladders will be installed at the fuel dock, T-dock and near the hoist at D-dock. He reported that there are plans to expand the number of locations.

Chairman Martin adjourned the regular public session at 10:10 pm.

APPROVED:

  
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Jeff Martin, Chairman

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