



Legislation Text

File #: 2020-0130, Version: 1

DATE: March 23, 2020

SUBJECT:

RESOLUTION RATIFYING AND CONFIRMING THE RESOLUTION PROCLAIMING EXISTENCE OF A LOCAL EMERGENCY BY THE EXECUTIVE DIRECTOR / CHIEF EXECUTIVE OFFICER OF THE SAN DIEGO UNIFIED PORT DISTRICT AND PROVIDING DIRECTION TO STAFF REGARDING SUCH EMERGENCY

EXECUTIVE SUMMARY:

In accordance with authority granted by Board of Port Commissioners (Board) Policy No. 777, Emergency Management, on March 18, 2020, the District's Executive Director/Chief Executive Officer issued a resolution proclaiming the existence of local emergency due to the novel COVID-19 virus (Attachment A). Similarly, the Federal Government, the State of California, the County of San Diego and some of the District's member cities have declared emergencies. The proclamation of a local emergency affords the District potential eligibility for disaster relief brought forth by the State of California and/or the Federal Government.

This agenda recommends the Board ratify and confirm the Executive Director/Chief Executive Officer's proclamation of local emergency, and extend the local emergency until such time as the Board determines it has ended. Additionally, it seeks Board direction to staff regarding the declared emergency.

RECOMMENDATION:

Adopt a resolution confirming and ratifying the Executive Officer/Chief Executive Officer's resolution proclaiming existence of a local emergency for the District, in accordance with Board of Port Commissioners Policy No. 777, Emergency Management

FISCAL IMPACT:

Confirmation and ratification of the proclamation of a local emergency affords the District potential eligibility for disaster relief brought forth by the State of California and/or the Federal Government.

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 Port with a healthy and sustainable bay and its environment
- A Port that is a safe place to visit, work and play
- Port with an innovative and motivated workforce
- A financially sustainable Port that drives job creation and regional economic vitality

DISCUSSION:

Under the State of California's Standardized Emergency Management System (SEMS), the San Diego Unified Port District is considered a Special District and a local government. Local governments include cities, counties and special districts. Pursuant to Government Code of the State of California, Article 15 - Preservation of Local Government, Section 8635 the California Legislature has recognized that the preservation of local government in the event of enemy attack or in the event of a state of emergency or a local emergency is a matter of statewide concern. As a local government agency, the District has the primary responsibility for emergency management activities within its jurisdiction.

On April 11, 2017 the Board passed Resolution 2017-053 adopting Board Policy No. 777, governing the District's processes and administration during emergency operations, to include authorities to act, processes for proclaiming a local emergency, delegation of authority, succession planning, emergency communication, and financial spending.

Adoption of Board Policy No. 777 gave authority to the Executive Director/Chief Executive Officer of SDUPD to proclaim a local emergency. Board Policy No. 777 also defines a local emergency and states that in proclaiming a local emergency, the Executive Director/Chief Executive Officer is indicating that conditions exist that are, or are likely to be, beyond the control of the services, personnel, equipment, and facilities of the District, and which may require the supplemental efforts and available resources of other local government entities, the state and/or federal government, and/or disaster relief organizations to help alleviate the damage, loss, hardship, or suffering caused thereby and that the Board is not currently in session. Board Policy No. 777 also requires once the Executive Director/Chief Executive Officer has proclaimed a local emergency, that proclamation must be confirmed and ratified by the Board within 7 days or at the Board's next regularly scheduled meeting, whichever comes first.

The Federal Government, the State of California, the County of San Diego and some of the District's member cities have declared emergencies due to the novel COVID-19 virus and the Executive Director/Chief Executive Officer has found that existing and threatened conditions that cause extreme peril to the safety of persons and property have arisen within the District, caused by the novel COVID-19 virus; the existing and threatened conditions are, or are likely to be, beyond the control of the services, personnel, equipment, and facilities of the District, and may require the supplemental efforts and available resources of other government entities, to include the state and/or federal government and/or disaster relief organizations to help alleviate the damage, loss, hardship, or suffering caused by the virus. Therefore, on March 18, 2020, the Executive Director/Chief Executive Officer issued a resolution declaring a local emergency caused by the novel COVID-19 virus (Attachment A). The proclamation of a local emergency affords the District potential eligibility for disaster relief brought forth by the State of California and/or the Federal Government.

This agenda recommends the Board ratify and confirm the Executive Director/Chief Executive Officer's proclamation of local emergency, and extend the local emergency until such time as the Board determines it has ended. Additionally, it seeks Board direction to staff regarding the declared emergency.

General Counsel's Comments:

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

Environmental Review:

The proposed Board action, including without limitation, a resolution ratifying and confirming a resolution proclaiming existence of a local emergency, 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 proposed Board action in no way limits the exercise of this discretion. Therefore, no further CEQA review is required.

The proposed Board action complies with Sections 21 and 35 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 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 it would not result in, without limitation, a physical change, change in use or increase the intensity of uses. Therefore, issuance of a CDP or exclusion is not required at this time. 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 proposed Board 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

RESOLUTION PROCLAIMING EXISTENCE OF A LOCAL
EMERGENCY BY THE EXECUTIVE DIRECTOR/CHIEF
EXECUTIVE OFFICER OF THE SAN DIEGO UNIFIED PORT
DISTRICT