



Special Closed & Regular Public Session of August 28, 2018

**Santa Cruz Port Commission
MINUTES**

Commissioners Present:

Dennis Smith	Chairman
Stephen Reed	Vice-Chairman
Toby Goddard	Commissioner
Reed Geisreiter	Commissioner
Darren Gertler	Commissioner

SPECIAL PUBLIC SESSION – 5:30 PM

Chairman Smith brought the special public session to order at 5:30 PM at the Santa Cruz Harbor Office, 135 Fifth Avenue, Santa Cruz, CA 95062.

1. Oral Communication
2. Announcement of Closed Session Pursuant to Government Code (Ralph M. Brown Act) Section 54956.8.

At 5:31 PM, Chairman Smith announced the Commission will meet in closed session to discuss agenda item 3.

SPECIAL CLOSED SESSION

3. Conference with Real Property Negotiators
Agency Designated Representative: M. Olin
Negotiating Parties: 616 Atlantic Avenue (Aldo's Restaurant)
Under Negotiation: Lease

SPECIAL PUBLIC SESSION

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

Chairman Smith announced that the Commission took no reportable action in closed session on item 3.

Chairman Smith adjourned the special open session following the closed meeting at 6:50 PM.

REGULAR PUBLIC SESSION – 7:00 PM

Chairman Smith brought the regular public session to order at 7:00 PM at the Santa Cruz Harbor Public Meeting Room, 365 A Lake Avenue, Santa Cruz, CA 95062.

5. Pledge of Allegiance
6. Oral Communication (*There was no discussion on this agenda item*)

CONSENT AGENDA

7. Approval of Minutes
 - a) Special Closed & Regular Public Session of July 24, 2018
8. Public Hearing to Approve Resolution #18-11, Adopting a Conflict-of-Interest Code
9. Award of Contract for Regular and On-Call Janitorial Services
10. Approval of Amendment to the Port Director's Employment Agreement

MOTION: Motion made by Commissioner Geisreiter, seconded by Vice-Chairman Reed to approve the consent agenda, items 7 – 10.
- *Motion carried unanimously.*

REGULAR AGENDA

11. Approval of Lease Assignment – 493 Lake Avenue (Johnny's)

Discussion: Port Director Olin recommended approval of a lease assignment for 493 A Lake Avenue (Johnny's Harborside). She stated that pursuant to Paragraph 14(c) of the lease agreement, a lease assignment is necessary to document the 50% transfer of ownership from Mr. Richard Kash to Mr. Daniel Agostinis, and the 25% transfer of ownership from Mr. Richard Kash to Ms. Ciera Kash.

Port Director Olin stated that Johnny's remains in good standing with the Port District, and confirmed that Mr. Kash will remain the guarantor on the lease.

Commissioner Geisreiter stated that he is supportive of the lease assignment as long as Mr. Kash remains the guarantor.

MOTION: Motion made by Commissioner Geisreiter, seconded by Commissioner Goddard to approve assignment of the lease for 493 A Lake Avenue (Johnny's Harborside Restaurant) from Richard Kash, dba Harbor Culinary Enterprises, to Daniel Agostinis, dba Harbor Culinary Enterprises and Ciera Kash, dba Harbor Culinary Enterprises.
- *Motion carried unanimously.*

12. Approval of Business Use of Slip (B. Lee, Wizard Yachts)

Discussion: Harbormaster Marshall stated that slip renter Bill Lee is requesting that his slip, T-09, be designated as a business use slip. She stated that Mr. Lee proposes to utilize the slip for berthing vessels that are listed for sale through his brokerage business. Additionally, the slip may be used as a temporary berthing location for vessels subsequent to a sale.

Harbormaster Marshall stated that the business use designation will provide Mr. Lee with the flexibility necessary to operate his brokerage business, without being constrained by registration, size, or personal use requirements. She recommended approval.

Harbormaster Marshall fielded a variety of questions from the Commission and highlighted the following:

- Approval of Mr. Lee's business use request will generate approximately \$4,600 per year in additional revenue;
- Mr. Lee no longer retains a charter license (which was discontinued when Mr. Lee sold his 68' sailing vessel, *Merlin*, in December 2017);
- Slip T-09 can feasibly accommodate more than one vessel, depending on the size;
- Mr. Lee intends to use his slip in conjunction with his brokerage business, which will eliminate his need to sublease the slip.

There was consensus among the Commission to approve business use of slip T-09.

MOTION: Motion made by Commissioner Goddard, seconded by Vice-Chairman Reed to approve business use of slip T-09.
- *Motion carried unanimously.*

13. Authorize Financing for Pile Replacement Project and Aldo's Seawall Project (\$3,350,000):
- a) Adoption of Resolution 18-10 – Declaring District's Intention to Reimburse Certain Expenditures from the Proceeds of Tax-Exempt Obligations
 - b) Adoption of Ordinance 18-03 – Authorization of the Form of All Financing Documents

Discussion: Port Director Olin stated that at the regular public session of June 26, 2018, the Commission directed staff to pursue financing approximately \$3,350,000, with BBVA Compass Bank, to fund the two Capital Improvement Projects (Aldo's Seawall Replacement Project and the Pile Repair and Replacement Project).

Port Director Olin stated that she and Commissioner Geisreiter have been working with BBVA to develop terms of the loan agreement, which are presented to the Commission for review and approval at tonight's meeting.

She stated that the terms of the new loan and modification to existing 2013 loans with BBVA are structured to have equivalent debt parity requirements. She highlighted the following:

- Reduction of the Port District's debt service ratio (DSR) from 1.4 to 1.25 (non-cash pension liability, like depreciation, can be removed from the DSR calculation);
- Cancellation of the \$2 million line of credit that was established under the 2013 Loan Agreements with BBVA;
- Establishment of two separate loans (one for the Aldo's Seawall Replacement Project and one for the Pile Repair and Replacement Project);
- Agreement that loans are pre-payable at any time without penalty.

Port Director Olin stated that there is a discrepancy between Ordinance 18-03, which was publicly advertised on August 22, 2018, and BBVA's term sheets. She stated that Ordinance 18-03 states a fixed rate of interest not to exceed 3.50%, while BBVA's term sheets indicate a fixed rate of interest not to exceed 3.56%. Port Director Olin stated that she is working with BBVA and is hopeful that a modification to the term sheets, determining a fixed rate of interest not to exceed 3.50%, will be approved.

Commissioner Geisreiter stated that in order to recognize BBVA's potential fixed rate adjustment, he suggested that the following language be added to section 2.iii of the motion, "so long as the rate is 3.5% or less in accordance with Ordinance 18-03, and authorizes the Port Director to sign the term sheets when a rate of 3.5% or less is confirmed with BBVA." Commissioner Goddard expressed his support for the proposed language addition.

A discussion ensued regarding stipulations of the loan agreement. Port Director Olin responded to a variety of questions posed by the Commission:

- Payments for the two loans will be made separately;
- Restricts approximately \$300,000 to \$400,000 of Port District cash to meet DSR requirements;
- Authorizes reimbursement for hard project costs up to ninety days before the date of the executed agreement (reimbursement excludes soft costs, such as engineering costs). *Note: Ninety day reimbursable period was subsequently corrected to sixty days after the meeting;*
- Funding for both projects in the FY19 CIP Budget will be reallocated at a future public meeting.

Chairman Smith thanked Port Director Olin and Commissioner Geisreiter for their time, effort and hard work with BBVA.

MOTION: Motion made by Commissioner Geisreiter, seconded by Commissioner Gertler to:

1. Adopt Resolution No. 18-10, which (i) authorizes commencement of proceedings in connection with the financing of certain project improvements, (ii) declares District's intention to reimburse certain expenditures from the proceeds of tax-exempt obligations, and appoints The Weist Law Firm to provide necessary bond counsel services in connection therewith.
2. Adopt Ordinance 18-03, and authorize the Port Director to sign the term sheets when a rate of 3.5% or less is confirmed with BBVA, which (i) authorizes the form and execution of two separate installment sale agreements, which, in turn, provides for the execution and delivery of "Santa Cruz Port District, Series 2018A Revenue Obligations (Santa Cruz Harbor Pile Replacement Project), Bank Qualified," in an amount not to exceed \$1,750,000, and the "Santa Cruz Port District, Series 2018B Revenue Obligations (Santa Cruz Harbor Seawall Replacement Project), Bank Qualified," in an amount not to exceed \$1,600,000, (ii) amends the loan agreements dated as of September 1, 2013 (the "2013 Loan Agreements," by providing approval in the form of two separate Supplements, (iii) approves and directs execution of the corresponding Term Sheets provided by BBVA, so long as the rate is 3.5% or less in accordance with Ordinance 18-03, and authorizes the Port Director to sign the term sheets, (iv) authorizes and directs cancellation of the line of credit established under the 2013 Loan Agreements, and (v) provides for other matters properly related thereto.

- *Motion carried unanimously.*

14. Review of Draft FY18 Audited Financial Statement

Discussion: Port Director Olin introduced Kim Said of the auditing firm, Hutchinson and Bloodgood.

Ms. Said reviewed the draft FY18 audit and reported that the District received a clean, unmodified audit in all respects for the year ending March 31, 2018. Ms. Said stated that that no adjusting journal entries were required as part of this year's audit, making it a very smooth process.

Ms. Said highlighted the following:

- Operating income is equal to \$583,000, an increase of \$367,000 over prior fiscal year. Contributing factors include:
 - Revenues increased 7% (primarily due to concession rent)
 - Expenses were within 1% of prior year
- \$190,000 increase in net pension liability expense related to GASB 68

- Overall \$941,000 increase in net position (3% increase over Fy17)

Commissioner Goddard questioned if there is a way to more clearly reflect the District's non-cash pension liability in the audit. Commissioner Geisreiter suggested that the non-cash pension liability be shown as separate line items on pages 15 and 17. Ms. Said agreed, and indicated she will make the change if lead auditor Karen Semingson supports the modification.

Commissioner Geisreiter asked for additional information on the reduction of approximately \$323,659 to Port District equipment. Accounting Technician Mark Eldridge stated that the Port District sold several pieces of equipment in FY18, including the dozer, backhoe, and crane, which resulted in the asset values being removed from the books.

In response to a question posed by Commissioner Goddard, Ms. Said stated that the notes included in the financial statements are standardized to ensure compliance with Governmental Accounting Standards Board (GASB) and General Accepted Accounting Principles (GAAP) requirements.

A discussion ensued regarding the Port District's net pension liability. Commissioner Goddard commented that the audit reflects on the previous fiscal year, noting that it does not project future pension costs and trends. Port Director Olin agreed and stated that projections are more typically reviewed as part of the budget process.

Port Director Olin stated that the final audit will be presented to the Commission for acceptance at the regular public session of September 25, 2018.

In response to a question posed by Commissioner Goddard, Port Director Olin stated that she is currently working to draft an investment policy to be reviewed by the Business-Finance Committee before it is presented to the full Commission for approval.

Commissioners thanked staff for their efforts in preparing this year's audit.

15. Approval of Cash / Payroll Disbursements – July 2018

Discussion: Commissioner Gertler asked for additional information on Warrant #50125 – Crime Insurance Policy. Port Director Olin stated that she will contact a representative from Lockton Insurance to obtain a complete description of the crime insurance policy.

Chairman Smith asked for additional information on Warrant #50114 – Elevator Contract Service (\$218.40 Tenant Reimbursable). Port Director Olin

confirmed that the elevator is on the premise of 2222 East Cliff Drive, and the tenant is responsible for a portion of the fee.

MOTION: Motion made by Vice-Chairman Reed, seconded by Commissioner Goddard to approve the Cash / Payroll Disbursements for July 2018, in the amount of \$938,316.15.
- Motion carried unanimously.

INFORMATION

16. Port Director's Report

Right of Entry Permit

Port Director Olin stated that State Parks issued a five-year Right of Entry Permit to the Port District, which permits Port District access to Twin Lakes State Beach for dredging operations at Santa Cruz Harbor, if needed. She noted that State Parks reduced the permit fee to \$3,550 (originally \$7,050), to acknowledge State Parks' cooperative, working relationship with the Port District. She reported that charging a permit fee is a new requirement for this State Parks' permit.

Extension of Temporary Hydrogen Sulfide Nuisance Prevention Protocol

Port Director Olin stated that the Monterey Bay Air Resources District (MBARD) has issued an extension of the temporary hydrogen sulfide nuisance prevention protocol for the 2018-2019 dredging season. She stated that MBARD has indicated that it is willing to consider modification of the protocol beyond the 2018-2019 dredging season, but any proposed permit modifications will require submission of fees and additional hydrogen sulfide monitoring data.

Verizon Wireless Cell Tower

Port Director Olin stated that Verizon Wireless has expressed that it is no longer interested in pursuing the installation of a cell tower in the area of the O-Dock restroom.

Port District Recruitment

Port Director Olin welcomed Kevin Melrose to his new position as Boatyard Crew at the harbor. She stated that Kevin has worked at the harbor in a variety of capacities, including dredge monitoring and parking operations.

California Marine Affairs and Navigation Conference (CMANC)

Port Director Olin stated that the California Marine Affairs and Navigation Conference (CMANC) will be held on September 12 - 14, 2018, in Oakland, California. She stated that she and Chairman Smith will be attending.

U.S. Supreme Court Janus Ruling

Port Director Olin stated that OE3's employment agreement with the Port District will be modified to ensure compliance with the U.S. Supreme Court's recent Janus Ruling. She

stated that any modifications to the employment agreement will be presented to the Commission for review and approval at a future meeting.

USACE Funding

Port Director Olin stated that the U.S. Army Corps of Engineers (USACE) work plan funding provided \$32,250 in excess funding to the Port District for FY18. She stated that this surplus will likely carry over to FY19 to cover costs associated with FY19 dredging operations.

17. Harbormaster's Report *(There was no discussion on this agenda item)*

18. Facilities Maintenance & Engineering Manager's (FME) Report

A discussion ensued regarding the completion of Phase I of the Pile Repair and Replacement project. Commissioner Goddard suggested that staff reflect on the challenges encountered during phase I of the project, emphasizing that this will help better prepare for phase II of the project. Chairman Smith agreed. Port Director Olin stated that staff plans to involve a contract engineering firm to include certain requirements and specifications (i.e. barge size, equipment, definitions, etc.) in the request for proposals (RFP) for phase II of the project, and provide construction administration services.

19. Bi-Annual Slip Vacancy Report / Waiting List Statistics

In response to a question posed by Commissioner Goddard, Administrative Services Manager Mac Laurie confirmed that there is 250 linear feet of space available for the ABC end-tie berthing program (not 250 slips available).

20. Review of Delinquent Accounts *(There was no discussion on this agenda item)*

21. Review of Financial Reports *(There was no discussion on this agenda item)*

a) Comparative Seasonal Revenue Graphs

22. Crime / Incident / Citation Report – July 2018. *(There was no discussion on this agenda item)*

23. Port Commission Review Calendar / Follow-Up Items

Chairman Smith requested that development of an investment policy be added to the calendar for Committee review.

Chairman Smith adjourned the regular public session at 8:00 pm



Dennis Smith, Chairman