

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

DATE: April 9, 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 March 26, 2009 Board meeting**

7. Communications and Reports

Agenda for April 9, 2009 Board Meeting

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

8. Non Agenda

9. Unfinished Business

- a. Consideration of adoption of preliminary FY 2009/10 Budget.

10. New Business

- a. Consideration of receiving and filing Permit Application No. 09-04 to City of Arcata for levee repair.
- b. Consideration of Resolution 2009-04 Establishing findings relevant to the City of Eureka's application for Boat Ramp Maintenance Cleaning.
- c. Consideration of approval of Permit No. 09-02 to the City of Eureka for Boat Ramp Maintenance Cleaning.
- d. Consideration of endorsing Kathy Fosmark to serve on the Pacific Fisheries Management Council.

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; Freshwater 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.

Agenda for April 9, 2009 Board Meeting

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; 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.

Agenda for April 9, 2009 Board Meeting

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

April 9, 2009

PRESENT:

Commissioner Curless
Commissioner Pellegrini
Commissioner Wilson
Commissioner Higgins
Commissioner Hunter

The Closed Session was called to order at 6:03 p.m. Closed Session adjourned at 6:35 p.m.

President Hunter called the regular meeting of the Board of Commissioners to order at 7:01 p.m.

President Hunter 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 and the Real Property Negotiations potential purchase of Mario's Marina property in Shelter Cove and the potential Tideland Lease with Freshwater Pulp. No action was taken on these items. The possible acquisition of Yomtob property in Shelter Cove was also discussed. The entire Board of Commissioners voted not to pursue further discussion about this possible acquisition and will suggest to Mr. Yomtob he pursue other non-profit organizations.

PUBLIC COMMENT: None

CONSENT CALENDAR

President Hunter pulled Item A. for further discussion. Several changes were made to the minutes from the March 26, 2009 Board of Commissioners meeting.

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

CEO REPORT

- ❖ District staff have been working on the installation of a current meter at the Fairhaven Terminal. Directors of Facility Maintenance and Conservation have dove three (3) times to mount a tripod which will hold the current meter.
- ❖ 4/6: CEO and Director of Conservation participated in a Dioxin workgroup to develop sampling methods. The North Coast Regional Quality Control Board of Commissioners has assigned a staff person to be lead of the group.
- ❖ CEO continues to work on stimulus projects. CEO and Director of Maritime Commerce met with HCAOG Executive Director Spencer Clifton to outline projects. HCAOG will receive \$2.5 million of the \$250 million requested. Director of Conservation submitted a grant application on 4/6 for Spartina eradication.
- ❖ 4/8: CSDA sponsored ethics training for elected officials and management of local special districts. District Counsel provided the training to approximately 20 local agency representatives in the Woodley Island Meeting Room.
- ❖ The dredge Yaquina is currently working in Humboldt Bay at the Fields Landing Channel to prepare for the PG&E ships that will be using the channel later this spring to bring engines for the power plant re-powering project. The dredge Essayons will arrive at the end of April to perform maintenance on Humboldt Bay's bar and entrance channels.
- ❖ CEO reported there has been a flurry of activity for reserving boat slips due to the shortened recreational salmon season.
- ❖ CEO received a press release that CENCOOS has been authorized by Congress. It has been a District legislative priority for 7-8 years.

- ❖ CEO shared a picture of Commissioner Pellegrini and her family standing next to their fishing boat that was displayed at the CMANC Golden Reception in Washington DC.

DISTRICT COUNSEL REPORT: None

STAFF REPORT: None

COMMISSIONERS REPORTS

Commissioner Curless:

- ❖ Attended ethics training yesterday.

Commissioner Wilson:

- ❖ Also attended the ethics training.
- ❖ Stated the port/rail connection were not listed on Congressman Thompson's earmarked list for the stimulus package. He said the Board of Commissioners needs to rethink their strategy of requesting funds to focus on needs that can be accomplished "today".
- ❖ Said since the pulp mill is shut down indefinitely and no longer paying for water, the impacts on the peninsula are worrisome; the infrastructure is at risk and could have impacts on future industrial use. He commended the Humboldt Bay Municipal Water District (HBMWD) for moving ahead with community outreach on this important matter. He wondered if HBMWD could take on the burden of maintaining the infrastructure without partners (i.e. Harbor District).
Commissioner Higgins said there is no guarantee HBMWD's infrastructure investment will pay back. CEO stated he has participated in meetings with all affected parties of the fire system. One idea is to "moth ball" the line which could be used in the future; fire protection must be maintained in the meantime. Bill McBroome said if the water is shut off the outfall line will sand in quickly.

Commissioner Higgins:

- ❖ Requested CEO write a letter on behalf of the District supporting Senator Florez' effort to conduct MLPA oversight hearings.
- ❖ Reported he and Commissioner Wilson have developed a list of potential partners for the Economic Development Committee and he asked to have it as an agenda item for the next Board of Commissioners meeting.

Commissioner Hunter:

- ❖ Thanked David Elsebusch for his work to send students from McKinleyville High School and Arcata High School to the week-long Boys State program at CSU at Sacramento.

ADVISORY COMMITTEE REPORTS: None

OTHER

NON-AGENDA: None

UNFINISHED BUSINESS

A. CONSIDERATION OF ADOPTION OF PRELIMINARY FY 2009/10 BUDGET.

CEO stated there will be three more meetings to discuss the budget. A public notice will be released after this meeting allowing a 30-day public comment period on the preliminary budget. The Board of Commissioners will then discuss the budget during the public hearing at their May 28, 2009 meeting.

District Treasurer stated the summary of the preliminary FY 2009/10 Budget as follows: Revenue \$5,562,989; Operating Expenses \$2,907,269; Non-Operating Expenses \$3,147,113; Excess Revenues Under Expenses (\$491,393); Transfers From Fund Balance Designations \$491,393 and Total After Transfers \$0.

Commissioner Pellegrini began the discussion with a list of budget cuts: lay off one Bar Pilot; negotiate with the other Bar Pilot to reduce his annual salary to \$60,000 plus \$5,000 for each ship; train a new pilot if the current Bar Pilots move away from Humboldt County; adding pilotage fees to tanker fees could be a mistake in that the added cost to ship might cause increased trucking; eliminate the day security at Woodley Island and move the Dockmaster to a Monday-Friday schedule in order to provide security during the week; eliminate the dues for Western Fishboat Owners Association and Klamath Management Zone Fisheries Coalition; terminate the contract with Edington, Peel & Associates and reevaluate in one year; eliminate the \$2,000 contribution to Convention & Visitors Bureau; freeze raises for all employees; eliminate the Humboldt Bay Maritime Expo; direct the Director of Maritime Commerce to turn over every rock to increase shipping in order for the Corps of Engineers to continue their dredging of the bar and entrance.

Commissioner Curless said he agreed with Commissioner Pellegrini's suggestions.

Commissioner Wilson said the cuts to the Bar Pilots need to be negotiated; but the Director of Maritime Commerce position can be cut now because there is no benefit being realized. He asked if he could make a motion to eliminate this position.

President Hunter asked if it was appropriate to have an agenda item eliminating a position. District Counsel replied the Board of Commissioners can eliminate a position or cease the funding.

Commissioner Wilson said he would like an agenda item for the next meeting to discuss the funding of the position of Director of Maritime Commerce. He said he would like confirmation from NCRA that they are going to pay the \$170,000 listed as revenue for FY 2009/10. Since there are no customers or real prospects for the Redwood Marine Terminal (RMT) and it is highly unlikely there will be, Commissioner Wilson said the Board of Commissioners is tied to larger issues without revenue and resources and the pursuit of business for the RMT is not a good use of staff time. He also suggested the District's health insurance program be evaluated to see if savings could be realized.

Commissioner Higgins said the shipping industry stands to lose millions of dollars; even the State's own CalPERS is making an offer to operate three state-owned cargo terminals in Virginia, not in California. He said the Harbor District is not in a desirable position; and in the current circumstance, it is not likely the Redwood Marine Terminal will be capitalized. It is time to change the thrust of the District's business. A cut of \$250,000 from the FY2009/10 budget is necessary.

President Hunter suggested the following: lay off one Bar Pilot; negotiate an annual salary of \$60,000 with the other Bar Pilot; eliminate the funding for the Director of Maritime Commerce; eliminate the funding for the Planner position; eliminate the Board of Commissioners fees; freeze employee salaries for one year.

At this point, Commissioner Pellegrini recused herself and left the room during the discussion of marina slip fees.

President Hunter further suggested: a 12.5% increase in various District fees is too much and the Board of Commissioners should consider a COLA increase instead.

Bill McBroome said he felt the overall 12.5% increase to fees is too high and asked the Board of Commissioners to reconsider.

Ken Bates said he understands the increase in fees is necessary. He asked the slip spaces in the marina to be maximized; the marina is not full, but can be. He suggested the electrical use be reviewed, since often lights and heaters left on boats when there is no one on board.

President Hunter recommended a 4% increase in various District fees to be reflected in the Preliminary FY 2009/10 budget; the other Commissioners agreed that is a fair adjustment.

CEO stated that even with the proposed 12.5% increase, Woodley Island Marina's slip fees would still have been lower than other marinas in Northern California and Southern Oregon, except Noyo Harbor.

Commissioner Pellegrini returned to the room.

CEO said that as a government agency, the employees are the strength and value of the organization. If the people are cut, there is not much of an organization left. He said he would prefer a more creative way of balancing the budget. If \$250,000 is cut from the budget, the balance is still on the wrong side. CEO suggested the District cannot cut its way out of this trend without losing functions; the real solution is to generate more income. If the people who are going to protect harbor services and who generate the business and generate income are cut out, not only will the Harbor District suffer, but the community will suffer as well.

Commissioner Pellegrini stated the nail in the coffin is the closing of the pulp mill. She said these discussions and decisions are very uncomfortable.

CEO said he was surprised at the hard turn the Board of Commissioners has taken. It will lead to drastic repercussions that the District may not return from.

President Hunter said the Director of Maritime Commerce was hired two years ago to promote Humboldt Bay's presence to the world. The downturn of industry on Humboldt Bay was not expected. The Director of Maritime Commerce has done a good job with the cruise ship industry, but this is not a money maker for the District.

Commissioner Higgins said he did not want to lose the pilot capacity, but how much can we afford to maintain that function. He said the Board of Commissioners has to take a more conservative look at the marine trades and need to balance the District's responsibilities. He said Humboldt Bay will never be competitive with container shipping and world trade.

Commissioner Wilson said there is a difference between good economic development and gambling and the District has responsibilities in certain maritime issues. He said he would prefer an Economic Development Director instead of a Director of Maritime Commerce.

CEO stated he believes the District is on the cusp of things to come. The District powers and authority states its mission is focused on harbor works.

Commissioner Wilson said he thinks the Board of Commissioners should reevaluate where the District is going.

CEO responded investments have been made in harbor development that should not be discounted, but also does not preclude looking at other revenue sources at the same time.

After much discussion, the Board of Commissioners agreed to cut \$250,000 from Salaries and Wages, which would in turn decrease the Payroll Burden accordingly.

The summary of the suggested changes to the Preliminary FY 2009/10 Budget are as follows: Increase various District fees 4%; Decrease Salaries and Wages \$250,000, which would decrease Payroll Burden; Decrease Advertising and Promotion to \$14,000; Decrease Conferences and Meetings to \$40,000; Eliminate payments to the Western Fishboat Owners Association, Klamath Fisheries Management Zone Coalition, SeagrassNet and \$2,000 to Convention and Visitors Bureau; Reduce Edington, Peel & Associates fees to \$30,000.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF THE PRELIMINARY FY 2009/10 BUDGET WITH THE SUGGESTED CHANGES. COMMISSIONER PELLEGRINI SECONDED.

Susan Schlosser asked the Board of Commissioners to continue the funding of the SeagrassNet project. She said it is an important international program for the monitoring of eelgrass in Humboldt Bay and was certain other agencies would be able to participate financially or with in-kind contributions.

Stephen Pepper said he supported SeagrassNet as part of the Harbor District's conservation mandate.

Ken Bates said the continual monitoring of eelgrass is important to determine whether fluctuations are man-made or a result of the environment.

David Elsebusch said the Board of Commissioners fees are low on average and feels the District Planner should be an independent contractor. He said the District Treasurer and District Counsel should have their fees cut too. Eliminate one Bar Pilot, cut the other to \$60,000 annual salary and eliminate the Director of Maritime Commerce. He suggested the Board of Commissioners begin to sell assets, such as Woodley Island Marina. He asked about eliminating the Director of Facility Maintenance position.

Ken Bates said he was impressed with the considerations being made by the Board of Commissioners. He said the Director of Facility Maintenance is an important position, not one to eliminate.

Penny Elsebusch said it is necessary for the Board of Commissioners to make the hard decisions.

Susan Penn suggested increasing revenue by sub-letting slips in the marina and said extra effort on staff's part to keep the slips filled would be beneficial. She also said the Board of Commissioners should be looking at uses for the Redwood Marine Terminal that fit the current zoning so that additional funds would not be spent on building a new dock.

COMMISSIONER HIGGINS MADE A FRIENDLY AMENDMENT TO PUT \$20,000 FOR SEAGRASSNET BACK INTO THE BUDGET. COMMISSIONER WILSON SECONDED.

Commissioner Pellegrini suggested \$10,000 for SeagrassNet.

COMMISSIONER HIGGINS MOVED TO AMEND HIS FRIENDLY AMENDMENT TO \$10,000. COMMISSIONER WILSON SECONDED. MOTION CARRIED WITHOUT DISSENT.

Commissioner Higgins said it will be important to make sure there is a match of the other \$10,000 from other agencies.

NEW BUSINESS

A. CONSIDERATION OF RECEIVING AND FILING PERMIT APPLICATION NO. 09-04 TO CITY OF ARCATA FOR LEVEE REPAIR.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF RECEIVING AND FILING PERMIT APPLICATION NO. 09-04 TO CITY OF ARCATA FOR LEVEE REPAIR. COMMISSIONER PELLEGRINI SECONDED. MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF RESOLUTION 2009-04 ESTABLISHING FINDINGS RELEVANT TO THE CITY OF EUREKA'S APPLICATION FOR BOAT RAMP MAINTENANCE CLEANING.

COMMISSIONER HIGGINS MOVED FOR THE ADOPTION OF RESOLUTION 2009-04 ESTABLISHING FINDINGS RELEVANT TO THE CITY OF EUREKA'S APPLICATION FOR BOAT RAMP MAINTENANCE CLEANING. 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 APPROVAL OF PERMIT NO. 09-02 TO THE CITY OF EUREKA FOR BOAT RAMP MAINTENANCE CLEANING.

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

D. CONSIDERATION OF ENDORSING KATHY FOSMARK TO SERVE ON THE PACIFIC FISHERIES MANAGEMENT COUNCIL.

Commissioner Pellegrini recused herself and left the room. President Hunter recused himself and left the room.

Commissioner Curless, as Vice President, presided over the meeting.

CEO reported Ms. Fosmark is currently on the PFMC Board, but not on the Governor's list to fill the three vacant seats.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF ENDORSING KATHY FOSMARK TO SERVE ON THE PACIFIC FISHERIES MANAGEMENT COUNCIL. COMMISSIONER WILSON SECONDED. MOTION CARRIED WITHOUT DISSENT.

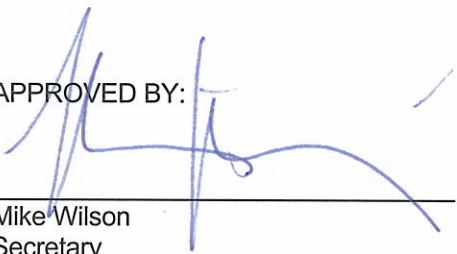
Commissioner Pellegrini and President Hunter returned to the room.

ADMINISTRATIVE AND EMERGENCY PERMITS

CEO reported an administrative permit was issued to HSU students studying effects of global warming on salt marsh vegetation in the Mad River Slough.

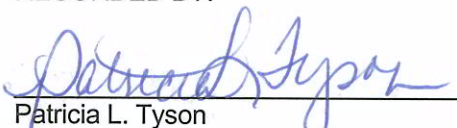
The Regular Meeting of the Board of Commissioners adjourned at 9:50 p.m.

APPROVED BY:



Mike Wilson
Secretary

RECORDED BY:



Patricia L. Tyson
Director of Administrative Services