

**CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION**

**MINUTES OF THE MEETING
SEPTEMBER 12, 2017**

1. CALL TO ORDER / ROLL CALL

Port Commission President Willie Adams called the meeting to order at 2:30 p.m. The following Commissioners were present: Willie Adams, Kimberly Brandon and Leslie Katz. Commissioner Woo Ho was not present.

2. APPROVAL OF MINUTES – August 8, 2017

ACTION: Commissioner Katz moved approval; Commissioner Brandon seconded the motion. All of the Commissioners were in favor. The minutes of the August 8, 2017 meeting were adopted.

3. PUBLIC COMMENT ON EXECUTIVE SESSION

4. EXECUTIVE SESSION

A. Vote on whether to hold a closed session and invoke the attorney-client privilege.

ACTION: Commissioner Brandon moved approval; Commissioner Katz seconded the motion. All of the Commissioners were in favor.

At 2:31 p.m., the Commission withdrew to closed session to discuss the following:

(1) CONFERENCE WITH LEGAL COUNSEL AND REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8. *This session is closed to any non-City/Port representative: (Discussion Item)

- a. Property: Boudin Properties located at Seawall Lot 301 at Fisherman's Wharf
Person Negotiating: Port: Michael Martin, Deputy Director, Real Estate and Development
*Negotiating Parties: Boudin: Lou Giraudo
Under Negotiations: ____ Price ____ Terms of Payment Both

5. RECONVENE IN OPEN SESSION

At 3:30 p.m., the Commission withdrew from closed session and reconvened in open session.

ACTION: Commissioner Brandon moved approval to adjourn closed session and reconvene in open session; Commissioner Katz seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Brandon moved approval to not disclose any information discussed in closed session; Commissioner Katz seconded the motion. All of the Commissioners were in favor.

6. PLEDGE OF ALLEGIANCE

7. ANNOUNCEMENTS – The Commission Affairs Manager announced the following:

- A. Please be advised that the ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing of or use of a cell phone, pager, or other similar sound-producing electronic device.
- B. Please be advised that a member of the public has up to three minutes to make pertinent public comments on each agenda item unless the Port Commission adopts a shorter period on any item.

8. PUBLIC COMMENT ON ITEMS NOT LISTED ON THE AGENDA

Wendy Proctor, Port Architect and ADA Coordinator - We have a member of the public who is unable to make the public comment themselves. So I am reading their statement on their behalf as an accommodation.

"Port Commissioners, the Port is unlawfully competing against private property owners by taking an unlawful advantage that allows tenants of the Port to go unreported, therefore undiscoverable by the assessor. The Port charges below fair market rent for the use of public property. The justification for the "below market rental rates" is because Port tenants are located on tax exempt land. Therefore, each tenant is required to be separately assessed and enrolled on the tax rolls. The private sector rent rates are higher to incorporate property taxes paid to the private landlord.

When the Port fails to report a tenant on the mandatory reporting form, there is a breakdown in the assessment process. The usage reports are what alerts the assessor that a change of ownership has occurred per Revenue and Taxation Code Section 61(b) thereby prompting the assessor to take action. When the Port tenant's rentals are not reported, they cannot be discovered by the assessors causing escaped tax assessment.

For example, the Parklet at the Mission Rock, aka The Yard, is not reported to the assessor, thereby not assessed. The Yard is occupied by hundreds of third party vendors, contractors, merchants and other private occupants for private benefits and private profits. However, the Port does not report any usage reports at the Parklet including China Basin Ballpark Company.

When the Port charges below fair market rent rates and do not report rental usages to the assessor, the Port tenants are getting a substantial discounted rent because there is no additional tax expense. The Port discounted rent rates allows the Port to retain tenants longer than the private sector. Thereby, the Port's vacancy rate is substantially lower than the private sector higher vacancy rate. The Port's unlawful ability to charge discounted rent rate without any additional tax liability is an unfair competitive advantage the Port has over the private sector.

The Executive Director, Elaine Forbes, has been informed for over a year that the Port is violating the law and has yet to take any corrective actions including agendizing my complaint for the Commission to provide guidance and evaluate the Port liability by knowingly allowing this unfair business practice to continue. Signed, Shawn Karl Mooney."

9. EXECUTIVE

A. Executive Director's Report

- California Coastal Cleanup Day – Saturday, September 16, 2017 from 9 a.m. to 12 noon at China Basin Park (3rd Street and Terry Francois to Pier 48), Bayfront Park (Pier 52 Boat Ramp to Agua Vista Park), Warm Water Cove (End of 24th Street), Islais Creek Landing (Arthur Ave. and Quint Street), Pier 94 Wetlands, Heron's Head Park (Cargo Way and Jennings Street)

Elaine Forbes, Executive Director - I'd like to make you aware of California Coastal Cleanup Day scheduled on September 16, from 9:00 to noon. This is a statewide event. It's sponsored by the Rec and Park Department and the Port along with Recology. We'll have hundreds of volunteers out on September 16th and we invite you to be part of the program. We will be doing cleanup of Port parks at China Basin Park, Bayfront Park, Warm Water Cove, Islais Creek Landing, Pier 94 Wetlands, and Heron's Head Park.

The Greenagers, which are local San Franciscans, teenagers, will be site captains. You'll be given tools and equipment and taught how to clean up our beautiful parks. You'll be served lunch and there will be activities. I encourage you all to come. If you won't be in San Francisco on the 16th, you can go to the Web site www.coastal.california.gov and see what other coastal cleanup is going on in the rest of the state. So please consider participating in this fun event.

- Change of Meeting Location for the October 24, 2017 Port Commission Meeting – Pier 27 Cruise Terminal

The Port Commission meeting for October 24th will be at our James R. Herman Cruise Terminal at Pier 27. Please note and provide time for yourself to get out to the Cruise Ship Terminal.

B. Port Commissioners' Report:

Commissioner Katz - I'd like to ask staff to take a look into whether there would be any opportunities to utilize cryptocurrency as a means of payment including, for example with our Foreign Trade Zone, whether that would be of a benefit to any of the entities using that. I know some other ports and areas around the world are now starting to explore the use of cryptocurrencies, particularly those that are Anti-Money Laundering (AML) compliant, as an opportunity especially with the global industries that are involved and seafood and shipping and other things like that. If we could explore whether that might be an option, whether it'd be something worthwhile or of any advantage, both to the Port and to any of our tenants or customers.

Commissioner Adams - I'm glad everybody came out today. I can't help but think about the victims in Texas, Florida and what's happening all over the country. Sometimes we think that our problems are so serious. It will cost \$128 billion to rebuild Texas. People lost their lives. It's only appropriate at this moment that we have a moment of silence for the victims in Texas and Florida and elsewhere. It's torn apart families, shattered dreams, etc. When people say there's no Sea Level Rise or global warming, it could be further from the truth. Something's really happening out there. Things are out of control. Let's take a moment of silence for those who lost their lives.

10. CONSENT

- A. Request approval for San Francisco Port Commissioners to travel with Port staff to Long Beach, CA to attend the American Association of Port Authorities Annual Convention. (Resolution No. 17-37)
- B. Request for authorization to award a sole source contract to Cochran Marine, LLC, for testing and re-commissioning of the shoreside power system at the James R. Herman Cruise Terminal for the amount of \$280,000 and a four year term. (Resolution No. 17-38)

ACTION: Commissioner Brandon moved approval; Commissioner Katz seconded the motion. All of the Commissioners were in favor. Resolution Nos. 17-37 and 17-38 were adopted.

11. MARITIME

- A. Request authorization to allow a one-year pilot program for retail fish sales from boats at Fisherman's Wharf. (Resolution No. 17-39)

Michael Nerney, Marketing Manager in the Maritime Division - I'm here today to request your authorization to allow a one-year pilot program for retail fish sales from boats at Fisherman's Wharf. This topic was presented as an informational item at the July 11th Port Commission meeting at which time the Commission expressed support for the program, but you also raised some questions about

how the program would work. Port staff has addressed these issues in the staff report.

Earlier this year, commercial fishers asked the Port to revive a policy that would allow them to sell fish from their boats directly to retail customers. This had been permitted at the Port of San Francisco in the past and is currently allowed at other Northern California fishing harbors.

Based on your feedback on our July 11th informational presentation, we have changed the retail fish sales proposal from a policy to a pilot program for a trial period of one year. This will allow Port staff to track progress and report back to the Port Commission on the merits of the program including metrics such as the number of boats participating, public support and absence of problems.

The pilot program language has been modified from the original draft to eliminate the need for continuous oversight by Port staff. The Port's role is to permit retail fish sales but not regulate them.

Regulation is the responsibility of state and local officials with whom the Port works closely. The Port will investigate if complaints are received and notify the appropriate regulators if violations are occurring such as improper handling or storage of fish, unpermitted sales or sales to other than the end consumers. We are pleased that the representatives from these regulatory agencies are with us today in support of this program.

We have from California Department of Food and Agriculture, Cathy De Contreras, Supervising Special Investigator. From the San Francisco Department of Public Health, we have two representatives Carmen Kern, Deputy Sealer of Weights and Measures and Branislav Zoran, Weights and Measures Inspector. We have from the San Francisco Department of the Environment, Alex Dimitrie, Commercial Zero Waste Coordinator. We have Lt. James Ober with the California Department of Fish and Wildlife. He did attend our meeting on June the 3rd.

There are 43 licensed commercial fishing boats with a permanent berth in Fisherman's Wharf Harbor. This is the current maximum number of participants in this program. More boats could be added if they become permanently berthed at Fisherman's Wharf. Transient boats are not allowed to participate in the retail fish sales pilot program.

The fish that would be sold retail would be the same product that is sold to wholesalers. The fishers, who work in a dangerous environment while fishing, are motivated to bring a high quality product to market and build lasting relationships with all buyers, whether wholesale or retail.

All fish sales are recorded on California Fish and Wildlife receipts and must comply with all regulations. It is the decision of the licensed fishers to determine

how to sell their product, in what quantity and at what price. It is up to the fishers and buyers to set the fair market value.

As for promoting sales through social media, including preordering fish online, this is up to the individual fishers. The Port is providing them with the opportunity for retail sales. How they leverage it is their business decision.

The types of fish allowed under this program are salmon, tuna, rock fish, halibut and bycatch. Crab is excluded so as not to interfere with the established crab businesses at Fisherman's Wharf. The fish sales program is intended to help commercial fishers but not harm other parts of the fishing industry.

The wharves where retail fish sales would be sold during daylight hours only are already public access areas. Major refurbishment of Wharf J3, including new gates and railings, was completed in 2016. No customers shall be allowed on the vessels selling fish.

The feedback from the commercial fishers was that retail fish sales program would be helpful for their businesses and they encouraged the Port to go forward and implement it. Other stakeholders, principally the Port's fish processing tenants objected to the possibility that fishing boats might be allowed to sell their product wholesale to restaurants and third party fish companies and bypass the strict environmental, health, safety and insurance regulations with which they must comply. Fishers selling retail directly to the consumer did not appear to be a serious concern.

Other regional fishing harbors such as Half Moon Bay and Bodega Bay have managed retail fish sales for many years and reported no major incidents and see the program as a benefit to the fishers, marinas and consumers.

The steps to obtain a permit are outlined in the pilot program. The Port's permit fee of \$225 is comparable to what is charged at other harbors. One of the metrics the Port will monitor during the trial period is whether this fee is adequate to cover staff hours spent administering the program receiving documentation and issuing permits. This fee may be adequate based on proven experience of other harbors, but if not, options going forward would be to increase the fee or, with Port Commission approval, agree to subsidize the program for the ongoing benefit of the fishing industry.

The proposed retail fish sales program supports two key goals of the Port's Strategic Plan, namely Engagement and Economic Vitality. The fish harvested by local commercial fishers is a wild public resource and San Franciscans have a right to these fish. Allowing retail fish sales will give fishers the opportunity to adapt to new markets and remain financially viable. This program will also provide interested consumers with a farmer's market type experience at Fisherman's Wharf and strengthen the relationship between fishers and the community.

In conclusion, Port staff seeks your authorization to allow retail fish sales from boats at Fisherman's Wharf under a pilot program for a trial period of one year. During this time, Port staff will track the program's progress with various metrics and report back to the Port Commission in or around October 2018 for your guidance as to any adjustments that may be necessary, and whether to extend the program beyond the one-year trial period.

Dan Strazzullo, All Shores Seafood - I have a facility on Pier 45. Again, we brought this up at the last time. We have no problems with anybody selling anything as long as they meet the requirements that everybody else had to meet. Second problem I have is one of the things that's been brought up is that the public sees no fish. On Pier 45, there are eight major distributors that sell probably 80% of the fish to Northern California. For 60-70 years, the Port has made a concerted effort basically to hide that from the public. The public comes to Fisherman's Wharf, they see nothing. I import fish from all over the world. I have fish all over the place. But we are kind of trapped. Unless you come around the alley, you don't see it. There's lobster. There's fish from Greece. We have fish from all of the Mediterranean countries, from back East. They're all over the place. But the public isn't allowed to see it. It's hidden from them. You come to Fisherman's Wharf. If you want to buy a t-shirt, there's a heck of a lot of t-shirt places. They see a few crabs.

I understand what the fishermen are saying. The public doesn't get access. They don't also get access to buy the fish from the distributors that are there. There's plenty of them. I wish them well in their endeavor but don't make it sound like there's no fish. There's a lot of fish down there. The Port should make an effort to show the history of the fishing industry which is hidden from everybody.

I'm a Silician guy and my family's been in this business for a lot of years. You would never know that there's been any Silician fisherman anywhere. It's always been hidden and that part of it is really a shame. It shouldn't be called Fisherman's Wharf. It should be called T-Shirt Alley.

Giuseppe Pennisi - My family's been fishing for many years. My grandfather started fishing in San Francisco in the early 1900s, about 1907 or so. He was part of the Baranzelli Trawl Fleet. I understand a little bit about the fishing industry. When we talk about how many trawlers at one time used to be in San Francisco, San Francisco used to have the largest fleet of vessels on the entire West Coast. There was more fish brought in from the Pacific Ocean right to San Francisco than any place on the entire West Coast. Now, I'm the only trawler left with a federal ground fish permit. The only one.

There's salmon boats. There's crab boats. Those are all seasonal. But when you're talking about actually seeing a boat unload a load of fish, the only boat that's unloading any quantity of fish at all is mine. I'm unloading on Pier 47. I'm the last one. I am the last federal groundfish boat in San Francisco.

If you want to see fish come in, like Dan was talking about, and I love Dan. We're buddies. All this I hope never gets between us but, I really like him a lot. At 2 o'clock in the morning, Monday through Friday, you see semis pulling huge loads of fish into San Francisco behind Pier 45. That's where all of our fish come from, from all over the planet. They don't come from San Francisco no more. Your fish is gone.

You have no more trawlers here. We're the last one. The trawlers fish year round. They bring at least 60 different types of rock fish, another at least dozen kinds of flounder and flatfish. The history of this entire industry is exactly that, it's history. It's gone. We're struggling just to try to keep our boat here. It's terrible. Because I see people come down, they watch us unload. They can't believe what they're seeing. They're seeing fresh, local fish for the first time. Not something that's cut up in chunks and it's come in on a semi that came from Canada or from the airport or from Oregon. That's the difference. We could've probably enlightened everybody a little bit more on what's happened. There was a federal groundfish permit, there was a second that just got sold a month ago from the Ann Marie. It was a vessel that had been fishing out of San Francisco for 40 years.

I'm not saying this is the answer but it's sure neat to see a local person come down and see a fresh local fish on the dock and they come over and they start taking pictures. They're realizing, this is really unique. This has been part of San Francisco's history. I would hate for it to all leave. Seasonal fisheries, like salmon and crab, that's going to be here for a long time. But the industry we're in is kind of tough.

Tom Creedon from Scoma's restaurant - I've been down there for over 35 years. I've watched a lot go on. I've watched, and the activity that the public can see today has gone down to almost nothing. Danny Strazzullo's right. When we built Pier 45 as a fish facility, there was a concern about people being there and being in a dangerous environment with forklifts and a lot of slippery floors and all. The only thing that you ever get to see is we had the Jack Junior used to tie up in front of Scoma's, work his nets out in front. He was run over by a freighter. Then the other bait boats that have come in here worked and work their nets on the deck. That's about the only thing people see. 20 years ago, I built a building. We call it a Fish Receiving Station. It has a small hoist. Whenever we receive crabs or salmon, people just flock to the outside just to watch to see what's going on.

San Francisco is the only fishing port on the coast that does not have some kind of public market or a way to show people what goes on in the fishing industry. When the sport boats come in, people just can't wait to watch the salmon come off the boat. This is an opportunity that has no negative impact. The amount of fish that would be sold by a few boats off the back end would really not impact the fishing, the commercial fishing industry.

Last week, I was contacted by Bob Miller, the son of old Bob Miller who was an advocate for the fishermen at Fisherman's Wharf. He passed away in February and his son contacted me and said that he was in support of this and that when he was a kid, he came down with his dad when selling fish off the back of the boat was allowed. He said, he would get sick out in the ocean but he loved working with his dad selling fish off the boat. I think that this deserves an opportunity to at least give a good try.

Allison Arnold reading a letter on behalf of the Fisherman's Wharf Restaurant Association.

"Commissioners, as you know, the Fisherman's Wharf Restaurant Association represent 12 restaurateurs who generate millions in revenue for the City each year. Members include Boudin, Alioto's and The Franciscan among others. All restaurants that represent the city's rich and unique culinary history. We proudly employ over 2,000 staff members and serve millions of customers each year.

The Executive Committee of the Fisherman's Wharf Restaurant Association sent a survey to all members to determine the FWRA's appropriate position on the Port of San Francisco's proposed policy regarding retail fish sales from commercial fishing vessels. Upon viewing responses, the Fisherman's Wharf Restaurant Association membership was split down the middle, with half supporting the policy, half opposing. Thus the Fisherman's Wharf Restaurant Association will not take a formal position on this proposed policy.

Thank you for your attention and the consideration."

Commissioner Adams - Thank you Allison. The Commission got that letter from Lou.

Ryan - I'm a commercial fisherman on fishing vessel Smeagol, fishing vessel Sharon Marie and I also fish with Giuseppe here on the Pioneer. Right now we've got a fishing permit for some special groundfish as well that we're trying to develop. Salmon hasn't been all that great for a lot of people. Some people have been doing well. Some people haven't.

With these fish that we're trying to develop, it's a very hit and miss market for us. We were coming in with a very high quality product but since it's in the development stage, we can't get paid what it's actually worth. At this point we've had to actually go down to Half Moon Bay and tried it out ourselves the weekend before. It was a great experience. The people coming down seeing the fish, interacting with each other and us being able to get a little bit better price for it. As well as not being able to sell it all so the wholesalers are actually still able to get some of that fish.

Little things like that are what's keeping us afloat. If I were to have to sell my fish here at the docks for the lower price because there isn't a market for it, there wouldn't be any work for me down here. That'd be it. I'd have to go find

something else to do. We're just trying to make a couple extra bucks so we can keep a roof over our heads and keep our boats afloat, not getting rich but we're getting ahead. We'd appreciate it if you guys voted yes for this.

Commissioner Katz - Thank you everyone for turning out. We always appreciate when there's an item that generates passion and interest. I wonder if somebody could explain about the bycatch and if there's a way of limiting that. If it's not allowed to be sold wholesale, what does that mean? Is there a way of limiting it so it won't encourage fishing for bycatch. Is that an issue?

Michael Nerney - My understanding on bycatch is it has to do with the way the fish are harvested. If you're fishing for halibut, the bycatch is just some, different species that get mixed in with the same.

Giuseppe Pennisi - It's like starry flounder, things like that.

Commissioner Katz - I understand what bycatch is. I want to make sure that we have the same restrictions on bycatch that exist on the fishing boats now.

Giuseppe Pennisi - Bycatch is almost any fish that's a non-targeted specie. Especially in our fisheries that we have now, the fishermen are basically 100% accountable for everything that they catch. Just like us on the Pioneer, we have modified all of our trawl gear so that we basically have zero bycatch. The only thing we're not allowed to bring in is any lingcod under 24 inches long. We have to discard them. We usually do it while they're alive, when they come on the deck.

Usually there's only a couple of them because our nets let them right out. It's not a big issue because we're not targeting any specie that we're not supposed to bring in. Especially like salmon and things like that which, they're not allowed to be caught. We don't catch that kind of stuff. Some boats do have a little bit of bycatch which could be some smaller juvenile fish that were not large enough for the markets to buy but it's not much. You're not talking about any volume in it.

Commissioner Katz - I just want to make sure that our guidelines state that.

Michael Nerney - I understand that's controlled by the California Fish and Wildlife.

Commissioner Katz - I just want an assurance from staff that our criteria for it will make sure that we comply with Fish and Wildlife restrictions on it so we don't encourage any boats that might end up with bycatch. The example of putting back the lingcod. We want it to go back the way it's being done currently and not have any changes take place. That's what I'm wanting to ensure. That our guidelines essentially keep it status quo from that standpoint.

Elaine Forbes - Mike, could you just respond to the Commissioner please? We're going to ensure that the bycatch language is consistent with what's required by the state and that we will mirror that policy?

Commissioner Katz - So that we don't have the law of unintended consequences.

Michael Nerney - Right.

Commissioner Katz – The next question I had is with respect to oversight from the San Francisco Health Department, will they be involved at all? We've got folks from Weights and Measures. In terms of broad regulatory compliance just from the standpoint of the guidelines, will the Health Department at least be doing what would be done?

Michael Nerney - The Health Department would not be involved if the fish is sold from the boat directly to the consumer on the Pier. The Health Department is involved if fish has landed ashore and it's put into a processing center, something like that, then the Health Department is involved in that case. The Health Department would just be involved in terms of the Weights and Measures on board the vessel.

Commissioner Katz - Is there anything that's done to ensure that fish will be kept on ice and in compliance with health standards? I say this as somebody who just had a bad shrimp in Isla Mujeres. So maybe I'm extra concerned.

Michael Nerney - The rules are that all the regulations for Fish and Wildlife, Food and Agriculture and the Health Department, they all have to be complied with. If the Port receives any reports of a problem in any of those areas, then we will check with the regulators and investigate.

Commissioner Katz - Lastly, a claim has been made regarding Pier 47 not having adequate draining and that sort of thing separate from this item. If we could just have staff take a look and make sure that everything is in compliance with guidelines there?

Michael Nerney - We'll do that.

Carmen Kern, Deputy Sealer for Weights and Measures - To address Commissioner Katz's question, Public Health is not involved because their regulations do not allow them to deal with anything that is not onshore. I was actually asking her the question that if somebody gets sick, there's no way for them to follow up with that. We don't know the source. We don't know what could happen.

It's different if somebody went to a restaurant and got sick and said, "I went to this restaurant and this happened to me." Then they could trace it back and look

at the whole history and do an inspection. So I'm not sure how that will be handled.

Commissioner Brandon – Mike, thank you so much for the report and thank you everyone who has showed up for this item. Most of my questions have been answered. The Port is responsible for complaints. If there is a complaint, if there are violations, are there penalties? What happens?

Michael Nerney - Well, in the pilot program, if there are serious problems, the Port can end the program at its own discretion. We hope it doesn't come to that, but if we receive complaints, we will investigate and take the necessary action up to and including cancelling the program.

Commissioner Brandon - Right, but suppose it's a great program but there's one fisherman who's not permitted who is actually selling fish. Are there some kind of penalties or what do we do?

Michael Nerney - He would be told by the Port staff to stop doing it and it's only for permanent berth holders at Fisherman's Wharf Harbor. If that issue came to our attention, we would investigate and put a stop to it.

Commissioner Brandon - Perhaps during the pilot program, we should look at options for if we adopt the program but some people are not adhering to the various rules, maybe we should come up with some types of penalties, or something to make people want to continue to do the right thing.

Michael Nerney - We hadn't envisioned a penalty.

Carmen Kern, Deputy Sealer - This is the other area that our agency's involved in making sure that there is fair competition in the marketplace. To appease the mind of the tenants at the Port versus the fishing boats, they both have to comply with the same Weights and Measures laws and regulations. This is a state law and we do have penalties.

Any violations of these laws are criminal misdemeanors and there are penalties. We have administrative civil penalties too that we can apply. They cannot sell the fish by each. They have to sell it by weight. They have to have a scale. Very simple and the scales have to be certified. They have to be permitted. They have to be registered with the County Sealer of Weights and Measures. That's how we can ensure that whoever is in those berths are registered with the County.

It's my understanding that before they can enter into this pilot, they will have to have all the required City permits. That will be one way of making sure that they are all in compliance. We just rely on people to just come out, basically complain and say, I'm doing this but how come this person is not doing it? Then we will investigate and we have a 48 hours response time.

Michael Nerney - I understand from Fish and Wildlife, they'll enforce all the regulations. But if somebody is not complying with our Port rules, then the Port has the ability to tell them that they can't use our facilities anymore. That would be the penalty.

Commissioner Adams - Mike, good job. Commissioner Katz and Vice President Brandon asked most of my questions. I also want to commend Commissioner Brandon for coming up with the idea of a pilot program. I'm in full support.

ACTION: Commissioner Brandon moved approval; Commissioner Katz seconded the motion. All of the Commissioners were in favor. Resolution Nos. 17-39 was adopted.

12. ENGINEERING

- A. Request authorization to modify Construction Contract No. 2784, Pier 23 Roof Repair Project, to increase the contract scope and amount and extend the substantial completion date request. (Resolution No. 17-40)

Wendy Proctor, Senior Architect for the Port of San Francisco - I'm here today to request authorization to modify the Construction Contract for the Pier 23 Roof Repair Project, Construction Contract No. 2784 with Pioneer Contractors to increase the scope to include the reroofing of the adjacent connector building, Pier 19½. The request is in response to the Port's opportunity to lease the collective area of Piers 19, 19½ and 23.

At the time we requested capital funding for the roof repairs at Pier 23, the future of Pier 19½ was unknown due to the San Francisco Bay Conservation and Development Commission negotiations related to previous Waterfront Plan and America's Cup permits. Since then, these unknowns have been made more clear and it's been determined that the site warrants the much needed repairs.

The existing contract amount for the Pier 23 work is \$2,290,400 and the authorized contract contingency is 10% or \$229,040 for unforeseen conditions for a total of \$2,519,440. The 10% contingency for the Pier 23 will not be used for the additional scope.

The work at Pier 23 Project site is currently underway. It's on schedule and within budget. Pier 19, the sister pier to Pier 23 because it has similar construction characteristics was reroofed in 2011 using Port revenue bond funds.

The site, the Pier 19½ connector building was designed and constructed in 1961 and is located between Piers 19 and 23. It has not been reroofed since its original construction 56 years ago. The additional work would support the following Strategic Objectives.

Renewal by repairing a Port asset. Livability by promoting living wage jobs and providing opportunities for Local Business Enterprise, meeting local hire requirements for the construction project. Sustainability because the project would include best practices for construction. Economic Vitality because the project will contribute to the Port's ability to provide for the leasing of the connector building to depend the Port's revenue base.

The current roof is beyond its useful life and allows water to enter the building. It damages the structure and it's also causing dry rot. Pier 19½ is currently being used for public parking. During the rainy season, particularly last year, the water pools on the floor and render the areas unusable impacting operations, public safety and you can't even get to the pay station.

Because the cost and time required to execute the additional work will exceed the current contract's 10% contingency, Port Commission approval is required per the San Francisco Administrative Code. The additional scope of work will increase the project cost by \$788,106 plus an authorization for an additional 10% contingency of \$78,811 for a total of \$866,917 and will extend the contract duration by 76 days. Any funds that remain after the contract is complete will be returned to the Port Roofing Fund.

Pioneer Contractors is a Local Business Enterprise contractor. They're located in the Bayview District in San Francisco. Pioneer committed to a 22.77% LBE subcontractor participation when they were awarded the Pier 23 contract. The percentage will be adjusted with the additional work and the Contract Monitoring Division (CMD) has been notified and has determined that the adjustment is justified.

Pioneer will also continue to commit to meet the requirements of the City's Local Hire Policy for construction. With the approval of this project, the project will provide a new roof for the connector building at 19½.

Commissioner Brandon - Wendy, thank you so much for this report. It's great that the contract is with an LBE who is exceeding goals and also that we were able to negotiate a better rate than if we went out to do this with a new contractor. Congratulations on doing such a great job with this contract.

Commissioner Katz - Ditto. This is great.

Commissioner Adams - Wendy, good job. I agree with my colleagues.

ACTION: Commissioner Brandon moved approval; Commissioner Katz seconded the motion. All of the Commissioners were in favor. Resolution Nos. 17-40 was adopted.

13. FINANCE & ADMINISTRATION

A. Discussion and possible action on Port Executive Director Salary pursuant to Charter Section B3.581(h). (Resolution No. 17-41)

Katie Petrucione - I'm the Department's Director of Administration and Finance. I'm here this afternoon with an item asking the Commission to set the base salary of the Port's Executive Director for the 2017-2018 Fiscal Year, per Charter Section B3.581(h).

The Charter stipulates that the Executive Director's salary may not exceed the prevailing salaries paid those holding similar positions in comparable maritime employment. To understand that universe, Port staff has historically conducted a survey for Directors at comparable ports. Additionally, per past practice, staff has gathered information on the salaries of Directors at comparable City departments.

This past June, staff surveyed the salaries of Port Directors in eight major West Coast ports, focusing on the five ports that have jurisdiction only over a seaport. For the five seaports, the average annual Director's salary is \$309,788. The average salary at comparable City departments, including the Public Utilities Commission, Public Works and the airport is \$306,951. The Executive Director's salary is currently \$282,022 making it 9.5 and 9% less than both of those benchmarks respectively.

Because the Charter gives the Commission sole authority to set the Port Director's salary, the position may not be represented by the Municipal Executive Association. This makes this position very unique amongst City departments, most of which are represented by MEA which collectively bargains on their behalf. While the Port Director is not represented by MEA, the Port Commission has traditionally approved cost of living adjustments to the Director's salary based on the MEA contract.

The current contract includes a 3% base wage increase as of July 1, 2017 and an additional 3% due on July 1, 2018. I do need to note parenthetically that if the City's March 2018 Joint Report projects a budget deficit of more than \$200 million, that July 2018 increase would be delayed until January 2019. The 3% wage increases in the MEA contract mirror those in most of the City's other current collective bargaining agreements.

If the Commission were to apply the 3% MEA contract increase to the Executive Director's salary, it would increase to \$292,396 for the current Fiscal Year and that assumes implementation as of the end of September and then jump to \$299,182 for Fiscal Year 2018-2019. These amounts comport with the Charter requirement that the Director's salary not exceed the amounts paid to Directors in comparable maritime employment.

This matter is purely a policy decision for the Commission. Port staff will, of course, implement the Commission's ultimate decision regarding the Port Director's salary and before you begin to deliberate on this matter, our City Attorney has some additional advice for you that revolves around a recent change to the Brown Act as it relates to decisions, public decisions about salary.

Eileen Malley, Deputy City Attorney - Effective January 1, 2017, there was an amendment to the Brown Act that requires any legislative body who are setting salary or making salary decisions to make an oral report at an open public meeting regarding their recommendation as to the salary.

This is a little different than your normal practice, but what we would recommend is that you discuss any potential action before you make the motions and open up this item to public comment so that your motion will include the recommended salary adjustment.

Commissioner Adams - Commissioner Katz, Commissioner Brandon, do you have any questions?

Commissioner Brandon - Public comment?

Commissioner Adams - Is there any public comment on this item?

Eileen Malley - President Adams, before you open it up to public comment, we would recommend that you decide and recommend what your proposed action will be regarding the salary.

Commissioner Brandon - Katharine, thank you so much for that report and thank you for all of the charts showing what other department heads and what other sea and airport directors are making. We are very lucky to have Elaine here as our Port Director. She has done a wonderful job jumping in and taking charge over this past year and that she definitely deserves a 3% increase if not more.

Looking at the guidelines of all the other directors, this is fair but I do want to reserve my 2018 salary commitment until next year. Although I will vote for the 3% for two years, but still want to keep it open if we want to do more or less next year.

Commissioner Katz - I concur with Commissioner Brandon's remarks. I would like to support the current increase but see if there's a way of revisiting it a little bit sooner so we sort of hit the one year, if it's possible to hit the one-year time frame and explore an increase at that point to bring it more in range with comparable salaries. Is that possible or you can only do it at certain times?

Katie Petrucione - It makes most sense for it to be tied to beginning of the Fiscal Year. We could come back to you in this coming June if that would be your preference to revisit the level for Fiscal Year 2018-2019.

Commissioner Katz – Colleagues, could we support the increase now and then come back at the end of the fiscal year?

Commissioner Brandon - Yes, that's fine but it's really going to depend on what happens in March and if it goes into effect in July or January.

Katie Petrucione – It would be the March 2018 Joint Report and then we would be in front of you in June of 2018 for the start of the 2018-2019 Fiscal Year which will start on July 1. I think that all aligns.

Commissioner Katz - I think we should do a salary increase. I'm not sure exactly what's before us.

Commissioner Brandon - This is it. This is the salary increase.

Commissioner Adams - This is it. This is just the 3%.

Commissioner Katz - Right. It's the 3% but as we're recommending, it doesn't just have to be the 3% that's standard. It allows for an additive amount that would be in keeping with comparable salaries. What I'm trying to get at is a trigger for us that would put us at the one-year period.

Katie Petrucione - It's entirely within the Commission's discretion so long as you live within the language in the Charter regarding comparable maritime employment. If you wanted to make a decision to go beyond the 3%, you may do so.

Commissioner Brandon - I think that we should leave it the way it is now and we are going to do a review for Elaine and if at that time we want to increase it, we can.

Commissioner Katz - That's what I was trying to get at. I didn't say it very artfully. I was trying to figure out a trigger somewhere in there.

Commissioner Adams - For us, we want to go with the recommendation of the 3%.

Eileen Malley – Maybe the motion would be a motion that the salary of the Port Executive Director will be increased 3% and that number is the \$292,396 per year for the remainder of Fiscal Year 2017-2018, representing a 3% increase and at the Commission's request, staff return to set the salary for Fiscal Year 2018-2019.

ACTION: Commissioner Brandon moved approval; Commissioner Katz seconded the motion. All of the Commissioners were in favor. Resolution Nos. 17-41 was adopted.

14. NEW BUSINESS

Elaine Forbes – For new business, staff will explore cryptocurrency and potential benefits to the Port of San Francisco and we'll calendar it for when we're ready.

15. ADJOURNMENT

ACTION: Commissioner Katz moved approval to adjourn the meeting in the memory of those that lost their lives in Texas, Florida and Mexico; Commissioner Brandon seconded the motion. All of the Commissioners were in favor.

President Commissioner Adams adjourned the meeting at 4:25 p.m.