

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

14 October 2004

PRESENT:

Commissioner Pellegrini
Commissioner Fritzsche
Commissioner Hunter
Commissioner Ollivier

ABSENT

Commissioner Curless

The Closed Session was called to order at 6:00 p.m. Closed Session adjourned at 6:35p.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. Commissioner Fritzsche led those present in the Pledge of Allegiance.

District Counsel reported that during Closed Session the Louisiana-Pacific tideland leases was discussed, but no action was taken.

PUBLIC COMMENT

Pete Oringer stated that he congratulates the community and the Harbor District on acquiring the Simpson properties. He suggested the Board of Commissioners market the properties and develop them according to the Harbor Revitalization Study recommendations. Mr. Oringer also suggested the Board of Commissioners establish an advisory committee, along with a couple of citizens, to look at possible marketing and development strategies for the property.

CONSENT CALENDAR

COMMISSIONER OLLIVIER MOVED FOR THE APPROVAL OF THE CONSENT CALENDAR.
COMMISSIONER FRITZSCHE SECONDED. MOTION CARRIED WITHOUT DISSENT.

CEO REPORT

- √ 9/25: CEO reported the Humboldt Bay Maritime Expo was a huge success with a record number in attendance. He also stated that plans are already underway for next year's event.
- √ 9/27-30: CEO attended the AAPA Conference in Long Beach as one of over 900 attendees from Canada to South America. He said discussion centered around port security, economic trends, and cargo handling technology.
- √ 10/12: CEO attended a port security committee meeting in Oakland. Committee reports were presented and there was discussion on developing security plans. Effective this next summer, Captain Pettit, the current USCG group commander of Humboldt Bay, will become the Captain of the Port and will be the point of contact for decisions on security issues.
- √ 10/12-13: CEO attended the CMANC Fall Conference in Napa. The meeting centered on updating CMANC's talking points for their spring meeting in Washington DC that included full Corps of Engineers funding for channel maintenance, marine sanctuary reauthorization and various ongoing federal issues impacting California ports.

DISTRICT COUNSEL'S REPORT

District Counsel reported that he has worked recently on the Louisiana-Pacific tideland leases and the NCRA short-term loan.

STAFF REPORT: None

COMMISSIONER REPORTS

Commissioner Fritzsche said that he seconded Mr. Oringer's suggestion for an advisory committee to discuss the Simpson property potential

President Pellegrini asked for volunteers for the advisory committee. Commissioners Fritzsche and Hunter volunteered. Pete Oringer volunteered also to be a part of the advisory committee.

Commissioner Fritzsche reported he enjoyed barbequing albacore at the Expo and thanked the Harbor District staff and others involved with the organization. He said that HSU President Rollin Richmond also enjoyed his time at the barbeque.

Commissioner Fritzsche reported that Milt Boyd, a member of the Mariculture Monitoring Committee and HSU professor, was honored as the Democrat of the Year.

Commissioner Fritzsche reported he traveled to Washington state to attend the Gilbert Ichthyologic Society conference whose president is a Humboldt State University graduate, Peggy Busby. Commissioner Fritzsche said it was good to see a large number of HSU graduates attending the event. He also stated that a Ray Troll, a professional artist from Ketchikan, Alaska, well known for his fish artistry, was also in attendance

Commissioner Ollivier thanked CEO for his involvement in the ongoing positive discussions with the Port of Oakland regarding container barge shipping. Commissioner Ollivier also reported a Star Ship barge arrived yesterday to take 12,000 tons of paper pulp which is equivalent to approx. 20 days of production.

President Pellegrini reported she also attended the Expo and was extremely happy with the success of the event. She said that the Administrative Assistant reported over six hundred samples of albacore were served.

Commissioner Hunter offered a special thank you to Dockmaster Suzie Howser for her time and effort in the organization of the Expo.

President Pellegrini stated that the memorial service for Suzie Howser's husband was the same day as the Paddlefest. She said she wasn't able to attend the Paddlefest, but heard it was also a successful event.

ADVISORY COMMITTEE REPORTS

Commissioner Hunter reported he and Commissioner Curless met with representatives of Stockton Pacific Enterprises to discuss deferring their Harbor Improvement Surcharge.

OTHER: None

NON-AGENDA

Commissioner Hunter stated that on the next meeting agenda he would like to see an action item for discussion to restrict the use of the \$550,000 the Harbor District just received from Simpson Timber Company. Commissioner Hunter said he feels the money should only be used for repairs and preventive maintenance on the property.

UNFINISHED BUSINESS

A. CONSIDERATION OF APPROVING SECURITY AGREEMENT WITH NCRA FOR SHORT TERM \$170,000 LOAN.

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

District Counsel reported that the records of the Secretary of State show that RREDC as the first lien holder on NCRA's lease revenue due to a previous loan from RREDC; but information received from RREDC show that the debt had been repaid and not removed from the State's records. Also there is a secondary \$20,000 lien that would need to be satisfied in order for the Harbor District to be the first lien holder. District Counsel also stated that if NCRA defaulted on their loan payments, their lease revenue would be paid directly to the Harbor District until such time as the loan is satisfied.

Commissioner Hunter confirmed that NCRA, under the loan agreement, would not make any payments to the Harbor District until April 2005 when they would start making quarterly interest payments. All interest and principle is required to be paid by December 31, 2006. Commissioner Hunter also stated that as a member of the RREDC Board, he could attest that NCRA has repaid their loan to RREDC.

COMMISSIONER FRITZSCHE MOVED FOR THE APPROVAL OF THE SECURITY AGREEMENT WITH NCRA FOR SHORT TERM \$170,000 LOAN WITH THE PROVISIO THAT APPROPRIATE DOCUMENTS ARE OBTAINED TO INDICATE THE RREDC LOAN HAS BEEN SATISFIED. COMMISSIONER HUNTER SECONDED.

President Pellegrini asked John Woolley, member of the NCRA Board, how secure the promise for the Q-Fund forgiveness is. Mr. Woolley stated that the Q-Fund is important, but is not the most important piece to getting the railroad going again. He said that they are waiting to hear what happens in the Senate with TEA21 reauthorization.

President Pellegrini then asked how committed is the NCRA to get the Northern end of the line open and running. Mr. Woolley that they still believe the operation's success is dependent on the viability of the Northern end.

President Pellegrini asked why the NCRA has not submitted an application to the Headwaters Fund for infrastructure improvement. Mr. Woolley responded that they need more money than the Headwaters Fund can provide. He said the Headwaters Fund would be targeted for specific projects after the CEQA process has been completed.

Commissioner Fritzsche stated that NCRA should build on their partnerships/coalition with agencies on the Southern end.

Kaye Strickland stated that a couple of years ago, several cities and counties between Humboldt and Sonoma counties passed resolutions in support of the railroad. She said the harbor needs the railroad and vice versa; and the southern end will be completed first, but their success depends on the viability of the northern end.

Commissioner Hunter said he hopes the community realizes the support, partially through the support of four different loans the Harbor District has given to the railroad.

Penny Elsebusch stated with the Harbor District's budget, they need to be cautious about loans and repayment. She asked about the crossing leases since there was no one crossing the tracks now. Mrs. Elsebusch also stated that she thought the Harbor District should have pursued the Ukiah Depot as collateral for the loan.

Pete Oringer stated the railroad support coalition determined that the Northern end of the railroad was not to be abandoned because the viability of the southern end depended on the northern end becoming a part of the whole 300 miles as an operating entity. He also said the railroad is important to the industrial functions of Humboldt Bay.

David Elsebusch asked if the Harbor District can afford to advance funds because it is a crapshoot if the loan will be repaid. He said that on January 1, 2007, if the loan has not been repaid, he hopes the Board of Commissioners will recollect their vote of this meeting.

Larry Henderson stated he supports the proposal and thanked the Board of Commissioners for being proactive.

Vee Sorenson said the Port has entered into a very exciting phase with the Port of Oakland and we need a viable railroad to compliment those efforts. She said an 8% loan with collateral seemed like a safe one and the NCRA has a good record of repayment.

MOTION CARRIED WITHOUT DISSENT.

NEW BUSINESS

A. CONSIDERATION OF OBTAINING US ARMY CORPS OF ENGINEERS ASSISTANCE IN THE FEASIBILITY PHASE OF THE HUMBOLDT BAY AND HARBOR STUDY.

CEO reported for the last three years he has been working with the Corps of Engineers to look at the cause of the annual shoaling problems and consider engineering solutions to keep the shoaling from recurring. He said the first phase is the Reconnaissance phase and the second phase is Feasibility. In order to complete the Recon phase and set the stage for the feasibility phase, the Harbor District will need to send a letter to the Corps requesting their assistance in the feasibility phase. The letter does not commit the Harbor District to anything at this point. CEO recommended the Board of Commissioners review the draft 905(b) Recon report and authorize the President of the Board of Commissioners to sign the letter.

Commissioner Hunter stated that when the deepening project was done at the authorized depth, maintenance dredging and shoal studies were supposed to be done with no local dollars. He asked what changed to make it the Harbor District's responsibility and not the Corps'. CEO responded that the deepening project was supposed to reduce the shoaling, but El Nino came along and created more problems. CEO also stated that Larry Mallon, Harbor District Maritime Counsel, was going to work with District Counsel to minimize costs.

COMMISSIONER OLLIVIER MOVED FOR THE APPROVAL OF OBTAINING US ARMY CORPS OF ENGINEERS ASSISTANCE IN THE FEASIBILITY PHASE OF THE HUMBOLDT BAY AND HARBOR STUDY. MOTION FAILED FOR LACK OF A SECOND.

Commissioner Fritzsche suggested minor changes to the letter. Commissioner Hunter also suggested changes to the letter.

COMMISSIONER FRITZSCHE MOVED FOR THE APPROVAL OF OBTAINING US ARMY CORPS OF ENGINEERS ASSISTANCE IN THE FEASIBILITY PHASE OF THE HUMBOLDT BAY AND HARBOR STUDY AND TO INCLUDE THE SUGGESTED WORDING CHANGES IN THE LETTER. COMMISSIONER HUNTER SECONDED.

David Elsebusch cautioned the Board of Commissioners to be careful; to consider legal review and rationale that could be presented to the Corps as to why the Corps should pay for the feasibility study and the Harbor District should pay nothing.

President Pellegrini stated that federal law requires cost sharing with a local sponsor.

MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF ACCEPTING FOR FILING PERMIT APPLICATION NO. 04-03 TO ROGER AND JOHANNA RODONI FOR THE LOWER ROCKY GULCH TIDEGATE REPLACEMENT PROJECT.

CEO stated that typically tide gate replacement is authorized under an Administrative Permit. CEO suggested the Board pull this agenda item and he will prepare an Administrative Permit.

C. CONSIDERATION OF APPROVAL OF THE ENVIRONMENTAL CHECKLIST FOR THE APPLICATION BY THE CITY OF EUREKA FOR THE MAINTENANCE DREDGING AND SPOILS DISPOSAL FOR 10 CITY OF EUREKA WATERFRONT SITES AND FOR WATERFRONT MAINTENANCE DREDGING FOR VARIOUS EUREKA CHANNEL LOCATIONS.

D. CONSIDERATION OF FINDING ADEQUATE THE MITIGATED NEGATIVE DECLARATION FOR THE APPLICATION BY THE CITY OF EUREKA FOR THE MAINTENANCE DREDGING AND SPOILS DISPOSAL FOR 10 CITY OF EUREKA WATERFRONT SITES AND FOR WATERFRONT MAINTENANCE DREDGING FOR VARIOUS EUREKA CHANNEL LOCATIONS.

E. CONSIDERATION OF RESOLUTION 2004-13 WHICH ESTABLISHES FINDINGS RELATIVE TO THE APPLICATION BY THE CITY OF EUREKA FOR THE MAINTENANCE DREDGING AND SPOILS DISPOSAL FOR 10 CITY OF EUREKA WATERFRONT SITES.

F. CONSIDERATION OF GRANTING PERMIT NO. 04-02 TO THE CITY OF EUREKA FOR THE MAINTENANCE DREDGING AND SPOILS DISPOSAL FOR 10 CITY OF EUREKA WATERFRONT SITES.

CEO reported items C, D, E and F are all related to the maintenance dredging of Woodley Island Marina and various City of Eureka waterfront sites. The Harbor District and the City of Eureka have partnered on this project, as various City of Eureka waterfront sites will be dredged as well.

Commissioner Hunter asked District Counsel if it was necessary that he recuse himself since his father owns a dock that will benefit from the dredging, but that he (Commissioner Hunter) will have no financial gain. District Counsel responded that as long as he did not gain financially from the project there was not a need to recuse himself.

CEO stated the dredging would occur from January – April 2005. The Mitigated Negative Declaration has been circulated, 2 responses were received and responded to.

COMMISSIONER OLLIVIER MOVED FOR THE APPROVAL OF THE ENVIRONMENTAL CHECKLIST FOR THE APPLICATION BY THE CITY OF EUREKA FOR THE MAINTENANCE DREDGING AND SPOILS DISPOSAL FOR 10 CITY OF EUREKA WATERFRONT SITES AND FOR WATERFRONT MAINTENANCE DREDGING FOR VARIOUS EUREKA CHANNEL LOCATIONS. COMMISSIONER FRITZSCHE SECONDED. MOTION CARRIED WITHOUT DISSENT.

COMMISSIONER OLLIVIER MOVED FOR THE APPROVAL OF FINDING ADEQUATE THE MITIGATED NEGATIVE DECLARATION FOR THE APPLICATION BY THE CITY OF EUREKA FOR THE MAINTENANCE DREDGING AND SPOILS DISPOSAL FOR 10

CITY OF EUREKA WATERFRONT SITES AND FOR WATERFRONT MAINTENANCE DREDGING FOR VARIOUS EUREKA CHANNEL LOCATIONS. COMMISSIONER FRITZSCHE SECONDED. MOTION CARRIED WITHOUT DISSENT.

COMMISSIONER OLLIVIER MOVED FOR THE APPROVAL OF RESOLUTION 2004-13 WHICH ESTABLISHES FINDINGS RELATIVE TO THE APPLICATION BY THE CITY OF

EUREKA FOR THE MAINTENANCE DREDGING AND SPOILS DISPOSAL FOR 10 CITY OF EUREKA WATERFRONT SITES. COMMISSIONER FRITZSCHE SECONDED. ROLL CALL VOTE WAS TAKEN:

COMMISSIONER PELLEGRINI – AYE
COMMISSIONER CURLLESS – ABSENT
COMMISSIONER FRITZSCHE – AYE
COMMISSIONER HUNTER – AYE
COMMISSIONER OLLIVIER – AYE

MOTION CARRIED WITHOUT DISSENT.

COMMISSIONER OLLIVIER MOVED FOR THE APPROVAL GRANTING PERMIT NO. 04-02 TO THE CITY OF EUREKA FOR THE MAINTENANCE DREDGING AND SPOILS DISPOSAL FOR 10 CITY OF EUREKA WATERFRONT SITES. COMMISSIONER FRITZSCHE SECONDED.

Commissioner Fritzsche asked about one of the NOAA comments that suggested dredging Coast Seafoods' dock. CEO responded that the projects included in this permit and environmental document were all facilities in public ownership.

MOTION CARRIED WITHOUT DISSENT.

G. CONSIDERATION OF DEFERRING HARBOR IMPROVEMENT SURCHARGE FOR STOCKTON PACIFIC ENTERPRISES BETWEEN OCTOBER 1, 2004 THROUGH FEBRUARY 1, 2005.

CEO reported that Stockton Pacific has requested their Harbor Improvement Surcharge for October 1, 2004 – February 1, 2005 and to repay the amount owing over the next 10 months to be completed by December 31, 2005. The financial impact would be less than \$9,000 which would be repaid.

COMMISSIONER OLLIVIER MOVED FOR THE APPROVAL OF DEFERRING HARBOR IMPROVEMENT SURCHARGE FOR STOCKTON PACIFIC ENTERPRISES BETWEEN OCTOBER 1, 2004 THROUGH FEBRUARY 1, 2005. COMMISSIONER HUNTER SECONDED.

Commissioner Fritzsche asked if there should be legal documents stating the conditions of the deferment.

District Counsel stated the proposal is straightforward and their letter and the Board's action are adequate.

Commissioner Fritzsche asked if there should be penalties if Stockton Pacific doesn't pay the amortized payments.

District Counsel responded that wording could be inserted, but that Stockton Pacific may not accept the proposal.

CEO stated that Ordinance 15 regarding the Harbor Improvement Surcharge has remedies for non-payment.

Commissioner Fritzsche stated he would like to go on record that he would like to see a contract.

Penny Elsebusch asked if the contract could be an attorney letter stating the conditions.

COMMISSIONER FRITZSCHE MADE A FRIENDLY AMENDMENT TO THE MOTION THAT A LETTER OF RESPONSE TO STOCKTON PACIFIC BE WRITTEN BY DISTRICT COUNSEL. COMMISSIONER OLLIVIER AGREED TO THIS FRIENDLY AMENDMENT.

David Elsebusch stated that the District would be taking a big risk if Stockton Pacific were unable to pay \$2,500 per month at this time. He also asked why shouldn't the District assess interest as well.

MOTION CARRIED WITHOUT DISSENT.

ADMINISTRATIVE AND EMERGENCY PERMITS

CEO stated that Emergency Permit E-2004-1 has been issued to Woody Murphy, Humboldt Bay Forest Products, for repair to a breach in the levee at 1938 King Salmon Avenue.

The Regular Meeting of the Board of Commissioners adjourned at 8:35 p.m.

APPROVED BY:

RECORDED BY:

____Signature on File_____
Ronald A. Fritzsche, Secretary

____Signature on File_____
Patricia L. Tyson, Admin. Assistant