

**PORT OF REDWOOD CITY
BOARD OF PORT COMMISSIONERS REGULAR MEETING
WEDNESDAY – FEBRUARY 09, 2011**

MINUTES

I. CALL TO ORDER

8:00 A.M.: Chairman Garcia, presiding

Commissioners Present: Commissioner Richard A. Dodge; Commissioner Tom Cronin; Secretary Lorianna Kastrop; Vice Chairman Richard S. Claire; and, Chairman, Ralph A. Garcia, Jr.

Commissioners Absent: None

Staff Present: Executive Director, Michael J. Giari; Special Counsel to Port, Francois X. Sorba; Director of Finance & Administration, Cynthia D. Hampton; Manager of Operations, Donald K. Snaman; Manager of Development & Compliance, Eric Napralla; Accounting Clerk, Linda Hawkins; and Receptionist/Administrative Assistant, Margaret Astesano

Commissioner Claire led the Pledge of Allegiance.

II. APPROVAL OF MINUTES

A Motion to Approve Minutes of Regular Meeting of January 26, 2011 was made by Commissioner Cronin and Seconded by Commissioner Kastrop. Commissioner Claire abstained. The motion passed by a unanimous voice vote of all Commissioners present at the January 26th meeting.

III. CLAIMS

Commissioner Kastrop inquired about a payment made to CEL Analytical, Inc. for the services of an industrial hygienist. Executive Director Giari explained that offices leased to Basic Chemical Solutions, which are adjacent to the Port Administration offices, experienced water damage in a utility closet due to a leaking pipe. Mold developed in the closet as a result of the water damage and Port staff hired an industrial hygienist to analyze the air for spores.

A Motion to Approve Claims was made by Commissioner Dodge and it was seconded by Commissioner Kastrop. The motion passed by a unanimous voice vote of all Commissioners.

IV. RESOLUTION

A. RESOLUTION APPROVING SECOND AMENDMENT TO SUBLEASE AGREEMENT – (Portside Investors – Phase I Lease Agreement) – (NORMAN NEWHOUSE).

B. RESOLUTION APPROVING FIRST AMENDMENT TO SUBLEASE AGREEMENT – (Portside Investors – Phase I Lease Agreement) – (WINGHART LAW GROUP).

Items IV-A and IV-B were discussed and handled as one item.

A Motion to Adopt was made by Commissioner Dodge. It was seconded by Commissioner Claire. The motion passed by a unanimous roll call vote of all Commissioners.

C. RESOLUTION ACKNOWLEDGING CONSIDERATION PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT OF THE PROPOSED MITIGATED NEGATIVE DECLARATION AND INITIAL STUDY FOR THE SRDC RECYCLING FACILITY PROJECT LOCATED AT THE PORT OF REDWOOD CITY, CITY OF REDWOOD CITY, IN THE COUNTY OF SAN MATEO MAKING CERTAIN FINDINGS PERTAINING TO A CERTAIN PROJECT IN CONNECTION THEREWITH; APPROVING THE MITIGATED NEGATIVE DECLARATION RELATING TO ENVIRONMENTAL IMPACTS FOR SAID PROJECT; AND AUTHORIZING THE FILING OF A NOTICE OF DETERMINATION AND THE PAYMENT OF EXPENDITURES, FEES AND COSTS RELATED THERETO – (SRDC)

Attorney Sorba explained that an argument has been made by an attorney stating that the notice given for this matter was not adequate. In order to avoid the issue and any litigation that may follow, Sorba stated that his recommendation to the Port Commission is to not adopt the Negative Declaration today and to re-notice the meeting according to Code Section 15072.

Commissioner Claire asked what procedure was used by the Port to give notice to the public of the Notice of Intention to Adopt this item. Sorba responded that the Public Notice of Intent to Adopt a Mitigated Negative Declaration can be done in one of three ways – either by publication in a newspaper - or public posting at the site - or mailing to occupants and owners of properties adjacent to the site. One method is sufficient. The Port followed that method when it gave notice of the Notice of Intention to Adopt and of the Public Hearing that was done properly for the September 9th Port Commission meeting.

The argument that is made now by an attorney is that today's meeting did not follow that procedure although notice was given to occupants and owners of properties adjacent to the site and the agenda was sent to all interested parties. However, the argument is that the letter of the law was not followed and the argument on the other side is that there was substantial compliance.

Chairman Garcia recommended that due to the procedural issues in question this item should be tabled.

Commissioner Kastrop asked if the Port Commission could hear comments about this item from members of the public who are present today.

Attorney Sorba explained that under the Public Comment period of the agenda, members of the public have the right to address the Port Commission on any matter within the subject matter jurisdiction of the Board and that are not on the Agenda.

A Motion to Table Item IV-C to a future meeting was made by Commissioner Dodge. It was seconded by Commissioner Claire. The motion passed by a unanimous voice vote of all Commissioners present.

V. **MOTION**

A. MOTION APPROVING SEQUOIA YACHT CLUB DECK IMPROVEMENTS.

Executive Director Giari explained that Sequoia Yacht Club (SYC) has leased a building at the Municipal Marina from the Port since 1986. During this time, SYC has been an excellent tenant, maintained the building and surrounding premises, and a contributor to recreational boating in Redwood City.

As part of the original construction of the SYC building, there was a wooden outdoor deck that runs along the side of the building facing the Marina. Due to normal wear and tear about one-half of the deck is in need of replacement. The other half of the deck has been maintained with normal repairs. The SYC retained the services of a structural engineer who developed plans and specs for the proposed deck improvements project. The project will include a new redwood deck, railings, supporting framing, and reinforcement of the concrete pedestal foundations.

In accordance with the provisions of their lease, the SYC has requested approval from the Port Commission for the replacement of the existing deck. They also want to add an additional 400 square feet to the existing deck. SYC has submitted permit applications to BCDC and to the City of Redwood City.

Don Snaman, Manager of Operations, explained that the outdoor deck proposed for replacement is along the back of the building. SYC wants to expand the deck approximately 5 feet out to the existing piers/pilings and use the existing piers/pilings as supports for the expanded deck.

Byron Jacobs, Staff Commodore, Sequoia Yacht Club, explained that the deck area in front of the SYC lounge was inspected and it was found that a portion of the substructure needs to be replaced. The joists and the beams have a substantial amount of rot. The yacht club's general contractor, Herb Huber, will open that up to make a determination about what needs to be replaced and what needs to be repaired. The SYC has sufficient funding for this project and, if approved by the Port Commission, would be able to present a structure that is both safe and attractive.

Commissioner Dodge asked if the old, existing piers are cement and Jacobs replied that they are. BCDC has approved repairs to the piers for the proposed use.

Commissioner Kastrop inquired about mitigation measures that SYC is required to do by BCDC. Commodore Jacobs explained that BCDC determined that the proposed extension would impact protected marshland. BCDC agreed to give SYC a permit for their deck extension if SYC would mitigate the encroachment on the protected marshland by either performing 240 hours of volunteer work for one of the local agencies that restore the Bay or SYC could pay \$4,000 to one of those agencies. Two of the SYC members have anonymously agreed to donate that money, which SYC will donate to Save the Bay's Bair Island project.

Commissioner Kastrop asked Attorney Sorba for a legal opinion on whether or not she was allowed to vote on this matter since she is an honorary member of SYC. Sorba asked Kastrop what kind of privileges she has as an honorary member. Kastrop replied that she

had none other than those she would already have as a paying member of another yacht club in the Bay area with reciprocal privileges. Sorba responded that he did not see a conflict.

A Motion to Approve was made by Commissioner Cronin. It was seconded by Commissioner Dodge. The motion passed by a unanimous roll call vote of all Commissioners present.

VI. REPORT/PRESENTATION by Cynthia Hampton, Director of Finance & Administration

A. Mid Year Financial Report (December 31, 2010 Comparative)

Ms. Hampton explained that her report is on the Mid-Year Financial Results for Fiscal Year to Date December 31, 2010.

Regarding tonnage, Ms. Hampton said there were 411,000 metric tons fiscal year to date and scrap metal has taken over for the second or third year in a row as being the number one volume cargo. It is the only cargo that has actually beat both Budget and last year.

Total Operating Revenue \$2.8 million. Maritime comprises \$2 million of that or 72% and that is consistent with historical results as far as the percentages go.

Total Operating Expense \$1.6 million. It is comprised of 64% or \$1 million Operating Expenses and \$576,000 in Administrative Expenses. Those ratios are consistent with what we typically experience.

Taking an overview look at the comparison of Actual to Budget fiscal year to date, Operating Revenue is better than Budget. You can see that Expenses are less than Budget so combined that produces a greater amount of Operating Income than was budgeted.

Non-Operating Income is just about on Budget.

Subvention is a little bit higher due to slightly higher revenues.

Net Income after Subvention is significantly greater than Budget.

Ms. Hampton commented that that is where the Port stands for the first six months of the fiscal year.

Ms. Hampton continued by saying that one of the things that is coming up is how far we have to go to reach our budget for the whole year. Even though we are in great position coming into the second half of the year, one of the things that we have coming up is a significant amount of grant income. While we will definitely hit our Operating Income (we only have 35% to go) we may or may not make the total bottom line numbers because it will depend on the timing of our capital projects that are funded by the grant.

Commissioner Kastrop asked if in the reduction in Operating Expenses versus Budget there was anything significant that was not expended that we have determined to not spend or put off to the future.

Ms. Hampton responded that there are some items budgeted in Professional Services that may or may not occur during this fiscal year. Executive Director Giari commented that some of those have to do with studies that we plan to do such as the Port Master Plan but we have not commenced that study as yet so there have been no funds expended.

Commissioner Claire commented that he did an analysis of the Port's income statement and balance sheet and that he would invest a lot of money in the Port if it were a private company. In his opinion, the Port's balance sheet looks outstanding.

Chairman Garcia commented that as usual Ms. Hampton's report was well done.

B. Certified Quarterly Investment Report (Quarter Ended December 31, 2010)

Ms. Hampton commented that, as Commissioner Clair said, the Port's balance sheet is in very good condition and as our auditors presented at our last meeting, we have over three year's left of reserves available. This is a cash position that we have been building up for years in anticipation of making some huge capital expenditures. As you know the Port industry is very capital intensive and things such as wharves, piers, and any marine type work is extremely expensive. The Wharves 1 and 2 project is well under way and an RFP is out for qualifications for engineering and project management. We are anticipating that we will be expending a fair amount of money for this project. We are taking a look at the best way to do that. It could be partially cash, partially bonds or it might be all bonds with an early retirement of our existing bonds. Alternates will be studied and presented to the Commission for consideration.

Currently we have \$18.6 million in reserves. As Commissioner Claire mentioned, that has done tremendous things for our balance sheet and we are very fortunate that we have been able to do that. Interest rates are so low that the budget included one-half of one percent and it never anticipated that it could possibly go lower than that. Yet, even returns from LAIF, are in the four-tenths of one percent range.

Commissioner Dodge commented that the Port has 5 or 6 different reserve funds set up and capital projects is one of them. Dodge said it is his understanding that the funds the Port set up are not legally restricted. In other words, we have an operating reserve that we can take money from and put it into capital projects. That being said, Dodge asked Ms. Hampton to give the commissioners a summary of where the various reserve funds stand so we know where the Port will come up with the money to do Wharves 1 and 2.

Ms. Hampton agreed that Dodge is absolutely correct in that there is no legal restriction on any of those funds other than the 1999 Series bond funds and the \$170,000+ that is in an escrow account. Other than that, the Commission can determine how you want to spend those funds. The separate funds are in categories that we use internally for our own financial analysis purposes.

Dodge commented that it actually goes a step beyond that because our Subvention Policy says that the Port will subvent to the City on a point to point basis depending on where we are in funding reserves. If we are at 100% of funding our reserves, 100% of our profits go back to the City. If we are at 80% of funding our reserves, 80% of our profits go back to the City. This is a policy that was established when Commissioner Claire was on the Committee.

Commissioner Claire commented that he was a Redwood City Council Member at the time and did not agree with that approach.

Commissioner Kastrop asked what is paid as the interest rate on the 1999 bond debt service. We have about \$726,000. Ms. Hampton explained that the \$726,000 is a mandatory reserve that was required by the indenture. As far as the interest that we pay, it is ranging from 5 to 5.4 percent. Kastrop asked if we are paying over 5% on the bond indebtedness and we are only making .46% interest income on our cash, would it not be better to retire those bonds with some of that cash and make back the 5% difference. Ms. Hampton responded that that was certainly one of the possibilities and we are looking forward to June 2011 because that is the first opportunity that we will to actually pay off those bonds without having to pay a premium.

Commissioner Claire commented that Redwood City Mayor Jeff Ira and Claire were on a finance committee when they put in place a \$20 million reserve for the City of Redwood City. At that time the City's budget including capital expenditures was \$185 million. In Claire's opinion, the Port has pretty good reserves compared to the City. Claire commented that he has to thank Commissioner Dodge because he and I were really at odds on that issue of negotiations but now Dodge was right. The second thing that Claire pointed out is that even corporate bonds have a call back privilege and that if it comes up in 2011, he suggests that we take a very close look because, as you have suggested, it could save us a significant amount.

VII. PUBLIC COMMENT

Linda J. Lezotte, a land use and environmental attorney, commented on the matter under Item IV-C which was tabled at today's meeting. Lezotte referred to her February 7, 2011 letter to Michael Giari, Executive Director, with regard to the Initial Study. Lezotte explained that the point of her comments is that the Port is going to leave itself open to possible litigation if it does not rectify some of the things that Lezotte believes are lacking in the Initial Study.

Lezotte continued by saying that the Initial Study and the Mitigation states that the closure is going to be, may be, or may not be constructed within five years after the project receives its permits. We believe that the building needs to be constructed immediately, both under the Air Mitigation and the Noise Mitigation measures, because CEQA does not allow deferred mitigation on something that is a mitigation in order to reduce an impact to less than significant.

Lezotte commented that she put just two of the many cases in her letter that hold that deferred mitigation is really not permissible. She said that in addition to the building being deferred, acoustical studies with regard to the walls are going to be taken after the walls are constructed. One of the cases that Lezotte cited states that studies can not be done after the fact to determine if the mitigation is enough to reduce the impact to less than significant. She commented that it is really ambiguous in the Initial Study as to when, if at all, the enclosure is going to be built.

Lezotte said that the Initial Study should require a timeline in the mitigation as to when this building needs to be constructed. That it should be made a condition of the project and the only way that can be made a condition of the project is if it is included in the lease.

Additionally Lezotte said that; "We also think that the amendment of the Seaport Plan also needs to be put in the lease because we think that this use is not an interim use."

Lezotte thanked the Port Commission for its consideration and commented that "We think there should be a level playing field with regard to these projects and that everyone should be required to abide by CEQA." The current project that is there right now had no environmental review. The Initial Study that is being undertaken right now was only undertaken after we brought to the Port's attention that this increased capacity required environmental review. She said that it is for those reasons, for the protection of the environment, that this Initial Study needs to be done properly and that the mitigations need to solve the significant environmental impacts now and not at some speculative time in the future.

Lezotte also stated that she would like to renew her request for continued notice of any agenda or notices with regard to this project including the lease when it is brought before the Port Commission and any other actions with regard to this project that come to this Board.

Chairman Garcia commented that Attorney Lezotte referred to "we" in her comments and asked who "we" represented. Attorney Lezotte stated that she represents a competitor.

James H. Lord, a civil engineer who has been working in solid waste for the last 30 years, referred to his February 7, 2011 letter to the Port. Lord commented that he believes three different issues are of concern in the Item IV-C project that was tabled at today's meeting.

Firstly, Lord commented that the Department of Transportation questioned the Traffic Study and Lord also questioned the Traffic Study. Lord stated that right now most of the traffic is coming in to the site between 9 and 2:30. Lord feels that once the project is built out and goes from a little over 200 tons a day to 1200 tons a day, we are starting to deal with all of the landscapers, the tree trimmers, and the C&D firms that operate in the peninsula. These people don't work from 9 to 2:30. They operate the whole day. They operate during the peak AM and PM traffic periods. Lord said the report is amiss in not including traffic that is occurring during that time period.

Lord said his second concern is on the building since it is not clear when it is going to be built but it is clear that it is a mitigation measure for dust and noise.

One of the items that concerns Lord has been the manpower and the equipment and the ability to handle the amount of material they are talking about processing. Lord said he does not know how many are on the site right now but there is more there than what they said they need to process their 200 tons a day. Lord questioned whether or not materials will start building up when they go to 1200 tons a day. They said that they would keep it in the enclosure but until they build the enclosure, there is nothing to restrict the material. Lord feels that this type of operation is typically put into an enclosure. Lord feels that the Port should require it in a building in a relatively short time frame so that they can handle the amount of material they propose without causing negative impacts to the surrounding area.

The last item Lord commented on is use of the Port's facilities to move material across the wharf. Lord said that he has no doubt that they are going to try to do that. There is a

potential for it to happen with the Port of West Sacramento but it has not happened yet. Lord thinks that the Port should be in a position to deal with this operation if it is not economically viable for them to use a Port wharf and they fall outside of the Port priority use area requirements.

VIII. MATTERS OF BOARD INTEREST: None

IX. EXECUTIVE DIRECTOR'S REPORT: Executive Director Giari apologized to the Commission for the skunk smell and said that this is the season for skunk activity.

Director Giari also commented that the Sequoia Yacht Club, the Peninsula Yacht Club, and other recreational boating organizations in Redwood City are very active with cleaning up the environment by patrolling the Port and Redwood Creek for trash and debris. They have scheduled an event called "Romancing the Creek" to show love for the environment and help clean up Redwood Creek. They will meet at the Peninsula Yacht Club at 9:00 a.m. on Saturday, February 19, 2010.

Director Giari reported that the Lady Washington and the Hawaiian Chieftain were in Port from January 21 through February 3, 2011. They had a very successful visit and the weather was beautiful during their entire visit.

Commissioner Kastrop commented that she went on board to tour the ships and noticed that when the tall ships ended their public tours, there were still lots of people that wanted to go on board. Kastrop suggested that when the tall ships come in the future, they extend the hours for their dockside tours for the public.

X. ADJOURNMENT

At 8:50 a.m. Chairman Garcia requested that the Commission adjourn to its next regularly scheduled Meeting of February 23, 2011.

A Motion to Adjourn was made by Commissioner Kastrop and the motion was seconded by Commissioner Dodge. The motion passed by a unanimous voice vote of all Commissioners.