



Special Closed and Special Public Session of August 10, 2021

**Santa Cruz Port Commission
MINUTES**

Commission Members Present:

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

SPECIAL PUBLIC SESSION – 9:00 PM

Chairman Goddard convened the special public session at 9:00 AM at the Santa Cruz Harbor Public Meeting Room, 365 A Lake Avenue, Santa Cruz, CA 95062.

1. Oral Communication
2. Announcement of Closed Session Pursuant to Government Code (Ralph M. Brown Act) Section 54956.9(d)(2)

At 9:00 AM, Chairman Goddard announced the Commission will meet in closed session to discuss agenda item 3.

SPECIAL CLOSED SESSION

3. Conference with Legal Counsel – Anticipated Litigation (2 Cases)

SPECIAL PUBLIC SESSION

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

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

5. Oral Communication
6. Resolution Declaring the Santa Cruz Port District's Intent to Transition from an At-Large Port Commission Election Process to a District-Based Election Process

Discussion: Port Director Olin stated that the Port District received a letter from attorney Micah Fargey in January 2021, threatening to file suit if the Port District did not transition from an at-large election process to a by-district election process, claiming the current at-large system violates the California Voting

Rights Act (CVRA).

Port Director Olin stated that the law provides public agencies with the opportunity to adopt a resolution of intention to transition to district-based elections and avoid litigation, though the law also mandates payment of attorneys' fees totaling approximately \$30,000. She stated that because of the pandemic, and Governor Newsom's Executive Order of April 9, 2020, the statutory timeline was temporarily suspended giving the Port District additional time to learn more about the process and consider its options.

Port Director Olin stated that the Executive Order was lifted as of July 1, 2021, and noted that Port District Counsel Barbara Choi recommends the Commission adopt a resolution declaring its intention to transition to district-based elections by no later than August 16, 2021.

Port Director Olin recommended the Commission adopt the resolution expressing its intent to transition to district-based elections and highlighted the following:

- The attached resolution expresses the Commission's intention to transition to district-based elections by the 2024 election.
- The costs associated with transitioning are estimated at \$100,000 or less, and will likely be expensed over three fiscal years (FY22, FY23, and FY24).
- No funds are included in the FY22 budget for expenses incurred this year.
- The Commission can elect to cover current unbudgeted expenditures out of any surplus funding from the FY22 budget and/or unreserved cash as needed. The staff report outlines the possibility of using reserve funds to cover the expenditure; however, that option is deemed impractical.

In response to a question posed by Commissioner Reed, Counsel Choi stated that the District will contract with a qualified demographer to assist in the transition process and conduct the required public outreach.

Prior to the motion, Chairman Goddard noted that neither the plaintiff Avaraham Sabaduqui or the plaintiff's attorney Micah Fargey were in attendance.

MOTION: Motion made by Commissioner Reed, seconded by Commissioner Smith to approve Resolution 21-03.

Discussion: Commissioner Smith stated that while he is in support of the resolution declaring intent to transition to district-based elections, he opposes the

timeline for the 2024 transition in favor of an earlier timeline (prior to the 2022 election). Commissioner Gertler agreed.

MOTION: Motion made by Commissioner Reed, seconded by Commissioner Smith to approve Resolution 21-03, and to cover the current unbudgeted expenditures out of surplus funding from the FY22 budget.

- *Motion carried. Commissioners Geisreiter, Reed, and Goddard voting YES. Commissioner Gertler and Smith voting NO.*

7. Approval of Resolution 21-04, Approving the Possession and Use Agreement Between the City of Santa Cruz and Santa Cruz Port District for Purposes of Constructing the Murray Street Bridge Seismic Retrofit and Barrier Replacement Project

Discussion: Port Director Olin stated that the Port Commission reviewed the draft Possession and Use Agreement in closed session on July 27, 2021. She stated that the final draft is presented for approval and highlighted the following:

- The Port District did not accept the settlement agreement offered by the City's consultant, Bender Rosenthal, Inc., and will be obtaining an independent appraisal to confirm temporary and permanent easement impacts and associated costs for each;
- The Possession and Use Agreement is being executed as an interim measure while the City and Port District continue to negotiate terms of a final settlement agreement;
- Delivery of the District's independent appraisal report is estimated to be 60 to 120 days out;
- The Possession and Use Agreement is an agreement between the parties to negotiate in good faith on a future settlement agreement and grants possession and use of portions of the Port District's property to accommodate the project.

In response to a question posed by Chairman Goddard, Joshua Spangrud, Senior Civil Engineer for the City of Santa Cruz, confirmed that while the project's right of possession date is listed as September 1, 2021, construction is not anticipated to begin for several months.

District Counsel Barbara Choi stated that the City's attorney has confirmed that the preliminary start/end dates are required for CalTrans to release project funding and confirmed that construction will not begin until after all estimates, appraisals, and permanent agreements are compiled.

Vice-chairman Geisreiter stated that it will be imperative for the City to perform robust public outreach to inform the community of the project's impacts. He encouraged the City to extend outreach beyond the harbor

community and adjacent neighborhoods. Mr. Spangrud confirmed that a community meeting will be held in the coming months following broad public outreach efforts.

Port Director Olin stated that despite best efforts, nothing about the agreements between the Port District and City of Santa Cruz will make this project easy when construction is underway.

MOTION: Motion made by Vice-chairman Geisreiter, seconded by Commissioner Smith to approve Resolution 21-04, approving the Possession and Use Agreement ("Agreement") and Memorandum of Possession and Use Agreement ("Memorandum") between the City of Santa Cruz and the Santa Cruz Port District; and, authorize the Port Director to execute the Agreement and Memorandum documents.

- *Motion carried unanimously.*

Chairman Goddard adjourned the special public session at 10:08 AM.



Toby Goddard, Chairman