

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

DATE: January 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 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 8, 2009 Board meeting
- b. Consideration of budget transfer for Expenses Pending Transfer for FY 2007/08.
- c. Consideration of purchase and installation of replacement 8'x10' rolling steel door at the Fields Landing Boat Yard from Eureka Overhead Door Co. \$2,045.00
- d. Consideration of purchase of replacement battery charger for GEMcar from Liberty Motors \$1,019.53
- e. Consideration of purchase of two Woodley Island Marina replacement bilge water holding tank level controller from Tesco Controls \$2,842.12

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7. Communications and Reports

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

8. Non Agenda

9. Unfinished Business

10. New Business

- a. Consideration of Comments on US Maritime Administration's Interim Final Rule on America's Marine Highway Program.
- b. Consideration of approval of Supplemental Agreement No. 1 to Department of the Army Lease No. DACW05-5-08-0287 for office lease at Woodley Island.
- c. Consideration of appointment of Commission member and alternate to represent the Humboldt Bay Harbor, Recreation and Conservation District on the Redwood Region Economic Development Commission.
- d. Election of Officers.

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

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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

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(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
ANNUAL MEETING OF THE BOARD OF COMMISSIONERS
HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT**

January 22, 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 led those present in the Pledge of Allegiance.

District Counsel reported there was no Closed Session.

PUBLIC COMMENT

David Elsebusch reported there is a vacancy on the Headwaters Fund Board and said he would like to see someone appointed who is "friendly" to the Harbor District. February 13th is the last day to apply for the position. Mr. Elsebusch said he is going to file a complaint with the IRS Whistleblower office regarding the payment of District officers through their business. He also said he took exception to the way the claim from Christopher Fonda was handled; and he said the Board of Commissioners is famous for inappropriately chatting about issues in Closed Session.

Commissioner Higgins said the issue was discussed in Closed Session, but then discussed in the open meeting.

President Hunter said the Board never takes action or discusses issues in Closed Session that are not immediately disclosed in the open meeting.

Marcus Brown said the Timber Heritage Association members are trying to find sources of revenue to continue on with their project. He said they have an older Business Plan, but it needs revision; and they would like to meet to discuss their next step.

CEO stated the Harbor District's EIR would be for the whole project; THA will need to develop their specific project description to put into the document.

Commissioner Wilson cautioned staff to be mindful that the Harbor District does not become the planning staff for THA.

Commissioner Pellegrini suggested THA hire a planner to develop their project needs.

Penny Elsebush asked what is the basis for determining whether an issue is anticipated litigation for Closed Session requirements. She said the discussion about Christopher Fonda's claim should have been done in an open meeting.

District Counsel stated it was clear there was threatened litigation in the wording of Mr. Fonda's claim.

CONSENT CALENDAR

Commissioner Wilson asked for Item B of the Consent Calendar to be removed for further discussion.

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

Commissioner Wilson asked for a report on Expenses Pending Transfer. District Treasurer stated each year, as required by the District's Enabling Legislation, the Board of Commissioners formally moves expense items from the previous fiscal year to capitalized assets.

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

CEO REPORT

- ❖ 1-9: CEO met with W&K on the upland dredge site-repermitting project
- ❖ 1-14: An HBMP Advisory Committee meeting was held where District Planner presented information on the structure and use of the HBMP and Director of Conservation gave the group homework to start prioritizing policies in the plan
- ❖ 1-15: Gave a presentation on the Redwood Marine Terminal to the local American Society of Civil Engineers group.
- ❖ 1-15: Chaired Port Security Team Meeting
- ❖ 1-20: Plaque was placed on Jeff's memorial Sitka spruce grove on Woodley Island
- ❖ Today: Chaired Harbor Safety Committee
- ❖ District Treasurer, Director of Administrative Services and CEO continue to work on budget presentation for March 12th
- ❖ Dredge Essayons will be in Humboldt Bay for maintenance dredging mid-April and Dredge Yaquina will be here mid-March
- ❖ Some of the District's other staff:
 - ❖ Over the last couple of weeks, Wilson Lacy, the District's Director of Maritime Commerce
 1. Participated in an Upstate CA Economic Commission meeting.
 2. Continued to work on cruise marketing
 3. Met with Stephen Pepper's group and worked on the Marine Highway Program comments in the Board's packet tonight
 4. Tracked and promoted the District's Humboldt Bay requests for the federal stimulus package
 - ❖ Over the last couple of weeks Adam Wagschal, the District's Director of the Conservation Division
 1. Participated in an Ecosystem-Based Management workshop
 2. Participated in the early phases of a Spartina eradication project
 3. Worked on the next phase of the Humboldt Bay water trail project
 4. Continued to work on the collaborative fisheries research project
 5. Started the winter SeagrassNet eelgrass fieldwork with USFWS and other agency representatives.
 - ❖ Over the last couple of weeks the Bar Pilots
 1. Capt. Petrusha traveled to San Francisco and rode 6 vessels over two days in order to keep up recency and experience
 2. Pilots finished update to Port Security Plan and coordinated with USCG on the approvals
 3. Researched fireboat specs
 4. Provided logistical support for HSU data recorder maintenance, SeagrassNet field research and abandoned dock float survey and recovery
 5. Worked with USCG in the successful recovery of Buoy 2 from the surf zone
 6. Participated in Harbor Safety Committee and Port Security Team meetings

DISTRICT COUNSEL REPORT

District Counsel reported he has been working on the revision of the District's Personnel Policy. He said the goal is ultimately for the Board of Commissioners to rescind Ordinance No. 1, the current Personnel Policy, and adopt the Personnel Policy. He has sent the first draft to CEO and Director of Administrative Services for their review; after which it will go to the Human Resources committee to meet and confer with the employee union representatives, then to the Board of Commissioners for consideration.

STAFF REPORT: None

COMMISSIONERS REPORTS

Commissioner Pellegrini

- ❖ Reported she and Commissioner Wilson attended the Humboldt Bay Management Plan Advisory Committee meeting on January 14th. She complimented Director of Conservation and District Planner for a good meeting and said the committee is working on presently prioritizing the Plan policies.
- ❖ Said a friend had given her maps of Humboldt Bay dating back to 1851, which she will give to Director of Conservation.
- ❖ Reported the Headwaters Fund Board has given their recommendation to the Board of Supervisors for their approval of a \$500,000 grant for the City of Eureka to build an ice facility. She said the City staff did an excellent job of presenting this project for grant funding.
- ❖ Said she is working with Eureka High School administration to develop a maritime pathway curriculum for the students. Classes might be shipbuilding, fishing industry, etc. Stephen Pepper said he came across an article in a trade magazine about such a curriculum. He offered his company, Humboldt Maritime Logistics, to help in any way in order to give back to the community.

Commissioner Wilson:

- ❖ Reported Congressman Thompson is promoting the re-establishment of the offshore oil drilling ban. Commissioner Pellegrini suggested a report from one of his staff members at a future meeting.
- ❖ Reported he attended the Humboldt Bay Management Plan Advisory Committee meeting.
- ❖ Said he missed the EBM workshop and asked that announcements of upcoming public meetings be sent to the Board of Commissioners.
- ❖ Said the expansion of a maritime academy system would be beneficial. Commissioner Curless said he spoke with College of the Redwoods representatives about ten years ago and they were interested in a putting together a boat-building course. Commissioner Pellegrini suggested Ron Fritzsche be contacted for courses at Humboldt State University. Director of Maritime Commerce reported he spoke with HSU President Rollin Richmond to put transportation courses in the HSU curriculum.

Commissioner Hunter:

- ❖ Reported he will attend the Annual Eureka Chamber of Commerce dinner on January 29th. Commissioner Hunter, as outgoing Chamber Board President will pass the honor to Chris Crawford as the incoming President.

ADVISORY COMMITTEE REPORTS: None

OTHER: None

NON-AGENDA: None

NEW BUSINESS

A. CONSIDERATION OF COMMENTS ON US MARITIME ADMINISTRATION'S INTERIM FINAL RULE ON AMERICA'S MARINE HIGHWAY PROGRAM.

CEO said the comments are on the development of the structure of the Marine Highway Program. Stephen Pepper, Humboldt Maritime Logistics, has also sent in a comment letter in order to show substantive interest for this program.

The Board of Commissioners discussed the letter and suggested several changes.

David Elsebusch said the letter was supportive of the whole West Coast, not just the Port of Humboldt Bay. He asked if the Marine Highway Program will really reduce landside congestion.

Commissioner Wilson said while the Port of Humboldt Bay may not be the major port for some things, it would be the hub for the maintenance and operations of their business.

Commissioner Pellegrini stated congestion is one of the largest threats to prosperity. In the next 15 years, cargo will double and since the majority moves on land, this is significant.

COMMISSIONER WILSON MOVED TO RATIFY THE INTENT OF THE LETTER. COMMISSIONER PELLEGRINI SECONDED. MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF APPROVAL OF SUPPLEMENTAL AGREEMENT NO. 1 TO DEPARTMENT OF THE ARMY LEASE NO. DACW05-5-08-0287 FOR OFFICE LEASE AT WOODLEY ISLAND.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF SUPPLEMENTAL AGREEMENT NO. 1 TO DEPARTMENT OF THE ARMY LEASE NO. DACW05-5-08-0287 FOR OFFICE LEASE AT WOODLEY ISLAND. COMMISSIONER CURLESS SECONDED. MOTION CARRIED WITHOUT DISSENT.

C. CONSIDERATION OF APPOINTMENT OF COMMISSIONER MEMBER AND ALTERNATE TO REPRESENT THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT ON THE REDWOOD REGION ECONOMIC DEVELOPMENT COMMISSION.

Currently Commissioner Wilson is the member and Commissioner Higgins is the alternate.

COMMISSIONER CURLESS MOVED FOR THE CONTINUANCE OF COMMISSIONER WILSON AS THE MEMBER AND COMMISSIONER HIGGINS AS THE ALTERNATE TO REPRESENT THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT ON THE REDWOOD REGION ECONOMIC DEVELOPMENT COMMISSIONER. COMMISSIONER PELLEGRINI SECONDED. MOTION CARRIED WITHOUT DISSENT.

D. ELECTION OF OFFICERS.

COMMISSIONER PELLEGRINI NOMINATED A SLATE OF OFFICERS: COMMISSIONER HUNTER, PRESIDENT; COMMISSIONER CURLESS, VICE PRESIDENT; COMMISSIONER WILSON, SECRETARY. COMMISSIONER CURLESS SECONDED.

COMMISSIONER CURLESS MOVED TO CLOSE THE NOMINATIONS. COMMISSIONER PELLEGRINI SECONDED.

The Board of Commissioners discussed options of rotating members through the offices.

Commissioner Higgins suggested rotating the offices between the Board members would limit the burden and bring a fresh perspective to the Board.

David Elsebusch said the Board of Supervisors rotates the Chairman position between the Board members and suggested the Board of Commissioners consider this change.


President Hunter suggested one of the Commissioners research processes for Board offices and report to the Board for next year.

MOTION CARRIED WITH COMMISSIONER HIGGINS DISSENTING AND COMMISSIONER HUNTER ABSTAINING.

ADMINISTRATIVE AND EMERGENCY PERMITS: None


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

APPROVED BY:



Mike Wilson
Secretary

RECORDED BY:



Patricia L. Tyson
Director of Administrative Services