

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

DATE: February 26, 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 January 22, 2009 Board meeting
- b. Consideration of purchase of Woodley Island Marina Work Dock piling repair materials from Thrifty Supply \$6,113.25
- c. Consideration of purchase of a Polycom Sound Station VTX-1000 conference phone for the Woodley Island Marina Meeting Room from GeBX.com \$899.00
- d. Consideration of payment to SHN Consulting Engineers for services related to Shelter Cove Boat Launch Facility Storm water monitoring

\$779

7. Communications and Reports

- a. Chief Executive Officer's Report
- b. District Counsel's Report
- c. Staff Reports
- e. Commissioner Reports
- e. Advisory Committee Reports
- f. Other
 - ❖ Water Resource Planning presentation by the Humboldt Bay Municipal Water District

8. Non Agenda

9. Unfinished Business

10. New Business

- a. Consideration of Resolution 2009-3 in support of the California Ships to Reefs concept of establishing an artificial reef in the waters off of Humboldt Bay.
- b. Consideration of receiving and filing Permit No. 09-02 to the City of Eureka for boat ramp maintenance cleaning.
- c. Consideration of establishment of a North Coast Local-Interest Marine Protected Area Work Group

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.

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

February 26, 2009

PRESENT:

Commissioner Pellegrini
Commissioner Curless
Commissioner Wilson
Commissioner Higgins
Commissioner Hunter

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

President Hunter asked former Assembly member Dan Hauser to lead those present in the Pledge of Allegiance.

District Counsel reported on the items discussed during Closed Session: Status of negotiations with the Harbor District employee union and the status of the renewal of the Café Marina lease. No action was taken on these items during Closed Session.

PUBLIC COMMENT

David Elsebusch said he received a response from CEO to his letter asking if the District's auditors were given a copy of his complaint to the IRS. Mr. Elsebusch said he was dissatisfied with the response and intends to proceed with Whistleblower complaints against several of the District's officers.

Dan Hauser said he will act as the Timber Heritage Association's (THA) liaison with the Harbor District Board of Commissioners. He said a packet of material, including the plan for the Samoa Shops, had been delivered to CEO and THA would like to move forward towards a long-term lease for the property. Commissioner Higgins said he and Commissioner Pellegrini are on a committee to work with THA on such a lease.

CONSENT CALENDAR

Commissioner Pellegrini asked for Item A of the Consent Calendar to be removed for further discussion.

COMMISSIONER PELLEGRINI MOVED FOR THE APPROVAL OF THE REMAINDER OF THE CONSENT CALENDAR. COMMISSIONER HIGGINS SECONDED. MOTION CARRIED WITHOUT DISSENT.

Commissioner Pellegrini made a correction to Page 2 of the Minutes of the January 22, 2009 Board Meeting.

COMMISSIONER PELLEGRINI MOVED FOR THE APPROVAL OF ITEM A OF THE CONSENT CALENDAR. COMMISSIONER CURLESS SECONDED. MOTION CARRIED WITHOUT DISSENT.

CEO REPORT

- ❖ **Notice of Preparation (NOP) for Redwood Marine Terminal:** District Planner and CEO have been working on the Notice of Preparation that starts the environmental review process for the Redwood Marine Terminal. It will likely go out Feb 9 and have a comment period that runs 30 days. Under this step, comments will be solicited (principally from agencies) that will help staff craft the environmental document.
- ❖ **Appropriations Requests:** As a normal course of business, our federal legislators have requested that staff submit individual forms for specific appropriations for Federal FY2010. CEO worked with the District's Washington legislative advocate, Will Edington, on three such forms and submitted them to Senator Feinstein's office, Senator Boxer's office and Congressman Mike Thompson's office. The two requests (essentially the same as last year) are \$5.6 million to the Corps of Engineers to conduct channel and harbor maintenance during Federal FY2010. The second request was for \$500,000 for funding a portion of the Federal share of the long term sediment management program (shoal study).

- ❖ **2009/10 District budget:** District Treasurer, Director of Administrative Services and CEO have continued to work on the 2009/10 budget and budget presentation for the March 12 meeting. Staff plans on a longer than normal presentation since there will be more information than normal to start this year's budget discussions.
- ❖ **Ship traffic:** Capt. Powell brought in a 300' ship to the Humboldt Bay Forest Products dock on Feb 6 and took it out on Feb 8. It was here to unload 11 engine beds for PG&E. These structures are a part of PG&E's project to re-engine the Humboldt Bay Power Plant. The 600,000 lb engines will likely be here on several ships ~ May 2009.
- ❖ **Sea Scouts:** The District has been the chartering organization for the Sea Scout Ship "Yankee" for several years. This Ship was run in conjunction with the NJROTC group at Eureka High School. The NJROTC group has had some personnel changes and the District has been fortunate to have another person step forward to be Skipper of the Sea Scout Ship and run the group. CEO has met with Angela Lepage and some of the potential scouts to update paperwork and get the group organized. As part of the reorganization the name and number of the Ship will be changed.
- ❖ **Economic Stimulus:** Director of Maritime Commerce, Will Edington and CEO have spent time this month answering questions and working with federal legislative staff to make sure that the Senate's stimulus bill contains the proper guidance that will allow the District to compete for Humboldt Bay projects when funding gets to the State level. CEO stated he is happy to say that the final bill contains the proper guidance for the District. Now the attention turns to the State.
- ❖ **Evergreen Pulp:** This month CEO met with both representatives from Evergreen and with Bob Simpson of the new owners and will continue to meet.
- ❖ **Marine Highway letter:** The MARAD Marine Highway letter that was modified and approved at the last Board meeting was edited and was sent.
- ❖ **Grant activity:** On Feb. 17, Director of Conservation submitted two grant proposals. The proposals were in response to the Ocean Protection Council's (OPC) California Fisheries Challenge RFP. Each proposal was developed collaboratively by HSU professors (Dr. Mulligan and Dr. Hankin), fishermen (primarily Tim Klassen), and CEO. CEO summarized the grants as follows:
 - ***Implications of the recent jumbo squid range expansion for sustainable fisheries off the coast of Humboldt County.*** Worldwide jumbo squid support the twelfth largest fishery, and the largest fishery for any invertebrate species. During the past decade jumbo squid have become common off our coast. Hence, there is potential for an emerging fishery out of Humboldt Bay. Jumbo squid are also voracious predators, whose diet includes Pacific hake and rockfish. This proposed research would assess the distribution, movement and diet of jumbo squid between Cape Mendocino and Trinidad Head. The resulting information would be used to determine the potential for a fishery and to assess the impacts of jumbo squid predation on local fish populations. The research would be conducted from charter sport-fishing boats. District requested **\$247,168** from OPC.
 - ***Collaborative Fisheries Research to Facilitate Sustainable Fisheries and Ecosystem Management within the Marine Life Protection Act North Coast Study Region.*** Information regarding nearshore fisheries is lacking. Our proposal is to sample nearshore rocky habitats out of Crescent City Harbor, Trinidad Bay, Humboldt Bay and Noyo Harbor. The District will gather information regarding species compositions, age structures, diet, and relative abundance of fish populations in these areas. Such information would inform MPA designs, and fishing regulations. The data should be useful for making decisions that maximize ecological benefits while minimizing economic impacts. The research will be conducted from charter sport-fishing boats. The District requested **\$163,990** from OPC. OPC expects to identify projects for funding in mid-march. The actual money will not become available until at least April, but with the current status of the State's budget, there is no certainty.
- ❖ **Feb 11-13:** CEO presided over the winter CMANC meeting. This is the major prep meeting for the CMANC Washington Week event next month. This is the meeting that the group finalizes its talking points regarding the stimulus, the next round of transportation program authorizations and the Harbor maintenance tax issue. The group also continued planning the upcoming Maritime Leadership Symposium in Sacramento this May that will include a green port technology conference.

DISTRICT COUNSEL REPORT: None

STAFF REPORT

Director of Administrative Services reported California Special Districts Association will be holding an Ethics Training Workshop on April 8 in the Woodley Island Meeting Room. All elected officials are required to take ethics training every 2 years.

COMMISSIONERS REPORTS

Commissioner Pellegrini

- ❖ Reported she attended the Annual Eureka Chamber of Commerce Dinner where the Chamber Board President, Commissioner Hunter, handed the gavel over to incoming President Chris Crawford. She extended her congratulations to Carol Rische, the recipient of the Tom Cooke Annual Award of Excellence.
- ❖ Said she missed the Humboldt Bay Management Plan Advisory Committee meeting on February 11th due to illness.
- ❖ Reported she and Commissioner Hunter met with the District's employee union representatives to begin the negotiations for the next fiscal year.

Commissioner Wilson:

- ❖ Reported he attended the Annual Arcata Chamber of Commerce Dinner.
- ❖ Attended the Surfrider forum on Wave Energy.
- ❖ Reported he and Commissioner Higgins met with Jacqueline Debets of the County of Humboldt regarding format and structure of the Economic Development committee.
- ❖ Attended the Humboldt Bay Management Plan Advisory Committee meeting on February 11th. He said discussion centered on the prioritization of the Plan policies and the bar pilots gave a presentation on their role in Humboldt Bay.
- ❖ Welcomed back Andy Colonna, the videographer of the Harbor District Board meetings, after a lengthy absence.
- ❖ Said there is work to do after reviewing the latest Harbor District financial statements.

Commissioner Higgins:

- ❖ Spoke about the local representation needed on the task forces that oversee the MLPAs in order to minimize the impacts to the local fishing communities.
- ❖ Filed comment on behalf of himself with the Department of the Navy regarding their use of the sonar for training exercises. He said he is concerned with the potential sonar damage to whales. Commissioner Wilson said he attended a Navy presentation on their offshore training; there was a lot of information, but a lack of science.
- ❖ Expects the "kick-off" of the Economic Development committee in the next couple of months.

Commissioner Hunter:

- ❖ Reported he met the owners of Mendocino Sea Vegetable Company, seaweed harvesters, who expressed an interest in making a presentation to the Board of Commissioners.
- ❖ Continues his jury duty and expects it will take another couple of weeks.
- ❖ Said the Eureka Ice and Cold Storage building will be demolished on Saturday. Arctic Ice from Coos Bay will be distributing party ice to Eureka.
Commissioner Pellegrini stated the Eureka City Council approved an additional \$300,000 above the Headwaters Fund grant to build a new flake ice facility. She said it was a good example of how agencies can work together for the benefit of all.

ADVISORY COMMITTEE REPORTS: None

OTHER

Water Resource Planning Presentation by the Humboldt Bay Municipal Water District

Carol Rische, General Manager of the Humboldt Bay Municipal Water District (HBMWD), and HBMWD Board Members Kaitlin Sopoci-Belknap and Bruce Rupp gave a presentation to the Board of Commissioners about the issues of their long-term planning, infrastructure and water resource planning. HBMWD is currently engaging in a public process to educate customers, stakeholders and interested community members about water resource planning and to assess community needs before forming an advisory committee to formulate recommendations to the HBMWD Board.

Several questions were asked by the Board of Commissioners and the audience.

NON-AGENDA: None

NEW BUSINESS

A. CONSIDERATION OF RESOLUTION 2009-3 IN SUPPORT OF THE CALIFORNIA SHIPS TO REEFS CONCEPT OF ESTABLISHING AN ARTIFICIAL REEF IN THE WATERS OFF OF HUMBOLDT BAY.

CEO gave a brief history of the District's support for the development of an artificial reef near Humboldt Bay going back to the mid-1980s and continuing through the current 2007-2011 District Strategic Plan. CEO also described working with the Ships to Reefs group over the past three years and introduced Ellenore and Dean Rewerts of the Ships to Reef program.

Ellenore and Dean Rewerts gave a presentation to the Board of Commissioners. They explained how the ships are chosen, cleaned to EPA's Best Practices and transported to the place where they would be sunk. The site they are considering at this time is offshore 1.3 miles north of the Humboldt Bay entrance and would be 1 square mile overall. In other places where artificial reefs have been made, revenue to the area has increased greatly.

Several people spoke about how it would enhance the fishing around the reef and diving interest would increase. There was concern that the reef would be placed in productive crab grounds and the reef would attract fish that are considered endangered.

Mr. Rewerts stated the first vessel could be placed later this calendar year. Morro Bay is another location currently being considered. There are 11 permits to be obtained and a programmatic EIR would be required.

COMMISSIONER HIGGINS MOVED TO ADOPT RESOLUTION 2009-3 IN SUPPORT OF THE CALIFORNIA SHIPS TO REEFS CONCEPT OF ESTABLISHING AN ARTIFICIAL REEF IN THE WATERS OFF OF HUMBOLDT BAY. COMMISSIONER PELLEGRINI SECONDED.

Jim Holder stated the Humboldt County Fish and Game Commission considers the program favorably and feels the artificial reefs could be economically beneficial to the area.

Ms. Rewerts said some of the work on the ships has to be done by certified contractors, but some of the work can be done by volunteers. She said they are currently talking with Senators Boxer and Feinstein to create or preserve shipyard related jobs.

David Elsebusch asked why the Harbor District is supporting the idea if there is no jurisdiction. Commissioner Higgins said the project is revenue neutral for the Harbor District and there is no liability exposure.

ROLL CALL VOTE WAS TAKEN:

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

MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF RECEIVING AND FILING PERMIT NO. 09-02 TO THE CITY OF EUREKA FOR BOAT RAMP MAINTENANCE CLEANING.

COMMISSIONER CURLESS MOVED TO RECEIVE AND FILE PERMIT NO. 09-02 TO THE CITY OF EUREKA FOR BOAT RAMP MAINTENANCE CLEANING. COMMISSIONER WILSON SECONDED. MOTION CARRIED WITHOUT DISSENT.

C. CONSIDERATION OF ESTABLISHMENT OF A NORTH COAST LOCAL-INTEREST MARINE PROTECTED AREA WORK GROUP.

Commissioner Higgins stated Supervisor Smith has asked the Harbor District to take the lead on putting together a local work group to provide a forum for the coordination of interested parties within the MLPA North Coast Study Region. Director of Conservation would be staff to the advisory committee.

President Hunter asked Commissioners Pellegrini and Higgins to participate on the committee.

COMMISSIONER WILSON MOVED FOR THE ESTABLISHMENT OF A NORTH COAST LOCAL-INTEREST MARINE PROTECTED AREA WORK GROUP WITH COMMISSIONERS HIGGINS AND PELLEGRINI AS THE BOARD PARTICIPANTS. COMMISSIONER CURLESS SECONDED. MOTION CARRIED WITHOUT DISSENT.

ADMINISTRATIVE AND EMERGENCY PERMITS

CEO reported Administrative Permit A-2009-1 was issued to the City of Eureka for the flake ice plant.

The Regular Meeting of the Board of Commissioners adjourned at 9:13 p.m.

APPROVED BY:

RECORDED BY:



Mike Wilson
Secretary



Patricia L. Tyson
Director of Administrative Services