

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

DATE: January 8, 2009

TIME: 6:00 p.m. Executive Closed Session
7:00 p.m. Regular Session

PLACE: Woodley Island Marina Meeting Room

The Meeting Room is wheelchair accessible. Accommodations and access to Harbor District meetings for people with other handicaps must be requested of the Director of Administrative Services at 443-0801 five (5) working days in advance of the meeting.

1. **Call to Order at 6:00 p.m.**
 - a. **Move to Executive Closed Session pursuant to paragraph 9 of the Agenda, Executive Closed Session involving the provisions of the California Government Code Sections 54956.5, 54953 et seq., 54956.8, 54956.9, 54956.95, 54957, 54957.1, 54957.6 and 54957.7 as set forth in the Executive Closed Session of paragraph 12 hereafter.**
2. **Call to Order Regular Session at 7:00 p.m. and Roll Call**
3. **Pledge of Allegiance**
4. **Report on Executive Closed Session**
5. **Public Comment**

Note: This portion of the Agenda allows the public to speak to the Board on various issues not itemized on this agenda. A member of the public may also request that a matter appearing on the Consent Calendar be pulled and discussed separately. Pursuant to the Brown Act, the Board may not take action on an item that does not appear on the Agenda. Each speaker is limited to speak for a period of three (3) minutes regarding each item on the Agenda. Each speaker is limited to speak for a period of three (3) minutes during the PUBLIC COMMENT portion of the Agenda regarding items of special interest to the public not appearing on the Agenda that are within the subject matter jurisdiction of the Board of Commissioners. The three (3) minute time limit may not be transferred to other speakers. The three (3) minute time limit may be extended by the President of the Board of Commissioners or the Presiding Member of the Board of Commissioners at the regular meeting of the District. The three (3) minute time limit for each speaker may be enforced by the President of the Board of Commissioners or the Presiding Member of the Board of Commissioners at the regular meeting of the District.

6. Consent Calendar

Note: All matters listed under the Consent Calendar are considered to be routine by the Board of Commissioners and will be enacted by one motion. There will be no separate discussion of these items. If discussion is required, that item will be removed from the Consent Calendar and considered separately.

- a. Consideration of approval of minutes from the December 4, 2008 Board meeting
- b. Consideration of approval of minutes from the December 18, 2008 Board meeting

Agenda for January 8, 2009 Board Meeting

7. Communications and Reports

- a. Chief Executive Officer's Report
- b. District Counsel's Report
- c. Staff Reports
- d. Commissioner Reports
- e. Advisory Committee Reports
- f. Other

8. Non Agenda

9. Unfinished Business

10. New Business

- a. Consideration of approval of Resolution 2009-1 Designating the Humboldt Bay Harbor, Recreation and Conservation District's Agent to obtain Department of Homeland Security Grant Funds.
- b. Consideration of approval of Resolution 2009-2 Establishing Federal and State Legislative Priorities of the Humboldt Bay Harbor, Recreation and Conservation District for the 2009 Legislative Session.
- c. Consideration of approval of Modification No. One to Funding Agreement #2008101 with US Fish and Wildlife Service for SeagrassNet Sampling in Humboldt Bay.

11. Administrative and Emergency Permits

12. EXECUTIVE CLOSED SESSION-PURSUANT TO AND INVOLVING THE PROVISIONS OF CALIFORNIA GOVERNMENT CODE SECTIONS 54956.5, 54953 et. Seq., 54956.8, 54956.9, 54956.95, 54957, 54957.1, 54957.6, and 54957.7 as follows:

(a) With respect to a closed session held pursuant to Section 54956.7:

LICENSE/PERMIT DETERMINATION

Applicant(s):

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Property: The real property owned by the Humboldt Bay Harbor, Recreation, and Conservation District and leased or may be leased to third parties presently and in the future and subject to re-negotiation or amendments concerning price or payment or both including but not limited to the following: South Bay Marina; Fields Landing; Stanwood Murphy, Jr.; Woodley Island Marina Slip Rentals and Upland Rentals; Louisiana-Pacific Corporation; Nylander property; Simpson Timber Company; Coast Seafoods Company;

Humboldt Yacht Club; Ted Kuiper Aquaculture Terminal tidelands lease; Ted Kuiper mariculture tideland leases; Humboldt Bay Oyster Company; Sera Group; Shelter Cove recreational property; Yomtob Shelter Cove property; Hungry U Restaurant, Inc. AKA Cafe Marina; Evergreen Pulp; Redwood Dock property; potential sale/lease of Samoa Shops property; Marios Marina; Security National Corporation; Sequoia

Investments; CUE IV; Santa Maria Shipping Company; and Simpson Samoa Company.

Negotiating parties: David Hull, Chief Executive Officer; Paul Brisso, District Counsel and Mark Wetzel, District Treasurer.

Under Negotiation:

(c) With respect to every item of business to be discussed in closed session pursuant to Section 54956.9:

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION

Pacific Coast Federation of Fishermen Association; Humboldt Bay Harbor, Recreation and Conservation District, et. al. Vs. United States Bureau of Reclamation, United States District Court Case No. C02-2006.

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

a. Claims of Manson/Bean Stuyvesant against US Army Corps of Engineers, (Humboldt Bay Harbor, Recreation and Conservation District contracting party with Corps of Engineers), Humboldt Bay Improvement Project dredge; District audit of US Army Corps of Engineers; Badgley – Yankee Girl tenancy/anchorage; Tab Bersuch.

b. Consideration of application by Christopher Fonda for leave to present California Tort Claim Act late claim pursuant to Government Code sections 911.4 and 911.6. (See Government Code section 54956.9(b)(3)(C)).

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: Initiation of litigation pursuant to subdivision (c) of Section 94596.9: One or more.

(d) With respect to every item of business to be discussed in closed session pursuant to Section 54956.95:

LIABILITY CLAIMS

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

THREAT TO PUBLIC SERVICES OR FACILITIES

Consultation with:

PUBLIC EMPLOYEE APPOINTMENT

Title:

PUBLIC EMPLOYMENT

Title:

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title:

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

CONFERENCE WITH LABOR NEGOTIATOR

Agency negotiator: Chief Executive Officer, District Counsel, District Treasurer, two (2) or less of the members of the Board of Commissioners.

Employee organization: As recognized by the Board of Commissioners of the Humboldt Bay Harbor, Recreation, and Conservation District, including International Longshore and Warehouse Union, Local #14A.

Unrepresented employee:

(g) With respect to closed session called pursuant to Section 54957.8:

CASE REVIEW/PLANNING

REPORT INVOLVING TRADE SECRET

Discussion will concern: Proposed new service, program or facility

Estimated date of public disclosure:

HEARINGS

Subject matter:

13. ADJOURNMENT

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

January 8, 2009

PRESENT:

Commissioner Curless
Commissioner Wilson
Commissioner Higgins
Commissioner Hunter

ABSENT:

Commissioner Pellegrini

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

President Hunter led those present in the Pledge of Allegiance.

President Hunter stated Commissioner Pellegrini's uncle passed away and asked those present to keep her family in their thoughts.

District Counsel reported there was no Closed Session.

PUBLIC COMMENT

Melvin McKinney said today's financial world is dismal and asked for an update on the District's finances, since there is little revenue coming into the District and large expenses going out.

Marcus Brown (arrived late) said he has been attending an intensive grant writing class this week. He said if the Timber Heritage Association (THA) is able to partner with the Harbor District in the CEQA process for the Redwood Marine Terminal he understands it will require planning and governance.

District Counsel stated it is the position of the Board of Commissioners if there is a solid grant funding opportunity for THA that requires a long-term commitment from the Harbor District, the Board of Commissioners will make consideration.

CONSENT CALENDAR

COMMISSIONER CURLESS MOVED TO APPROVE THE CONSENT CALENDAR. COMMISSIONER WILSON SECONDED. MOTION CARRIED WITHOUT DISSENT.

CEO REPORT

- ❖ Met with SHN Consulting Engineers representatives on the creosote-sampling project.
- ❖ 1/9: Will meet with representatives from Winzler & Kelly Consulting Engineers on the L-P dredge site re-permitting project.
- ❖ Reported a cargo ship is expected towards the end of the month.
- ❖ A monthly maintenance report from the Director of Facility Maintenance was included in the Commissioners' meeting packet.
- ❖ CEO, Director of Administrative Services and District Treasurer are working on financial projections and scenarios to bring out during the budget process. The first budget workshop will be on March 12th and there is a minimum of 5 budget meetings scheduled.

DISTRICT COUNSEL REPORT

District Counsel reported he attended the Boy Scouts Distinguished Citizen dinner honoring Commissioner Hunter for his years of community service.

District Counsel said it is time to start the review on Ordinance No. 1, the District's Personnel Policy, update it, rescind the Ordinance and change it into the District's Personnel Policy. Prior to any changes, the Human Resources Advisory Committee will need to meet and confer with the District's employee union. An action item will be brought to the Board of Commissioners to rescind Ordinance No. 1 and adopt the Personnel Policy with the revisions.

STAFF REPORT: None

COMMISSIONERS REPORTS

Commissioner Higgins

- ❖ Stated he does not see a positive scenario on the economic horizon with the adjustment in West Coast port activities. He said the hard decisions would have to be made for the financial safety of the Harbor District.
- ❖ Reported he heard an interview on the radio with Caito Brothers in Fort Bragg stating if there are any more closures of the bottom trawler fishing, they will not be able to stay open to process the product. A drag fisherman was interviewed and said if it looks like the MLPA's are going to shut any more areas, they will have to cash out and sell their permits to Washington fishermen. The closures are a real concern to the local fishermen.

ADVISORY COMMITTEE REPORTS: None

OTHER: None

NON-AGENDA: None

NEW BUSINESS

A. CONSIDERATION OF APPROVAL OF RESOLUTION 2009-1 DESIGNATING THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT'S AGENT TO OBTAIN DEPARTMENT OF HOMELAND SECURITY GRANT FUNDS.

CEO reported the Harbor District is part of the Humboldt Bay Port Security Team. Similar to last year's grant funding of \$586,000, the District is a conduit for the funding program. CEO has been notified the grant this year will total \$2,437,664 for port security enhancements as a result of the State of California's Office of Homeland Security port-by-port vulnerability assessment. Prior to any funds being expended, CEO assured the Board of Commissioners there would be a guarantee of reimbursement by the State of California.

President Hunter commended staff and said this is recognition by the State of the port's potential.

Commissioner Higgins asked for some specifics on the grant. CEO replied the particulars of the grant contained sensitive security information, but he could say that the District would be getting a replacement Port Authority vessel, a full-size truck and a forklift to be used for response equipment. Also, a fireboat to be used in Humboldt Bay is on the list of equipment. CEO stated the State of California has said a fireboat is needed and District staff will operate and maintain. He also said the District is working with the Eureka Fire Department to provide the response crew.

COMMISSIONER CURLESS MOVED FOR THE APPROVAL OF RESOLUTION 2009-1 DESIGNATING THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT'S AGENT TO OBTAIN DEPARTMENT OF HOMELAND SECURITY GRANT FUNDS. COMMISSIONER HIGGINS SECONDED.

Marcus Brown said there could be many uses for the new vessel and the District should make as many opportunities for use as possible.

David Elsebusch said there is no threat to Humboldt Bay and no need for the State and Federal governments to spend more money they do not have. He said this is an unnecessary drag on funds.

Pete Oringer asked if this equipment was suggested for purchase by the Port team. CEO responded not only the team requested this equipment, but also the State's Office of Homeland Security said it was needed for the Port of Humboldt Bay.

Commissioner Wilson said consideration should be given to the fact the District's maintenance staff will have more and larger, expensive equipment to take care of and the District needs to have an MOU or some sort of agreement with other agencies to limit the District's liability for the equipment and personnel.

District Counsel said the Board of Commissioners should adopt an MOU with the City of Eureka and other agencies if necessary, for use of the equipment.

Commissioner Higgins said this is a good opportunity to obtain some useful equipment for the bay.

President Hunter said the need for the fireboat has been heard over the last couple of years through the District's budget process.

Commissioner Curless said there are several local examples of what the end result is if there is no emergency response equipment available.

ROLL CALL VOTE WAS TAKEN:

COMMISSIONER PELLEGRINI – ABSENT
COMMISSIONER CURLESS – AYE
COMMISSIONER WILSON – AYE
COMMISSIONER HIGGINS – AYE
COMMISSIONER HUNTER – AYE

MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF APPROVAL OF RESOLUTION 2009-2 ESTABLISHING FEDERAL AND STATE LEGISLATIVE PRIORITIES OF THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT FOR THE 2009 LEGISLATIVE SESSION.

CEO reported the purpose of this list of the Board of Commissioners' priorities is to define needed funding and to provide guidance for District staff.

President Hunter said it also gives the Board talking points when speaking to the local legislators.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF RESOLUTION 2009-2 ESTABLISHING FEDERAL AND STATE LEGISLATIVE PRIORITIES OF THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT FOR THE 2009 LEGISLATIVE SESSION. COMMISSIONER CURLESS SECONDED.

Commissioners Wilson and Higgins made a few suggestions to the list.

COMMISSIONER WILSON MADE A FRIENDLY AMENDMENT TO MAKE THE PROPOSED CHANGES AND ADDITIONS TO THE LIST. THERE WAS UNANIMOUS AGREEMENT FROM THE COMMISSIONERS PRESENT.

David Elsebusch suggested the Board of Commissioners pursue Homeland Security grants to use for other purposes.

ROLL CALL VOTE WAS TAKEN:

COMMISSIONER PELLEGRINI – ABSENT
COMMISSIONER CURLESS – AYE
COMMISSIONER WILSON – AYE
COMMISSIONER HIGGINS – AYE
COMMISSIONER HUNTER – AYE

MOTION CARRIED WITHOUT DISSENT.

C. CONSIDERATION OF APPROVAL OF MODIFICATION NO. ONE TO FUNDING AGREEMENT #2008101 WITH US FISH AND WILDLIFE SERVICE FOR SEAGRASSNET SAMPLING IN HUMBOLDT BAY.

COMMISSIONER CURLESS MOVED FOR THE APPROVAL OF MODIFICATION NO. ONE TO FUNDING AGREEMENT #2008101 WITH US FISH AND WILDLIFE SERVICE FOR SEAGRASSNET SAMPLING IN HUMBOLDT BAY. COMMISSIONER WILSON SECONDED.

Melvin McKinney asked what is the basis of the study.

CEO said Humboldt Bay is one of two areas on the West Coast where this type of study is being done for the development of a worldwide database to monitor seagrass health around the world. He said it is an honor to be part of this important project and ultimately the work will be done in-house.

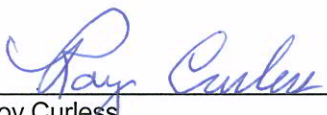
Susan Penn asked what the agreement modification is and CEO replied it is an extension for one more year.

MOTION CARRIED WITHOUT DISSENT.

ADMINISTRATIVE AND EMERGENCY PERMITS: None

The Regular Meeting of the Board of Commissioners adjourned at 7:55 p.m.

APPROVED BY:



Roy Curless
Secretary

RECORDED BY:



Patricia L. Tyson
Director of Administrative Services