



BOARD MEMORANDUM

TO: Board of Commissioners

FROM: Jim Blecha, President

DATE: November 16, 2021

SUBJECT: Adopt Resolution 21-19 Assigning CalPERS retiree John D'Ornellas the Position of Interim Harbor Manager (Government Code §21221(h))

Recommendation / Proposed Motion

- **Motion:** Adopt Resolution No. 21-19 assigning CalPERS retiree John D'Ornellas to begin post-retirement employment as Interim Harbor Manager.
- **Motion:** Approve compensation and contract for the Interim Harbor Manager position.

Policy Implications

Under Government Code section 21221(h) a retired person may serve without the loss or interruption of benefits provided by California's Public Employees' Retirement System ("CalPERS") upon interim appointment by the governing body of a contracting agency to a vacant position during recruitment for a permanent appointment and deemed by the governing body to require specialized skills or during an emergency to prevent stoppage of public business. Such employment shall not exceed 960 hours in a fiscal year and compensation for the interim appointment shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule for the vacant position. A retired person appointed to a vacant position pursuant to this subdivision shall not receive any benefits, incentives, compensation in lieu of benefits, or any other forms of compensation in addition to the hourly rate.

Fiscal Implications / Budget Status

The cumulative fiscal implications of the contemplated action will depend on the appointment duration of Mr. D'Ornellas and the number of hours worked per week. On a weekly basis, the fiscal implications will be between \$1,472 and \$3,680 depending on numbers of hours worked. The recruitment for a permanent full-time Harbor Manager is underway with a projected conclusion (i.e., new Harbor Manager starts work) within 2-3 months upon. The total fiscal impact of this appointment is estimated to be \$32,384 based on an average of 32 hours worked per week for the next 11 weeks (January 31, 2022). Mr. D'Ornellas will receive no additional benefits.

Alternatives Considered

Appoint one of the District's existing management employees to serve as the Acting Harbor Manager. Such an action may leave the District with the need to find an interim replacement for that employee or some other organizational temporary appointment.

Background/Discussion

John D'Ornellas has served as the Interim Harbor Manager since August 24, 2021 under the provisions of Government Code section 21221(g). This Code section provides that a retired person may serve without the loss or interruption of benefits provided by California's Public Employees' Retirement System ("CalPERS") as an employee for a position that is available due to a leave of absence granted to a person on payroll status. The District's Harbor Manager was on a leave of absence at the time of the Interim Harbor Manager's appointment. The Harbor Manager ended employment with the District on November 11, 2021. Mr. D'Ornellas can no longer serve as the Interim Harbor Manager under section 21221(g) since the Harbor Manager is no longer on a leave of absence. The District's Harbor Manager position is now vacant and recruitment has begun to fill the position. Government Code section 21221(h) provides for interim appointments of a retired CalPERS person during the vacancy of a position. This will allow Mr. D'Ornellas to continue to serve as the Interim Harbor Manager during the open recruitment of a permanent Harbor Manager.

The Harbor Manager position is filled by the one individual with specialized skills, expertise and responsibility for all phases of management of the District and the District's employees. The Harbor Manager position is vacant and needs to be filled immediately. An Interim Harbor Manager needs to be appointed to manage the District and the District's employees.

The Commission appointed John D'Ornellas to serve as the Interim Harbor Manager on August 24, 2021, during the leave of absence of the Harbor Manager. The action at tonight's meeting will continue this appointment under a new Government Code section required because the appointment is now for a vacant position. John's appointment as the Interim Harbor Manager has been important to the District for uninterrupted operations of the Harbor District. He possesses the specialized skills and expertise required for the position. Mr. D'Ornellas has demonstrated his considerable work experience and background in working with districts such as the Port and his knowledge of the District's operations, facilities and administrative functions. John previously served full-time as the District's Operations Manager in the 1990s. John left the District to become the General Manager of the Heritage Ranch Community Services District where he served for 16 years until retirement in 2017. John has the unique qualities of familiarity with the District, administration of districts similar to Port San Luis Harbor District and a knowledge of visitor serving and fishing industries.

The attached resolution appoints John D'Ornellas as the Interim Harbor Manager in compliance with Government Code section 21221(h). Mr. D'Ornellas' appointment shall not result in the loss or interruption of any benefits provided to him by CalPERS.

Mr. D'Ornellas has agreed to continue as the Interim Harbor Manger at his current hourly rate of \$92.00. His appointment will begin August 17 and will end the day immediately preceding the date of the permanent appointee to the vacant Harbor Manager position commences his/her employment or, if earlier, the date this appointment is terminated by either the District or Mr. D'Ornellas as specified in the employment agreement.

Attachment(s): 1. Resolution 21-19
2. Draft Employment Agreement