

# SAN FRANCISCO PORT COMMISSION

Leslie Katz, President  
Willie Adams, Vice President  
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## MEETING AGENDA

TUESDAY, MAY 26, 2015  
2:30 P.M. CLOSED SESSION  
3:15 P.M. OPEN SESSION

PORT COMMISSION HEARING ROOM, SECOND FLOOR  
FERRY BUILDING, SAN FRANCISCO CA 94111

*The Port Commission Agenda as well as Staff Reports/Explanatory Documents available to the public and provided to the Port Commission are posted on the Port's Website at [www.sfport.com](http://www.sfport.com). The agenda packet is also available at the Pier 1 Reception Desk. If any materials related to an item on this agenda have been distributed to the Port Commission after distribution of the agenda packet, those materials are available for public inspection at the Port Commission Secretary's Office located at Pier 1 during normal office hours.*

1. **CALL TO ORDER / ROLL CALL**
2. **APPROVAL OF MINUTES** – April 28, 2015
3. **PUBLIC COMMENT ON EXECUTIVE SESSION**
4. **EXECUTIVE SESSION**
  - A. Vote on whether to hold closed session.
    - (1) CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION MATTER (Discussion and Action Item). \*This session is closed to any non-City/Port representative:
      - a. Discuss existing litigation matters and possible approval of proposed settlement pursuant to subdivisions (a) and (d)(1) of California Government Code Section 54956.9 and San Francisco Administrative Code section 67.10(d)(1):

In re Pier 38 Maritime Recreation Center, Inc. (Debtor), U.S. Bankruptcy Court, Northern District of California, San Francisco Division, (Case No. 07-31444 DM 11 Chapter 7), and related adversary proceeding, City and County of San Francisco by and through its Port Commission v. Andrea A. Wirum, Trustee of the bankruptcy estate of Pier 38 Maritime Recreation Center, Inc.; and related counter-claim, Andrea A. Wirum v. City and County of San Francisco by and through its Port Commission (Adversary Proceeding No. 10-3271.)

Proposed settlement of litigation existing between the Port and Andrea A. Wirum, as trustee ("Trustee") for the debtor and former tenant Pier 38 Maritime Recreation Center, Inc., alleging various claims against one another. The Port asserted against the Trustee secured, unsecured, and administrative claims for breaches of the lease, including past rents due and a lien upon sublease rents received by the bankruptcy estate. The Trustee alleged various counter-claims against the Port, including breach of lease/contract and wrongful conduct, such as failing to make contractually required repairs, failing to maintain the premises, failing to act timely for permits, outside agency loans and rent credits, failing to cooperate in development of a yacht harbor, seeking to wrongfully evict the debtor, and otherwise breaching the covenant of good faith and fair dealing.

The proposed settlement includes the following material terms:

1) the Trustee's payment to the Port the sum of approximately \$30,000 in full satisfaction of the Port's lien against the funds currently on hand in the bankruptcy estate in the approximate amount of \$74,000; 2) the Trustee's retention of the sum of approximately \$44,000 of the funds on hand in the estate in full satisfaction of Trustee's counter-claims asserted against the Port in the Adversary Proceeding; 3) the Port's and the Trustee's mutual dismissal without prejudice of Adversary Proceeding No. 10-3271; 4) the Port will retain all of its claims but will subordinate its administrative claim to the fees and expenses of the Trustee and her professionals as to the funds retained by the bankruptcy estate under the settlement; 5) the Trustee will release or waive any other claims against the Port which exist in favor of the bankruptcy estate or the Trustee; and 6) the Trustee will stipulate to relief from the bankruptcy automatic stay to permit the Port to apply the \$15,000 security deposit for the lease which the Port is holding. The settlement is subject to the approvals by both the Port Commission and the United States Bankruptcy Court.

**5. RECONVENE IN OPEN SESSION**

- A. Possible report on actions taken in closed session pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.
- B. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

**6. PLEDGE OF ALLEGIANCE**

**7. ANNOUNCEMENTS**

- A. Announcement of Prohibition of Sound Producing Electronic Devices during the Meeting: 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. Announcement of Time Allotment for Public Comments: 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**

Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during Public Comment Period. A member of the public has up to three minutes to make pertinent public comments. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406. No Commission action can be taken on any matter raised during the public comment period for items not listed on the agenda other than to schedule the matter for a future agenda, refer the matter to staff for investigation or respond briefly to statements made or questions posed by members of the public. (Government Code Section 54954.2(a))

**9. EXECUTIVE**

- A. Executive Director's Report
  - Scoma's Restaurant 50<sup>th</sup> Anniversary
  - Red's Java House 60<sup>th</sup> Anniversary
  - Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the proposed Pier 70 Mixed-Use District Project and public scoping meeting for the EIR - May 28, 2015, from 6:00 p.m. to 8:00 p.m. at Pier 1
  - Cancellation of Port Commission meeting – June 9, 2015
  - Special Port Commission Meeting – June 23, 2015, Port Commission Hearing Room, Ferry Building
  - Receipt of three proposals for Bayview Gateway Art Project at Cargo Way and Third Street
- B. Port Commissioners' Report - Without discussion, at this time Commissioners may make announcements regarding various matters of interest to the Commissioner(s).

**10. CONSENT**

- A. Request approval of amendment to the 2013 Port of San Francisco Building Code to remove existing Section 106A.2, that provides a permit exemption for fences not exceeding 6 feet in height; thereby require building permits for construction of all future fences on Port property. (Resolution No. 15-17)

- B. Request authorization to advertise for competitive bids for Construction Contract No. 2762, Pier 31 Building & Roof Repair Project. (Resolution No. 15-18)

## **11. PLANNING & DEVELOPMENT**

- A. Request approval of: (1) Findings that the project proposed by TMG Partners, a California corporation, for premises located at Pier 38 in the Central Waterfront on The Embarcadero at Delancey Street is consistent with the Burton Act and the public trust for commerce, navigation and fisheries; and (2) Lease No. L-15892 between the Port of San Francisco and TMG Partners (or its affiliate) for a term of 25 years. (This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to Section 31.04(h) of the San Francisco Administrative Code.) (Resolution No. 15-19)
- B. Informational presentation regarding the National Park Service selection process for a proposed embarkation site for ferry service between the northern San Francisco waterfront and Alcatraz Island.
- C. Informational presentation on public process participation and schedule for the update of the Waterfront Land Use Plan.
- D. Informational presentation on the mixed-use development project for Seawall Lot 337 and Pier 48 bounded by China Basin Channel, Third Street, Mission Rock Street, and San Francisco Bay and adjacent to AT&T Park.

## **12. REAL ESTATE**

- A. Request authorization to issue a Request for Proposals for a three year lease with two one-year options to renew for three surface parking lots at: (i) Seawall Lot 321, bounded by the Embarcadero, Front Street and Green Street; (ii) Seawall Lot 322-1 bounded by Broadway Street, Front Street and Vallejo Street; and (iii) Seawall Lot 323/324 bounded by the Embarcadero, Broadway Street and Davis Street; (iv) interim parking in Pier 19½; (v) interim parking in Pier 29½; and (vi) interim parking in Pier 33. (Resolution No. 15-20)
- B. Informational presentation regarding the Fiscal Year 2015-16 Monthly Rental Rate Schedule, Monthly Parking Stall Rates and Special Event, Filming and Public Art Rates.

## **13. NEW BUSINESS**

## **14. ADJOURNMENT**

**FORWARD CALENDAR  
(TARGETED COMMISSION MEETING, SUBJECT TO CHANGE)**

**JUNE 9, 2015 – CANCELLED**

**JUNE 23, 2015 – SPECIAL MEETING**

	<b>FACILITY/POLICY</b>	<b>ITEM</b>	<b>TITLE</b>
1	Portwide	Informational	Presentation by Kenneth J. Petrilla, Executive Director of the California-China Office of Trade and Investment in Shanghai, on his office's efforts to promote and facilitate Chinese investment into California and to help California companies doing business in China
2	Pier 27	Informational	Status report on the James R. Herman Cruise Terminal Activity
3	Portwide	Action	Approval of Fiscal Year 2015-16 Monthly Rental Rate Schedule, Monthly Parking Stall Rates, and Special Event, Filming and Public Art Rates
4	Portwide	Action	Authorization to execute Contract Modification to construction Contract No. 2746 with Dutra Dredging for Maintenance dredging work
5	Piers 30-32	Action	Approval of proposal by the Mexican Consulate for a temporary art installation on the wharf area at Piers 30-32 and the northern end of the Brannan Street Wharf
6	Portwide	Action	Approval of the Operations Agreement with Aeroground, Inc. dba Menzies Aviation granting Menzies Aviation authority to operate its site at San Francisco International Airport as a Foreign Trade Zone No. 3 usage-driven site for a term of five years with one option to extend for four years and outlining conditions for the operation of the usage-driven site

**JULY 14, 2015**

	<b>FACILITY/POLICY</b>	<b>ITEM</b>	<b>TITLE</b>
1	Pier 29	Informational	Presentation on Request for Proposals (RFP) for a Retail Leasing Opportunity at the Pier 29 Bulkhead Building, located at Chestnut Street and The Embarcadero
2	SWL 323 and 324	Action	Authorization to Enter into Exclusive Negotiation Agreement with Teatro ZinZanni and its financial partner, Kenwood Investments No. 6, LLC, operating together as TZK Broadway, LLC, for the Lease and Development of Seawall Lots 323 and 324 and portions of the adjacent Vallejo and Davis Streets right-of-ways with a dinner-theater and a maximum 200-room, 40-foot high boutique hotel and approximately 7,500 square feet privately financed public park and ancillary uses on the west side The Embarcadero at Vallejo Street
3	Pier 38	Action	Approval of a capital investment in infrastructure and public access for the Pier 38 project in an amount not less than \$2,500,000
4	Portwide	Action	Approval to include additional capital projects in the previously approved supplemental appropriation to the

**SEPTEMBER 8, 2015**

	<b>FACILITY/POLICY</b>	<b>ITEM</b>	<b>TITLE</b>
1	Bayview Gateway	Informational	Presentation on the Bayview Gateway Art Project, and proposed Memorandum of Understanding between the Port and San Francisco Arts Commission for the use of Port property for the Bayview Gateway Art installation
2	Portwide	Informational	Update of Port Maritime Preservation Policy
3	Seawall Lots 321, 322-1, 323/324, and Piers 19½, 29½ and 33	Informational	Presentation to Port Commission to share the results of the Request for Proposals for a three year lease with two one-year options to renew for three surface parking lots at: (i) Seawall Lot 321, bounded by the Embarcadero, Front Street and Green Street; (ii) Seawall Lot 322-1 bounded by Broadway Street, Front Street and Vallejo Street; and (iii) Seawall Lot 323/324 bounded by the Embarcadero, Broadway Street and Davis Street; (iv) interim parking in Pier 19½; (v) interim parking in Pier 29½; and (vi) interim parking in Pier 33
4	Pier 31	Action	Authorization to award Construction Contract No. 2762, Pier 31 Building and Roof Repairs
5	Portwide	Action	Authorization to add revised Rules and Regulations for South Beach Harbor into Tariff No. 5
6	Pier 80	Action	Approval of two year Marine Terminal Agreement at Pier 80

**SEPTEMBER 22, 2015**

	<b>FACILITY/POLICY</b>	<b>ITEM</b>	<b>TITLE</b>
1	Portwide	Informational	Presentation on the Seawall/Earthquake Vulnerability Study Update
2	Seawall Lots 321, 322-1, 323/324, and Piers 19½, 29½, and 33	Action	Recommendation to Port Commission and authority to negotiate lease for a three year lease with two one-year options to renew for three surface parking lots at: (i) Seawall Lot 321, bounded by the Embarcadero, Front Street and Green Street; (ii) Seawall Lot 322-1 bounded by Broadway Street, Front Street and Vallejo Street; and (iii) Seawall Lot 323/324 bounded by the Embarcadero, Broadway Street and Davis Street; (iv) interim parking in Pier 19½; (v) interim parking in Pier 29½; and (vi) interim parking in Pier 33

**NOVEMBER 10, 2015**

	<b>FACILITY/POLICY</b>	<b>ITEM</b>	<b>TITLE</b>
1	Seawall Lots 321, 322-1, 323/324, and Piers 19½, 29½ and 33	Action	Approval of lease for a three year lease with two one-year options to renew for three surface parking lots at: (i) Seawall Lot 321, bounded by the Embarcadero, Front Street and Green Street; (ii) Seawall Lot 322-1 bounded by Broadway Street, Front Street and Vallejo Street; and (iii) Seawall Lot 323/324 bounded by the Embarcadero, Broadway Street and Davis Street; (iv)

			interim parking in Pier 19½: (v) interim parking in Pier 29½: and (vi) interim parking in Pier 33
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**DATE TO BE DETERMINED**

	<b>FACILITY/POLICY</b>	<b>ITEM</b>	<b>TITLE</b>
1	Pier 70	Action	Authorization to advertise for competitive bids for Construction, Crane Cove Park Project Phase 1
2	Pier 94 and 96	Action	Authorization to advertise for competitive bids for Construction, Pier 94-96 Storm Drain and Outfall repairs
3	Loading Dock near Tulare Street	Action	Authorization to advertise for competitive bids for Construction, Copra Crane Refurbishment
4	3rd Street & Cargo Way Triangle and Cargo Way	Action	Authorization to advertise for competitive bids for Construction, Quint Street Lead Improvement Project
5	Pier 35	Action	Authorization to advertise for competitive bids for Construction, Pier 35 Substructure Repairs
6	SWL 322-I	Action	Authorize Mayor's Office of Housing and Community Development to issue an RFP for a development of SWL 322-I

**JUNE / JULY 2015**  
**CALENDAR OF UPCOMING PORT MEETINGS – OPEN TO THE PUBLIC**

DATE	TIME	GROUP	LOCATION
June 9	CANCELLED		
June 23 SPECIAL MEETING	2:00 PM Closed Session	Port Commission	Port Commission Hearing Room / Ferry Building
	3:15 PM Open Session	Port Commission	Port Commission Hearing Room / Ferry Building
July 14	2:00 PM Closed Session	Port Commission	Port Commission Hearing Room / Ferry Building
	3:15 PM Open Session	Port Commission	Port Commission Hearing Room / Ferry Building

**NOTES:**

The San Francisco Port Commission meets regularly on the second and fourth Tuesday of the month at 3:15 p.m., unless otherwise noticed. The Commission Agenda and staff reports are posted on the Port's Website @ [www.sfport.com](http://www.sfport.com). Contact Amy Quesada at 274-0406 or [amy.quesada@sfport.com](mailto:amy.quesada@sfport.com)

Full Commission meetings are replayed on San Francisco cable via SFGovTV2 and streamed on the Internet. Broadband service is recommended for access. The Port Commission is generally broadcast on SFGovTV2, cable channel 78 on the 2nd & 4th Thursday of the month at 9 p.m. SFGovTV archives include a recording of each meeting, an agenda with links to the specific portion of the meeting, a file containing all closed captions for the deaf from the meeting and an MP3 recording of the meeting. The Port Commission meetings can be viewed online at [http://sanfrancisco.granicus.com/ViewPublisher.php?view\\_id=92](http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=92).

The Fisherman's Wharf Waterfront Advisory Group (FWWAG) meets regularly on a bi-monthly basis, on the third Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47 at Fisherman's Wharf. Contact Rip Malloy @ 274-0267 or [rip.malloy@sfport.com](mailto:rip.malloy@sfport.com)

The Maritime Commerce Advisory Committee (MCAC) meets every other month, on the third Thursday of the month, from 11:30 a.m. to 1:00 p.m. @ Pier 1. Contact Jim Maloney @ 274-0519 or [jim.maloney@sfport.com](mailto:jim.maloney@sfport.com)

The Mission Bay Citizens Advisory Committee meets on the second Thursday of the month at 5:00 p.m. in the Creek Room at Mission Creek Senior Building located at 225 Berry Street in San Francisco (along the Promenade just beyond the library.) Contact Catherine Reilly at the former Redevelopment Agency @ 749-2516 or [catherine.reilly@sfgov.org](mailto:catherine.reilly@sfgov.org)

The Northeast Waterfront Advisory Group (NEWAG) meets regularly on a bi-monthly basis on the first Wednesday of the month from 5:00 p.m. to 7:00 p.m. in the Bayside Conference Room @ Pier 1. Contact Jonathan Stern @ 274-0545 or [jonathan.stern@sfport.com](mailto:jonathan.stern@sfport.com)

The Central Waterfront Advisory Group (CWAG) meets monthly on an as-needed basis, generally on the third Wednesday of the month from 5 to 7 p.m. in the Bayside Conference Room at Pier 1. Contact Mark Paez @ 705-8674 or [mark.paez@sfport.com](mailto:mark.paez@sfport.com)

The Southern Waterfront Advisory Committee (SWAC) meets at the last Wednesday of the month as needed from 6:00 to 8:00 p.m. Location to be determined. Contact Kanya Dorland @ 274-0264 or [kanya.dorland@sfport.com](mailto:kanya.dorland@sfport.com) and/or David Beaupre @ 274-0539 or [david.beaupre@sfport.com](mailto:david.beaupre@sfport.com)

The Waterfront Design Advisory Committee (WDAC) meets jointly with the Design Review Board of the Bay Conservation and Development Commission on the first Monday of the month at BCDC, 50 California Street, Rm. 2600, at 6:30 p.m. The Committee meets as needed on the fourth Monday of the month at 6:30 p.m. in the Bayside Conf. Rm. @ Pier 1. Contact Dan Hodapp @ 274-0625 or [dan.hodapp@sfport.com](mailto:dan.hodapp@sfport.com)



## **ACCESSIBLE MEETING INFORMATION POLICY**

### **FERRY BUILDING:**

The Port Commission Hearing Room is located on the second floor of the Ferry Building. The main public entrance is from the west (Embarcadero) side and is served by a bank of elevators adjacent to the historic staircase. Accessible public restrooms are on the first floor at the northeast end of the building as well as on the second floor across the lobby from the Port Commission Hearing Room. The main path of travel to the Port Commission Hearing Room is equipped with remote infrared signage (Talking Signs). The Port Commission Hearing Room is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART and MUNI Metro station is Embarcadero located at Market & Spear Streets. Accessible MUNI lines serving the Ferry Building area are the F-Line, 9, 31, 32 and 71. For more information about MUNI accessible services, call (415) 923-6142. The nearest accessible parking is provided in the following off-street pay lots: 3 spaces in the surface lot on the west side of the Embarcadero at Washington Street.

Hourly and valet parking is available in the Pier 3 lot. This lot is accessed through the Pier 3 bulkhead building entrance on the east side of the Embarcadero. This lot is located on the pier deck; adjacent to the ferry boat Santa Rosa. Additional covered accessible off-street pay parking is available in the Golden Gateway Garage, which is bounded by Washington, Clay, Drumm and Battery Streets. Entrance is on Clay St. between Battery and Front Streets. There is no high-top van parking. Metered street parking is available on the Embarcadero, Washington, Folsom & Drumm Streets.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

### **Disability Accommodations:**

To request assistive listening devices, sign language interpreters, readers, large print agendas or other accommodations, please contact Wendy Proctor, Port's ADA Coordinator at (415) 274-0592 or via email at [wendy.proctor@sfport.com](mailto:wendy.proctor@sfport.com) or Amy Quesada, Commission Secretary, at (415) 274-0405 or via email at [amy.quesada@sfport.com](mailto:amy.quesada@sfport.com) at least 72 hours in advance of the hearing. The Port's TTY number is (415) 274-0587.

### **Language Assistance**

**311 Free language assistance** / 免費語言協助 / Ayuda gratuita con el idioma / Бесплатная помощь переводчиков / Trợ giúp Thông dịch Miễn phí / Assistance linguistique gratuity / 無料の言語支援 / 무료 언어 지원 / កាត់ ១ “សំឡេង” គ / Libreng tulong para sa wikang Tagalog

## **NOTICES**

### **Know Your Rights Under the Sunshine Ordinance:**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Sections 67.1 et seq. of the San Francisco Administrative Code) or to report a violation of the ordinance, contact Chris Rustom by mail: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854 or by email at [sotf@sfgov.org](mailto:sotf@sfgov.org). Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Rustom or by printing Sections 67.1 et seq. of the San Francisco Administrative Code on the Internet, at <http://www.sfgov.org/sunshine>.

### **Prohibition of Ringing of Sound Producing Devices:**

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 or use of a cell phone, pager, or other similar sound-producing electronic device.

**Lobbyist Registration and Reporting Requirements:**

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Government Conduct Code Sections §2.100 – 2.160) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness, Suite 3900, San Francisco, CA 94102, phone (415) 581-2300 or fax (415) 581-2317; web site: [www.sfgov.org/ethics](http://www.sfgov.org/ethics).

**CEQA Appeal Rights under Chapter 31 of the San Francisco Administrative Code:**

If the Commission approves an action identified by an exemption or negative declaration as the Approval Action (as defined in S.F. Administrative Code Chapter 31, as amended, Board of Supervisors Ordinance Number 161-13), then the CEQA decision prepared in support of that Approval Action is thereafter subject to appeal within the time frame specified in S.F. Administrative Code Section 31.16. Typically, an appeal must be filed within 30 calendar days of the Approval Action. For information on filing an appeal under Chapter 31, contact the Clerk of the Board of Supervisors at City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102, or call (415) 554-5184. If the Department's Environmental Review Officer has deemed a project to be exempt from further environmental review, an exemption determination has been prepared and can be obtained on-line at <http://sf-planning.org/index.aspx?page=3447>. Under CEQA, in a later court challenge, a litigant may be limited to raising only those issues previously raised at a hearing on the project or in written correspondence delivered to the Board of Supervisors, Planning Commission, Planning Department or other City board, commission or department at, or prior to, such hearing, or as part of the appeal hearing process on the CEQA decision.