

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

12 April 2007

PRESENT:

Commissioner Pellegrini
Commissioner Curless
Commissioner Wilson
Commissioner Hunter
Commissioner Ollivier

The Closed Session was called to order at 6:03 p.m. Closed Session adjourned at 6:38 p.m.

President Curless called the regular meeting of the Board of Commissioners to order at 7:00 p.m.

Commissioner Hunter led those present in the Pledge of Allegiance.

District Counsel reported on the items discussed during Closed Session: Potential Litigation – claim by Martin Steyn was referred to dredge contractor; Real Property Negotiations – Shelter Cove Fish Cleaning Station and Evergreen Pulp easement, no action taken on these two items.

PUBLIC COMMENT

Ken Bates, Woodley Island Marina tenant, told the Board of Commissioners of his appreciation for the marina facilities, but asked that some attention be paid to the laundry facility. He said many of the machines are not working and suggested leasing the facility to an outside business to manage.

Ron Derr, Woodley Island Marina tenant, said he had read in the newspaper slip rents at the marina may be doubled in order to pay for future maintenance dredging costs. He asked the Board of Commissioners to consider the fact if they double marina rents, most likely half the tenants would leave and there would be little to no increase in the revenue. He said fishermen are struggling financially and raising the rates would be a considerable hardship.

Commissioner Pellegrini asked CEO to explain the need for a marina rate increase. CEO stated during the first budget presentation to the Board in March, a rate increase was discussed as a revenue-increasing option for the Board of Commissioners to consider. CEO stated it is at least eight years from the next maintenance dredging cycle, but due to dredge spoils disposal constraints mandated by the CA Coastal Commission in response to non-government organizations' (NGO) pressure, the Harbor District may have to spend two-three times more for the next dredging project. With the current incoming projection, the Harbor District cannot afford to allocate \$800,000 - \$900,000 per year for eight years that would be necessary to cover the most expensive dredging option. It was suggested that these NGO's or the Coastal Commission could find the \$3 million difference as an alternative to raising slip fees.

David Elsebusch told the Board of Commissioners to be very careful about how they treat Closed Sessions matters, since there was a decision made during tonight's Closed Session on an item that was not specifically listed on the agenda.

CONSENT CALENDAR

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

CEO REPORT

- Ø 3/17-23: CEO reported he attended CMANC's Washington Week and AAPA's Spring Conference in Washington DC. He also met with legislators to discuss the Harbor District's legislative priorities.
- Ø 3/23-30: CEO attended FEMA's Tsunami Readiness Training at the National Emergency Training Center in Emmitsburg, Maryland. Seventy-five local agency representatives also attended the tsunami preparedness training.

- Ø 4/17: The Strategic Plan Advisory Committee will meet at 2 p.m. This meeting will be the government outreach session, the first in the series of outreach meetings.
- Ø 4/17-18: The US Coast Guard will have an oil spill deployment drill staged at the Redwood Dock property.
- Ø The maintenance dredging project was completed on March 31st. CEO stated Nehalem Dredging and Miller Farms Nursery did an outstanding job. CEO stated a few tasks remain.
- Ø The dredge Yaquina will be doing its maintenance dredging on the inner channels for another week; the dredge Essayons will arrive on April 25th to do its maintenance dredging of the bar and entrance channel.
- Ø CEO reported Timber Heritage Association is doing a great job on the preparation of the Roundhouse and Boiler Shop for storage of their historical railroad equipment.

DISTRICT COUNSEL'S REPORT: None

STAFF REPORT: None

COMMISSIONER REPORTS

Commissioner Pellegrini reported the following: 3/14: Taxpayer's League – she spoke about the fishing industry; 3/16: met with members of the Hoopa Tribe regarding the Trinity River Restoration Project; 3/27: attended a workshop regarding legislation for the Trinity River Restoration Project sponsored by Congressman Thompson; 3/29: met with representatives of the Natural Resource Division of the Karuk Tribe of Klamath; 4/3: met with the US Army Corps of Engineers Colonel on the dredge Yaquina and learned the California Coastal Commission has requested the Corps in the future to dump their dredge spoils near the beaches in order to rebuild the beach; 4/6: visited Turtle Bay in Redding where there are Titanic relics on display; 4/9: visited the dredge disposal site on Samoa beach and noted the area was very clean.

Commissioner Wilson reported he observed a portion of the California Rapid Assessment Method (CRAM) meeting organized by the Harbor District's Conservation Specialist. The training was for Northern California CRAM personnel learning to see and grade wetlands consistently. He also attended the Arcata Levee District meeting where discussion centered on updating emergency revetment work and the permit process for completion of the approximately \$10 million project; and received a letter from SeaGrant asking him to participate on a Humboldt Bay Eco-System Based Management Group.

Commissioner Hunter reported on the following: he attended a Chamber of Commerce Board meeting and met with Senator Wiggins to discuss port and rail issues; attended a presentation by Dan Johnson regarding the Samoa Town Master Plan; and he heard earlier today the fishermen's strike was settled, which caused him to think about how many local individuals and retailers are affected by the fishing industry.

Commissioner Ollivier reported there would be a joint railroad/port authority advisory committee meeting to be held on April 24th. Commissioner Ollivier said there would also be a NCRA meeting on April 25th at Eureka City Hall at 10 a.m.

President Curless reported he met with the US Army Corps of Engineers Colonel for lunch when he was in town on April 10th.

ADVISORY COMMITTEE REPORTS

Commissioner Hunter reported a Strategic Plan Advisory Committee meeting will be held on April 17th at 2 p.m. He urged members of the community to attend and talk about the Harbor District's direction in the next five years.

OTHER: None

NON-AGENDA: None

UNFINISHED BUSINESS

A. CONSIDERATION OF THE ADOPTION OF FY 2007/08 PRELIMINARY BUDGET.

District Treasurer presented the 2007/08 Preliminary Budget to the Board of Commissioners and reported the summary as follows: Revenue \$2,936,663; Operating Expenses \$2,182,600; Non-

Operating Expenses \$1,857,333; Excess Revenues under Expenses \$1,103,270; Transfers for Capital Expenditures from Fund Balance Designations \$448,000; and Total after Transfers \$(655,270). District Counsel stated there are sufficient reserves to cover the deficit; however, he suggested the Finance Advisory Committee meet to discuss future plans to eliminate the deficit.

Commissioner Wilson suggested moving \$10,000 out of both the District Engineer and District Planner positions into the Humboldt Bay Management Plan line item. CEO explained the District Planner line item includes expenses for the Humboldt Bay Management Plan.

Commissioner Wilson suggested staff inquire into state programs for renewable energy as a way of lowering the District's utility costs. CEO stated approximately three years ago PG&E performed an energy audit for the District and their recommendations were implemented.

David Elsebusch said a budget should reflect what the preparer thinks is the final result for the year. Historically the Harbor District anticipates a deficit and it doesn't turn out to be that way at the end of the year. He asked what would be wrong with balancing the budget by anticipating transfers from reserves.

Susan Penn said she agreed with the previous comments made regarding the laundry facility and suggested it might be easier to hire an outside contractor to run the facility. She also asked why the budgeted salaries and wages for 2007/08 are so much higher than this fiscal year. District Treasurer stated the increase is due to the hiring of the bar pilots. Commissioner Ollivier stated an increase in shipping will help counter the increase in salaries.

COMMISSIONER HUNTER MOVED FOR THE ADOPTION OF FY 2007/08 PRELIMINARY BUDGET.
COMMISSIONER PELLEGRINI SECONDED.

COMMISSIONER WILSON PROPOSED A FRIENDLY AMENDMENT TO MOVE \$10,000 FROM THE DISTRICT ENGINEER AND PLANNER LINE ITEMS TO THE HUMBOLDT BAY MANAGEMENT PLAN LINE ITEM. COMMISSIONER WILSON'S MOTION FAILED DUE TO LACK OF A SECOND.

MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF APPROVAL OF THE ENVIRONMENTAL CHECKLIST FOR THE APPLICATION BY COAST SEAFOODS FOR MARICULTURE ACTIVITIES.

CEO said this agenda item was worthy of a celebration. He said the past ten years has seen a wholesale change in Coast Seafoods' mariculture operations to be more environmentally sensitive and a lot of work by many people, including the Mariculture Monitoring Committee.

Chad Roberts, District Planner, said the Harbor District was given the responsibility for permitting Coast's operation after a change in the laws in the 1990's and initially there was not enough information to complete the permit documents. Through the changes from bottom culture to long line, Coast's operation has reduced environmental consequences required under CEQA.

COMMISSIONER PELLEGRINI MOVED FOR THE APPROVAL OF THE ENVIRONMENTAL CHECKLIST FOR THE APPLICATION BY COAST SEAFOODS FOR MARICULTURE ACTIVITIES.
COMMISSIONER HUNTER SECONDED.

Commissioner Wilson said Coast Seafoods has come a long way and the approval of their permit provides an opportunity to look at the whole bay and the part aquaculture plays.

Larry Evans, speaking for EPIC, stated the environmental checklist has not met the CEQA obligations; there is not enough information to make the determination.

MOTION CARRIED WITHOUT DISSENT.

C. CONSIDERATION OF FINDING ADEQUATE THE MITIGATED NEGATIVE DECLARATION FOR THE APPLICATION BY COAST SEAFOODS FOR MARICULTURE ACTIVITIES.

COMMISSIONER PELLEGRINI MOVED FOR THE APPROVAL OF FINDING ADEQUATE THE MITIGATED NEGATIVE DECLARATION FOR THE APPLICATION BY COAST SEAFOODS FOR MARICULTURE ACTIVITIES. COMMISSIONER HUNTER SECONDED.

Larry Evans stated the findings are not supported by facts and the mitigation is insufficient. He said the action must be tabled until there is sufficient mitigation and the lack of enforcement is addressed.

Melvin McKinney said the Mitigated Negative Declaration (MND) does not address the fact that the land is a public trust and should be used for the public's benefit. He also stated the acreage should be addressed in the Mitigated Negative Declaration, the EIR and NEPA for other possible entrepreneurs.

Commissioner Wilson asked why a MND was prepared instead of an Environmental Impact Report. Chad Roberts responded CEQA states if the project, the applicant and lead agency all agree on a set of mitigation measures that cause the impacts to decrease to levels less than significant, CEQA directs the adoption of a Mitigated Negative Declaration. An EIR is focused on the same process as the MND, but the idea is you identify potential adverse environmental consequences of the proposed actions. A MND commits the applicant to agree to implement all of the mitigation measures. If the applicant does not agree, then an EIR would be appropriate.

Commissioner Wilson asked about Mr. Evans' concern regarding the level of monitoring and enforcement. Mr. Roberts responded CEQA requires a mitigation monitoring program to assure the mitigation measures are implemented. The measures are being enforced by making them a condition of the permit, which meets CEQA requirements. Commissioner Wilson asked who will be doing the monitoring. Mr. Roberts responded if the Board of Commissioners wants performance monitoring, then the Harbor District would be responsible for that action. CEQA says the mitigation monitoring requirement is met by making sure the mitigation measures are implemented, which can be done by making them permit conditions. Commissioner Pellegrini said Coast Seafoods is required to present an annual report to the Harbor District on December 1st, as they have been doing for the last several years.

MOTION CARRIED WITHOUT DISSENT.

D. CONSIDERATION OF ADOPTION OF RESOLUTION 2007-02 WHICH ESTABLISHES FINDINGS RELATIVE TO THE APPLICATION BY COAST SEAFOODS FOR MARICULTURE ACTIVITIES.

COMMISSIONER PELLEGRINI MOVED FOR THE ADOPTION OF RESOLUTION 2007-02 WHICH ESTABLISHES FINDINGS RELATIVE TO THE APPLICATION BY COAST SEAFOODS FOR MARICULTURE ACTIVITIES. COMMISSIONER HUNTER SECONDED. ROLL CALL VOTE WAS TAKEN:

COMMISSIONER PELLEGRINI – AYE
COMMISSIONER CURLESS – AYE
COMMISSIONER WILSON – AYE
COMMISSIONER HUNTER – AYE
COMMISSIONER OLLIVIER – AYE

MOTION CARRIED WITHOUT DISSENT.

E. CONSIDERATION OF GRANTING PERMIT 04-03 TO COAST SEAFOODS FOR MARICULTURE ACTIVITIES.

COMMISSIONER PELLEGRINI MOVED FOR THE APPROVAL OF GRANTING PERMIT 04-03 TO COAST SEAFOODS FOR MARICULTURE ACTIVITIES. COMMISSIONER HUNTER SECONDED. MOTION CARRIED WITHOUT DISSENT.

NEW BUSINESS

A. CONSIDERATION OF ADOPTION OF RESOLUTION 2007-03 ENDORSING AN APPLICATION TO THE WILDLIFE CONSERVATION BOARD FOR THE CONSTRUCTION OF THE FIELDS LANDING BOAT RAMP PARKING AND PUBLIC SAFETY ENHANCEMENT PROJECT.

COMMISSIONER OLLIVIER MOVED FOR THE ADOPTION OF RESOLUTION 2007-03 ENDORSING AN APPLICATION TO THE WILDLIFE CONSERVATION BOARD FOR THE CONSTRUCTION OF THE FIELDS LANDING BOAT RAMP PARKING AND PUBLIC SAFETY ENHANCEMENT PROJECT. COMMISSIONER PELLEGRINI SECONDED.

COMMISSIONER PELLEGRINI – AYE
COMMISSIONER CURLESS – AYE
COMMISSIONER WILSON – AYE
COMMISSIONER HUNTER – AYE
COMMISSIONER OLLIVIER – AYE

MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF ADDENDUM NO. 1 TO AGREEMENT WITH GEOMATRIX FOR HUMBOLDT BAY 303(D) LISTING TECHNICAL SUPPORT.

CEO reported he would be meeting with the Regional Water Quality Control Board (RWQCB) to take a proactive approach to the State Water Resources Control Board's 303(d) listing of Humboldt Bay as impaired and to fill any informational gaps. Because the subject is highly technical and Geomatrix has been involved in previous data gathering and meetings, CEO stated he would like their continued help with technical support.

Commissioner Wilson asked what the outcome CEO is hoping to accomplish. He asked why CEO couldn't meet with the RWQCB without expensive consultants. CEO stated one of the questions to the RWQCB is how they determine the TMDLs and what is needed to put together the best informational packet for the RWQCB for the 2008 listing process.

Commissioner Wilson stated he was not convinced Geomatrix was the best company for this job and he was not impressed with their performance. He said he would like to choose a consultant through an RFQ process and did not see a need to hurry through this. Commissioner Wilson also suggested the Shellfish Technical Advisory Committee should be re-formed to address this topic. CEO stated the TAC is the Regional Board's tool and it would be up to them to reinstate the committee, if there is even a role for them at this point.

COMMISSIONER WILSON MOVED TO REQUEST STAFF PUT TOGETHER A REQUEST FOR QUALIFICATIONS IN ORDER TO LOOK AT OTHER OPTIONS.

Chad Roberts stated the need to meet with the RWQCB is timely, but an RFQ for a long-term program would be appropriate.

MOTION FAILED FOR LACK OF A SECOND.

COMMISSIONER PELLEGRINI MOVED FOR THE APPROVAL OF ADDENDUM NO. 1 TO AGREEMENT WITH GEOMATRIX FOR HUMBOLDT BAY 303(D) LISTING TECHNICAL SUPPORT NOT TO EXCEED \$7,000. COMMISSIONER OLLIVIER SECONDED.

Commissioner Hunter suggested the contract dollar amount be negotiated lower and would like to see more detail in the preparation for the meeting. CEO stated the amount is for time and materials not to exceed \$7,000, which allows the Board of Commissioners to terminate Geomatrix at any time and negotiate the "not to exceed" limit.

COMMISSIONER PELLEGRINI AMENDED HER ORIGINAL MOTION NOT TO EXCEED \$5,000.
COMMISSIONER OLLIVIER SECONDED.

David Elsebusch asked why other agencies can't be asked to contribute funds toward the cost; why does the Harbor District have to bear the cost. He also said there was a rushed decision last time to hire Geomatrix and what did that accomplish. Commissioner Wilson stated there are other local agencies interested and involved, but who would the consultant really represent if there were several contributors to the cost.

Larry Evans asked what is the purpose of this project. He said the Harbor District should be more concerned with fixing the problem of the pollution. He said you can dispute if there is enough pollution to be listed, but you can't dispute there is pollution.

Chad Roberts stated the Clean Water Act requires the RWQCB to prepare the TMDLs now that the bay has been listed as impaired. However, the state's schedule is for the RWQCB to begin the preparation in 2019, so the RWQCB is not prepared to do anything for years. The Harbor District has to give consideration to what the listing means to dredging, aquaculture, etc. and this has to be discussed with the RWQCB.

Pete Nichols, Humboldt Baykeeper, said the RWQCB would be involved prior to 2019 because the Coastal Commission is in the process of pulling together agency stakeholder to have a dialogue. He said if the Board of Commissioners approves the contract for Geomatrix, they might be putting the cart before the horse in that the Board should be putting money aside to look at solutions.

Commissioner Pellegrini stated Sierra Pacific was required to clean up their site on Humboldt Bay as the result of a judgment in 2002. She asked Mr. Nichols if the State Board was given the 2004 data, post clean up, or just the 2002 data. He responded the State Board was given all the public information available at that time. Commissioner Pellegrini asked Mr. Nichols if he still contended there was dioxin at the Sierra Pacific site, even after clean up. He responded absolutely.

Commissioner Pellegrini also asked Mr. Nichols why the toxic sludge surfer was still showing on the Humboldt Baykeeper website since the maintenance dredging was complete on March 31st. He responded he did not realize it was still there, but noted some people found the cartoon funny.

Andy Colonna asked why it will take the RWQCB 12 years before they can deal with the dioxins.

MOTION CARRIED WITH COMMISSIONER WILSON DISSENTING.

C. CONSIDERATION OF APPROVAL OF AGREEMENT WITH TRANSYSTEMS FOR THE REDWOOD MARINE TERMINAL FEASIBILITY STUDY AND BUSINESS PLAN.

CEO reported between 2004 and 2006, through lease terminations the Harbor District obtained two docks, renamed Redwood Marine Terminal. The Headwaters Fund recently granted the Harbor District \$200,000 to hire a consultant team to determine the best use for the Redwood Marine Terminal. Staff distributed an RFQ and received three responses. The Redwood Dock Advisory Committee, Commissioners Hunter and Ollivier, and CEO interviewed two of the three consultant teams and is recommending TranSystems, including the local engineering firm SHN Engineering, for approval.

Commissioner Wilson stated the last time the Board of Commissioners considered a contract with SHN Engineering he recused himself because SHN was a subcontractor of his. This is no longer the situation; and therefore, he could participate in the discussion and subsequent vote.

COMMISSIONER HUNTER MOVED FOR THE APPROVAL OF AGREEMENT WITH TRANSYSTEMS FOR THE REDWOOD MARINE TERMINAL FEASIBILITY STUDY AND BUSINESS PLAN. COMMISSIONER OLLIVIER SECONDED.

Commissioner Hunter said one of the committee's main concerns was to make sure a local consultant team was also included.

Commissioner Wilson asked if the consultants were obligated to look at options for the property other than cruise ships, container barges and breakbulk. CEO responded the consultants are not limited in what they can consider; whatever makes sense for the current zoning.

Commissioner Wilson said he would vote in the negative because he would like to see the business plan separated out from the rest of the contract in case the consultants do not find a feasible use for the property. He said the money should then be given back to the Headwaters Fund. District Counsel stated the work will be paid at an hourly rate, not to exceed the contract amount, and the Board of Commissioners has the right at any time to terminate the contract, including if there is no feasible use determined.

David Elsebusch asked if CEO had seen the Headwaters Fund report to the Board of Supervisors, where the Headwaters Fund Board took credit for giving the grant to the Harbor District in spite of the fact they didn't want to do it in the first place. Mr. Elsebusch said this is the type of grant required for the community to move forward.

Kaye Strickland said the use of the Headwaters Fund was for port and rail development. She said at least another \$1 million should be used for port and rail.

Penny Elsebusch said she is looking forward to seeing what the consultants determine will be a feasible use for the Redwood Marine Terminal property. She said the consultants should consider the size of the port, available land and capabilities - Port of Humboldt Bay is not the Port of Oakland.

MOTION CARRIED WITHOUT DISSENT.

D. CONSIDERATION OF ACCEPTING FOR FILING PERMIT 07-02 FOR NORTH COAST RAILROAD AUTHORITY TO REPAIR RIPRAP SHORE PROTECTION AT KING SALMON.

COMMISSIONER OLLIVIER MOVED FOR THE APPROVAL OF ACCEPTING FOR FILING PERMIT 07-02 FOR NORTH COAST RAILROAD AUTHORITY TO REPAIR RIPRAP SHORE PROTECTION AT KING SALMON. COMMISSIONER HUNTER SECONDED.

Melvin McKinney said the project will not be the end of the problem. He requested the Harbor District meet with the Corps of Engineers to do due diligence; the cause of the erosion is due to wave action as shown by LIDAR pictures of the area.

MOTION CARRIED WITHOUT DISSENT.

ADMINISTRATIVE AND EMERGENCY PERMITS: None

The Regular Meeting of the Board of Commissioners adjourned at 8:45 p.m.

APPROVED BY:

RECORDED BY:

Signature on File
Ronnie Pellegrini, Secretary

Signature on File
Patricia L. Tyson, Admin. Assistant