

**MINUTES  
REGULAR MEETING OF THE BOARD OF COMMISSIONERS  
HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT**

**23 September 2004**

**PRESENT:**

Commissioner Pellegrini  
Commissioner Curless  
Commissioner Fritzsche  
Commissioner Hunter  
Commissioner Ollivier

The Closed Session was called to order at 6:00 p.m. Closed Session adjourned at 6:38 p.m.

The regular meeting of the Board of Commissioners was called to order by President Pellegrini at 7:00 p.m. Roll call was taken. President Pellegrini led those present in the Pledge of Allegiance.

District Counsel reported that during Closed Session the Louisiana-Pacific tideland leases and the Pacific Coast Federation of Fishermen's Associations lawsuit was discussed, but no action was taken.

**PUBLIC COMMENT:** None

**CONSENT CALENDAR**

COMMISSIONER HUNTER MOVED FOR THE APPROVAL OF THE CONSENT CALENDAR.  
COMMISSIONER CURLESS SECONDED. MOTION CARRIED WITHOUT DISSENT.

**CEO REPORT**

- √ 9/13: CEO gave a general presentation of the Harbor District to a committee of the Humboldt County Grand Jury.
- √ 9/15: The cruise ship Silver Shadow was successful on its second attempt to visit Humboldt Bay, although the fog was coming in as it was leaving. Approximately 300 passengers toured the Redwoods or visited Eureka's Old Town. Tenders were used to transport the passengers from the ship at the Redwood Dock to the F Street float at Eureka's Boardwalk. CEO stated that the economic data on the impact a cruise ship calling has to Humboldt County is still being collected. CEO thanked the Cruise Ship Coalition Committee members Rich Trygar, Ray Hillman, Charlotte McDonald, Mary Curless Smith, Don Leonard, David Tyson, Tim Sawyer, Wayne Palmrose and the Chamber Ambassadors from the Greater Eureka Chamber of Commerce for their participation in the arrangements for the ship's visit.
- √ 9/16: CEO attended the Harbor Safety Committee Summit Meeting where the discussion centered on rewriting the California statute that created the Harbor Safety Committees administered by OSPR in 1990. The consensus of those present was that the Harbor Safety Committees should be tailored to fit the needs of the various ports of the State.
- √ 9/20: CEO attended a CICORE meeting in Tiburon.
- √ The permit applications have been submitted for the maintenance dredging of the Woodley Island Marina and various Eureka locations.
- √ Discussion with the Port of Oakland concerning container barging is ongoing.
- √ The Humboldt Bay Maritime Expo will be held Saturday, September 25<sup>th</sup> from 10 a.m. to 4 p.m.

**DISTRICT COUNSEL'S REPORT**

President Pellegrini welcomed former District Counsel Jeremiah Scott, Jr.

District Counsel reported that his law firm represents Simpson Samoa Company; therefore, Mr. Scott has continued to work on the purchase and sale of property between the Harbor District and Simpson and is present to participate in the discussion when those agenda items are considered.

**STAFF REPORT:** None

**COMMISSIONER REPORTS**

Commissioner Curless reported he has received favorable comments from residents of Shelter Cove regarding the meeting on the Shelter Cove Breakwater that he, Commissioner Pellegrini and CEO attended.

Commissioner Curless reported that "Hops in Humboldt" would be held in Fortuna on Saturday, September 25<sup>th</sup>.

Commissioner Fritzsche reported he, Commissioner Curless and CEO attended the Chamber of Commerce/Coastal Commission Reception held at the Samoa Hostelry on Wednesday, September 8<sup>th</sup>.

Commissioner Hunter commended Commissioner Ollivier on his presentation on the Harbor District's relationship with the Port of Oakland to the Eureka Rotary Club attended by the whole Board of Commissioners.

Commissioner Ollivier reported that discussions with Jerry Bridges and Wilson Lacy of the Port of Oakland are continuing. Commissioner Ollivier stated he previously was a member of the ILWU Local 10 labor union and has requested help from that union in the discussions. He anticipates the first week in November will be when the first barge from Oakland arrives.

President Pellegrini said the small staff of the Harbor District has been working tirelessly and has done great things in planning for the Humboldt Bay Maritime Expo this Saturday.

**ADVISORY COMMITTEE REPORTS:** None

**OTHER:** None

**NON-AGENDA:** None

**UNFINISHED BUSINESS**

**A. CONSIDERATION OF PROPOSED ROCKFISH MANAGEMENT MEASURES.**

CEO reported that the Board of Commissioners discussed this issue at the September 9<sup>th</sup> meeting. Per Board request at that time, the agenda item was tabled until justification was received from Department of Fish and Game on the change in the rockfish season and size limits. CEO reported that John Mello, DFG, notified him that the Board's questions would not be answered for at least another week. The Board of Commissioners next meeting will be on October 14<sup>th</sup> and comments to the Fish and Game Commission are due on October 15<sup>th</sup>.

Commissioner Fritzsche stated that absent any response from Fish and Game, the Board of Commissioners has no choice but to oppose the changes until the Board's questions are answered.

**COMMISSIONER FRITZSCHE MOVED TO OPPOSE THE PROPOSED ROCKFISH MANAGEMENT MEASURES. COMMISSIONER HUNTER SECONDED.**

Penny Elsebusch stated that since there has been no response from Fish and Game, the Harbor District should oppose the proposals affecting Northern California.

**MOTION CARRIED WITHOUT DISSENT.**

**B. CONSIDERATION OF PROMISSORY NOTE IN THE AMOUNT OF \$200,000 TOGETHER WITH INTEREST PAYABLE AT THE RATE OF 8% TO BE SECURED BY DEED OF TRUST TO REAL PROPERTY OWNED BY THE NORTH COAST RAILROAD AUTHORITY.**

Commissioner Ollivier recused himself because he is a NCRA Board member.

CEO reported that Harbor District staff has been working diligently with the NCRA staff since the last Board meeting. Late today CEO received a document from the NCRA for the Board's consideration.

District Counsel stated that he had talked with NCRA's legal counsel Chris Neary and Director John Woolley on this issue and he suggested that before the Board of Commissioners makes their decision an appraisal and title report of the proposed collateral property should be done to assure NCRA is first on the title. District Counsel also said that an appraisal and title report could be provided by the next Board meeting; and if the appraised value were not acceptable to the Board, NCRA would consider other types of collateral, such as revenue received from their leased lands. He also stated the appraised value should be well in excess of the amount of the loan.

John Woolley thanked the Board of Commissioners for their consideration and stated the title search had already begun on the Eureka Depot land and will be provided in writing to the Board. He also said that it would be nearly impossible to provide an appraisal on the proposed collateral property in the time frame necessary to meet NCRA's deadline and asked if a real estate appraisal of the property would suffice. Mr. Woolley said that ongoing discussions have taken place with agencies in Sonoma County, but that NCRA has not yet developed the partnerships there as they have with the Harbor District.

Commissioner Fritzsche asked how this loan would affect other Harbor District projects since this fiscal year's budget is at a deficit. He also asked if the proposed 8% interest rate is reasonable. District Treasurer responded that 8% on the open market is favorable.

John Woolley stated that NCRA intends to repay the loan in a very short period of time; therefore, the interest rate is not meaningful to NCRA.

Commissioner Fritzsche asked if NCRA could use their good credit rating with other agencies in Sonoma and Mendocino counties even if they haven't established partnerships. Mr. Woolley stated that this could not be done within the current time constraints.

Commissioner Hunter stated he was concerned with the fact that not much had been accomplished in the last two weeks since the Board of Commissioners last discussed this item. He said an advisory committee had been formed at the last meeting, but to date there has been nothing to meet about. Commissioner Hunter said that he doesn't want anyone to think the Board of Commissioners doesn't support the railroad, but he isn't ready to make a decision at this time.

Commissioner Curless stated that the loan requires an appraisal with comparables since the Board has a responsibility to protect the public trust.

COMMISSIONER CURLESS MOVED TO TABLE UNFINISHED BUSINESS ITEM 9B.  
COMMISSIONER HUNTER SECONDED. MOTION CARRIED WITHOUT DISSENT.

David Elsebusch stated that he was prepared to oppose this item once again because the loan would benefit the south end of the railroad line, not the north end. He also asked what the immediate need is.

The Board discussed the need for more timely responses from NCRA in order to consider this request.

District Counsel cautioned the Board to not make a decision if they do not feel they have enough information or time to consider the information presented.

Commissioner Ollivier returned to his seat at the Board table.

## **NEW BUSINESS**

### **A. CONSIDERATION OF RENEWAL OF PERMIT NO. 03-03 TO THE DEPARTMENT OF FISH AND GAME FOR THE REMOVAL AND DISPOSAL OF *ZOSTERA JAPONICA*.**

CEO reported that this renewal of Permit 03-03 is for a one-year period and will provide Fish & Game with the time to proceed with the next phase of scouting out and removing the *Zostera japonica*.

COMMISSIONER FRITZSCHE MOVED FOR THE RENEWAL OF PERMIT NO. 03-03 TO THE DEPARTMENT OF FISH AND GAME FOR THE REMOVAL AND DISPOSAL OF *ZOSTERA JAPONICA*. COMMISSIONER CURLESS SECONDED. MOTION CARRIED WITHOUT DISSENT.

### **B. CONSIDERATION OF NOMINATION OF 1<sup>ST</sup> DISTRICT SUPERVISOR JIMMY SMITH TO THE KLAMATH FISHERY MANAGEMENT COUNCIL.**

COMMISSIONER HUNTER MOVED FOR THE NOMINATION OF 1<sup>ST</sup> DISTRICT SUPERVISOR JIMMY SMITH TO THE KLAMATH FISHERY MANAGEMENT COUNCIL. COMMISSIONER CURLESS SECONDED. MOTION CARRIED WITHOUT DISSENT.

### **C. CONSIDERATION OF PURCHASE AND SALE AGREEMENT BETWEEN HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT AND SIMPSON SAMOA COMPANY, A WASHINGTON CORPORATION, PERTAINING TO LEASE TERMINATION, CONVEYANCE OF REAL PROPERTY AND EASEMENT BY SIMPSON SAMOA COMPANY, A WASHINGTON CORPORATION, TO THE HARBOR DISTRICT, PAYMENT OF \$550,000 CASH FROM SIMPSON TO THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, AND AUTHORIZE THE PRESIDENT OF THE BOARD OF COMMISSIONERS TO EXECUTE THE SAME.**

Jeremiah Scott, Jr., former Harbor District Counsel, reported the charge of the first Board of Commissioners of the Harbor District was to survey and monument the Bay. This effort was focused on Samoa and Fields Landing. The first lease with Simpson was signed in 1982, retroactive to 1981, and the removal of improvements was listed as one of the terms. Simpson purchased Louisiana-Pacific timber lands and took over their Harbor District tideland lease in 1999. Simpson has removed almost all improvements, except the Redwood Dock and the Red Water Tank. Two years ago, Simpson notified the Harbor District that they wanted to terminate their lease, but did not want to remove the improvements. Since the Harbor District is due fair and equitable consideration, negotiations began.

Mr. Scott stated the Board of Commissioners at this meeting will consider the termination of the Simpson lease; the acquisition of +/- 84 acres; acquisition of easement on L-P Drive to New Navy Base Road; access, use and maintenance agreement to maintain Red Water Tank for fire suppression; agreement to leave Warehouses #3 and 14 and Redwood Dock; and the acceptance of \$550,000 from Simpson.

CEO then presented a PowerPoint presentation that showed picture of the various buildings and dock on the property. The Harbor District will have direct control of +/- 73 acres plus 90,000 square feet of warehouses.

CEO reported that short term future plans for the property could include leasing portions of the property, removing exotic species on the property, repair the buildings and dock and use the dock for cruise ship access.

Commissioner Ollivier stated this is a perfect opportunity for the prospective container barging and barge repairs and that a long-term goal may be to lease the property to an active marine terminal operator.

Commissioner Hunter suggested the \$550,000 should be restricted for repairs to the property.

Vern Janowski, a member of the public, asked if no agreement was reached, what would Simpson be obligated to do and what is the term of the lease.

Mr. Scott responded that Simpson would be obligated to remove all improvements and that their lease terminated June 30, 2004 and is currently being paid on a month to month basis.

David Elsebusch asked why Simpson wouldn't just remove the dock and other improvements.

CEO responded that the cost to remove the improvements would be approximately \$2.04 million. The value of the property combined with the money Simpson would be giving to the Harbor District is approx. \$2.3 million.

Kaye Strickland suggested that NCRA might be interested in the Roundhouse on the property.

COMMISSIONER CURLESS MOVED FOR THE APPROVAL OF PURCHASE AND SALE AGREEMENT BETWEEN HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT AND SIMPSON SAMOA COMPANY, A WASHINGTON CORPORATION, PERTAINING TO LEASE TERMINATION, CONVEYANCE OF REAL PROPERTY AND EASEMENT BY SIMPSON SAMOA COMPANY, A WASHINGTON CORPORATION, TO THE HARBOR DISTRICT, PAYMENT OF \$550,000 CASH FROM SIMPSON TO THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, AND AUTHORIZE THE PRESIDENT OF THE BOARD OF COMMISSIONERS TO EXECUTE THE SAME. COMMISSIONER OLLIVIER SECONDED. MOTION CARRIED WITHOUT DISSENT.

**D. CONSIDERATION OF RECEIVING AND ACCEPTING GRANT DEED FROM SIMPSON SAMOA COMPANY, A WASHINGTON CORPORATION, TO THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT IN AND TO REAL PROPERTY AT SAMOA, HUMBOLDT COUNTY, CALIFORNIA CONSISTING OF ± 84 ACRES DESCRIBED IN SAID GRANT DEED KNOWN AS (A) ± 2.1 ACRES ADJACENT TO THE SAMOA SCHOOL, (B) ± 23 ACRES KNOWN AS DREDGE SPOIL SITE WEST OF VANCE AVENUE AND EAST OF NEW NAVY BASE ROAD, (C) ± 14 ACRES EAST OF VANCE AVENUE AND WEST OF HUMBOLDT BAY, AND (D) ± 45 ACRES OF TIDE AND SUBMERGED LANDS NORTH OF THE SAMOA BRIDGE, AND AUTHORIZE THE PRESIDENT OF THE BOARD OF COMMISSIONERS TO SIGN THE ACCEPTANCE THEREOF.**

COMMISSIONER OLLIVIER MOVED FOR THE APPROVAL OF RECEIVING AND ACCEPTING GRANT DEED FROM SIMPSON SAMOA COMPANY, A WASHINGTON CORPORATION, TO THE HUMBOLDT BAY HARBOR, RECREATION AND

CONSERVATION DISTRICT IN AND TO REAL PROPERTY AT SAMOA, HUMBOLDT COUNTY, CALIFORNIA CONSISTING OF ± 84 ACRES DESCRIBED IN SAID GRANT DEED KNOWN AS (A) ± 2.1 ACRES ADJACENT TO THE SAMOA SCHOOL, (B) ± 23 ACRES KNOWN AS DREDGE SPOIL SITE WEST OF VANCE AVENUE AND EAST OF NEW NAVY BASE ROAD, (C) ± 14 ACRES EAST OF VANCE AVENUE AND WEST OF HUMBOLDT BAY, AND (D) ± 45 ACRES OF TIDE AND SUBMERGED LANDS NORTH OF THE SAMOA BRIDGE, AND AUTHORIZE THE PRESIDENT OF THE BOARD OF COMMISSIONERS TO SIGN THE ACCEPTANCE THEREOF. COMMISSIONER CURLESS SECONDED. MOTION CARRIED WITHOUT DISSENT.

- E. CONSIDERATION OF RECEIVING AND ACCEPTING GRANT DEED FROM SIMPSON SAMOA COMPANY, A WASHINGTON CORPORATION, TO THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT IN AND TO REAL PROPERTY AT SAMOA, HUMBOLDT COUNTY, CALIFORNIA CONSISTING OF ± 84 ACRES DESCRIBED IN SAID GRANT DEED KNOWN AS (A) ± 2.1 ACRES ADJACENT TO THE SAMOA SCHOOL, (B) ± 23 ACRES KNOWN AS DREDGE SPOIL SITE WEST OF VANCE AVENUE AND EAST OF NEW NAVY BASE ROAD, (C) ± 14 ACRES EAST OF VANCE AVENUE AND WEST OF HUMBOLDT BAY, AND (D) ± 45 ACRES OF TIDE AND SUBMERGED LANDS NORTH OF THE SAMOA BRIDGE, AND AUTHORIZE THE PRESIDENT OF THE BOARD OF COMMISSIONERS TO SIGN THE ACCEPTANCE THEREOF**

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- F. CONSIDERATION OF ACCESS, USE AND MAINTENANCE AGREEMENT WITH SIMPSON SAMOA COMPANY, A WASHINGTON CORPORATION, WITH SIMPSON HAVING THE RIGHTS AND OBLIGATIONS TO OPERATE A WATER TANK ON LANDS OWNED BY THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, AND AUTHORIZE THE PRESIDENT OF THE BOARD OF COMMISSIONERS TO EXECUTE THE SAME.**

COMMISSIONER OLLIVIER MOVED FOR THE APPROVAL OF ACCESS, USE AND MAINTENANCE AGREEMENT WITH SIMPSON SAMOA COMPANY, A WASHINGTON CORPORATION, WITH SIMPSON HAVING THE RIGHTS AND OBLIGATIONS TO OPERATE A WATER TANK ON LANDS OWNED BY THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, AND AUTHORIZE THE PRESIDENT OF THE BOARD OF COMMISSIONERS TO EXECUTE THE SAME. COMMISSIONER CURLESS SECONDED. MOTION CARRIED WITHOUT DISSENT.

- G. CONSIDERATION OF TIDELAND LEASE TERMINATION AGREEMENT TERMINATING THAT LEASE DATED JULY 1, 1999 BETWEEN HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT AND SIMPSON SAMOA COMPANY, A WASHINGTON CORPORATION, OF HARBOR DISTRICT LANDS AND ACCEPTING A QUIT CLAIM DEED OF TIDELAND LEASE PREMISES FROM SIMPSON SAMOA COMPANY AND AUTHORIZE THE PRESIDENT OF THE BOARD OF COMMISSIONERS TO EXECUTE THE SAME.**

COMMISSIONER HUNTER MOVED FOR THE APPROVAL OF TIDELAND LEASE TERMINATION AGREEMENT TERMINATING THAT LEASE DATED JULY 1, 1999 BETWEEN HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT AND SIMPSON SAMOA COMPANY, A WASHINGTON CORPORATION, OF HARBOR DISTRICT LANDS AND ACCEPTING A QUIT CLAIM DEED OF TIDELAND LEASE PREMISES FROM SIMPSON SAMOA COMPANY AND AUTHORIZE THE PRESIDENT OF THE BOARD OF COMMISSIONERS TO EXECUTE THE SAME. COMMISSIONER CURLESS SECONDED. MOTION CARRIED WITHOUT DISSENT.

**H. CONSIDERATION OF SALE ESCROW INSTRUCTIONS WITH FIRST AMERICAN TITLE COMPANY, 1034 6<sup>TH</sup> STREET, EUREKA, CALIFORNIA DATED SEPTEMBER 23, 2004 FOR COMPLETION OF THE PURCHASE AND SALE AGREEMENT DESCRIBED IN PARAGRAPHS 10.C, 10.D, 10.E, 10.F, AND 10.G ABOVE BETWEEN THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT AND SIMPSON SAMOA COMPANY, A WASHINGTON CORPORATION, AND AUTHORIZE THE PRESIDENT OF THE BOARD OF COMMISSIONERS TO EXECUTE THE SAME.**

COMMISSIONER HUNTER MOVED FOR THE APPROVAL OF SALE ESCROW INSTRUCTIONS WITH FIRST AMERICAN TITLE COMPANY, 1034 6<sup>TH</sup> STREET, EUREKA, CALIFORNIA DATED SEPTEMBER 23, 2004 FOR COMPLETION OF THE PURCHASE AND SALE AGREEMENT DESCRIBED IN PARAGRAPHS 10.C, 10.D, 10.E, 10.F, AND 10.G ABOVE BETWEEN THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT AND SIMPSON SAMOA COMPANY, A WASHINGTON CORPORATION, AND AUTHORIZE THE PRESIDENT OF THE BOARD OF COMMISSIONERS TO EXECUTE THE SAME. COMMISSIONER CURLESS SECONDED. MOTION CARRIED WITHOUT DISSENT.

**ADMINISTRATIVE AND EMERGENCY PERMITS:** None

The Regular Meeting of the Board of Commissioners adjourned at 8:40 p.m.

APPROVED BY:

RECORDED BY:

\_\_\_\_Signature on File\_\_\_\_\_  
Ronald A. Fritzsche, Secretary

\_\_\_\_Signature on File\_\_\_\_\_  
Patricia L. Tyson, Admin. Assistant