

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

**DATE:** May 28, 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 April 23, 2009 Board meeting.**

**7. 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

**8. Non Agenda**

**9. Unfinished Business**

- a. Public hearing on FY 2009/10 Budget.

**10. New Business**

**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; Kuiper Mariculture Aquaculture Terminal tidelands lease; 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.

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.

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**

**May 28, 2009**

**PRESENT:**

Commissioner Curless  
Commissioner Pellegrini  
Commissioner Wilson  
Commissioner Higgins  
Commissioner Hunter

President Hunter called the regular meeting of the Board of Commissioners to order at 7:02 p.m.

President Hunter led those present in the Pledge of Allegiance.

President Hunter announced there was no Closed Session.

**PUBLIC COMMENT**

David Elsebusch stated the Harbor District's agenda violates the Brown Act by listing items that may or may not be discussed during Closed Session. He said this is deceptive to the public.

President Hunter asked District Counsel to comment. District Counsel said that while there is no violation of the Brown Act, the agenda should be limited to items of discussion. He said the agenda would be revised for the next meeting.

Mr. Elsebusch handed in a Public Records Act request for a detailed list of April's monthly disbursements. He said every Board of Commissioners member should ask for this information monthly.

Melvin McKinney said he attended the District's Economic Development Committee meeting last night. He said private dock owners feel the Harbor District is in competition with them. Light industry is what will work for Humboldt Bay.

Kaye Strickland said she read an article about the District's Economic Development Committee meeting and asked when the next one would be held.

**CONSENT CALENDAR**

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

**CEO REPORT**

- ❖ Maintenance staff made repairs to the Work Dock pilings. CEO stated approximately \$70,000 was saved by doing the project in-house.
- ❖ The repermitting of the Upland Dredge Disposal Site is ready to go to the Regional Board of Commissioners for comment.
- ❖ CEO chaired the Harbor Safety Committee meeting. The permit for the Humboldt Bay Aquatic Center floating dock was discussed, along with efforts to enforce small boat safety rules.
- ❖ Only 60% of what the Corps of Engineers says is required to dredge Humboldt Bay is allocated in the President's budget for next federal fiscal year. Washington DC lobbyist Will Edington is working with legislators and AAPA on revisions.
- ❖ Director of Conservation traveled to San Francisco to present a slide show to the Coastal Regional Sediment Management Work Group.

- ❖ CEO and Director of Maritime Commerce made presentations to the District's Economic Development Committee meeting last night.
- ❖ The Change of Command for the USCGC Barracuda will be held tomorrow at 10:00 a.m. at Woodley Island.

## DISTRICT COUNSEL REPORT

District Counsel reported he has been working with District staff on compiling a new set of Personnel Policies that include the Harbor District's Ordinance No. 1.

**STAFF REPORT:** None

## COMMISSIONERS REPORTS

Commissioner Curless:

- ❖ Met the new Boy Scouts Director for Humboldt County.

Commissioner Hunter:

- ❖ Requested the Board of Commissioners meeting of June 25<sup>th</sup> be moved to Monday, June 22<sup>nd</sup>.
- ❖ Received an e-mail from Kerns West Group representing PG&Es wave energy project. They are putting together an ad hoc group to develop a group of stakeholders. The ad hoc group will meet June 16 and June 29 and the stakeholders group will meet between July and August. Asked CEO to keep Board of Commissioners informed on the wave energy developments.

## ADVISORY COMMITTEE REPORTS

Commissioner Pellegrini:

- ❖ Reported she and Commissioner Hunter met with the employee union representatives and told them the Board of Commissioners is recommending a freeze of all Harbor District employees wages.

Commissioner Higgins:

- ❖ The next MLPA meeting will be June 1<sup>st</sup> at 3 p.m. at the Humboldt Bay Aquatic Center. Commissioner Higgins said he has drafted a letter which will be considered at this meeting. If approved, the letter will be circulated for signature by many public agencies from Mendocino to Del Norte Counties.
- ❖ Reported Access Humboldt recorded the District's Economic Development Committee meeting last night for \$500. The meeting's discussion centered on economic options for Humboldt Bay. The next meeting will be held June 24<sup>th</sup> and will be focused on light industry. The meetings will be held the 4<sup>th</sup> Wednesday of the month and discussions will be about impediments to businesses locating on Humboldt Bay and how the Harbor District or other local agencies can assist.

Commissioner Wilson:

- ❖ Thanked the subcommittee of the Humboldt Bay Management Plan Advisory Committee (Rich Trygar, Stephen Pepper and Pete Oringer) for meeting with landowners around Humboldt Bay.

**OTHER:** None

**NON-AGENDA:** None

## UNFINISHED BUSINESS

### A. PUBLIC HEARING ON FY 2009/10 BUDGET.

President Hunter opened the Public Hearing on FY 2009-10 Budget.

Susan Penn asked for clarification on the Fund Balance Designations and slip fee increases.

David Elsebusch asked when the details of the \$250,000 reduction in Salaries/Wages will be made available to the public.

Melvin McKinney asked how the Board of Commissioners can justify the salary of the Director of Maritime Commerce when there is no revenue coming in from shipping.

Commissioner Higgins asked about the fuel barge pilotage fees. CEO stated he has had discussions with other ports about this subject. It is possible the State will mandate pilots on fuel barges or the Board of Commissioners can amend Ordinance No.15 to make that a requirement.

Commissioner Higgins asked if NCRA is going to repay their loan to the Harbor District. CEO stated NCRA has been notified their loan will come due in December.

Commissioner Higgins stated if cuts are not made to the Harbor District budget correctly, the District will continue to lose money. If employees are not bringing in results, discontinue the expense.

Commissioner Wilson said he is uncomfortable about making cuts without specifics. He asked if it was reasonable to pass the budget without specifics. Commissioner Wilson said he wanted to know the options because he wants to make sure the reductions are done responsibly.

CEO stated the Board of Commissioners directed him to reduce Salaries/Wages by \$250,000; no policy changes or a change in the Board's focus were made.

Commissioner Higgins said the Board of Commissioners needs to have a discussion regarding emphasis of business, impacts, etc.

CEO said discussions are ongoing with affected employees and District Counsel. He said he generally followed the path discussed by the Board of Commissioners, but no change in policy is proposed until he is directed by the Board of Commissioners to do so.

Commissioner Higgins said the District's Economic Development Committee meetings need Access Humboldt to record them for effective public education. He said it should cost about \$3,000 for 6 meetings. President Hunter suggested the item appear on the next agenda for discussion.

Commissioner Higgins brought up President Hunter's suggestion from a previous meeting for the Board of Commissioners to give up their Commissioner Fees. He said part of good government is to provide an incentive to serve and to suggest the Board serve without being paid a stipend is punitive and not substantive.

President Hunter said it was not ill-willed, evil or meant to be punitive.

Commissioner Wilson said he thought it would be unwise; public service is about citizens putting their personal time.

President Hunter said he would withdraw his suggestion. He asked staff to put the \$25,200 Commissioners Fees back in the budget for the next meeting.

Commissioner Higgins asked if engineering and planning is included as expenses for the Redwood Marine Terminal. CEO responded they are not because at this time, those costs are unknown. Once the RFQ is done, grant funding will be sought.

David Elsebusch asked when the budget will be adopted. President Hunter responded the First Reading of the FY 2009-10 Budget will be at the next Board of Commissioners meeting and the Second Reading and Adoption will be at the second meeting in June, most likely June 22<sup>nd</sup>.

Commissioner Wilson said he thought President Hunter's position on the Commissioners Fees is honorable and sincere, but he disagrees with the long-term impacts.

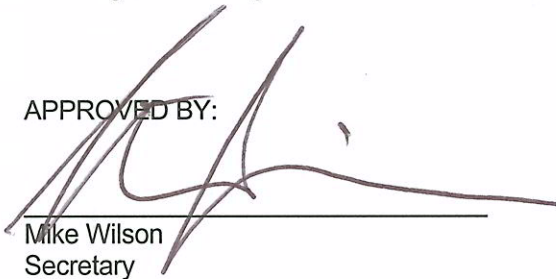
President Hunter closed the Public Hearing.

**NEW BUSINESS:** None

**ADMINISTRATIVE AND EMERGENCY PERMITS:** None

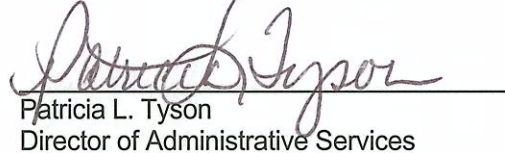
The Regular Meeting of the Board of Commissioners adjourned at 9:03 p.m.

APPROVED BY:



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Mike Wilson  
Secretary

RECORDED BY:



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Patricia L. Tyson  
Director of Administrative Services