

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

28 December 2006

PRESENT:

Commissioner Pellegrini
Commissioner Curless
Commissioner Wilson
Commissioner Hunter
Commissioner Ollivier

The Closed Session was called to order at 6:00 p.m. Closed Session adjourned at 6:47 p.m.

President Pellegrini called the regular meeting of the Board of Commissioners to order at 7:01 p.m.

President Pellegrini led those present in the Pledge of Allegiance.

Commissioner Ollivier asked for a Moment of Silence to honor Gib Hunter and Bob Maxon, two men who contributed a great deal to the community and who recently passed away.

Russ Gans, in District Counsel Paul Brisso's absence, reported on the items discussed during Closed Session: Potential Litigation – the 303(d) listing of Humboldt Bay by the State Water Resources Control Board (SWCRB): The Board of Commissioners directed CEO, District Counsel and Mr. Gans to prepare comments for the upcoming SWCRB meeting, requesting a delay in the initiation of the total maximum daily load testing process for the dredging of Humboldt Bay. The Board of Commissioners also directed CEO, District Counsel and Mr. Gans to draft a comment letter for submission to the SWRCB for consideration of de-listing Humboldt Bay as an impaired water body for dioxins during its consideration of the 2008 Clean Water Act 303(d) listing.

PUBLIC COMMENT

David Elsebusch asked for Consent Calendar Items (a) and (b) be pulled for further discussion. Mr. Elsebusch also passed out some examples of the City of Eureka's Council Agendas. He suggested, in the spirit of cooperation, the Harbor District change the meeting agendas to reflect specific Closed Session items and to include rules of conduct.

CONSENT CALENDAR

COMMISSIONER CURLESS MOVED FOR THE APPROVAL OF ITEM 6(C) OF THE CONSENT CALENDAR. COMMISSIONER OLLIVIER SECONDED. MOTION CARRIED WITHOUT DISSENT.

David Elsebusch commented on Item 6(a), asking President Pellegrini if she would like to recant her comments made during the December 4, 2006 Board meeting relative to Mr. Elsebusch's criticism of the Board of Commissioners.

Commissioner Wilson reminded CEO to make sure the invoices from Pacific Affiliates detail hours and duties.

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

Mr. Elsebusch echoed Commissioner Wilson's request for itemization of Pacific Affiliates invoices.

CEO REPORT

- RFQs for the Redwood Marine Terminal Study were mailed. Submittals are due January 31st.
- 12/5: Redwood Dock Advisory Committee met regarding the Timber Heritage Association. This will be discussed later in this meeting.
- 12/13-14: CEO chaired a meeting of all the Harbor Safety Committees in California to discuss possible legislation for support of a statewide Harbor Safety Information System which includes a

set of oceanographic instrumentation in each of the five ports to provide real time navigation information to mariners.

- 12/19: CEO and Bar Pilots met with representatives from the State Lands Commission regarding ballast water reporting.
- The maintenance dredging is continuing. The contractors are 75% done with the City's Boat Basin. CEO passed around pictures of the dredge pipeline.
- Once again, Congress failed, for the 6th year in a row, to approve the Water Resource Development Act, which means the request to get more days for the dredges Yaquina and Essayons will have to go on the calendar for next year.
- Congress will also freeze appropriations for Federal Fiscal Year 2008, which begins in September 2007, at the FY 2006 level.
- Approx. 5 years ago, the Harbor District partnered with the County of Humboldt on some upgrades to the Fields Landing Boat Ramp. The County is re-initiating the project with CA Dept. of Boating and Waterways to upgrade the parking facility, which includes a small portion of Harbor District property adjacent to Railroad Avenue. CEO suggested the Fields Landing Advisory Committee meet to discuss the options the County is proposing.

Commissioner Ollivier congratulated CEO on his election to the office of President of California Association of Port Authorities (CAPA). CEO said he appreciated the Board's support of CAPA and of his new office. CEO also stated CAPA is very involved in California's goods movement effort.

DISTRICT COUNSEL'S REPORT: None

STAFF REPORT

District Treasurer reported on the Monthly Management and Treasurer's Reports for the month of October 2006.

Commissioner Hunter asked why the revenue at the end of October is only 25% of the budgeted revenue amount when it should be closer to 33%. District Treasurer explained the main cause is timing of the receipt of the property taxes and grant monies.

District Treasurer also reported the Annual Audit for Fiscal Year 2005/06 should be finalized next week and presented at a Board of Commissioners' meeting in January.

COMMISSIONER REPORTS

Commissioner Ollivier noted Supervisor John Woolley and Woody Murphy were in the audience.

Commissioner Wilson reported Humboldt Bay Watershed Advisory Committee is interested in sponsoring a Humboldt Bay Symposium and Commissioner Wilson said he would like the Harbor District to be a participant.

Commissioner Wilson said he attended the Arcata Bay Levee public meeting. He said the consultants did a good job of explaining all the layers of permitting for the project.

Commissioner Hunter reported he attended an event honoring Liz Murguia, which also doubled as a fundraising event for the Humboldt County Library.

Commissioner Hunter also commented about his interest in the South Bay Marina and how there could be a perceived conflict of interest during the Board of Commissioners' discussions about the property. He said as always he will recuse himself from any Board discussion regarding the South Bay Marina.

Commissioner Hunter reported the vessel *Winga* sunk at the dock yesterday at the City's Public Marina. He said the boat would be raised and towed to the Fields Landing Boat Yard where it will be hauled for repair.

Commissioner Hunter reported the Annual Chamber of Commerce dinner will be held on Wednesday, January 24th at 5:30 p.m. at OH's Townhouse.

President Pellegrini said she hoped the *Winga* would be raised and repaired since it was so important to Gib Hunter and was part of Humboldt Bay's history.

ADVISORY COMMITTEE REPORTS: None

OTHER: None

NON-AGENDA: None

UNFINISHED BUSINESS: None

NEW BUSINESS

A. CONSIDERATION OF APPOINTMENTS TO THE 2007-2011 FIVE-YEAR STRATEGIC PLAN ADVISORY COMMITTEE.

COMMISSIONER HUNTER MOVED FOR THE APPOINTMENTS AS PRESENTED BY THE ADVISORY COMMITTEE. COMMISSIONER CURLESS SECONDED.

President Pellegrini listed the proposed committee members as follows: Gregg Foster, Bob Gearhart, Dennis Mayo, Mark Wheatley, Ted Kuiper, Ken Bates and Rich Trygar.

Commissioner Wilson asked who would be representing the recreation area. Commissioner Curless stated Dennis Mayo was suggested to represent recreation due to his experience with local trails and beaches.

David Elsebusch suggested the Board of Commissioners should review the Strategic Plan every year, not every five years.

Commissioner Hunter stated the Advisory Committee has discussed an annual review of the Strategic Plan. There will be several public meetings held and the Board of Commissioners will consider the final document for approval.

Commissioner Wilson asked for one of the public meetings to be held during a regular Board of Commissioners meeting thereby allowing all of the Commissioners an opportunity to participate.

Pete Oringer suggested the interim drafts of the Strategic Plan be placed on the Harbor District's website for public review prior to completion.

MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF ONE-YEAR EXTENSION OF PERMIT NO. 03-05 TO NAIM AND LOUISE OBEJI FOR KING SALMON BOAT RAMP REPAIR.

COMMISSIONER OLLIVIER MOVED FOR THE APPROVAL OF ONE-YEAR EXTENSION OF PERMIT NO. 03-05 TO NAIM AND LOUISE OBEJI FOR KING SALMON BOAT RAMP REPAIR. COMMISSIONER CURLESS SECONDED. MOTION CARRIED WITHOUT DISSENT.

C. CONSIDERATION OF ONE-YEAR EXTENSION OF PERMIT NO. 1998-3 TO COAST SEAFOODS FOR MARICULTURE ACTIVITIES.

COMMISSIONER HUNTER MOVED FOR THE APPROVAL OF ONE-YEAR EXTENSION OF PERMIT NO. 1998-3 TO COAST SEAFOODS FOR MARICULTURE ACTIVITIES TO INCLUDE THE CONDITIONS OUTLINED IN THE STAFF RECOMMENDATIONS. COMMISSIONER CURLESS SECONDED.

Commissioner Wilson said he expected more of a discussion of this item prior to this meeting since the Mariculture Monitoring Committee meeting was held some weeks ago. CEO stated the last Mariculture Monitoring Committee meeting was held on December 1st; and by the time the meeting was concluded, the agenda for the December 4th Board meeting was already in the mail. Therefore this agenda item had to wait until this Board meeting for discussion.

CEO stated Coast Seafoods had hoped the Corps of Engineers and Coastal Commission would've granted their permits in a timelier fashion. Even though the Harbor District's permitting procedures do not coordinate with these other agencies, the issue has become so complex it was decided the Harbor District would not start the CEQA process on the Coast Seafoods permit until the other permits were approved. Now that the other agencies have issued their permits and the CEQA documents will probably be available within the next couple of months, CEO stated he felt sure this was the last extension on the 1998-3 permit the Harbor District will have to consider.

MOTION CARRIED WITHOUT DISSENT.

D. CONSIDERATION OF APPROVAL OF AGREEMENT WITH MOFFATT AND NICHOL FOR BID DOCUMENTS PREPARATION SERVICES RELATED TO THE SHELTER COVE LAUNCH FACILITY IMPROVEMENTS.

COMMISSIONER CURLESS MOVED FOR THE APPROVAL OF AGREEMENT WITH MOFFATT AND NICHOL FOR BID DOCUMENTS PREPARATION SERVICES RELATED TO THE SHELTER COVE LAUNCH FACILITY IMPROVEMENTS. COMMISSIONER HUNTER SECONDED.

Commissioner Wilson asked if there were any grant requirements for RFQs or RFPs in regard to this service. CEO responded there are not. Since Moffatt and Nichol were used for the feasibility study and have a highly regarded reputation with CA Dept. Boating and Waterways (DBAW), DBAW gave their approval to proceed forward with Moffatt and Nichol.

Commissioner Hunter asked if the Harbor District would have to pay the \$142,000 first and then request reimbursement through the grant. CEO stated this was correct. He said also DBAW is putting together their staff report to actually allocate the grant funds to the Harbor District at their meeting in May 2007. The project will not begin until DBAW can provide assurance the funds are approved.

Commissioner Ollivier and Wilson commented about other components of the project. CEO replied there has been discussion about resurfacing the road down to the water and putting up guardrails along the side to protect the fence, but these components will also be engineered.

David Elsebusch said he felt obliged to object to the approval of the agreement on the basis there was no bid process completed.

CEO reminded the Board of Commissioners that professional engineers are not selected based upon a "bid" process, but rather on their qualifications and that Moffatt and Nichol has demonstrated their competency on this project and are highly qualified to complete the work.

MOTION CARRIED WITHOUT DISSENT.

E. CONSIDERATION OF AUTHORIZING THE CREATION OF A THIRD HARBOR MAINTENANCE II POSITION.

COMMISSIONER CURLESS MOVED FOR THE APPROVAL OF AUTHORIZING THE CREATION OF A THIRD HARBOR MAINTENANCE II POSITION. COMMISSIONER OLLIVIER SECONDED.

CEO stated as the need for more skilled maintenance is required at the various Harbor District facilities, it has become apparent there is a need for another Harbor Maintenance Worker II position (HMWII).

Commissioner Hunter stated the HR Advisory Committee concurs with CEO's recommendation.

David Elsebusch suggested the Bar Pilots could be trained to do some of the HMWII duties. CEO responded the HMWII position requires a different skill set than the Bar Pilots.

MOTION CARRIED WITHOUT DISSENT.

F. CONSIDERATION OF APPROVAL OF SAMOA SHOPS LEASE AGREEMENT WITH TIMBER HERITAGE ASSOCIATION.

COMMISSIONER OLLIVIER MOVED FOR THE APPROVAL OF SAMOA SHOPS LEASE AGREEMENT WITH TIMBER HERITAGE ASSOCIATION. COMMISSIONER HUNTER SECONDED.

Commissioner Ollivier complimented Marcus Brown of the Timber Heritage Association (THA) on his passion for this project. He also complimented Mike Kellogg of THA.

Commissioner Hunter noted the Harbor District has a unique opportunity to grow at the Redwood Dock facility, but are months away from studying the possibilities of attaining the highest and best use for the facility. He said this lease with THA was crafted to benefit both parties. There is a chance for the Harbor District to expand economically and to also save a vital piece of history for Humboldt County.

President Pellegrini asked Commissioner Ollivier if it was the intent of the motion to cover both of staff's recommendations or take one at a time. Commissioner Ollivier said it was his intent to cover both recommendations and Commissioner Hunter concurred. Therefore, the motion was restated to 1) APPROVE A ONE-YEAR LEASE WITH THE TIMBER HERITAGE ASSOCIATION FOR USE OF THE ROUNDHOUSE AND BOILER SHOP AT THE SAMOA SHOPS COMPLEX AND 2) AUTHORIZE THE HARBOR DISTRICT'S CEO TO EXPEND UP TO \$27,000 FOR BUILDING REPAIR MATERIALS FOR USE ON THE ROUNDHOUSE AND BOILER SHOP.

Commissioner Wilson said he was glad the Board made it clear to the public of the long-term impacts of this relationship on the outcome of the feasibility study and that it is clear the lease is for one year. Commissioner Hunter stated the Board has the opportunity to review the lease after a one-year period and can extend the lease if desires.

Commissioner Curless said the property was gained for Harbor District port uses and he wanted to make it clear there may be a possibility that the District may need the property back for port uses. In that event, it will become necessary to move the engines again.

Commissioner Wilson said this project will compliment the Humboldt Bay Maritime Museum, Samoa Cookhouse and the town of Samoa.

Woody Murphy, THA Board member, stated that whenever a generation moves into the past, the next generation has an obligation to protect that past. He said most of the equipment in the collection are one-of-a-kind and if lost, cannot be replaced.

Kaye Strickland said she agreed with Woody and she can't think of anything that is more valuable to this region.

Pete Oringer echoed Woody's sentiment and said the value of the collection speaks to this area's heritage. As a member of the Convention and Visitor's Bureau, Mr. Oringer said keeping visitors here for one more day is their goal.

Commissioner Ollivier said the local labor unions may be interested in helping with the project and he volunteered to help coordinate them with THA.

David Elsebusch questioned the future use of the site and also had questions regarding prevailing wage and donated materials.

Penny Elsebusch said she hoped the Board of Commissioners approves the agreement and maybe it could be combined with other museum features in the area.

Marcus Brown thanked the Board of Commissioners for their support and acknowledged the support of many in the community. He said things were bleak for a while, but have turned around. He said it was a "Christmas miracle". Marcus said he hoped THA could help the Harbor District with the recreational part of its mission by creating a world class destination.

President Pellegrini said Marcus Brown was like the "Little Engine that Could".

Will Cozee said he is one of the last surviving original officers of the group that started saving the locomotives from the scrapper.

Ray Hillman, local historian, said the collection has been accumulated over 25 years and we have a wonderful opportunity to preserve this history. Also, this is an opportunity to stop the building deterioration and save a nationally significant place of interest for tourism.

Gary Tomczak said he is on the THA Board and is involved in the restoration of one of THA's engines. He said he would ultimately like to run a train between Arcata and Samoa.

Commissioner Hunter reminded the Board of Commissioners they are fulfilling the Harbor District's recreational mission and enhancing tourism by the approval of this agreement. He also suggested the Harbor District assist with securing a grant or committing an amount of money to help move the locomotives.

Lawrence LaBranche said the Harbor District has the only roundhouse left on the bay and appreciated the opportunity to help preserve this one.

Commissioner Wilson asked how the progress of the work to be done will be monitored. CEO stated some milestones will be set, but not included in the agreement. There will be constant monitoring throughout the year.

MOTION CARRIED WITHOUT DISSENT.

G. CONSIDERATION OF APPROVAL OF AMENDMENT TO PROMISSORY NOTE WITH THE NORTH COAST RAILROAD AUTHORITY.

COMMISSIONER HUNTER MOVED FOR THE APPROVAL OF AMENDMENT TO PROMISSORY NOTE WITH THE NORTH COAST RAILROAD AUTHORITY. COMMISSIONER OLLIVIER SECONDED.

Commissioner Wilson asked if Commissioner Ollivier should recuse himself from this item because he is on the NCRA Board. Commissioner Ollivier recused himself and withdrew his second of the motion.

COMMISSIONER CURLESS SECONDED.

Commissioner Wilson said he was concerned there was a conflict of interest with Commissioner Ollivier on the Advisory Committee. Commissioner Hunter said the Advisory Committee has no power to make decisions. Also a conflict of interest exists if there is real or perceived financial gain, which there isn't in this case.

Commissioner Wilson said he did not think an 8% interest rate was enough since the prime rate has increased since the original loan promissory note. CEO stated historically the interest rate has been determined by the interest rate the Harbor District receives on its investments through the County Treasury. If the interest rate on the loan is higher than the interest rate the County pays on investments,

then the rate has been deemed to be sufficient. The current investment rate with the County is approximately 5.2 percent.

Commissioner Wilson asked about the collateral for the loan. CEO stated NCRA has many leases and easement agreements. The \$170,000 collateral is the annual revenue received from the lease. This is what NCRA has pledged as collateral for the loan. Commissioner Wilson asked how the collateral would be collected.

John Woolley, NCRA Board member, said that NCRA's leases were used as collateral and, if necessary could be collected upon. Mr. Woolley noted there was a great amount of legal work put into creating the agreement.

Mr. Woolley continued on the history of the original loan and how the State Bill was vetoed that NCRA had intended to use to repay the loan, thereby requiring the extension request. He said it was possible there would be a new Bill to cover the loan.

Commissioner Wilson asked if there was no SB792, how would NCRA make loan payments? Mr. Woolley responded NCRA's lease revenue and the \$20,000 per month from the new operators would be used, but it would be tight.

Commissioner Wilson asked if the repayment of the loan is based solely on the success of NCRA over the next three years. Mr. Woolley said if SB792 does not pass, NCRA still has operating revenue starting in 2009 which will help cover expenses.

David Elsebusch asked if NCRA is a public agency. He also said he assumes since legal counsel was involved in the preparation of the agreement, then it is a legal transaction. CEO stated District Counsel wrote the extension. Mr. Elsebusch asked if Commissioner Ollivier was paid a stipend by NCRA.

Commissioner Wilson said he thought "incompatible office" would be more appropriate than "conflict of interest". CEO explained that former District Counsel had researched the this issue when Commissioner Ollivier was appointed to the NCRA Board and it was determined that his appointment was not an "incompatible" office.

MOTION CARRIED WITH COMMISSIONER WILSON DISSENTING.

H. CONSIDERATION OF RESOLUTION 2006-19 ENTITLED A RESOLUTION TO DESIGNATE THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT'S AGENT FOR APPLICATION TO OBTAIN OFFICE OF EMERGENCY SERVICES FUNDS FOR DECEMBER 31, 2005 STORM DAMAGE.

Commissioner Hunter brought Commissioner Ollivier back into the room.

COMMISSIONER HUNTER MOVED FOR THE ADOPTION OF RESOLUTION 2006-19 ENTITLED A RESOLUTION TO DESIGNATE THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT'S AGENT FOR APPLICATION TO OBTAIN OFFICE OF EMERGENCY SERVICES FUNDS FOR DECEMBER 31, 2005 STORM DAMAGE. COMMISSIONER CURLESS SECONDED.

CEO stated in order to access emergency funds, the Board of Commissioners has to appoint a representative authorizing the application.

ROLL CALL VOTE WAS TAKEN:

COMMISSIONER PELLEGRINI – AYE
COMMISSIONER CURLESS – AYE

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COMMISSIONER WILSON – AYE
COMMISSIONER HUNTER – AYE
COMMISSIONER OLLIVIER – AYE

MOTION CARRIED WITHOUT DISSENT.

ADMINISTRATIVE AND EMERGENCY PERMITS: None

The Regular Meeting of the Board of Commissioners adjourned at 9:06 p.m.

APPROVED BY:

RECORDED BY:

Signature on File
Roy Curless, Secretary

Signature on File
Patricia L. Tyson, Admin. Assistant