



Regular Public Session of April 26, 2011

SANTA CRUZ HARBOR

Gateway to the Monterey Bay Santa Cruz Port Commission
National Marine Sanctuary **MINUTES**

Members Present:

Reed Geisreiter Chairman
Bill Lee Commissioner
Toby Goddard Commissioner
Jeff Martin Commissioner

Members Absent:

Dennis Smith Vice-chairman

Chairman Geisreiter brought the regular public session to order at 7:05 pm at the Harbor Public Meeting Room, 365 A Lake Avenue, Santa Cruz, CA 95062

1. Pledge of Allegiance

Port Director Ekers introduced Port District counsel, Dan Siegel. Administrative Services Manager Olin informed the audience that speaker cards will be required for any item they wish to address with the Commission.

2. Oral Communication

Discussion: Cathryn Hilliard introduced herself as a representative of the Construction Industry Force Account Council, an agency that monitors public agency bidding practices. She informed the Commission that her agency was contacted due to the pile-driving contract that was awarded to Associated Pacific Constructors. She urged the Commission to be aware of the district's bidding practices and urged them to bid out future projects. She stated that her agency's goal is to obtain work for local contractors, while getting the district the best possible price for all work performed.

Dave Harrison, Local Operating Engineers representative, spoke on behalf of the dredge crew. He stated that the crew's one-year contract is set to expire July 1, 2011. With contract negotiations about to begin, he asked the Commission to evaluate the district's choice of counsel with Burke, Williams and Sorensen Law Firm. Mr. Harrison presented several news articles regarding the law firm's past history of collecting fees that may be exorbitant or exceed the prices the district may want to pay.

Audience member Eileen Sundent expressed her gratitude to Port Director Ekers and District staff for pursuing funding to repair the harbor.

Commissioner Lee informed the Commission that a tsunami study is in the works. He stated that the study will focus on four harbors: Santa Cruz, Crescent City, Ventura and San Diego. Commissioner Lee stated that writing a letter in support of the study would be beneficial.

Commissioner Goddard stated that the City of Santa Cruz is forming a committee to replace signage throughout the city. He stated that he does not want the harbor to be left out of this valuable opportunity, as signage is how patrons find the harbor and its concessions. Commissioner Goddard volunteered to be an active member of this committee, on the harbor's behalf.

3. Written Correspondence

- a) Memo from R. Haver, AGWA, to Port Commission, et al
- b) Letters to Senator Feinstein; Senator Boxer; and, Congressman Farr, from Chairman Geisreiter
- c) Letter to Chancellor Blumenthal, from Chairman Geisreiter
- d) Letter from P. Myers, Outrigger Santa Cruz Canoe Club, to Port Commission and Harbormaster
- e) E-mail from J. Threet, to Port Commission
- f) E-mail from Congressman Farr, to Port Director Ekers
- g) Letter to R. Chick, American Red Cross, from Port Director Ekers
- h) Letter from M. Bowyer, American Red Cross, to Port Director Ekers
- i) Letter from S. Riley, CIFAC, to Port Director Ekers
- j) Letter to S. Riley, CIFAC, from Port Director Ekers
- k) Letter from P. Karinen, Pile Drivers Local No. 34, to Port Director Ekers
- l) Letter to P. Karinen, Pile Drivers Local No. 34, from Port Director Ekers
- m) Letter from M. Collins, Kayak Connection, to Port Commission

Discussion: Pam Myers, President of the Outrigger Santa Cruz Canoe Club, read her letter aloud and asked the Commission to reconsider the parking sticker procedure for her club. She asked the commission to grant seven parking stickers, with the option to purchase seven additional for \$50.

Margaret Collins, owner of Kayak Connection, asked the Commission to explore possible solutions for her business, as her operation has been displaced due to the tsunami. She stated that June, July and August are the Kayak Connection's busiest months and she would like a location where she can safely conduct classes and demonstrations.

Commissioner Lee suggested that staff evaluate both of these situations. Chairman Geisreiter agreed.

Regarding the consent agenda, Commissioner Lee asked counsel Dan Siegel if he can vote on minutes if he was not in attendance at the meeting. Counsel Siegel stated that Commissioners cannot be legally compelled to abstain, so how to proceed is based on an individual Commissioner's comfort level. The item can either be pulled off the consent agenda or voted on.

Chairman Geisreiter pulled the minutes off of the consent agenda.

4. Approval of Minutes

- a) Special Public Portion of Closed Session of February 8, 2011
- b) Special Public Portion of Closed Session of February 16, 2011
- c) Regular Public Session of February 22, 2011
- d) Special Public Meeting of March 16, 2011

e) Special Public Meeting of March 29, 2011

MOTION: Motion made by Commissioner Goddard, seconded by Commissioner Martin, to approve the minutes of the special public portion of closed session of February 8, 2011

- Motion carried unanimously; Vice-chairman ABSENT.

Motion made by Commissioner Lee, seconded by Commissioner Goddard, to approve the minutes of the special public portion of closed session of February 16, 2011.

- Motion carried; Chairman Geisreiter ABSTAINED, Vice-chairman Smith ABSENT.

Motion made by Commissioner Lee, seconded by Commissioner Martin, to approve the minutes of the regular public session of February 22, 2011.

- Motion carried unanimously; Vice-chairman Smith ABSENT.

Motion made by Commissioner Lee, seconded by Commissioner Goddard, to approve the minutes of the special public meeting of March 16, 2011.

- Motion carried; Commissioner Martin ABSTAINED, Vice-chairman Smith ABSENT.

Motion made by Commissioner Goddard, seconded by Commissioner Martin, to approve the minutes of the special public meeting of March 29, 2011.

- Motion carried unanimously; Vice-chairman Smith ABSENT

Consent Agenda

- 5. Authorize Port Director to Cast Vote in 2011 Election of Special District Member on LAFCO
- 6. Approval of Resolution 11-05 – Authorizing Port Director to Execute Agreement with California Department of Boating and Waterways for \$32,000 Vessel Turn-In Program “VTIP” Grant.
- 7. Denial of Claims
 - a) Evans, Lawrence (\$14,500)
 - b) Tuson, Robin (\$2,885)
 - c) Ashley, Susan (\$8,670)
 - d) Hughes, Bobby (\$3,549)

MOTION: Motion made by Commissioner Goddard, seconded by Commissioner Martin to approve consent agenda items 5-7.

- Motion carried unanimously; Vice-chairman Smith ABSENT

Regular Agenda

8. Update on Tsunami Recovery Efforts

Discussion: Port Director Ekers informed the commission that a structural engineering inspection has concluded and staff is awaiting compilation of the data. Port Director Ekers stated that although the damage in the north harbor was visible and extensive, the south harbor also sustained significant damage. Although everything may look normal in the south harbor, structurally every dock sustained damage during the tsunami, with the possible exception of FF-dock. As each day progresses, more damage is discovered. Port Director Ekers stated that the structural engineering report will help prioritize how the harbor is rebuilt. Port Director Ekers explained that revenue loss from missing and unusable slips, the inability to accommodate visiting vessels, and launch ramp impacts, results in a monthly loss of approximately \$29,400. Port Director Ekers stated that staff is aware of users' needs and staff is working at trying to accommodate these users if possible.

Commissioner Goddard asked about the prioritization schedule during this rebuild process. Commissioner Goddard stated that all decisions should weigh cost and affordability, as well as economic losses from harbor concessions. Commissioner Goddard explained that safety and security should be the top priority, but harbor businesses should be a high priority as well, falling in behind safety and security.

Chairman Geisreiter concurred that the success of the harbor is largely dependent upon harbor businesses.

Commissioner Lee and Martin both agreed.

Port Director Ekers noted that a number of harbor businesses have been impacted, including but not limited to: UCSC, Aquarius, Vessel Assist, Kayak Connection, Santa Cruz Rowing Club, Leo's Sportfishing and fuel service operations.

Chairman Geisreiter thanked staff for their hard work during the recovery efforts and reiterated that although the harbor may appear normal, staff is still operating in emergency mode.

9. Authorize Port Director to Execute Services Agreement between County of Santa Cruz and Port District for Mutual Aid Staffing to Assist with Tsunami Recovery Efforts.

Discussion: Port Director Ekers reported that a civil engineer from the County public works department has been made available to the District, to help assist with FEMA document preparation. Port Director Ekers explained that county personnel have experience working with FEMA, and will be able to assist with handling FEMA documents. Port Director Ekers stated that this additional help will assist the harbor with the startup and management of the disaster assistance. She also stated that funding for this additional assistance is reimbursable by FEMA.

Commissioner Goddard expressed his support. He stated that if the funding is reimbursable through FEMA, there is no reason not to approve the agreement.

MOTION: Motion made by Commissioner Martin, seconded by Commissioner Lee to authorize the Port Director to execute services agreement between County of Santa Cruz and Port District for mutual aid staffing to assist with tsunami recovery efforts.

-Motion carried unanimously; Vice-chairman Smith ABSENT

10. Authorize Port Director to Execute Loan Documents for \$2 Million Line-of-Credit with Comerica Bank for Tsunami Recovery Work.

Discussion: Before discussion began, Chairman Geisreiter excused himself from the meeting, due to his employment with Comerica Bank.

Port Director Ekers introduced Mark Martinez, a representative from Comerica Bank. Port Director Ekers explained that the purpose of this line-of-credit is to ensure that funds are available to cover contracts that are awarded. She stated that the current pile-driving contract is approximately \$750,000 and in order to award the U-Dock project, the District must be able to show sufficient funding for it.

Port Director Ekers stated that it is not her intention to draw on this line-of-credit a lot, if at all. She explained that Commission approval would be required to draw any money from this credit line.

Commissioner Goddard stated that he foresaw the need for a line-of-credit like this for U-dock. Commissioner Goddard questioned whether the District's current line-of-credit (\$150,000) would be set aside in lieu of this \$2 million line-of-credit. Commissioner Goddard stated he would like to see a monthly report on how this line-of-credit is being utilized. Commissioner Goddard expressed his support of the line-of-credit.

Commissioner Martin asked staff to confirm that there were no conflicts with current collateral.

Port Director Ekers explained that currently she did not believe there were any conflicts, but agreed to double-check to confirm.

MOTION: Motion made by Commissioner Goddard to authorize Port Director Ekers to execute loan documents for \$2 million line-of-credit with Comerica Bank for tsunami recovery work.

Discussion: Commissioner Goddard stated that with the approval of the rest of the Commission, he would like to suggest an adjustment to one of the terms offered by Comerica. In regard to providing annual financial statements, within 120 days, Commissioner Goddard suggested asking for an additional month to provide those statements.

Commissioner Lee expressed his support of the motion with the two stipulations of checking the collateral and receiving an extension on the annual financial statements.

Commissioner Goddard restated his motion as follows:

MOTION: Motion made by Commissioner Goddard, seconded by Commissioner Martin to authorize the Port Director to execute loan documents for a \$2 million line-of-credit with Comerica Bank for tsunami recovery work.
-Motion carried. Chairman Geisreiter ABSTAINED; Vice-chairman Smith ABSENT.

Discussion: Commissioner Goddard noted that the staff report references Public Contracts Code Section 20168 which applies to cities – it should reference Section 20751 which applies to Port Districts

11. Continuation of Emergency Pile Driving Authorization (No verbal staff presentation)

Discussion: Operating Engineers Local #3 representative, Dave Harrison, asked the Commission to remove Associated Pacific Constructors from the project once the emergency declaration is lifted.

Commissioner Goddard stated that with the information that has been presented regarding pile damage, and Port Director Ekers' report on dock damage, he believes there is a compelling argument that an emergency still exists. Commissioner Lee agreed.

Mr. Siegel, Port District counsel, informed the Commission that in the absence of Vice-chairman Smith, a unanimous vote of the remainder of the Commission will be required to continue the emergency declaration.

Commissioner Martin suggested looking at other competitive bid prices for similar work to ensure the price is reasonable.

Port Director Ekers reported that the prices given to the District by Associated Pacific Constructors were comparable to the most recent pile driving contract in the area, which took place in Moss Landing in 2007.

MOTION: Motion made by Commissioner Goddard, seconded by Commissioner Martin to authorize the continuation of emergency pile driving.
- Motion carried. Vice-Chairman Smith ABSENT.

12. Approval of Resolution 11-06 – Award of Contract for Emergency Replacement of U-dock

Discussion: Operating Engineers Local #3 representative, Dave Harrison thanked staff for putting the U-dock project out to bid. Mr. Harrison stated that the customary award time between the dates a bid is open, and the selection of a bid, is five days. Mr. Harrison stated that the District's decision to select a

bid in one day seems hasty. Mr. Harrison requested the Commission postpone awarding the bid at this meeting to give more time to fully investigate the bidders.

Port Director Ekers explained that District counsel prescribed all specifications, timing and award procedures. Port Director Ekers reported that two bids were received, which did not require a large amount of time to investigate. Certain specifications and requirements that were set forth in the bid packets were designed to protect the Port District and the public's money. Port Director Ekers explained that awarding the contract is contingent upon the Port District having available funds.

District Counsel Dan Siegel stated that legally, there are no time limits set forth regarding when a bid is opened and when it can be awarded. Mr. Siegel suggested that the Commission may want to consider adding language to the resolution that make the award of the contract contingent upon receiving sufficient funds.

Commissioner Martin expressed his support of awarding the contract at this meeting. He stated that the lost revenue and displaced renters are all legitimate reasons to act quickly and start this project.

Commissioner Goddard stated that he was not at the Maintenance and Construction Committee meeting and asked for a brief recap on what was discussed at that meeting.

A brief discussion ensued regarding the topics reviewed at that committee meeting. It was noted that much of the discussion centered on the differences between concrete and plastic dock material.

Port Director Ekers explained that the basis of this award is for plastic dock material. Concrete is offered as an option, due to the fact that concrete docks can be completed sooner.

Mr. Siegel informed the Commission that if they were to award the contract at this meeting, they would also have to select between concrete or plastic. The current resolution is written, for plastic dock material, but the resolution could be amended to select concrete.

Chairman Geisreiter opened the floor to representatives from Bellingham Marine. The representatives discussed the difference between plastic and concrete and also fielded questions from the Commission. Bellingham's representatives confirmed that concrete docks should not be allowed to sit on the ground at low tides, or damage is likely to occur.

Commissioner Lee asked the Commission if they needed more time to make a decision. Commissioner Lee stated that with all of the information, he feels comfortable selecting the plastic dock material. Commissioner Goddard also expressed his support for the plastic dock material. Commissioner Martin

expressed his support for plastic as well, if it means that the project could get underway. Chairman Geisreiter agreed.

- MOTION: Motion made by Commissioner Goddard, seconded by Commissioner Martin to approve Resolution 11-06- award of contract for emergency replacement of U-dock, with the following amendments
- Plastic dock material is selected
 - Add language to item #2 of resolution, stating, "Only enter into the construction contract upon confirmation of sufficient funds."
 - *Motion carried. Vice-chairman Smith ABSENT*

13. Approval of Cash / Payroll Disbursements

Discussion: Commissioner Goddard pointed out the itemization of tsunami related warrants, versus regular warrants. Administrative Services Manager Olin stated that this was correct.

- MOTION: Commissioner Martin, seconded by Commissioner Lee approve the cash / payroll disbursements for February and March 2011, in the amount of \$403,664.36 and \$453,198.37, respectively.
-Motion carried unanimously.

14. Port Director Report

Port Director Ekers reported as follows:

U.S. Army Corp of Engineers Dredging Permit Renewal: Administrative Service Manager Olin reported that the Public Notice for the 10-year permit renewal has been published and is online.

FEMA Kickoff Meeting: FEMA kickoff meeting will take place Wednesday, April 27, 2011. Maintenance staff, Dan Hill compiled documents relating to the initial emergency response work, which was greatly appreciated.

AGWA Transition: Stephanie Strudley is set to take over Bobbie Haver's previous position. Ms. Strudley would prefer not to use the office space previously designated for AGWA, but will rather use a laptop and work from home. Ms. Strudley's position will be pursuant to a grant contract with the Resource Conservation District.

Routine Reports: Due to heavy workload, routine reports such as the delinquency report and seasonal revenue graphs are not included in the packet. Both are available upon request.

15. Harbormaster's Report

Harbormaster Izenstark reported as follows:

Commercial Salmon Season: Commercial salmon season is set to open on May 1, 2011. There will be demand and pressure for berthing that the harbor does not currently have.

Salmon and Trout Project: Monterey Bay Salmon and Trout Project participants will deliver the first load of fish to the launch ramp pen on May 18, 2011. They will bring three loads in total, one week apart.

Delinquent List: The current delinquent list is comparable to months past. The current 90-day balance is \$16,560. The bad debt has changed only minimally and currently totals \$8,996. These bad debts may be reconcilable through the Vessel Turn-In Program and lien process.

Commissioner Goddard asked for a status report on the harbor's two patrol boats. Harbormaster Izenstark stated that currently the harbor does not have a boat to operate offshore. The inflatable tubes for the Almar are currently being replaced. It is estimated to take two months before that project is completed. Harbormaster Izenstark stated that he has been working with State Parks to perform rescue operations.

Harbormaster Izenstark reported that fortunately, a serious need for offshore rescue operations has not arisen yet.

16. Crime / Incident / Citation Report (January 2011)
(There was no discussion on the Crime / Incident / Citation Report).

Chairman Geisreiter adjourned the Regular Public Session at 8:59 pm.

APPROVED:



Reed Geisreiter, Chairman