



Legislation Text

File #: 2018-0089, **Version:** 1

DATE: April 10, 2018

SUBJECT:

RESOLUTION AUTHORIZING CHANGES TO BOARD OF PORT COMMISSIONERS POLICY NO. 730, THE PORT ENVIRONMENTAL ADVISORY COMMITTEE POLICY, TO REFLECT CURRENT ENVIRONMENTAL PROGRAMS, TO INCLUDE OTHER NON-SUBSTANTIVE ADMINISTRATIVE UPDATES, AND TO RESCIND THE TENANT ENVIRONMENTAL COMPLIANCE LOAN PROGRAM FOR WHICH NO APPLICATIONS HAVE BEEN RECEIVED SINCE BOARD ADOPTION OF THE PROGRAM IN 2001

EXECUTIVE SUMMARY:

The Board of Port Commissioners (Board) is committed to protecting and improving the environmental conditions of San Diego Bay and Port tidelands (Bay). To that end, Planning & Green Port programs (PGP) were created to ensure the San Diego Unified Port District (District) is in compliance with environmental regulations, and the Environmental Advisory Committee (EAC) was created to advise the Board with respect to the protection and improvement of the condition of the Bay.

On June 6, 2006, per resolution #2006-111, the Board adopted Policy No. 730, the Port Environmental Advisory Committee Policy. The policy outlines the organization, structure and functions of the EAC; management of the Environmental Fund; and the Tenant Environmental Compliance Loan Program. The policy details the membership of the EAC; the purpose of the Environmental Fund - to fund projects that address air, water and sediment quality, sustainability and climate action planning, natural resources and endangered species management, habitat creation, restoration or protection, reclaiming natural shoreline conditions, environmental education, research and monitoring, and/or other issues in the Bay and/or the tidelands. The policy also details the Tenant Environmental Compliance Loan Program (Loan Program), which was adopted by the Board on April 4, 2001, by resolution #2001-66, to provided low interest loans to tenants to support environmental remediation or environmental enhancement projects. No loan applications have been received for the Loan Program since its inception in 2001.

Changes to Policy #730 include updating the language to reflect current District Planning & Green Port programs including the importance of the Bay for natural resources and the adoption of the Climate Action Plan. Changes also include rescinding the tenant loan program, since no applications have been received since its inception in 2001.

On April 5, 2018 the EAC reviewed the proposed revisions to BPC Policy No. 730 and recommended approval of these changes to the Board. A redline strikeout version of the proposed revisions to BPC Policy No. 730 are included as Attachment A.

Staff recommends that the Board adopt a resolution to amend BPC Policy No. 730 as set forth in Attachment A.

RECOMMENDATION:

Adopt a resolution authorizing changes to BPC Policy No. 730, the Port Environmental Advisory Committee Policy, to reflect current environmental programs, to include other non-substantive administrative updates, and to rescind the Tenant Environmental Compliance Loan Program for which no applications have been received since Board adoption of the Loan Program in 2001.

FISCAL IMPACT:

The proposed Board action does not present any fiscal impact to the District.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s).

- A Port that the public understands and trusts.
- A Port with a healthy and sustainable bay and its environment.
- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.
- A Port that is a safe place to visit, work and play.

DISCUSSION:

Background

On June 6, 2006, per resolution 2006-111, the Board adopted Policy 730, the Port Environmental Advisory Committee policy, which created the EAC and the Environmental Fund. Since the Board is committed to protecting and improving the environmental conditions of Bay they created the EAC and PGP programs. The PGP programs were created and invested with the responsibility of ensuring the District's compliance with environmental laws and regulations, and the EAC was created to advise the Board on actions that can be taken to improve the condition of the Bay.

San Diego Bay is often referred to as the "Crown Jewel" of San Diego. Beneath its beautiful surface, the Bay performs a number of important ecological roles, serving as a spawning ground for many local fish species, acting as a key stopping point for a variety of bird species traveling along the Pacific Fly Way, and providing the discharge point for numerous creeks and rivers within the San Diego Bay watershed.

The restoration of the Bay to a more pristine condition may require efforts that extend beyond mere regulatory compliance. The Board created the EAC to advise and to provide the Board with input and recommendations for accomplishing the District's strategic goal to "protect and improve the environmental conditions of San Diego Bay and the Tidelands."

Proposed changes to BPC Policy No. 730 include updating the policy to reflect current Planning &

Green Port programs, Energy; Environmental Conservation; Environmental Protection, Planning, Aquaculture and Blue Technology. Additional language includes the importance of San Diego Bay to natural resources and the Port adaption of a Climate Action Plan and its goals.

Environmental Fund

Changes to the Environmental Fund purpose statement reflect current Planning & Green Port programs and include the addition of habitat restoration, climate action planning, endangered species management, environmental education and research and monitoring.

Tenant Environmental Compliance Loan Program

The goal of the Loan Program was to achieve environmental compliance and produce an overall environmental benefit to the Bay. The Loan Program was created by the Board in 2001 by resolution #2001-66, dated April 3, 2001, and amended by resolution #2001-273, dated December 11, 2001. The Loan Program would have provided low interest loans to Port tenants to support environmental remediation or tenant environmental enhancement projects. A tenant, who qualified for a loan, could apply for a maximum amount of \$100,000, at a low fixed interest rate, payable over 5 years.

No tenant loan applications have been received since the loan program was established in 2001. Staff conducted outreach with the Port Tenants Association which did not voice any object to the rescission of the program since no tenant has applied for the Loan Program.

Conclusion

Staff recommends the Board approve changes to BPC Policy No. 730 as set forth in Attachment A. The proposed changes include updating the policy based on current Planning & Green Port programs, along with other non-substantive administrative updates, and to rescind the language providing the tenant loan program.

General Counsel's Comments:

The Office of the General Counsel reviewed this agenda and the proposed changes to BPC Policy No. 730 as to form and legality.

Environmental Review:

The Board direction or action, including without limitation, a resolution authorizing changes to BPC Policy No. 730, Port Environmental Advisory Committee Policy does not constitute an "approval" or a "project" under the definitions set forth in California Environmental Quality Act (CEQA) Guidelines Sections 15352 and 15378 because no direct or indirect changes to the physical environment would occur. CEQA requires that the District adequately assess the environmental impacts of projects and reasonably foreseeable activities that may result from projects prior to the approval of the same. Any project developed as a result of Board's action or direction that requires the District or the Board's discretionary approval resulting in a physical change to the environment will be analyzed in accordance with CEQA prior to such approval. CEQA review may result in the District, in its sole and absolute discretion, requiring implementation of mitigation measures, adopting an alternative, including without limitation, a "no project alternative" or adopting a Statement of Overriding Consideration, if required. The current Board direction in no way limits the exercise of this discretion. Therefore, no further CEQA review is required.

In addition, this Board item complies with Section 87 of the Port Act, which allows for the establishment and maintenance of those lands for open space, ecological preservation and habitat restoration. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board direction or action is consistent with the Public Trust Doctrine.

The proposed Board direction or action does not allow for “development,” as defined in Section 30106 of the California Coastal Act, or “new development,” pursuant to Section 1.a. of the District’s Coastal Development Permit (CDP) Regulations because they will not result in, without limitation, a physical change, change in use or increase the intensity of uses. Therefore, issuance of a Coastal Development Permit or exclusion is not required. However, development within the District requires processing under the District’s CDP Regulations. Future development, as defined in Section 30106 of the Coastal Act, will remain subject to its own independent review pursuant to the District’s certified CDP Regulations, PMP, and Chapters 3 and 8 of the Coastal Act. The Board’s direction or action in no way limits the exercise of the District’s discretion under the District’s CDP Regulations. Therefore, issuance of a CDP or exclusion is not required at this time.

Equal Opportunity Program:

Not applicable.

PREPARED BY:

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Attachment(s):

Attachment A: BPC Policy No. 730 Port Environmental Advisory Committee Policy (redlined copy)