

MINUTES
REGULAR MEETING OF THE BOARD OF COMMISSIONERS
HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT
Held in the City of Eureka Council Chambers

August 28, 2008

PRESENT:

Commissioner Pellegrini
Commissioner Curless
Commissioner Wilson
Commissioner Hunter
Commissioner Higgins

President Hunter announced there was no Closed Session.

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.

PUBLIC COMMENT

Dave Spreen said the Harbor District's Enabling Legislation states the Harbor District does not have the authorization to issue more than \$2 million in revenue bonds without voter approval.

District Counsel stated the CA Harbors & Navigation Code, Appendix 2, Section 68 does limit revenue bonds to \$2 million; however, the District can issue over \$2 million without voter approval, but is required to be passed by Harbor District ordinance. The ordinance can be challenged by referendum.

CONSENT CALENDAR

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

CEO REPORT

- ❖ 8/18, 8/19, 8/20: CEO gave Redwood Marine Terminal presentations to various agencies and service clubs for a total of 11 presentations.
- ❖ 8/18: Ordinance 9/17 committee met.
- ❖ 8/20: Harbor District employees met with Captain Gugg, new USCG Captain of the Port, regarding shoaling, buoys and oil spill response.
- ❖ 8/25: Director of Conservation submitted the West Coast Estuary grant application to EPA. He did a great job pulling together partners and revising the approximately \$1 million grant application.
- ❖ 8/25: Kick off meeting for District's collaborative fisheries research project.
- ❖ Planning continues for Humboldt Bay Maritime Expo on September 27th.
- ❖ Harbor District is a co-sponsor of the California Coastal Commission workshop on invasive species, which will be held on October 30th.

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DISTRICT COUNSEL REPORT: None

STAFF REPORT: None

COMMISSIONER REPORTS

Commissioner Pellegrini:

- ❖ Said she received a survey on CA groundfish from a John Driscoll, not the local Times-Standard reporter.
- ❖ Met with Supervisor Smith and CEO regarding the King Salmon channel and what the proactive community members can do to address the silting problem.

Commissioner Curlless:

- ❖ Said he had a new activity for Humboldt Bay, "Hops on the Bay". Over 3,000 people attended Hops in Humboldt in Fortuna and Commissioner Curlless said it was very successful.

Commissioner Hunter:

- ❖ Attended both Humboldt Bay Stewards and RAPIT Forums and thanked those organizations for keeping the community involved in the Redwood Marine Terminal Project.
- ❖ Said he, Commissioner Pellegrini and CEO met with Supervisors Neely and Smith to bring them up to date on the Redwood Marine Terminal.
- ❖ Announced the CA Coastal Commission will be in town the week of September 8th and the Chamber of Commerce is hosting a reception in their honor at the Avalon on September 10th.

Commissioner Wilson:

- ❖ Attended both the Humboldt Bay Stewards and RAPIT Forums and said he appreciated staff's participation.
- ❖ Attended the Organic Planet festival.
- ❖ Was saddened by the accidental death of bicyclist Greg Jennings and said he worked with him on the Annie and Mary trail.

Commissioner Higgins:

- ❖ Attended a meeting of the Humboldt County Fish & Game Advisory Committee in order to tell them of the District's collaborative fisheries research project and the potential funding available next year.

ADVISORY COMMITTEE REPORTS

Commissioner Pellegrini reported she, Commissioner Curlless and CEO met with Humboldt Fishermen's Marketing Association representatives and marina tenant Susan Penn as the Ordinance 9/17 Committee to discuss ways to increase revenue of Woodley Island Marina. Ken Bates apologized to the Harbor District for the misconceptions of the management of the marina. Commissioner Pellegrini said the committee will continue to meet periodically.

Commissioner Curlless added there had been a question about some boats in the marina that do not move from their slip and whether they should be considered derelict. These boats do pay their monthly moorage fees.

President Hunter asked the committee to bring the misconceptions along with the answers to the Board of Commissioners when the Board is considering ordinance revisions.

Commissioner Higgins asked for a Board study session at an October meeting regarding the collaborative fisheries research project that could bring approximately \$1 million in grant funding to the Harbor District.

OTHER: None

NON-AGENDA: None

UNFINISHED BUSINESS

A. DISCUSSION OF THE DRAFT REDWOOD MARINE TERMINAL BUSINESS PLAN AND GOLDMAN, SACHS CO. NEGOTIATIONS – NO ACTION.

President Hunter stated this is the fifth meeting where public comments which have been received on the Redwood Marine Terminal Business Plan will be forwarded to TransSystems.

District Counsel stated the committee is still in the negotiation stage with Goldman Sachs; and at this point, there is nothing to discuss. Maritime Attorney Larry Mallon has also reviewed the Goldman Sachs proposal and both attorneys are concurrent on their thoughts and have forwarded their comments to Goldman Sachs.

District Counsel said there have been some misconceptions about the talks between the committee and Goldman Sachs. The proposal by Goldman Sachs does not contain any language about the Harbor District turning over assets to Goldman Sachs or Goldman Sachs having the authority to only solicit proposals for the Harbor District's bay assets. The Board of Commissioners has the total discretion to approve any proposal, or not.

Mike Hart said he's heard enough negative comments, we need positive ones. Tourism in Humboldt County can be developed, passenger train between McKinleyville and Fortuna can happen, water and bike trails can come about – there are lots of positives here. He said water and bike trails should be funded by tax dollars, but should also be able to pay their own way too.

Jim Pell stated he is a candidate for the California State Assembly. He said he would never support a project that would cause harm, but would support green development. Humboldt County is a depressed local economy and this is a golden opportunity: modern green port with railroad infrastructure.

Diane Beck, representing No. Group of the Sierra Club, gave a handout of her comments. She is not supportive of Option B, "a grandiose exercise in wishful thinking". She said she favors railroad transportation in general, but sees there is no plan to return passenger service to Humboldt County. Ms. Beck also said she is not impressed with the idea of a green port; too many invasive species and oil spill opportunities.

Commissioner Pellegrini asked Ms. Beck about Sierra Club's resolution, passed in 1990, to support the railroad. Ms. Beck said a lot of time has passed since 1990.

Tina Christensen said she supports port development. Kayaking is great, but she wants to see the harbor moving with activity. The community needs to survive these economic times.

Maggie Herbelin gave a handout of her comments and said she is concerned with the economic viability of port development. Past dredging costs remain a problem for the Harbor District, as well as a possible debt load of \$100 million for the port development. She said the Board should go back to the drawing board, be cognizant of the community's desires and what the bay can bear.

Marian Nina Amber said she sees the region's weak economy, but urged the Board not to compromise the area's beauty and gifts. She said we are in danger of losing all sense of proportion. Re-establishing the railroad corridor through the seismic Eel River Canyon is not a good idea and now there is a double whammy: container port and oil drilling off shore. She also said large corporations have no real concern for bay recreational users.

Rondal Snodgrass gave a handout of his comments and said he was opposed to the port development plan as presented. He said he was concerned with deep pocket liability; the consideration for public trust responsibility and said Goldman Sachs exclusivity is inappropriate and possibly illegal.

Diane Ryerson gave a handout of her comments and urged the Board to review all previous comments and go back to the drawing board before signing an agreement.

Chris Crawford said he does not use the port for his personal business, but expressed honor to the Board of Commissioners for their work on this project. He said the Board has to balance the District's three competing priorities; cannot favor one over the other. The gestation period for a project of this size is very long, so the Board must start now to get the project going. Mr. Crawford said he was against the railroad before he was in favor of it and Goldman, Sachs will give an unvarnished opinion of whether revitalizing the railroad is feasible, paying for the assessment. He urged the Board of Commissioners to adopt Option B and move forward.

Ali Freedlund said the Board of Commissioners should be dedicated to the restoration and recovery of watersheds around Humboldt Bay. She is opposed to the project as proposed and is concerned about

the possibility of diesel spill impacts to the bay at the dangerous entrance. Humboldt Bay is a recreational resource. Why put it at risk?

Frank Rojas said the Humboldt Bay area is rich with drugs and economic hardships. He supports Plan B and wants to start now to improve opportunities for the young people so they do not have to leave to look for work.

Leo Sears said the local economy needs a boost, needs sustainable jobs with benefits. He said he does not know if this is the right proposal, but the Board of Commissioners should look at all possibilities.

Mark Lovelace said during his campaign for County Supervisor he spoke with 3,000 constituents, many who favored reasonable port development; but there was little support for the railroad. He said there may be broader consensus for a more moderate solution to port development.

Mariann Hassler gave a resolution of support for Option B from the Carpenters Local 751. She urged the Board of Commissioners to move forward in a positive direction and bring good jobs to the area, while being environmentally responsible.

John Christensen urged the Board of Commissioners to start over, do not go forward with either option. Goldman, Sachs will be a major player and their corporate main purpose is stockholder profits; therefore, they cannot be a fair broker for the public. Find a more ecologically sustainable way of interacting with the bay.

Bill Gaston said there is no reason to develop the port without customers. He said the Board of Commissioners should not go forward; wait for the customers.

Maggie Draper said the Board is putting the cart before the horse; they have good intentions, but need to do more research; address port development programmatically and slowly.

Steve Kukis said Eureka has not changed since he graduated from high school; no growth even though the population of the nation has doubled. He said here is the opportunity for both sides to come together. Back in 1965, there were several working ships in the bay at any one time; and with today's technology for environmental safety, there should be no problem responsibly developing the port.

Ellen Bryant apologized to the Board of Commissioners for scolding them in the past; but she said our port cannot compete with Port of Oakland and our railroad cannot compete with Port of Oakland. She urged the Board to vote no on Options A and B; an Option C is needed, which would contain more recreation and conservation.

Paul Robbins said the mills are gone and the train is gone. We are losing everything.

Beverly Hart commended the Board of Commissioners for listening to the comments and said they have a daunting task in front of them. She said there are enough environmental restrictions in place that a green port would be built. There is nothing left for people here. She said she supports this wonderful undertaking.

Richard Krinsky said he does not need a job; but the area needs good jobs to support the economy. Option B can be done intelligently.

Shannon Lewis said he is a 6th generation logger, but is out of logging for now. He is a member of the ILWU and is concerned about the steady downhill economy. He urged the Board to move forward to bring jobs to the area.

Pete Nichols said Humboldt BayKeeper had previously submitted comments. He said there is a lack of appropriate environmental analysis and Humboldt Bay as a potentially industrial port is not workable. He said there is a blatant misuse of public dollars to research port development; \$200,000 has been wasted. He said Headwaters Board has suggested the \$200,000 has not been used appropriately. The only "green" is the dollars to the consultants. Mr. Nichols said many people do not support this type of

port development and he turned in a large quantity of signature cards stating opposition of the Redwood Marine Terminal Project.

Scott Graecen said he represents a coalition of groups in strong opposition of the Redwood Marine Terminal Project. He said there is little public evidence of NCRA's commitment to the project – a conspicuous silence. Humboldt County is not a very big place, but the people are not dumb; they have a proud history of innovation. Start small, develop appropriately.

Charles Powell said he supports Option A over Option B.

Lawrence LaBranche urged the Board to move forward. He asked where the dollars will come from to maintain the trails; bay development is needed in order to have the money to pay for the trails. Only 15% of the bay uplands can be developed anyway; this area needs jobs.

Larry Goldberg gave a handout of his comments. He said the Business Plan is a misguided document. He outlined several projects which have been successful and many which have not. He said the Harbor District is taking considerable risk with its assets.

Nada Nanda said she has researched the railroad and has wanted to believe the railroad would be restored to benefit Humboldt County; but it has major problems. Instead of asking people to bring jobs here, turn it around to look locally at talent and ability for home-based jobs.

Richard Tollefson said the economy is bad; we cannot turn away opportunities.

Tom Brundage, a local geologist, gave a handout of his comments focusing on the relationship between the railroad and the port and the feasibility of reopening the railroad through the Eel River Canyon.

David Elsebusch said he wrote a comment letter to the Times-Standard. He asked if Ken Davlin's fees were included in the costs because he remembered some sort of engagement of Mr. Davlin for review of the Project. He also said that District Counsel stated at this meeting Goldman, Sachs has presented a proposal to the District. Mr. Elsebusch handed CEO a written request, under the Public Records Information Act, for a copy of that proposal.

Dave Spreen said he had previously submitted a comment letter. He said the Harbor District's Enabling Legislation precludes the Board from signing an agreement with Goldman, Sachs; the Redwood Marine Terminal cannot meet State Legislative requirements and the Board must discontinue negotiations with Goldman, Sachs immediately.

Bill Bertain thanked the Board for allowing 64 days for public comment on this important issue and for the larger meeting venues allowing for more public participation. He said citizens want port development, job creation and environmental sensitivity. Arcata Marsh, for example, is a world class environmental project; proof there is local talent and knowledge to develop these types of projects. Goldman, Sachs thinks the port and railroad have a future; there is optimism for good paying jobs and benefits. The Harbor District, County and cities will realize increased revenue and will be able to fund trails and other projects of the District's recreation and conservation mission.

Pete Oringer says he hears a clash of visions that are faith-based; but the Board of Commissioners cannot make their decisions based on faith. They must have peer-reviewed, fact-based data in order to make their decisions and must get to a point where data is generated and can be shared with the public. He said this project is 1/3 of the size of those projects from the 1960's when the pulp mills were built. This is not a huge project and one that would work for economic benefit.

John Schaefer gave a handout of his comments. He said wishful thinking will not create jobs. The Business Plan is full of flawed assumptions: Samoa is the best place for this project, NCRA intends to open rail service, shipping demands will increase, etc. The Plan fails to consider possible foreclosure.

Larry Gerany said he is afraid of losing what we already have; railroads across the nation are in trouble. He asked why no one is coming here unsolicited if this is such a good project.

Richard Morrison said we must work now and into the future to bring dollars into the local economy, but do so in an environmentally sound way. Projects can be done in an environmentally friendly way; let's take action now. Mr. Morrison turned in a resolution of support from the Operating Engineers.

Elizabeth Finger said the Board of Commissioners is made up of creative and innovative people that should explore other options for the Bay. She said she opposes Option B and asked how many guaranteed jobs will be created. The Board needs to do a risk/benefit analysis on the Plan. She said there is no mention of passenger rail, impacts of the noise and diesel fumes from the trains are not addressed. Ms. Finger urged the Board to end negotiations with Goldman, Sachs and reject the Redwood Marine Terminal Business Plan. Start over and make use of the bay and harbor to work for everyone.

Damen Mooney said the ILWU supports Option B. Humboldt Bay will not be in competition with larger ports. Current growth has gone down a little, but will be at capacity by 2015 and the larger ports will be looking for overflow ports, such as Humboldt Bay. Increased shipping will help the economy and create jobs. City of Eureka is here because it is a port, has been commercial for 150 years; keep it going.

Sid Berg said the California Air Resources Board is the most stringent in the nation; pollution concerns will be addressed. He said if the county cannot finance its own infrastructure, let the private sector come in and assume the risk. Mr. Berg addressed some common concerns: there is not enough people here to justify a passenger rail service; there is no connection between a working marine terminal and LNG; no ship captain will enter the bay in unsafe conditions. He said it would be a shame if all public infrastructures stalled due to litigation.

Rich Trygar said he previously submitted comments. He said there are some people who say there is no need for development at the Samoa location; but that site was an industrial site and can be again. He said there will be many bidders if it is the right kind of project. Mr. Trygar works for SSA Marine.

CEO stated tonight's meeting concludes the 64-day comment period on the Redwood Marine Terminal Business Plan. There have been five public meetings to collect oral comments. The comments from the meetings and the written comments submitted will be sent to TranSystems to analyze, review and revise the Business Plan accordingly; which will then be sent back to the Board of Commissioners for consideration, probably at a meeting in October. He said the revised Business Plan will be put on the District's website and a press release will be in the paper to let people know that the revised plan is available for review. Two weeks later, the Board of Commissioners will receive and file the Business Plan and then direct staff to initiate the CEQA process.

Commissioner Pellegrini said she has been impressed with the public's participation in this process and thanked those involved.

Commissioner Curless also thanked the public for their involvement and said he would withhold his comments until he receives the revised Business Plan.

President Hunter said there are big holes in the draft Business Plan to fill. How will it stimulate the economy, while protecting and improving the environment? It is the goal to create sustainable, good paying jobs.

Commissioner Wilson said this is not just a project, but a path and it is important to consider the impacts growth will have on the community. Challenges exist with developing the port; other opportunities should also be considered even if they are not coastal dependent industrial (i.e. the Timber Heritage Museum). Pollution impacts must also be considered; making an existing port "green" is different than starting from the beginning.

Commissioner Wilson said there is an expectation of an unvarnished opinion from Goldman, Sachs and he thinks that probably cannot be expected. He said the Business Plan needs to be weighed with the Feasibility Study to look at the benefits and risks.

Commissioner Wilson stated he continues to be concerned with the bay entrance shoaling and consistent management needs to be addressed. He gave a handout of dredging statistics to the Board

of Commissioners, saying there is a need to deal with the shoaling and draft restrictions if there will be increased shipping traffic through the bay entrance.

Commissioner Wilson went on to talk about the conflicts between cruise and cargo ships and Option B's impact over Option A.

Commissioner Higgins said he has serious concerns about the environment and the introduction of more invasive species to Humboldt Bay. He said it is the Harbor District's mission to develop and create jobs, but not to get into the international market if it does not pay. There will be costs for moving forward, substantial risks, and he is not sure if the Harbor District's assets can bear the burden.

NEW BUSINESS

A. CONSIDERATION OF APPROVAL OF RESOLUTION 2008-10 DECLARING PERSONAL PROPERTY BELONGING TO THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT SURPLUS.

CEO stated the Harbor District has several boats that have been accumulated over time that will be the subject of a live auction at the Humboldt Bay Maritime Expo.

District Counsel stated the disposal of personal property, such as the boats, has much broader guidelines opposed to the disposal of real property. The important thing is the disposal method must be reasonable and there is no conflict of interest. In the past, boats have been sold in a sealed bid auction, but there is nothing to preclude a live auction.

President Hunter asked if there are minimum bids stated for the boats. District Counsel stated it is common practice to put a reserved price on the item and if the reserved price is not met, the item then is not sold.

COMMISSIONER PELLEGRINI MOVED FOR THE APPROVAL OF RESOLUTION 2008-10 DECLARING PERSONAL PROPERTY BELONGING TO THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT SURPLUS. COMMISSIONER HIGGINS SECONDED.

David Elsebusch said these ten vessels are not a success story of the Fields Landing Boat Yard. He noted there are no vehicles included and in July 2007 the Caprice was declared surplus. Mr. Elsebusch asked how the CEO allows employees to use the Harbor District vehicles for personal use.

ROLL CALL VOTE WAS TAKEN:

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

MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF AMENDMENT NO. 2 TO AGREEMENT WITH FIGAS CONSTRUCTION FOR REMOVAL OF STORM DAMAGE AND DEBRIS FROM THE FIELDS LANDING MARINE TERMINAL.

CEO reported Figas Construction is continuing to work with other agencies to obtain permits for the project. The California Coastal Commission has not granted their permit because they are still trying to determine where the pilings will go upon removal. CEO said he continues to work with County

Environmental Health on disposal options because there is no set list of standards. The amendment extends the contract with Figas Construction in order to allow time to break up the project. At a later date, the Board of Commissioners will consider an agreement with an environmental firm to develop a sampling plan.

COMMISSIONER WILSON MOVED FOR THE APPROVAL OF AMENDMENT NO. 2 TO AGREEMENT WITH FIGAS CONSTRUCTION FOR REMOVAL OF STORM DAMAGE AND DEBRIS FROM THE FIELDS LANDING MARINE TERMINAL. COMMISSIONER CURLESS SECONDED.

Commissioner Wilson said it should not be too complicated to take core samples. CEO responded there needs to be some parameters in order to limit the sample size. He said the biggest concern right now is how to dispose of the pilings.

Melvin McKinney said he is surprised Figas Construction is still working with the Harbor District since many agencies have sanctions against Figas.

MOTION CARRIED WITHOUT DISSENT.

ADMINISTRATIVE AND EMERGENCY PERMITS: None

The Regular Meeting of the Board of Commissioners adjourned at 9:56 p.m.

APPROVED BY:

____Signature on File_____
Roy Curless
Secretary

RECORDED BY:

____Signature on File_____
Patricia L. Tyson
Director of Administrative Services