



Regular Public Session of April 26, 2022

**Santa Cruz Port Commission
MINUTES**

Commission Members Present:

Darren Gertler Vice-chair
Dennis Smith Commissioner
Stephen Reed Commissioner
Toby Goddard Commissioner

Commission Members Absent:

Reed Geisreiter Chair

SPECIAL PUBLIC SESSION – 5:30 PM

Vice-chair Gertler convened the special public session at 5:30 PM at the Harbor Public Meeting Room, 365 A Lake Avenue, Santa Cruz CA.

1. Oral Communication

Chair Geisreiter was reported absent.

2. Announcement of Closed Session Pursuant to Government Code (Ralph M. Brown Act) Section 54956.8 and 54957.

At 5:30 PM, Vice-chair Gertler announced that the Commission will meet in closed session to discuss agenda items 3 and 4.

SPECIAL CLOSED SESSION

3. Conference with Real Property Negotiators
Property: 616 Atlantic Avenue
Agency Designated Representative: H. MacLaurie
Under Negotiation: Lease

4. Public Employee Performance Evaluation
Title: Port Director

SPECIAL PUBLIC SESSION

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

Vice-chair Gertler announced that the Commission took no reportable action in closed session on items 3 and 4.

Vice-chair Gertler adjourned the special open session following the closed meeting at 6:45 PM.

REGULAR PUBLIC SESSION – 7:00 PM

Vice-chair Gertler convened the regular public session at 7:00 PM at the Harbor Public Meeting Room, 365 A Lake Avenue, Santa Cruz CA.

6. Pledge of Allegiance
7. Oral Communication

Chair Geisreiter was reported absent.

Commissioner Goddard reported that he recently attended a CMANC meeting at the Port of Oakland, where U.S. Deputy Secretary of Transportation Polly Trottenberg met to discuss various transportation related items affecting ports and harbors throughout California.

CONSENT AGENDA

8. Approval of Minutes
 - a) Special Closed Meeting of March 2, 2022
 - b) Special Closed Meeting of March 14, 2022
 - c) Regular Public Meeting of March 22, 2022

MOTION: Motion made by Commissioner Goddard, seconded by Commissioner Smith to approve consent agenda item 8.
- *Motion carried. Commissioner Geisreiter ABSENT.*

REGULAR AGENDA

9. Approval of Resolution 22-10 – Commending Senior Deputy Harbormaster J. Haynes, Deputy Harbormaster D. Hill, and Deputy Harbormaster P. Guy

Discussion: Port Director MacLaurie stated that Resolution 22-10 commends Senior Deputy Harbormaster J. Haynes, Deputy Harbormaster D. Hill, and Deputy Harbormaster P. Guy for their creditable actions in the line of duty on April 10, 2022, which resulted in the arrest of a wanted suspect that posed a significant threat to the welfare of the community.

The Commission thanked Senior Deputy Harbormaster Haynes, Deputy Harbormaster Hill, and Deputy Harbormaster Guy for their service and actions on April 10, 2022.

MOTION: Motion made by Commissioner Goddard, seconded by Commissioner Reed to approve resolution 22-10.
- *Motion carried. Commissioner Geisreiter ABSENT.*

10. Consideration of 6-Pak Charter Permit Application – Barbarossa Fishing

Discussion: Harbormaster Anderson requested that the Commission consider authorization of a launch ramp based 6-pak charter operation. He stated that approval of this request will have minimal impact on parking, as customers will arrive in one or two cars in the early morning hours and depart by early afternoon. He stated that upon acceptance of a permanent slip, Mr. Payton will be required to submit another charter permit application for Port Commission review, as future impacts may change.

Mr. Payton thanked the Commission for their consideration of his request.

Commissioner Smith expressed support for approving the proposed charter operation. Vice-chair Gertler agreed.

MOTION: Motion made by Commissioners Smith, seconded by Commissioner Goddard to approve a launch ramp based 6-pak charter permit application for Justin Payton of Barbarossa Fishing.
- *Motion carried. Commissioner Geisreiter ABSENT.*

11. Approval of Long-Term Lease for Santa Cruz Yacht Club Dry Storage

Discussion: Port Director MacLaurie stated that negotiations for a new long-term lease with the Santa Cruz Yacht Club recently concluded. She stated that the Port District has a longstanding working relationship with the Santa Cruz Yacht Club and recommended approval of the lease.

Port Director MacLaurie stated that prior to executing the lease, the premise map (Exhibit A) will be revised to depict the leasehold area more accurately.

Commissioner Goddard expressed support for awarding the new lease and continuing the mutually beneficial relationship the Port District has with the Santa Cruz Yacht Club.

MOTION: Motion made by Commissioner Smith, seconded by Commission Reed to approve the long-term lease with Santa Cruz Yacht Club.
- *Motion carried. Commissioner Geisreiter ABSENT.*

12. Denial of Claim – J. Tomasello

Discussion: Port Director MacLaurie stated that Mr. Tomasello has submitted a claim to the District in the amount of \$24,096.38 for damages resulting from a collision with a dredge anchor wire on December 28, 2021. The claim includes \$5,061.68 for towing and vessel repair, and \$19,034.40 in lost income.

Port Director MacLaurie recommended the claim be denied based on the following:

- Language in the Port District's slip license agreement includes a clear and specific waiver that releases the District of liability in the event a vessel collides with dredge equipment.
- Staff made multiple attempts to settle the claim for the damage to the vessel pursuant to the \$5,000 authority granted under Port Commission Policy 1030.1 (Property Damage Claims), including waiving \$996.00 in boatyard haulout and layday fees.
- The claimant's vessel was uninsured at the time of the incident.
- Determining a precise method for calculating actual lost income associated with the claim is challenging given the unpredictable nature of the commercial fishery.
- Historically, claims involving collisions with dredge equipment and lost income have been denied by the Port Commission. Once denied, the claimant may seek to recover damages via insurance or civil action.

Port Director MacLaurie stated that Mr. Tomasello is in attendance at tonight's meeting and may wish to address the Commission.

Geoffrey Rawlings, legal counsel for Mr. Tomasello, addressed the Commission and requested that Mr. Tomasello's claim be approved for the full amount of \$24,096.38. Mr. Rawlings provided additional details on the calculation method used to determine lost revenue.

Commissioner Smith expressed support for settling Mr. Tomasello's claim for the full amount (including lost income) and stated that in his opinion, the positioning of the dredge anchor cables created a hazard in the channel, which led to the collision.

Commissioner Goddard stated that while the damage sustained to Mr. Tomasello's vessel is unfortunate, the Port District must defer to the specific waiver in the slip license agreement that releases the District of liability in the event a vessel collides with dredge equipment when considering these claims.

A discussion ensued regarding alternate settlement options. There was consensus among the Commission to table this item and consider it at a future closed session, in accordance with the Brown Act.

13. Approval of Assignment and Assumption of Subleases and Amended and Restated Lease Agreement – 2222 East Cliff Drive

Discussion: Port Director MacLaurie stated that the Port District and OSO have reached agreement to execute an Assignment and Assumption of Subleases, as well as an Amended and Restated Lease, which will become the operative lease agreement between the parties. She stated that the effective date of both

documents will be June 1, 2022, and at that time, the District will assume control of all second story suites (with OSO continuing to sublease Suite 234).

Port Director MacLaurie stated that Ordinance 22-01, authorizing the Amended and Restated Lease was advertised in accordance with H&N Code Section 6270.

A brief discussion ensued regarding the timeline for the repairs of the second story deck.

Commissioner Smith thanked Port Director MacLaurie and staff for the extensive work associated with these negotiations. Commissioner Goddard agreed.

- MOTION: Motion made by Commissioner Goddard, seconded by Vice-chair Gertler to
1. Approve the Assignment and Assumption of Subleases; and
 2. Approve Ordinance 22-01 authorizing the form, terms, and execution of an Amended and Restated Lease Agreement between the Santa Cruz Port District and O'Neill Sea Odyssey
- *Motion carried. Commissioner Geisreiter ABSENT.*

14. Approval of FY23 Fee Schedule

Discussion: Port Director MacLaurie stated that several fee categories are proposed for adjustment, including concession lot parking fees, visitor berthing fees, and event fees. She stated that for discussion and comparison purposes, the proposed FY23 fee schedule includes a column depicting a 3.2% increase to each fee, which is commensurate with the FY23 marina fee increase.

A discussion ensued regarding the proposed fees and the following changes were recommended:

- Event fees to be increased as follows:
 - Harbor Beach 0-100 people - \$350.00 / day
 - Harbor Beach Addt'l 50 people - \$150.00 / day
 - West Jetty - \$300.00 / day
 - Information Booth - \$60.00 / day
 - Live Music/DJ - \$185.00 / day
 - Stereo System - \$85.00 / day
 - Volleyball Court - \$70.00 / court / 4-hours
- Public meeting room fees to remain at \$25.00 / hour
- Commercial visitor berthing fee to increase to \$0.75 / foot / day, instead of \$0.90 / foot / day.

In response to a question posed by Commissioner Goddard, Port Director MacLaurie stated that staff is prepared to implement fee schedule changes effective May 1, 2022.

MOTION: Motion made by Commissioner Goddard, seconded by Vice-chair Gertler to approve the FY23 fee schedule, with the proposed revisions listed above, and authorize the Port Director to waive or adjust fees as deemed appropriate.
- *Motion carried. Commissioner Geisreiter ABSENT.*

15. Approval of FY23 Boatyard Fee Schedule

Discussion: Port Director MacLaurie recommended approval of the proposed FY23 boatyard fee schedule.

MOTION: Motion made by Commissioner Goddard, seconded by Commissioner Smith to approve the FY23 Boatyard fee schedule and authorize the Port Director to waive or adjust fees as deemed appropriate.
- *Motion carried. Commissioner Geisreiter ABSENT.*

16. Award of Contract for Preliminary Engineering and Conceptual Design of West Side Seawall (NTE \$100,000)

Discussion: Port Director MacLaurie stated that the section of the west side seawall that extends from A-Dock to FF-Dock was constructed in 1963, and remains original to the harbor. She stated that it is largely concluded that the seawall is reaching the end of its useful service life and will require full replacement in the coming years.

Port Director MacLaurie stated that as part of the Port District's Priority List for 2022, the west side seawall inspection and options analysis was identified as a priority project. She stated that a proposal from Mesiti-Miller Engineering (MME) was solicited for preliminary engineering and conceptual design services to assist with long-range planning for this project.

Port Director MacLaurie stated that while MME's proposal does not include performing a comprehensive condition assessment of the seawall, planned fieldwork (including geotechnical and dive inspections) will provide a general understanding of the wall's current condition. Additionally, she stated that given the corrosive marine environment, increasing age of the wall, and MME's observations during the Aldo's Seawall Replacement Project (which was a similar vintage to the west side seawall), it is expected that the steel sheet piles along the west side seawall have experienced severe deterioration.

Commissioner Goddard stated that obtaining a comprehensive condition assessment prior to moving forward with the engineering and design phases of the project would be beneficial. He expressed support for revising the scope of work to include a more extensive assessment of the existing seawall and receiving a report summarizing findings and conclusions.

Port Director MacLaurie stated that this additional work can be included in a revised proposal and brought back to the Commission at a future date. She stated that including this work in the scope will increase overall project costs.

There was consensus among the Commission to have MME revise their scope of work to include a comprehensive condition assessment and report prior to exploring replacement options for the wall.

17. Approval of Cash / Payroll Disbursements – March 2022

Discussion: In response to questions posed by the Commission, staff provided additional information on the following warrants:

- Warrant # 56355 – Janitorial Services, Refuse Collection
Staff confirmed that this combined warrant is for two separate services (Janitorial Services and Refuse Collection).
- Warrant # 56409 – *Twin Lakes* Wire Rope
Staff confirmed this wire rope purchase was a tsunami related expense.
- Warrant # 56446 – Public Officials Insurance Premium
Staff confirmed that this insurance policy premium increased significantly over the prior year.

MOTION: Motion made by Commissioner Smith, seconded by Commissioner Reed to approve cash and payroll disbursements for March 2022 in the amount of \$645,600.00.

- *Motion carried. Commissioner Geisreiter ABSENT.*

INFORMATION

18. Port Director's Report

Insurance Coverage

Port Director MacLaurie stated that insurance coverage for FY23 has been bound. She stated that premiums increased by approximately \$425,000 or 123% over the prior year.

Crow's Nest Beach Barbeques

Port Director MacLaurie stated that the Crow's Nest's application for a Coastal Development Permit (CDP) for their Thursday Night Beach Barbeque events is scheduled for review by the Coastal Commission on May 13, 2022.

Contract Executed

Port Director MacLaurie stated that the following contracts have been executed:

- American Trash Management for trash management system design and development (NTE \$8,000)
- William Fischer Architecture for preliminary architectural and engineering services for tsunami damage to the north harbor restroom facilities (NTE \$5,000)

Patrol Boat Dedication Ceremony

Port Director MacLaurie stated that the District will host a Patrol Boat Dedication Ceremony on May 20, 2022, at 3:00 PM at the east side public pier.

Business / Finance Committee Meeting

Port Director MacLaurie stated that a Business / Finance Committee Meeting has been scheduled for May 18, 2022, at 11:30 AM to discuss pension cost mitigation techniques and strategies associated with the District's unfunded accrued liability. Committee members are Chairman Geisreiter and Commissioner Smith.

CalOES Tsunami Disaster Assistance

Port Director MacLaurie stated that the District's request for disaster assistance is making its way through the appropriate channels at CalOES to determine if state funding will be made available for damages sustained during the tsunami on January 15, 2022. She stated that the Port District's application has reached the desk of the Deputy Director of Recovery who will make the final determination. The timeline for receiving this determination remains unknown.

19. Harbormaster's Report

Harbormaster Anderson stated that the demand for visitor berthing has been steady since the opening of commercial salmon season.

Harbormaster Anderson stated that twelve surrendered vessels are scheduled for demolition at the boatyard on April 27, 2022, through the Surrendered and Abandoned Vessel Exchange (SAVE) Grant Program. He stated that to date, this is the largest number of vessels scheduled for demolition.

20. Facilities Maintenance & Engineering Report (*There was no discussion on this agenda item*)

21. Financial Reports

- a) Comparative Seasonal Revenue Graphs
- b) Employee Count as of March 31, 2022
- c) Quarterly Budget Report as of March 31, 2022
- d) Quarterly Fuel Sales Report
- e) Quarterly Boatyard Report
- f) Quarterly Concession Percentage Rent Performance Report
- g) LAIF Statement & PMIA / LAIF Performance Report

22. Delinquent Account Reporting (*There was no discussion on this agenda item*)

23. Harbor Patrol Incident Response Report – March 2022 (*There was no discussion on this agenda item*)
24. Written Correspondence (*There was no discussion on this agenda item*)
 - a) Letter to Senator Laird from Chairman Geisreiter
 - b) Letter to Mayor Brunner from Chairman Geisreiter
25. Port Commission Review Calendar / Follow-Up Items (*There was no discussion on this agenda item*)

Vice-chair Gertler adjourned the regular public session at 9:17 PM.



Darren Gertler, Vice-chair