



Legislation Text

File #: 2020-0019, Version: 1

DATE: February 11, 2020

SUBJECT:

RESOLUTION WAIVING BOARD OF PORT COMMISSIONERS (BPC) POLICY 018-A, SECTION 3 TO ALLOW THREE COMMISSIONERS TO SERVE AS FACILITATORS FOR THE MARITIME STAKEHOLDER FORUM DURING 2020

EXECUTIVE SUMMARY:

BPC Policy No. 018-A, Board Stakeholder Forums was adopted on February 12, 2013, in order to provide a venue for the District, Port tenants, and other interested persons to discuss and provide input regarding issues being addressed by the Forum pursuant to an annual work-plan approved by the Board of Port Commissioners (Board).

Section 3 of the Policy states in part, "The Chair [of the Board] may appoint two members of the Board to serve on a Forum as facilitators only." In 2020, the Port of San Diego is fortunate to have three Commissioners who have expressed interest in acting as facilitators. Staff recommends waiving this section and allowing for these forums along with a monthly report-out at the regular Board of Port Commissioners meeting from all Board Advisory Committees and Board Stakeholder Forums that have met during the prior month.

RECOMMENDATION:

Adopt a Resolution waiving Board of Port Commissioners Policy No. 018-A, Section 3, to allow three Commissioners to serve as facilitators for the Maritime Stakeholder Forum during 2020.

FISCAL IMPACT:

Staff's recommendation will not have a fiscal impact on the District.

COMPASS STRATEGIC GOALS:

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

- A Port that the public understands and trusts.
- A thriving and modern maritime seaport.
- A vibrant waterfront destination where residents and visitors converge.
- A Port with a healthy and sustainable bay and its environment.
- A Port with a comprehensive vision for Port land and water uses integrated into regional plans.

- A Port that is a safe place to visit, work, and play.
- A Port with an innovative and motivated workforce.
- A financially sustainable Port that drives job creation and regional economic vitality.
- Not applicable.

DISCUSSION:

Board of Port Commissioners (BPC) Policy No. 018-A, Board Stakeholder Forums was adopted on February 12, 2013, in order to provide a venue for the District, Port tenants, and other interested persons to discuss and provide input regarding issues being addressed by the Forum pursuant to an annual work-plan approved by the Board. At that time, as part of the District's focus on the "Exemplary Port," staff and the Board examined the necessity, structure, and administration of the Board's advisory committees, which had evolved over a decade.

The Maritime Stakeholder Forum, which has been convened as-needed from year-to-year has been successful in providing an open and transparent forum where tenants and stakeholders are able to provide input and discuss matters of mutual interest.

In late 2019, when the Office of the District Clerk, polled the Commissioners regarding interest in serving on the Maritime Stakeholder Forum for 2020, three Commissioners expressed an interest in serving: Commissioners Castellanos, Malcolm, and Valderrama. However, Section 3 BPC Policy No. 018-A states in part, "The Chair [*of the Board*] may appoint **two** members of the Board to serve on a Forum as facilitators only." (emphasis added) In addition, Staff will ensure that the Commissioners are prepared to report out on meetings of the Forum each month at the regular Board of Port Commissioners meeting regarding any discussion items before the Forum during the prior month.

Therefore, the Maritime Department recommends that the Board adopt a Resolution waiving BPC Policy No. 018-A, Section 3, to allow Commissioners Castellanos, Malcolm, and Valderrama to serve as facilitators for the Maritime Stakeholder Forum in calendar year 2020.

General Counsel's Comments:

The Office of the General Counsel has reviewed and approved this agenda and proposed resolution, as presented, as to form and legality.

Environmental Review:

The proposed Board action, including without limitation, waiving BPC Policy 018-A, Section 3 to allow three Commissioners to serve as facilitators for the Maritime Stakeholder Forum during 2020 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 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, the proposed Board direction or action complies with Section 47 of the Port Act, which allow the Board to pass resolutions and to do all acts necessary and convenient for the exercise of its powers. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board action is consistent with the Public Trust Doctrine.

The proposed Board direction or actions do 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. 18-A