

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

DATE: June 22, 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 the provisions of the California Government Code Section 54957.6.

1. 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.

2. Adjourn Executive Closed Session

3. Call to Order Regular Session at 7:00 p.m. and Roll Call

4. Pledge of Allegiance

5. Report on Executive Closed Session

6. 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.

7. 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. Approval of minutes from the May 28, 2009 Board meeting.
- b. Consideration of award of bid for purchase of copier.
- c. Consideration of approval of Lease PRC 1956.9 with the State of California, State Lands Commission for the continued use and maintenance of a small craft public launching facility at Shelter Cove.
- d. Consideration of approval of agreement No. 816 with the Aquatic Science Center for a \$25,000 grant for services in connection with the State's Stream and Wetland System Protection Policy Support Project.
- e. Consideration of approval of a one-year extension of Permit No. 2007-01 for the McDaniel Slough Marsh Enhancement Project.
- f. Consideration of payment to Rogers Machinery Company, Inc. for sewer lift station pump repair at Woodley Island. \$1,505.52

8. Communications and Reports

- a. Chief Executive Officer's Report
- b. District Counsel's Report
- c. Staff Reports
- b. Commissioner Reports
- e. Advisory Committee Reports
- f. Other
 - ❖ Humboldt Bay Harbor, Recreation and Conservation District Economic Development Committee Presentation

9. Non Agenda

10. Unfinished Business

- a. Second Reading and Adoption of the FY 2009/10 Budget.
- b. Consideration of Resolution 2009-08 Establishing Findings Relative to the Application by the City of Arcata for the Klopp Lake and Wastewater Pond Levee Repair Project.
- c. Consideration of approval of Permit No. 09-04 to the City of Arcata for the Klopp Lake and Wastewater Pond Levee Repair Project.

11. New Business

- a. Consideration of rescission of Ordinance No. 1 Establishing Personnel Policies, Rules, Regulations and Procedures for the Humboldt Bay Harbor, Recreation and Conservation District.
- b. Consideration of Adoption of Personnel Policies.

- c. Consideration of approval of Amendment 1 to Employment Contract with Captain John Powell
- d. Consideration of approval of Amendment 1 to Employment Contract with Captain Tim Petrusha
- e. Consideration of approval of Amendment 1 to Employment Agreement with Wilson Lacy
- f. Consideration of approval of Resolution 2009-07 to Accept Grant Funds from the California Department of Fish and Game for Oil Spill Response Equipment.

10. Administrative and Emergency Permits

11. ADJOURNMENT

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

June 22, 2009

PRESENT:

Commissioner Curless
Commissioner Pellegrini
Commissioner Wilson
Commissioner Higgins
Commissioner Hunter

The Closed Session was called to order at 6:01 p.m. Commissioner Higgins arrived late and Commissioner Wilson was absent for Closed Session.

Closed Session adjourned at 6:22 p.m.

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

Kaye Strickland led 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. No action was taken.

PUBLIC COMMENT

Andy Colonna said the last meeting should be on Access Humboldt this week.

Penny Elsebusch said the recording is already on Channel 11. She also said the Harbor District is saving paper with the new 2-page agenda.

Stephen Pepper handed the Board of Commissioners a copy of a letter he had written to Andre Boutros, Chief Deputy Director of the California Transportation Commission regarding development of Humboldt Maritime Logistics, LLC's intermodal marine highway service.

CONSENT CALENDAR

President Hunter pulled Consent Calendar Item b and David Elsebusch asked that Item d be pulled as well for further discussion.

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

ITEM B OF THE CONSENT CALENDAR: Mike Dominick, owner of Coastal Business Systems, spoke to the Board of Commissioners about his company's qualifications and why the Board should deny the bid for the copier to Alternative Business Concepts.

Jeff Ross, owner of Alternative Business Concepts, rebutted Mr. Dominick's statements.

COMMISSIONER PELLEGRINI MOVED TO REJECT THE BIDS AND SEND THE BID PACKAGE, INCLUDING TIGHTER SPECIFICATIONS, BACK OUT. COMMISSIONER CURLESS SECONDED.

President Hunter asked if the winning bidder, Alternative Business Concepts, satisfied the specifications in the bid packet. CEO said they did.

COMMISSIONER PELLEGRINI WITHDREW HER ORIGINAL MOTION. COMMISSIONER CURLESS SECONDED.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF ITEM B OF THE CONSENT CALENDAR. COMMISSIONER WILSON SECONDED. MOTION CARRIED WITHOUT DISSENT.

ITEM D OF THE CONSENT CALENDAR: David Elsebusch asked about the \$25,000 grant from the State's Stream and Wetland System Protection Policy Support Project for services with the Aquatic Science Center.

CEO explained that this grant is a continuation of work that the District has pursued with other agencies to develop wetland assessment methodologies and assistance in developing a state wetland definition. All of which are useful in Humboldt Bay and in implementation of the Humboldt Bay Management Plan.

COMMISSIONER PELLEGRINI MOVED FOR THE APPROVAL OF TO APPROVE AGREEMENT NO. 816 WITH THE AQUATIC SCIENCE CENTER FOR A \$25,000 GRANT FOR SERVICES IN CONNECTION WITH THE STATE'S STREAM AND WETLAND SYSTEM PROTECTION POLICY SUPPORT PROJECT. COMMISSIONER WILSON SECONDED. MOTION CARRIED WITHOUT DISSENT.

CEO REPORT

- ❖ 6/20: Director of Conservation and Director of Facility Maintenance staffed a Harbor District booth at the Oyster Festival in Arcata.
- ❖ 6/12: CEO received a call from the Shelter Cove Resort Improvement District notifying the discharge pipe from the fish cleaning station failed. CEO obtained approval from President Hunter and authorized the repairs as an emergency situation.

DISTRICT COUNSEL REPORT: None

STAFF REPORT: None

COMMISSIONERS REPORTS

Commissioner Pellegrini:

- ❖ Crew from the "Deadliest Catch" will be in Eureka on September 11, from 4 – 7pm at Ray's Market for a fundraiser.

Commissioner Curless:

- ❖ Reported the Art & Wine in the Park event was held in Fortuna last week.

Commissioner Wilson:

- ❖ Said he was happy to see the Harbor District had a booth at the Oyster Festival.
- ❖ "Rivers of the Lost Coast" movie is playing at the Minor and Fortuna Theatres.

Commissioner Higgins:

- ❖ Said he attended the Oyster Festival – a success.
- ❖ Caught his first California Halibut.

ADVISORY COMMITTEE REPORTS: None

Commissioner Wilson:

- ❖ Reported on the success of the first District Economic Development Committee Meeting – harbor infrastructure issues.

Commissioner Higgins:

- ❖ The next District Economic Development Committee meeting will be held on June 24 and will focus on industrial land use in Humboldt Bay.
- ❖ Reported on the MLPA oversight committee. The next MLPA meeting will be held on June 29 at 3:00 p.m. prior to the Humboldt Bay Management Plan Advisory Committee meeting.

OTHER

Humboldt Bay Harbor, Recreation and Conservation District, Recreation and Conservation District Economic Development Committee Presentation.

Commissioner Wilson postponed his presentation to a future meeting.

NON-AGENDA: None

UNFINISHED BUSINESS

A. SECOND READING AND ADOPTION OF FY 2009/10 BUDGET.

District Treasurer reported the following for FY 2009/10 Budget: Revenue - \$5,438,024; Operating Expenses - \$2,511,984; Non-Operating Expenses - \$3,147,113; Excess Revenues (Under) Expenses - (\$221,073); Transfers from Fund Balance Designations - \$221,073.

COMMISSIONER PELLEGRINI MOVED FOR ADOPTION OF FY 2009/10 BUDGET. COMMISSIONER WILSON SECONDED.

Commissioner Higgins passed out a letter to the Board of Commissioners. He said he recommended not funding the Director of Maritime Commerce position because no benefit was derived from the position. He said it would be more appropriate to have an Economic Development Director. There needs to be more restructuring with the current budget.

Commissioner Wilson said overall he agrees with Commissioner Higgins, but believes the District is on a less unsustainable path at this point than when the budget process was started. He said he would like to see some changes with the position of Director of Maritime Commerce. He said he was uncomfortable with the fuel barge tariff because it was the result of economics, not environmental.

Commissioner Pellegrini said she disagreed with a statement of Commissioner Higgins' that referred to a perception the District is not a friend to the environment. Commissioner Higgins said it is a reality when looking for grant opportunities.

President Hunter commended the Board of Commissioners for the difficult decisions made during this budget process. He said he believes the future of this region is through the port and it is not the time to cut revenue sources and the marketing employee. He suggested the Board of Commissioners review the District's financial status in 6-9 months.

Commissioner Curless said the District needs to abide by the rules and regulations set forth, but cut costs where we can. He said staff has done a good job preparing the budget with the Commissioners' directives.

Commissioner Higgins said he is sensitive to the fact the Bar Pilots are an essential part of the opportunities for the bay.

David Elsebusch said staff has tried, but have not cut costs to his satisfaction. He said the Director of Maritime Commerce position should be terminated and he agreed with Commissioner Higgins' letter of suggestions.

Kaye Strickland said the "Go 21" representative was here last week meeting with agency representatives on options for alternative transportation, rail improvement. She urged the Board of Commissioners to not close the door for future transportation development.

Rondal Snodgrass thanked the Board of Commissioners for their service. He asked if the fuel barge tariff was the only way the District could increase revenues. He also asked if the loan to NCRA was collateralized. CEO responded the collateral was a portion of NCRA's lease revenue from other sources.

President Hunter stated the loan is due at the end of December, 2009.

District Counsel stated if NCRA does not pay the loan in December, the District's option would be to sue NCRA and get a judgement to foreclose on the collateral. CEO stated both NCRA's Executive Director and President of the Board are aware of the obligation.

Melvin McKinney said the Director of Maritime Commerce has never produced anything and it is time to let him go. There are plenty of local people who can tell the Board of Commissioners what they need to know.

Larry Goldberg said it is time for "out of the box" thinking. The economy is changing; ship traffic is not the future. Look at the Director of Maritime Commerce position in economic development terms.

Rondal Snodgrass said there should be a way to take savings of the Director of Maritime Commerce salary and invest that in an economic development position now; use District reserves now instead of waiting.

Rich Trygar commended the Board of Commissioners and staff for their sacrifices. This budget is a good first step; start the conversation again in 6-9 months and see where the District stands financially.

MOTION CARRIED WITH COMMISSIONER HIGGINS DISSENTING.

B. CONSIDERATION OF RESOLUTION 2009-08 ESTABLISHING FINDINGS RELATIVE TO THE APPLICATION BY THE CITY OF ARCATA FOR THE KLOPP LAKE AND WASTEWATER POND LEVEE REPAIR PROJECT.

COMMISSIONER WILSON MOVED FOR THE APPROVAL OF RESOLUTION 2009-08 ESTABLISHING FINDINGS RELATIVE TO THE APPLICATION BY THE CITY OF ARCATA FOR THE KLOPP LAKE AND WASTEWATER POND LEVEE REPAIR PROJECT. COMMISSIONER CURLESS SECONDED. ROLL CALL VOTE WAS TAKEN:

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

MOTION CARRIED WITHOUT DISSENT.

C. CONSIDERATION OF PERMIT NO. 09-04 TO THE CITY OF ARCATA FOR THE KLOPP LAKE AND WASTEWATER POND LEVEE REPAIR PROJECT.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF PERMIT NO. 09-04 TO THE CITY OF ARCATA FOR THE KLOPP LAKE AND WASTEWATER POND LEVEE REPAIR PROJECT. COMMISSIONER CURLESS SECONDED. MOTION CARRIED WITHOUT DISSENT.

NEW BUSINESS

A. CONSIDERATION OF RECISSION OF ORDINANCE NO. 1 ESTABLISHING PERSONNEL POLICIES, RULES, REGULATIONS AND PROCEDURES FOR THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT.

COMMISSIONER PELLEGRINI MOVED FOR THE APPROVAL OF RECISSION OF ORDINANCE NO. 1 ESTABLISHING PERSONNEL POLICIES, RULES, REGULATIONS AND PROCEDURES FOR THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT EFFECTIVE JULY 1, 2009. COMMISSIONER HIGGINS SECONDED.

District Counsel stated the District's personnel policies were enacted by Ordinance No. 1 and are out of date. He and District staff have been working on developing new personnel policies. At this meeting, the Board of Commissioners will consider rescinding Ordinance No. 1 and then adopting the new, updated Personnel Policies.

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 ADOPTION OF PERSONNEL POLICIES.

COMMISSIONER PELLEGRINI MOVED FOR THE ADOPTION OF PERSONNEL POLICIES TO BE EFFECTIVE JULY 1, 2009 AND TO INCLUDE THE CHANGE OF THE WORD "ORDINANCE" ON PAGE 12 TO "SCHEDULE". COMMISSIONER WILSON SECONDED.

David Elsebusch asked if the District has a broader procedures manual. He also asked the Board of Commissioners to delete the job description for the Director of Maritime Commerce.

MOTION CARRIED WITHOUT DISSENT.

C. CONSIDERATION OF APPROVAL OF AMENDMENT 1 TO EMPLOYMENT CONTRACT WITH CAPTAIN JOHN POWELL.

COMMISSIONER PELLEGRINI MOVED FOR THE APPROVAL OF AMENDMENT 1 TO EMPLOYMENT CONTRACT WITH CAPTAIN JOHN POWELL. COMMISSIONER CURLESS SECONDED.

Commissioner Higgins stated as long as additional revenue is generated, the District can bear the cost of the two Bar Pilots.

District Counsel stated the amendment was originally drafted by the Bar Pilots. Their rate and position shall remain in effect until June 30, 2010, which guarantee the position and pay scale with no opportunity for change or review.

Commissioner Pellegrini said it is the District Counsel's job to protect the Harbor District; the Board's job is balance.

David Elsebusch said the Bar Pilots are well-known members of the community. If they weren't, decisions would be made based on revenue; however he said he can appreciate the sympathetic feelings by the Board of Commissioners towards the Bar Pilots.

President Hunter stated if there are no Bar Pilots, there will be no ships allowed into Humboldt Bay, now and in the future. Piloting is a specialized vocation and it is possible if the Bar Pilots go elsewhere, Humboldt Bay may not be able to attract others.

Commissioner Pellegrini suggested the Bar Pilots make a presentation to the Board of Commissioners when the PG&E ships start bringing the equipment and parts in that are too large to truck.

Rondal Snodgras asked about investing in those people unable to fish for a living anymore. Commissioner Pellegrini stated there must be ship traffic in order to certify and license the Bar Pilots.

Rich Trygar said the Pilotage Advisory Committee recommended Ordinance No. 15, adopted by the Board of Commissioners, which states the requirements for the Bar Pilots.

Stephen Pepper said the Bar Pilots must keep up their training; but he is opposed to putting them on tugs and barges. Keep them on staff and work them in other ways.

Commissioner Curless said the Bar Pilots are being considered for the fuel barges only, not other cargos.

Commissioner Wilson asked if the at-will language will be voided in the contract. District Counsel stated in his opinion it does, but the Pilots can be terminated for cause.

MOTION CARRIED WITHOUT DISSENT.

D. CONSIDERATION OF APPROVAL OF AMENDMENT 1 TO EMPLOYMENT CONTRACT WITH CAPTAIN TIM PETRUSHA.

COMMISSIONER CURLESS MOVED FOR THE APPROVAL OF AMENDMENT 1 TO EMPLOYMENT CONTRACT WITH CAPTAIN TIM PETRUSHA. COMMISSIONER PELLEGRINI SECONDED.

David Elsebusch said the amendments presented at tonight's meeting should have been provided to the Board of Commissioners and public prior to the meeting.

Kaye Strickland asked if both amendment to the Bar Pilots were the same.

Rondal Snodgras asked if Commissioners Hunter and Pellegrini met with the Bar Pilots, would this be a violation of the Brown Act.

President Hunter responded the Bar Pilots called Commissioner Pellegrini and him as a result of the early budget discussions. He said the two Commissioners were not empowered to negotiate and there was no Brown Act violation.

District Counsel said the Board of Commissioners is in an interesting position. The Bar Pilots are employees, but they are also constituents and are within their rights to meet with Board members.

MOTION CARRIED WITHOUT DISSENT.

E. CONSIDERATION OF APPROVAL OF AMENDMENT 1 TO EMPLOYMENT AGREEMENT WITH WILSON LACY.

COMMISSIONER CURLESS MOVED FOR THE APPROVAL OF AMENDMENT 1 TO EMPLOYMENT AGREEMENT WITH WILSON LACY. COMMISSIONER WILSON SECONDED.

Commissioner Wilson said he would like the removal of the sentence stating "Rate and position shall remain effect until June 30, 2011" deleted because he does not want the at-will language in the contract to be negated and he would like to see changes to the Director of Maritime Commerce's job description. He said a revised skill set may mean Wilson Lacy is not the right person for the job.

COMMISSIONER WILSON MOVED TO AMEND THE MOTION BY DELETING THE REQUESTED SENTENCE. COMMISSIONER CURLESS ACCEPTED THE AMENDMENT.

District Counsel stated Amendment 1 changes Mr. Lacy's rate of compensation; all other language in his employment contract stays the same, including the at-will language.

Commissioner Higgins said this position is too costly due to the lack of return. He said the Bar Pilots have a unique skill set and are taking a huge hit. The Director of Maritime Commerce does not have a strong position.

District Counsel said it has been incumbent on staff to prepare the budget with the Commissioners' directives. In order to have the budget reductions in place for July 1, 2009, CEO has had to have preliminary discussions with the Bar Pilots and Director of Maritime Commerce regarding their contracts. District Counsel said he prepared the amendment without the sentence; but in negotiations with the employees, they put the sentence back in the amendment. He said the current amendment was prepared on behalf of the CEO based on previous instructions from the Board of Commissioners.

David Elsebusch said if the Amendment for Wilson Lacy was done without Board of Commissioners interaction, why wasn't the amendment for the Bar Pilots done in the same way. He also asked if the Director of Maritime Commerce will be doing the same job.

Commissioner Curless said the employees do other duties as directed by the CEO.

President Hunter said if a Commissioner gets a request from an employee to meet, one the first things the Commissioner does is to notify the CEO, since the employees work for the CEO.

District Counsel stated the Board of Commissioners is sensitive to the CEO's authority.

Commissioner Wilson said the position was created by Board action and any changes should require Board action after discussion.

Rich Trygar commented if the termination for cause language is strong, the employer is covered. The employees are only asking for one year.

COMMISSIONER PELLEGRINI OFFERED A FRIENDLY AMENDMENT TO KEEP THE LANGUAGE IN THE AMENDMENT UNTIL JUNE 30, 2010.

COMMISSIONER WILSON SAID THE MOTION IS TO DELETE THE SENTENCE FROM THE AMENDMENT.

MOTION FAILED WITH COMMISSIONERS PELLEGRINI, HIGGINS AND HUNTER DISSENTING.

COMMISSIONER PELLEGRINI MOVED FOR THE APPROVAL OF AMENDMENT 1 TO EMPLOYMENT AGREEMENT WITH WILSON LACY AS PRESENTED IN THE BOARD OF COMMISSIONERS PACKET. COMMISSIONER CURLESS SECONDED.

Commissioner Higgins said he would vote "No" on this motion and "Yes" on the previous motion if the motion could be brought up again.

John Schafer said the Board of Commissioners are ill-advised without an at-will clause, given that the position is likely to change. He asked if the Board of Commissioners could re-vote the first motion that Commissioner Higgins voted against.

MOTION CARRIED WITH COMMISSIONERS WILSON AND HIGGINS DISSENTING.

President Hunter said the Board of Commissioners will discuss the CEO's annual evaluation during Closed Session on July 9.

F. CONSIDERATION OF APPROVAL OF RESOLUTION 2009-07 TO ACCEPT GRANT FUNDS FROM THE CALIFORNIA DEPARTMENT OF FISH AND GAME FOR OIL SPILL RESPONSE EQUIPMENT.

COMMISSIONER PELLEGRINI MOVED FOR THE APPROVAL OF RESOLUTION 2009-07 TO ACCEPT GRANT FUNDS FROM THE CALIFORNIA DEPARTMENT OF FISH AND GAME FOR OIL SPILL RESPONSE EQUIPMENT. COMMISSIONER CURLESS SECONDED. ROLL CALL VOTE WAS TAKEN:


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

MOTION CARRIED WITHOUT DISSENT.

ADMINISTRATIVE AND EMERGENCY PERMITS: None


The Regular Meeting of the Board of Commissioners adjourned at 9:25 p.m.

APPROVED BY:



Mike Wilson
Secretary

RECORDED BY:



Patricia L. Tyson
Director of Administrative Services