

Special Closed / Public Session of September 21, 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		

SPECIAL OPEN SESSION

Chairman Martin brought the special public portion of the closed session to order at 6:15 pm at the Harbor Public Meeting Room, 365A Lake Avenue, Santa Cruz, CA.

1. Announcement of Closed Session Pursuant to Government Code (Ralph M. Brown Act) Section 54957.6

Chairman Martin announced that the Commission will meet in closed session to discuss agenda item #2 (listed below).

SPECIAL CLOSED SESSION

2. Conference with Labor Negotiators
Agency Designated Representatives: L. Ekers; C. Izenstark; T. Davis
Employee Organization: Operating Engineers Local #3

SPECIAL OPEN SESSION

3. Action and Vote Disclosure after Closed Session Pursuant to Government Code Section (Ralph M. Brown Act) Section 54957.1

At 6:42 pm, Chairman Martin announced that the committee took no reportable action in closed session on item #2. He announced that the special public session will reconvene at 7 pm, after a short break.

BREAK

Chairman Martin reconvened the special public session at 7:00 pm

4. Pledge of Allegiance
5. Approval of Minutes
 - a) Regular Public Session of August 24, 2010
 - b) Special Public Portion of Closed Session of August 27, 2010

MOTION: Motion made by Commissioner Goddard, seconded by Vice-chairman Geisreiter, to approve the minutes of the regular public session of August 24, 2010.
- Motion carried unanimously.

MOTION: Motion made by Vice-chairman Geisreiter, seconded by Commissioner Lee, to approve the minutes of the regular public session of August 27, 2010.
- Motion carried unanimously.

6. Oral Communication

Discussion: Commissioner Goddard announced that he heard the City Parks and Recreation Department has received an award for restoration work done in Arana Gulch, using ARRA (American Recovery and Reinvestment Act) funds.

Dave Harrison, Operating Engineers Local No. 3 union representative, discussed what the union perceives as unprecedented challenges in the current labor negotiation process with the Port District. He stated that the dredge crew, which has been decreased from 6 members to 5, has an immaculate safety record, and production is up. He reported that the Port is asking the crew to cut wages by 5% and pick up 2.5% in health / welfare benefit costs, even though the District recently increased wages for the following positions: Harbormaster +5.6%; Administrative Services Manager +15.4%, Port Director +17%. Mr. Harrison expressed concern that the District has also hired a labor attorney for negotiations – a cost he does not believe was included in the budget. Mr. Harrison expressed his belief that it's not fair to ask the dredge crew to shoulder all of the burden. He stated that the union and crew would like to extend an olive branch, however, and propose a one-year contract in which huge concessions are made, if there is assurance that in future years, this is not a continuing trend.

Chairman Martin expressed his appreciation to the dredge crew and thanked Mr. Harrison for his comments.

7. Written Communication

- a) Letter from S. Moser, to the Port Commission
- b) E-mail from E. Sundet, to Harbor Staff and the Port Commission
- c) Letter from D. Haifley, O'Neill Sea Odyssey, to Port Director Ekers

Discussion: Commissioner Smith suggested that Sheila Moser's concerns, about rates impacting commercial fishermen, should be revisited during the Commission's budget deliberations. He added that the commercial fishery is important to ensure the Port maintains its commercial credits for the Corps of Engineers.

The letter from Ms. Sundet was discussed, which addresses issues with the harbor cam and wi-fi service in the harbor. Audience member Dave Parker stated that part of the problem is that the harbor's current harbor cam system is extremely congested. He has outlined suggestions on how to deal with this problem and provide wi-fi service in an email he copied to Harbormaster Izenstark. Audience member Anne Taber stated she would like the harbor to provide wi-fi service, noting it is standard at other marinas. Chairman Martin noted that given the current budget constraints, addressing the issues raised may take time. Port Director Ekers stated she will copy the Commission on Mr. Parker's email.

8. Adoption of Public Cost Accounting Standards and Purchasing Policy for Contracting, Public Bidding and Purchasing

- a) Approval of Resolution 10-11, electing to become subject to the Uniform Public Construction Cost Accounting Act (UPCCAA)
- b) Establish the Port Director's purchasing authorization and contract approval level
- c) Revise check signing policy

Discussion: Port Director Ekers reported that the UPCCAA is a tool available to any local government agency. She explained that there are four decisions before the Commission:

- Consideration of whether to adopt the UPCCAA. If adopted, then:
- Establish dollar amounts for informal bidding procedures;
- Establish Port Director's authorization levels for purchase orders and contracts;
- Revise check signing policy to increase the limit for checks requiring two signatures.

Port Director Ekers reported that under the Public Contract Code, the District is currently required to competitively bid projects at the following levels:

- new construction / building maintenance work over \$10,000;
- purchases / acquisitions over \$25,000.

She explained that adopting the UPCCAA allows:

- construction work up to \$30,000 by force account or contract;
- informal bidding for work between \$30,000 to \$125,000;
- formal, competitive bidding process for work over \$125,000.

Port Director Ekers briefly reviewed some of informal bidding procedures required if the UPCCAA is adopted, including development and maintenance of a contractor's list. She explained that informal bid invitations, generally describing the work, would be sent to qualified contractors and contracts would be awarded through adopted procedures. Port Director Ekers reported that staff would call for pricing for work under \$30,000.

Port Director Ekers explained that the UPCCAA would establish a \$25,000 purchasing and contract approval level for the Port Director – no Port Commission action would be required below that threshold, but could be sought if it was an item of interest to the Port Commission, or controversial.

Port Director Ekers reported that staff is in the process of discussing development of purchasing procedures, and exploring joint purchasing arrangements with other local government agencies. The goal is to establish internal purchasing procedures to contain costs and streamline purchasing.

Port Director Ekers also recommends revising the check signing policy to increase the limit for checks requiring two signatures from \$3,000 to \$5,000 and for checks requiring signature by at least one Port Commissioner from \$30,000 to \$50,000. Port Director Ekers stated that raising these limits will help expedite payment of invoices.

A discussion ensued about what guidelines staff currently operates under. Commissioner Goddard explained that the \$10,000 and \$25,000 bidding limits currently apply. Vice-chairman Geisreiter questioned whether staff followed the existing limits. Port Director Ekers stated that staff expenditures were guided by the budget adopted by the Port Commission, and an effort was made by staff to get the best price. Port Director Ekers stated that while staff may not have been strictly compliant with the existing bidding limits, the objective was to get the best price possible.

Commissioner Lee questioned whether time and materials contracts would still be allowed, using rehabilitation of the dredge as an example, or if bidders can be pre-qualified for a

formal bidding process in the event that a new dredge is purchased. Port Director Ekers responded that any purchase over the \$125,000 will require formal, competitive bidding. She noted that in the event there is a design-build bid procedure for a new dredge based on written specifications, there will be a decision process among the vendors who do submit bids. She also noted that it is also possible to "sole source" to a vendor, due to the nature of the work.

Vice-chairman Geisreiter expressed his support of the proposal, but stated he has a few questions. He asked whether contracting and purchasing would still be consistent with the budget, if the UPCCAA is adopted. Port Director Ekers responded affirmatively, explaining that if a project is budgeted for in a line item, and the work is within the Port Director's signing authority, the Port Director could enter into a contract for that work without Port Commission review. Vice-chairman Geisreiter also asked whether it's revocable. Port Director Ekers stated she believes that it is, but will confirm. (Later in the meeting, Port Director Ekers reported that the UPCCAA is revocable, by rescinding the ordinance and notifying the State Controller's office.)

Commissioner Smith expressed his support of the proposal. He asked how sole sourcing can be justified under this policy. Port Director Ekers explained that while sole sourcing is allowed, the risk is a potential claim, in which case District counsel would be engaged. Commissioner Goddard commented that the procedure typically involves identifying one of several reasons to justify the decision, and is a fairly common practice.

Commissioner Smith discussed his concern that work documents and performance expectations for projects are clear, so contractors are held accountable, and costs do not escalate over original estimates. Port Director Ekers responded that in construction work, there are no assurances that there won't be surprises due to hidden conditions, using the fuel line replacement project as an example of a project with the potential to have unknown conditions. She stated that contingencies and specification language are intended to provide protection; however, if there is a situation where a project is reaching the formal bidding limit, or there is a large change order that will push the project over budget, Port Commission review is warranted.

Commissioner Goddard expressed his support of the recommendations contained in the staff report, commenting that the current code levels are woefully outdated. He asked about the Commission's role in the approval process in the \$25,000 to \$125,000 range, and whether it will be up front or follow later. Port Director Ekers explained that it will vary: vendor contracts would involve Commission approval of a completed contract form; construction projects would typically involve presentation of a conceptual design or proposal to the Commission up front; and beyond that, there will be a lot that falls in between.

MOTION: Motion made by Commissioner Lee, seconded by Vice-chairman Geisreiter, to approve the staff recommendation, as follows:

- a) Adopt Resolution 10-11, electing to become subject to the Uniform Public Construction Accounting Act; and,
- b) Introduce an ordinance establishing procedures for bidding for public projects under the Uniform Public Construction Cost Accounting Act, authorize legal advertisement of

- proposed ordinance language per Harbors and Navigation Code section 6309.2, and waive reading of the ordinance in its entirety; and,
- c) Establish the Port Director's purchasing and contract approval level at \$25,000; and,
 - d) Revise the check signing policy to increase the limit for checks requiring two signatures from \$3,000 to \$5,000, and for checks requiring signature by at least one Port Commissioner from \$30,000 to \$50,000.
- Motion carried unanimously.

Discussion: Port Director Ekers confirmed that the ordinance will be advertised, as required, and brought back for approval at next month's Commission meeting.

9. Authorize Consulting Contract for Professional Services – B. Foss

Discussion: Port Director Ekers explained that the consulting contract will allow Brian Foss to provide critical assistance with various tasks, including renegotiation of the Cooperative Agreement on dredging with the Corps of Engineers and permitting. The contract would authorize payment for services on a straight hourly rate basis – there is \$23,000 remaining in the salary line item for FY 11 (*Mr. Foss will end his part-time employment with the District as of 10/1/10*). Port Director Ekers reported that this will save the District a modest amount of payroll taxes.

Commissioner Goddard questioned whether this is urgent, or if it can be brought back to next month's meeting, to give him time to read the contract first. Port Director Ekers responded that the \$23,000 limit would be reduced (*due to the additional payroll*), and though not necessarily urgent, Mr. Foss has expressed interest in moving in this direction. Commissioner Goddard stated it is not his intent to hold up approval of the contract.

Commissioner Smith commented that he is ready to take action, noting he spoke with Mr. Foss, who indicated that he is comfortable with the arrangement. He stated it was a paramount concern of his that Mr. Foss was supportive of this arrangement.

In response to a question posed by Vice-chairman Geisreiter, Port Director Ekers confirmed that District counsel has reviewed the contract document.

MOTION: Motion made by Commissioner Smith, seconded by Vice-chairman Geisreiter, to authorize the Port Director to enter into a consulting services contract with Brian Foss.
- Motion carried; Commissioners Martin, Geisreiter, Lee and Smith voting YES; Commissioner Goddard voting NO.

10. Port Director's Report

Port Director Ekers reported as follows:

1986 USACOE / SCPD Cooperative Agreement Amendment Status: The economic study has been completed is being reviewed by the USACOE Division – completion of this review is expected in the next week or so. Following Division review, a draft amendment will be forwarded to the Secretary of the Army.

Dredging – Long-Term Permit Applications: Coastal Commission hearing on the dredging permit is tentatively scheduled for mid-October in Oceanside. This is for approval of the District's dredging permit and tractor activity on the beach – liberalization of permits for inner-harbor dredging will not be

effective until also approved by other agencies (*i.e.*, disposal of more than 3,000 CY of clean, fine-grained material in the surf-line). Administrative Services Manager Olin explained that another element needed for approval of liberalized permits for inner-harbor dredging, is completion of the report for Dredging Demonstration Project #3, which is anticipated in December 2010. Port Director Ekers explained that there has been some discussion of delaying the Coastal hearing to November, which would require a time extension on existing permits; however, no action has been taken to delay, so for now, an October hearing is anticipated. She reported that Brian Foss will also attend the hearing with her, and be available to answer technical questions that may arise.

Arana Gulch Watershed: Port Director Ekers reported she toured the watershed and Blue Trail Gully area. She reported that AGWA executive director, Bobbie Haver, is pursuing a possible \$250,000 grant from the Integrated Regional Water Management Plan, for project planning that potentially includes the tidal basin area. She reported that the grant application is a competitive process. If approved, AGWA will look to the Port District, County and City for the \$25,000 cost share. Port Director Ekers reported that if this grant application is successful, it could supplement or replace the previously proposed FEMA pre-hazard mitigation project. Port Director Ekers reported that Bobbie Haver will retire from AGWA November 1 – how to fill that void will need to be discussed.

Harbor-operated Fuel System: Port Director Ekers reported that preliminarily, it appears the fuel service operation will break even, not accounting for infrastructure costs. She reported she is in the process of trying to reconcile the books on transfer of this operation with Leo and Diane Morelli, and reported that it appears that the fuel line may need work. Port Director Ekers reported she is also looking at the feasibility of adding a fuel pump in the launch ramp area for Port District vehicles. Commissioner Smith asked whether the fuel line replacement is anticipated to be within the \$75,000 budgeted for this work. Facilities Manager Fouts responded that the contractor's plans need to be reviewed, to determine whether any additional engineering work is needed.

Port Director Activities: Port Director Ekers briefly recapped her meetings with Supervisor Mark Stone, County CAO Susan Mauriello, City Manager Martin Bernal, and her plans to attend the California Association of Harbormasters and Port Captains "CAHMPC" meeting, and the California Marine Affairs and Navigation Conference meetings in October.

Marina Software Demonstrations: Two marina programs have been reviewed so far. The goal is to get a windows-based program that can interface with accounting software and track other elements of the harbor operation, such as fuel service operations. Commissioner Goddard suggested checking references with marinas using the software. Port Director Ekers confirmed that this is something she wants to do when she attends the CAHMPC conference in Oceanside.

Payroll Contractor Update: Staff is in the process of assessing services proposals submitted by PayChex and CBIZ.

Port Director Ekers also reported:

- Coastal Clean-Up Day is Saturday, September 25;
- It is anticipated that Aquarius Boat Works will complete their work on the dredge workboat, "Dauntless," on September 27;
- The new pump for the dredge, "Seabright," is scheduled to ship October 8.

11. Financial Report

- a) Cash / Payroll Disbursements – August 2010
- b) Delinquent Accounts over 90 Days
- c) Comparative Revenue Graphs

Discussion: Port Director Ekers and staff fielded questions on the warrants. Staff to report back on warrant #32688, payable to Applied Industrial Technologies.

A discussion ensued about the recent high-pressure gas line explosion that occurred in the Bay Area. Commissioners suggested that Port Director Ekers write a letter to PG&E inquiring about the exact location and status of any such line within the harbor area.

MOTION: Motion made Commissioner Lee, seconded by Commissioner Goddard, approve the cash / payroll disbursements for August 2010, in the amount of \$418,405.17.
- *Motion carried unanimously.*

Discussion: Harbormaster Izenstark reported that recent efforts have paid off and have improved collection on delinquent accounts. He stated staff collection efforts will continue, which he hopes will continue the downward trend.

Vice-chairman Geisreiter questioned when the District stops counting past-due slip rent as revenue. Harbormaster Izenstark responded that when the vessel has been removed or sold, any uncollected balance is written off at that time. Further discussion ensued about when the slip rent is booked as income – Port Director Ekers stated she will research this further and report back.

Port Director Ekers briefly reviewed the seasonal revenue graphs, reporting revenue is at or slightly above budget projections. She noted that launch revenue is much stronger than anticipated.

Port Director Ekers answered a question about color coding on the slip vacancy report from last month's meeting, explaining that red indicates the vacancy rate exceeded the amount anticipated in the budget, and green indicates the vacancy rate is less than what was anticipated in the budget. In response to a question by Chairman Martin about the slip vacancies, Harbormaster Izenstark reported he anticipates there will be an increase in north harbor vacancies as winter approaches, especially in 20' to 25' slips. He reported there is still a small waiting list for north harbor 30' slips.

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

Discussion: Harbormaster Izenstark reported that the stolen maintenance truck was recovered in operating condition – some tools were recovered as well.

Harbormaster Izenstark reported the last Crow's Nest beach barbecue was held on September 2. He also reported that the recreational sport salmon season has also ended.

Harbormaster Izenstark reported that two deputy harbormasters will attend a boating skills class sponsored by the Department of Boating and Waterways.

Harbormaster Izenstark reported that as of October 1, the new hours of operation for the fuel pier are 8 am to noon; the fuel pier is closed Tuesdays and Wednesdays.

Harbormaster Izenstark reported the water taxi has stopped operating for the season. In 2010, the taxi transported 8,700 passengers.

Harbormaster Izenstark reported Far West Marine purchased 3,112 lbs of albacore valued at \$4,489, and 2,256 lbs of sardines valued at \$1,128, for the month-to-date.

Chairman Martin commented on the letter received from Sheila Moser (item 7.a, Written Communication), stating though he has received various opinions from harbor users about whether the District should move forward with an electronic gate-key system, he prefers a system that has proximity sensor that can be affixed to a key ring, versus a credit card-type key system.

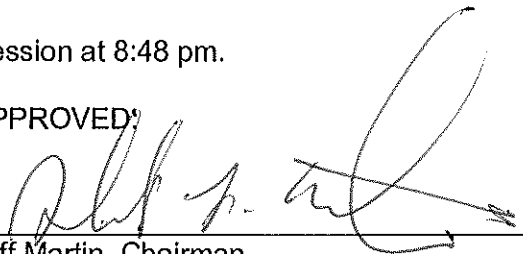
Chairman Martin also stated that he has heard a suggestion from a slip renter that stand-up paddleboarders should be charged to use the harbor, perhaps by purchasing wristbands. Harbormaster Izenstark and Administrative Services Manager Olin reviewed how stand-up paddleboarders are charged, explaining that lesson operators are assessed a monthly fee, while others either pay for parking or a car-top launch. Audience member Eileen Sundet discussed her concerns about dangerous operations she has observed, such as SUP's leaving the harbor after dark, or transiting the entrance 5-abreast. She commented that SUP operators do not seem to be very knowledgeable about safety and etiquette. Port Director Ekers agreed, commenting that serious education is needed. Further discussion ensued about the desirability / feasibility of constructing storage racks for SUP's that could be rented to users.

Commissioner Goddard stated he would like to ensure that an annual review of business use of slips is done within the next three months, noting the review was skipped last year.

An audience member questioned whether 2 stolen vehicles in one month is average, and whether kayak thefts are typical or infrequent. Harbormaster Izenstark responded that while vehicle thefts are rare, some kayaks are reported stolen each year, especially during the summer season.

Chairman Martin adjourned the regular public session at 8:48 pm.

APPROVED:



Jeff Martin, Chairman

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