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

DATE: August 13, 2015

TIME: Executive Closed Session – 6:00 PM
       Regular Session – 7:00 PM

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 at least 24 hours 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 Sections 54957(b)(1) (Public Employee Performance Evaluation) and 54956.8 (Conference with Real Property Negotiators):
      1. Public Employee Performance Evaluations
         Director of Administrative Services, Director of Facility Maintenance and Director of Harbor Operations/Bar Pilot
      2. Conference with Real Property Negotiators
         Agency Negotiator: Board President, Executive Director and District Counsel
         Under Negotiation:
         Coast Seafoods Company Tideland Lease Values

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 Session

6. Public Comment

   Note: This portion of the Agenda allows the public to speak to the Board on the 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 any 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 for each speaker may be extended by the President of the Board of Commissioners or the Presidenting 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 Presidenting Member of the Board of Commissioners at the regular meeting of the District.

7. Consent Calendar
   a. Consideration of approval of minutes from December 18, 2014 Regular Board Meeting.
   b. Consideration of approval of minutes from January 8, 2015 Regular Board Meeting.
   c. Consideration of approval of minutes from January 22, 2015 Annual Board Meeting.
   d. Consideration of approval of minutes from January 30, 2015 Special Board Meeting.
   e. Consideration of approval of minutes from February 12, 2015 Regular Board Meeting.
   f. Consideration of approval of minutes from February 26, 2015 Regular Board Meeting.
   g. Consideration of approval of minutes from March 12, 2015 Regular Board Meeting.
   h. Consideration of approval of minutes from March 26, 2015 Regular Board Meeting.
8. Communications and Reports
   a. Executive Directors Report
      • Samoa Wood Pellet Update
      • New Market Tax Credits Update
      • Potential Boat Yard Fabricator Shop
   b. Staff Reports
   c. District Counsel, District Planner and District Treasurer Reports
   d. Commissioner and Committee Reports
   e. Other

9. Non Agenda

10. Unfinished Business

11. New Business
   a. Consideration of approval of Employment Contracts for Director of Administrative Services, Director of Facility Maintenance and Director of Harbor Operations/Bar Pilot.
   b. Consideration of Amendment to Settlement Agreement with United States Environmental Protection Agency Region IX for emergency response removal actions at the Samoa Pulp Mill Site.

12. Administrative and Emergency Permits

13. Adjournment
MINUTES (Subject to Approval)
REGULAR MEETING OF THE BOARD OF COMMISSIONERS
HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT

December 18, 2014

PRESENT:
Commissioner Newman
Commissioner Dale
Commissioner Marks
Commissioner Wilson
Commissioner Higgins

President Marks called the Executive Closed Session to order at 6:05 p.m.

President Marks adjourned the Executive Closed Session at 6:53 p.m.

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

President Marks asked Chuck DeWitt to lead those present in the Pledge of Allegiance. Mr. DeWitt declined; President Marks led the Pledge.

District Counsel reported on the Executive Closed Session as follows: Status of Conference with Real Property Negotiators Timber Heritage Association purchase of Redwood Marine Terminal Berth 1 Roundhouse Real Property and Freshwater Tissue Company Notice of Retaining Parcel C per the Option Agreement – No action taken on these items.

PUBLIC COMMENT
Kent Sawatzky said CalTrans held a sea level rise meeting and discussed the Last Chance Grade going into Crescent City as high priority.

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

COMMUNICATIONS AND REPORTS

EXECUTIVE DIRECTOR’S REPORT:

- Asked for Board direction on the “Name That Boat” contest, specifically regarding rules and process. Commissioners Higgins and Newman both volunteered to help Executive Director.
- Reported a group in the Philippines interested in purchasing the boiler has asked that any decision on the boiler sale be held until January 8, 2015. Executive Director also proposed the equipment and scrap value to DG Fairhaven for future use and they feel the equipment is a good value. Interested parties are still calling about the turbine generator and the Foxboro control system.
- Redwood Terminal 2 energy audit – UCM staff determined the scope of work presented would not solve the problem at Redwood Terminal 2. UCM’s payment is based on recovery; would be too high.
  Andy Sorter and Scott Willits said the inefficiencies need to be identified through an on-site energy assessment. SF6 leaks in the switchyard must be investigated. Cost savings opportunities would be: simple upgrades and changes, revisit metering discrepancy with PG&E and assess the Freshwater Tissue Company office costs. Recommendations: Complete Phase 2 and specify energy conservation measures; complete energy assessment of Woodley Island Marina site.
  Director of Facility Maintenance thanked Mr. Sorter and Mr. Willits for their information and said it will be very helpful to him in the future.
STAFF REPORTS:

Director of Facility Maintenance
- RFP for replacement of dredge engine has been distributed.
- California Conservation Corps is in the process of painting the dredge.
- The one ton crane at Berth 1 will be open for business in the next couple of weeks. It was salvaged from the old ice plant.
- Humboldt Bay Municipal Water District is donating a three ton forklift to the District.
- CalFire is tearing down the lean-ton on the backside of the warehouse at Redwood Terminal 2.

Director of Harbor Operations
- Good News: CRIMSON POLARIS took a full load from California Redwood Company.
- Bad News: typical winter shoaling near the dolos at the entrance has happened. The dredging this year was not completed; there are 39’ areas where it should be 48’.
- The next chip ship will be in Humboldt Bay in March 2015.
- Working with the Corps of Engineers to get the dredging done earlier in the year.
- Has been working on the beneficial reuse of dredge materials project.
- Has to complete his exams for unlimited licensing by February 2015.
- Will be setting markers for the mariculture pre-permitting sites in the morning.

District Planner
- Ongoing talks with the City on the dredging project. Bathymetry surveys are coming in and District Planner is helping with the internal assessment of the sampling.
- Working with the Regional Water Quality Control Board to develop a dredge and sediment material reuse master plan.
- Working on the King Salmon dredging meetings and overall project description.

DISTRICT COUNSEL REPORT: None.

COMMISSIONER AND COMMITTEE REPORTS:

Commissioner Newman:
- Crab season is turning out to be disappointing – minimal number of crabs.

Commissioner Marks:
- Attended a North Coast Rail Authority meeting. Northwestern Pacific Company is alive and well in the southern portion of NCRA’s jurisdiction.

Commissioner Higgins
- Final recommendations from the mariculture pre-permitting committee will come to the Board of Commissioners soon.
- Assisted with the search for the District’s new Deputy Director and is impressed with the quality of the applicants.
- Saw six military helicopters flying – must be part of the Navy training exercises being done locally.

Leroy Zerlang, Humboldt Bay Maritime Museum, and Chuck DeWitt, Humboldt Baykeeper, addressed the Board of Commissioners stating they would like to acquire the 1913 LUIGI, a 28’ Monterey moored at Woodley Island Marina. Humboldt Baykeeper would like to use the boat for bay tours and would like one year at no charge at Woodley Island Marina until the GOLDEN RULE leaves.

President Marks suggested a committee be formed to work on this issue.

NON AGENDA: None
UNFINISHED BUSINESS

A. CONSIDERATION OF ADOPTING RESOLUTION 2014-14 WHICH ESTABLISHES FINDINGS RELATIVE TO THE APPLICATION BY THE HUMBOLDT BAY HARBOR DISTRICT FOR THE HUMBOLDT BAY REGIONAL INVASIVE SPARTINA ERADICATION AND NATIVE SALT MARSH RESTORATION PROJECT.

Adam Wagschal, HT Harvey & Associates, repored there is a statewide effort to control Spartina by various methods – burning, Marshmaster and herbicides.

Commissioner Dale asked if herbicides are being used. Mr. Wagschal said at this time there are no immediate plans to use herbicides. If it is determined that using herbicides is the least expensive and most effective method, they will be used. There is a process to notify landowners and stakeholders if this becomes the case.

Kent Sawatzky said he would rather see the Spartina grow wild than use herbicides. If John Shelter’s workers are available to use, that would be great. Mr. Wagschal said Mr. Shelter’s workers have been used in the past.

COMMISSIONER HIGGINS MOVED FOR THE ADOPTION OF RESOLUTION 2014-14 WHICH ESTABLISHES FINDINGS RELATIVE TO THE APPLICATION BY THE HUMBOLDT BAY HARBOR DISTRICT FOR THE HUMBOLDT BAY REGIONAL INVASIVE SPARTINA ERADICATION AND NATIVE SALT MARSH RESTORATION PROJECT. COMMISSIONER DALE SECONDED. ROLL CALL VOTE WAS TAKEN:

COMMISSIONER NEWMAN – AYE
COMMISSIONER DALE – AYE
COMMISSIONER MARKS – AYE
COMMISSIONER WILSON – AYE
COMMISSIONER HIGGINS – AYE

MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF GRANTING PERMIT 14-05 TO THE HUMBOLDT BAY HARBOR DISTRICT FOR THE HUMBOLDT BAY REGIONAL INVASIVE SPARTINA ERADICATION AND NATIVE SALT MARSH RESTORATION PROJECT.

COMMISSIONER HIGGINS MOVED TO GRANT PERMIT 14-05 TO THE HUMBOLDT BAY HARBOR DISTRICT FOR THE HUMBOLDT BAY REGIONAL INVASIVE SPARTINA ERADICATION AND NATIVE SALT MARSH RESTORATION PROJECT. COMMISSIONER DALE SECONDED. MOTION CARRIED WITHOUT DISSENT.

NEW BUSINESS

A. CONSIDERATION OF EXTENSION OF PERMIT 11-01 WITH TAYLOR MARICULTURE LLC BERTH 2 FACILITY.

COMMISSIONER NEWMAN MOVED TO APPROVE THE EXTENSION OF PERMIT 11-01 WITH TAYLOR MARICULTURE LLC BERTH 2 FACILITY. COMMISSIONER WILSON SECONDED.

Kent Sawatzky said as long as the District has a tenant paying for a lease, everyone is happy.

MOTION CARRIED WITHOUT DISSENT.
B. CONSIDERATION OF MEMORANDUM OF UNDERSTANDING WITH THE COUNTY OF HUMBOLDT FOR COLLABORATION ON THE FORMER PULP MILL INFRASTRUCTURE AND SITE REUSE PLAN.

Andrew Whitney, County of Humboldt, told the Board an MOU between the County of Humboldt and the Harbor District in order to receive the grant monies from EPA for the Former Pulp Mill Infrastructure and Site Reuse Plan.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF MEMORANDUM OF UNDERSTANDING WITH THE COUNTY OF HUMBOLDT FOR COLLABORATION ON THE FORMER PULP MILL INFRASTRUCTURE AND SITE REUSE PLAN. COMMISSIONER DALE SECONDED.

District Counsel stated he had concerns about the indemnification language contained in the MOU.

Executive Director suggested a friendly amendment stating the MOU would be approved with District Counsel’s approval of the indemnification language.

COMMISSIONER HIGGINS ACCEPTED THE FRIENDLY AMENDMENT. COMMISSIONER DALE SECONDED.

Kent Sawatzky said this is a good grant project and said the County of Humboldt and the Harbor District are doing a good job on collaboration.

MOTION CARRIED WITHOUT DISSENT.

C. CONSIDERATION OF PAYMENT OF NEW MARKETS TAX CREDIT LEGAL COUNSEL, SURVEYOR AND ENGINEERS.

Executive Director reported the Community Development entities returned $75,000 and cancelled the credits – will be available in 2015; the closing documents are 90% complete with a six-month shelf life without update – July 2015; Closing documents include appraisal, environmental studies, legal analysis, RAP approval, Alta Survey, Refunding Bond, rent analysis and EPA settlement (still pending). All closing documents costs will be reimbursed at closing.

Current closing documents requiring payment - Nixon Peabody $38,000, LACO Associates $22,000 and Kelly-O’Hern Associates $22,000.

District Counsel reported Nixon Peabody had a conflict of interest they did not disclose prior to doing work for the Harbor District. However the work they did prepare has value to the District and some negotiation on the fee would be in order.

COMMISSIONER NEWMAN MOVED FOR THE APPROVAL OF PAYMENT TO KELLY-O’HERN ASSOCIATES, LACO AND NIXON-PeABODY AFTER NEGOTIATIONS ARE COMPLETED ON A LOWER PAYMENT. COMMISSIONER WILSON SECONDED.

Kent Sawatzky said Nixon-Peabody should be paid, but negotiate down to zero if they did not disclose a conflict of interest, which would void the contract.

D. CONSIDERATION OF LETTER TO INTERNATIONAL PACIFIC HALIBUT COMMISSION REGARDING QUOTA IN ZONE 2A – HIGGINS.

Commissioner Higgins said there is good news regarding halibut fishing. Data is showing halibut growth better locally than most areas on the Pacific Coast.
Commissioner Newman said the only impact of the quota is to recreational fishing. He feels the International Pacific Halibut Commission is being overly conservative; fishing should be wide open.

COMMISSIONER NEWMAN MOVED FOR APPROVAL OF LETTER TO INTERNATIONAL PACIFIC HALIBUT COMMISSION REGARDING QUOTA IN ZONE 2A. COMMISSIONER WILSON SECONDED. MOTION CARRIED WITHOUT DISSENT.

ADMINISTRATIVE AND EMERGENCY PERMITS: None.

The Regular Meeting of the Board of Commissioners adjourned at 8:35 p.m.

APPROVED BY:                             RECORDED BY:

Greg Dale                             Patricia Tyson
Secretary                             Director of Administrative Services
PRESENT:

Commissioner Newman
Commissioner Dale
Commissioner Marks
Commissioner Wilson

ABSENT:

Commissioner Higgins

President Marks called the Executive Closed Session to order at 6:02 p.m.

President Marks adjourned the Executive Closed Session at 6:55 p.m.

President Marks called the regular meeting of the Board of Commissioners to order at 7:03 p.m.

President Marks led those present in the Pledge of Allegiance.

District Counsel reported on the Executive Closed Session as follows: Status of Conference with Real Property Negotiators for Exclusive Right To Negotiate with Sustainable World Solutions, LLC for the Redwood Terminal 2 property and Freshwater Tissue Company Notice of Retaining Parcel C per the Option Agreement – No action taken on these items. Threatened Litigation – Nixon Peabody and Freshwater Tissue Company – No action taken.

PUBLIC COMMENT

Kent Sawatzky said the Mad River Hatchery opened; the spillway is down and the fish are going home. He also talked about the lawsuit filed by EPIC precluding intermingling of fish at the hatchery.

Karen Brooks thanked the District for moving forward with restructuring the District’s website. Ms. Brooks also announced a Harbor Working Group meeting on January 28th at the Samoa Cookhouse. Bob Merrill from the California Coastal Commission will be the guest speaker.

Pete Oringer, representing Timber Heritage Association (THA), said he was pleasantly surprised at the new website layout. Mr. Oringer reported the goal of the THA Board is to enter into an option agreement to acquire the buildings below the Samoa Cookhouse. Michael O’Hern will be on site on January 19th to survey the property. Mr. O’Hern will also flag other parts of the property that could be part of the option agreement.

CONSENT CALENDAR: None

COMMUNICATIONS AND REPORTS

EXECUTIVE DIRECTOR’S REPORT:

- Reported the refinancing of the 2004 Harbor Deepening bond and the Department of Boating and Waterways loan is complete; lower interest rate, no annual fees and a reduced term.
- Announced the District’s new staff: Deputy Director Adam Wagschal, Bookkeeper Peggy Mecham-Carlotti, Harbor Maintenance Worker III Steve Stachel and Harbor Maintenance Worker I Robert Provolt.
- Bruce Conner, cruise ship consultant, reported by phone on items he has been working on: discussion of use of Schneider Dock, transportation from/to cruise ship, local shore excursion proposals, US Customs and Border Protection, Cruise the West, Response to the Letter to the
Editor, Planning another visit to Eureka at the end of January, 2017 Berth Request for the MV EUROPEAN on May 7, 2017. Pete Oringer asked Mr. Conner if he had talked with Tony at the Humboldt County Visitors and Convention Bureau and suggested Mr. Conner attend their quarterly meeting on January 28th. He said making quality experienced and financially reasonable decisions is the first order of business, but helping local merchants benefit from cruise ship visits is also important.

- Adam Wagschal, HT Harvey & Associates, gave an update on the Mariculture Pre-Permitting Project. Mr. Wagschal stated there are two categories of efforts: 1) permitting and 2) site lessees. On site lessees, currently the committee is ranking the proposals and will meet next week to discuss. Executive Director said a few of the ranking sheets from the committee are in and how to make the selections and divide up the sites will be interesting. He also spoke on the water quality sampling, which must be done during inclement weather – most likely January – May, October and November.

Executive Director stated a few of the ranking sheets are in and the committee is fairly close in their ranking of the proposers. It must still be determined how to make the selections and divide up the sites.

Mr. Wagschal also reported that regulatory agencies met to discuss the environmental concerns of Coast Seafoods Company’s Humboldt Bay Shellfish Permit Renewal; concentration is on eelgrass effects.

Commissioner Dale reported there will be a CA Shellfish Initiative meeting on January 28 and 29 at Humboldt State University. He asked Mr. Wagschal to make a presentation on the mariculture pre-permitting project.

**STAFF REPORTS:**

**Director of Facility Maintenance**
- CalFire workers are set to demolish the “lean-to” at Redwood Terminal 2.
- The dredge has been newly painted – CalFire workers helped with the painting.
- The gravel area at the Fields Landing Boat Yard is being fenced to make more space for boats – CalFire, again, is assisting with the fencing of the yard.
- The crane at Redwood Marine Terminal Berth 1 will be fully operational within days.

**Director of Harbor Operations**
- Redwood Marine Terminal Berth 1 has new storage area outside Building 3 – 12 spaces, 20’x30’.
- Buoy 2 of the PORTS program is again working.
- California Redwood Company is expecting five chip ships in 2015.
- California Redwood Company and Humboldt Bay dock owners are concerned with shoaling. Corps of Engineers will be here to do soundings – the survey boat will be here later this month.

**District Planner**
- Currently reviewing bathymetric information for the dredging of 13 bay docks and Woodley Island Marina. Receiving good cooperation from the City of Eureka.
- Working with Director of Facility Maintenance to GPS mark and locate the storm drains and plugs at Redwood Terminal 2 for reporting to Regional Water Quality Control Board, at their request.
- Working on the District’s land parcel inventory, which will become a part of the District’s asset inventory.

**DISTRICT COUNSEL REPORT**

- Reported he attended an Anderson City Council meeting where they said the Pledge of Allegiance and had a five minute invocation.

**COMMISSIONER AND COMMITTEE REPORTS:**

Commissioner Newman:
- Unfortunately, crab season will be a short one this year.
Commissioner Dale:
  ❖ Was in Sacramento today at an aquaculture development meeting
  ❖ Ventura Harbor District is developing a mariculture pre-permitting project like the Harbor District’s.
  ❖ There will be a CA Shellfish Initiative meeting at Humboldt State University January 28 and 29.

Commissioner Marks:
  ❖ On a tour of Redwood Terminal 2, he was surprised to see the “lean-to” removed – the area was very clean and it was a job well done.

Commissioner Wilson:
  ❖ As a subcommittee of the Board, he met with Commissioner Dale to talk about standards related to dioxin testing in Humboldt Bay.
  ❖ Was on TalkShop today.

NON AGENDA: None

UNFINISHED BUSINESS: None

NEW BUSINESS

A. CONSIDERATION OF APPROVAL OF CONTRACT TO HIRE ADAM WAGSCHAL AS THE DISTRICT’S DEPUTY DIRECTOR.

COMMISSIONER NEWMAN MOVED FOR THE APPROVAL OF CONTRACT TO HIRE ADAM WAGSCHAL AS THE DISTRICT’S DEPUTY DIRECTOR. COMMISSIONER DALE SECONDED. MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF STATE LANDS LEASE – MULTIPLE TIDELAND PARCELS – SPARTINA CONTROL.

Executive Director reported this is a standard lease with the same lease conditions the Board and staff are familiar with. A State Lands lease is their version of a permit. Spartina control is widely needed in Mad River and Eel River salt marshes.

Karen Brooks said she has no problem with the removal of Spartina; but is concerned that native species should be colonized when non-native species are removed.

Adam Wagschal, HT Harvey & Associates, said incorporated in the lease is an adaptive management approach. No active revegetation is done now. If natural revegetation does not occur, planting will be done; monitoring is a big part of the program.

COMMISSIONER WILSON MOVED FOR THE APPROVAL OF THE STATE LANDS LEASE – MULTIPLE TIDELAND PARCELS – SPARTINA CONTROL. COMMISSIONER DALE SECONDED. MOTION CARRIED WITHOUT DISSENT.

C. CONSIDERATION OF HUMBOLDT BAY MUNICIPAL WATER DISTRICT LEASE.

Executive Director reported the Humboldt Bay Municipal Water District (HBMWD) has a tideland lease for the pipeline under the Mad River Slough. The lease is for 25 years and HBMWD has offered a forklift valued at $4,875 for the lease payment.

District Counsel stated the current installation of the water line and lease expired; there was no charge previously for the lease. HBMWD has a surplus forklift that they wanted to give to the District, but could not because it would be a gift of public funds. Therefore, they have offered it as payment for the lease.
COMMISSIONER NEWMAN MOVED FOR THE APPROVAL OF HUMBOLDT BAY MUNICIPAL WATER DISTRICT LEASE. COMMISSIONER DALE SECONDED. MOTION CARRIED WITHOUT DISSENT.

D. CONSIDERATION OF IN-KIND MATCH OF $50,000 TOWARD HUMBOLDT STATE UNIVERSITY’S CAL-ENERGY COMMISSION GRANT.

Professor Andrea Achilli is developing a new desalination system, Reverse Osmosis-Pressure Retarded Osmosis, which will turn seawater into drinkable water. He has received two grants for a four-year period for a total of $50,000.

The District will provide a 12’ x 12’ space for a trailer and storage tanks, utilities and staff time to equal $12,500/yr. for four years.

Galen O’Toole presented “Osmotically Driven Membrane Process for Seawater Desalination” to the Board of Commissioners explaining the project and its benefits. He said they are appreciative of the ability to set up shop at Redwood Terminal 2; it is potentially a good future site for ongoing research.

COMMISSIONER DALE MOVED FOR THE APPROVAL OF IN-KIND MATCH OF $50,000 TOWARD HUMBOLDT STATE UNIVERSITY’S CAL-ENERGY COMMISSION GRANT. COMMISSIONER WILSON SECONDED.

Karen Brooks asked what kind of name recognition will be available for the Harbor District. Advertising? Logo?

Mr. O’Toole said the project will be presented in the scientific community in publications. This will be the first pilot project of this type in the United States, the second in the world – there will be much notoriety.

Executive Director said once the project is set up and established, other researchers will come. The hope is that it will be so successful, the costs will be covered.

District benefits will be: a partnership with Humboldt State University, Future research opportunities – Establishes research destination, infrastructure additions, water withdrawal and discharge permits and out of town visitors benefits area hotels and restaurants.

MOTION CARRIED WITHOUT DISSENT.

E. DISCUSSION OF ENHANCED SAMOA TRAILS MAINTENANCE ASSESSMENT.

District Planner reported the County of Humboldt Public Works has initiated a project for trail enhancement for the town of Samoa and is applying for state funds. A public entity is needed to hold the easements and there are costs associated with the maintenance. Is the Harbor District interested in holding and maintaining the easements? If the Samoa Community Services District is created, the easements could be conveyed to that agency.

District Counsel asked why the County of Humboldt doesn’t hold the easements. District Planner stated simply the County does not want to hold the easements.

Executive Director stated the public loves trails; but the maintenance costs always “get you”. The costs are very expensive and often there is no stable source of revenue.

District Counsel stated there are also liability issues if the District is required to maintain the trails.

President Marks instructed staff to bring back more information to the Board for consideration.
ADMINISTRATIVE AND EMERGENCY PERMITS: None.

The Regular Meeting of the Board of Commissioners adjourned at 8:55 p.m.

APPROVED BY:  

__________________________  
Greg Dale  
Secretary

RECORDED BY:  

__________________________  
Patricia Tyson  
Director of Administrative Services
PRESENT:

Commissioner Newman
Commissioner Dale
Commissioner Marks
Commissioner Wilson
Commissioner Higgins

President Marks called the Executive Closed Session to order at 6:05 p.m.

Mike Kellogg, Timber Heritage Association (THA), thanked the Board for their work toward the efforts to preserve the historic Samoan Shops area. THA is working with State Lands on the boundaries of the property; the mean tide line is further west than originally thought.

Pete Johnston, THA, thanked the Board for the opportunity of a Purchase Option Agreement. THA appreciates the support. He said he was surprised that the property survey showed a different tide line, but that minor obstacle can easily be overcome.

Dan Hauser, longtime Board Member of THA and its predecessor organization, thanked the Board and staff for all their hard work and looks forward to consummation of an agreement.

Chet Ogan thanked the Board and said the old building and old equipment belong together.

Bruce Seivertson, Vice President of THA, said it was a great pleasure to meet with Commissioners Marks and Newman and Executive Director at the property. THA appreciates all their efforts and looks forward to the finished project.

Kent Sawatzky said District staff has been fantastic, getting the project done quickly. Good things cause good things. Karma.

The Board then adjourned to Closed Session.

President Marks adjourned the Executive Closed Session at 6:53 p.m.

President Marks called the regular meeting of the Board of Commissioners to order at 7:07 p.m.

Commissioner Wilson led those present in the Pledge of Allegiance.

District Counsel reported on the Executive Closed Session as follows: Status of Conference with Real Property Negotiators for Exclusive Right To Negotiate with Sustainable World Solutions, LLC for the Redwood Terminal 2 property; Freshwater Tissue Company Notice of Retaining Parcel C per the Option Agreement and Timber Heritage Association Purchase Option Agreement – No action taken on these items. Threatened Litigation - Nixon Peabody and Freshwater Tissue Company – No action taken.

PUBLIC COMMENT: None

CONSENT CALENDAR: None

COMMUNICATIONS AND REPORTS

EXECUTIVE DIRECTOR’S REPORT:

* Chris Wedon, USEPA, reported on the status of the cleanup at Redwood Terminal 2. Even though EPA demobilized in November, currently rainwater management is being conducted on site. They are waiting on the demolition plan and CalOSHA approval; then planning to recycle the
steel. DG Fairhaven is providing the fly ash at a good rate to help solidify the existing sludge. They will be back to operations in March.

- Anchoring Ordinance – Anchoring in Humboldt Bay is allowed without charge for 72 hours. A permit is required after the 72 hours and will be good for 14 days, with 14 day extensions optional. The District can refuse to issue a permit. Since 2004, only 2 permits have been issued. The maximum anchorage is 31 days and then the District serves a 72 hours to vacate notice. Seizure and lien are the next steps. Local law enforcement and the US Coast Guards agree with the District's ordinance and the District is the main legal entity. Questions arise as to the ability of the District's to regulate anchoring on privately-owned tidelands. There are also safe harbor issues in times of inclement weather.

- Mariculture Pre-Permitting Project – Adam Wagschal, HT Harvey & Associates – reported the Draft EIR is out for agency and public review. Comments are due March 12. The complete EIR will be available at the end of May. All other applications for permits will be submitted within the next six months and permits are expected to be obtained by the end of the year.

**STAFF REPORTS:**

**Director of Facility Maintenance**

- CalFire workers cleaned out around the fence line of the wildlife area on Woodley Island.
- Maintenance staff has been working on repairing rain gutters and patching the roof of the warehouses at Redwood Terminal 2, saving the District approximately $5,000.

**Director of Harbor Operations**

- California Redwood Company (CRC) hired SHN Engineers to do a preliminary survey on the shoaling at their dock until the Corps of Engineers survey vessel arrives. Five vessels are expected this year. Currently there is a 32′ draft restriction. CRC is being urged to continue to supply their customers/shipping, but will have to load lighter.
- Corps of Engineers vessel arrived today. **ESSAYONS** is in dry-dock in Portland, but should arrive in Humboldt Bay in late June or later. Letters requesting additional funds for shoaling removal have been sent to Congressman Huffman and the Corps of Engineers Colonel.

**District Planner**

- Samoa Enhanced Trails Project – There will be a meeting in February with Samoa Pacific Group, County Public Works and the Harbor District to discuss an agreement, determine responsibility of parties and the District's obligation. County of Humboldt will continue with the grant application. 13,300 lineal feet on Samoa Peninsula will be built if the grant is funded.
- Sewer plugs at Redwood Terminal 2 are working now. A report to the Regional Water Quality Control Board will state the inflow into the storm drains has been stopped.
- Walked the Samoa Shops property with the Timber Heritage Association representatives.
- Harbor District/City of Eureka collaborative dredging of 13 marina and dock sites – using modeling software calculations of quantities needed to get to specified depths.
- Met with land use committee to formulate a proposal to the City for the General Plan Update (GPU).

**DISTRICT COUNSEL REPORT:** None

**COMMISSIONER AND COMMITTEE REPORTS:**

**Commissioner Newman:**

- Participated in the walk around the Samoa Shops property and looks forward to a positive future with THA.

**Commissioner Marks:**

- Also participated in the walk around the Samoa Shops property.
- NCRA meeting in Eureka – discussed removing some locomotives on the Balloon Track and a town of Loletta building is located on the rail right of way.
Commissioner Wilson:
- Met as part of the land use committee to discuss the GPU proposal to the City of Eureka.
- Asked if there are long-term opportunities for anchoring in Humboldt Bay. Would anchoring balls be beneficial?
- Has an interview on KINS radio last week.

Commissioner Higgins
- Reported a large contingency will attend the Pacific Halibut Conference in British Columbia.
- Working on mariculture leases; there is an amazing array of talent in the applicants.
- Met with Executive Director regarding aquaponics
- Talked with Dave Lancaster of Dept. Fish & Game regarding the Woodley Island Wildlife Area. The spruce trees are in clumps and don’t shade the grass.
- Talked about the Eel River Recovery Project – January 31st there will be two Eel River fishery events.

NON AGENDA: None

UNFINISHED BUSINESS: None

NEW BUSINESS

A. CONSIDERATION OF TIMBER HERITAGE ASSOCIATION PURCHASE OPTION AGREEMENT.

Executive Director reported the property consists of 8.3 acres of land plus historic buildings. Timber Heritage Association is required to complete all entitlements, lot line adjustment, Environmental Phase 2, environmental remediation and all permit compliances. The Option consideration fee is $5,000; option purchase price $1. The agreement is a one year term with an option to extend for one year. THA will reimburse the District the costs of the CEQA requirements.

COMMISSIONER NEWMAN MOVED FOR THE APPROVAL OF TIMBER HERITAGE ASSOCIATION PURCHASE OPTION AGREEMENT. COMMISSIONER WILSON SECONDED.

Commissioner Wilson said there has been much discussion and negotiation in Closed Session regarding the requirement of THA to create an actual sellable lot.

Commissioner Dale said he is impressed with all the work on both sides.

MOTION CARRIED WITHOUT DISSENT.

Kent Sawatzky and Mike Kellogg thanked the Board of Commissioners for their positive action.

B. CONSIDERATION OF HIRING BONNIE NEELY TO DETERMINE PRINCIPALLY PERMITTED USES AT REDWOOD TERMINAL 2.

Bonnie Neely attended the meeting by phone. She was on the California Coastal Commission for 12 years; Humboldt County Board of Supervisors for 24 years. Currently Ms. Neely is working for a Sacramento law firm and continues her good relationship with the California Coastal Commission.

Commissioner Wilson said the District is trying to reactivate a previously permitted use for the property.
Commissioner Higgins said hiring Ms. Neely is a smart strategic move by the District; it is essential to the success of the project to have good representation in front of the Coastal Commission.

Ms. Neely said she is also working with Samoa Pacific Group, helped to get the infrastructure improvement grants and did the grant application for the trails project.

COMMISSIONER NEWMAN MOVED FOR THE APPROVAL OF HIRING BONNIE NEELY TO DETERMINE PRINCIPALLY PERMITTED USES AT REDWOOD TERMINAL 2. COMMISSIONER WILSON SECONDED.

Kent Sawatzky strongly applauded the Board for going to the sharpest tool. He said he is looking forward to trails with rail.

MOTION CARRIED WITHOUT DISSENT.

C. CONSIDERATION OF MEMORANDUM OF AGREEMENT REGARDING THE HUMBOLDT BAY INVASIVE SPARTINA REMOVAL PROJECT FUNDED BY THE ENVIRONMENTAL ENHANCEMENT AND MITIGATION PROGRAM.

Executive Director reported the Harbor District has already received the grant through the State of California Resources Agency; but the required deed is illegal – too many encumbrances. The Memorandum of Agreement (MOA) was settled on as an alternative. The MOA requires the City of Eureka and the Humboldt Bay National Refuge to maintain the native salt marsh for 25 years. If the City and the Refuge cease to exist, the Harbor District will take over.

COMMISSIONER HIGGINS MOVED TO APPROVE THE MEMORANDUM OF AGREEMENT REGARDING THE HUMBOLDT BAY INVASIVE SPARTINA REMOVAL PROJECT FUNDED BY THE ENVIRONMENTAL ENHANCEMENT AND MITIGATION PROGRAM. COMMISSIONER WILSON SECONDED.

Commissioner Higgins asked the cost per acre. Adam Wagschal said the cost is based on San Francisco costs, but not definitive amount has been determined yet.

Kent Sawatzky said Mother Nature will bring Spartina back – it is a tenacious weed.

Commissioner Wilson said the costs decrease each year – it can be very cost effective.

MOTION CARRIED WITHOUT DISSENT.

D. CONSIDERATION OF DESIGNATION OF COMMISSIONER TO SERVE ON THE REDWOOD REGION ECONOMIC DEVELOPMENT COMMISSION BOARD.

COMMISSIONER HIGGINS NOMINATED COMMISSIONER WILSON TO SERVE ON THE REDWOOD REGION ECONOMIC DEVELOPMENT COMMISSION BOARD AND COMMISSIONER DALE TO BE THE ALTERNATE. COMMISSIONER NEWMAN SECONDED. MOTION CARRIED WITHOUT DISSENT.

E. ELECTION OF OFFICERS

COMMISSIONER WILSON NOMINATED COMMISSIONER MARKS, PRESIDENT, COMMISSIONER HIGGINS, VICE PRESIDENT; COMMISSIONER DALE, SECRETARY FOR ANOTHER YEAR. COMMISSIONER NEWMAN SECONDED. MOTION CARRIED WITHOUT DISSENT.
ADMINISTRATIVE AND EMERGENCY PERMITS: None.

The Regular Meeting of the Board of Commissioners adjourned at 8:07 p.m.

APPROVED BY:__________________________  RECORDED BY:__________________________

Greg Dale                        Patricia Tyson
Secretary                        Director of Administrative Services
PRESENT:

Commissioner Newman
Commissioner Dale – left approximately 1:15 p.m.
Commissioner Marks
Commissioner Wilson
Commissioner Higgins – arrived late

President Marks called the Special Meeting of the Board of Commissioners to order at 12:08 p.m.

President Marks asked Leo Sears to lead those present in the Pledge of Allegiance.

Kent Sawatzky said he has dealt with attorneys many times and talked with a local attorney about conflict of interest and signing waivers. He said it is a bad idea to sign a waiver. Is Ms. Neely representing both parties (Harbor District and Wonderland)? Mr. Sawatzky offered some fatherly advice – think twice about having the same attorney.

Leo Sears said he is an activist in government. Having the same company represent both sides is bad news. Any government entity entering into a waiver is bad news.

District Counsel said he would like to clarify the issue – The same attorney is not representing both sides in the same transaction. The attorney has been approached by another company to work on a nursery project that could be a potential conflict. The nursery project application would come before the Board of Commissioners for approval of the permit. There is nothing in the attorney’s work for the Harbor District that would be a conflict of interest; just the fact the attorney would be representing both parties in separate transactions.

Commissioner Wilson said the information the Board is receiving is related to chip and pellet export and whether those activities are principally permitted on the property.

Sebastian Elrite asked who is threatening litigation.

President Marks stated he was going to closed Public Comment and call to order Executive Closed Session. Staff was directed to contact Mr. Sawatzky, Mr. Sears and Mr. Elrite upon the Board adjourning to Regular Session.

Executive Closed Session was called to order at 12:20 p.m.

Executive Closed Session adjourned at 12:50 p.m.

Regular Session was called to order at 12:57 p.m.

NEW BUSINESS

A. CONSIDERATION OF APPROVAL OF WAIVER OF POSSIBLE CONFLICT OF INTEREST WITH NOSSAMAN LLP.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF WAIVER OF POSSIBLE CONFLICT OF INTEREST WITH NOSSAMAN LLP. COMMISSIONER WILSON SECONDED.

District Counsel reported the Board has received a request by Nossaman LLP to waive a conflict of interest by allowing Nossaman LLP to represent the Harbor District in one legal matter. Staff recommended approving the waiver; the two matters are unrelated.

President Marks recused himself and left the room as he works as a consultant for the General Manager of VEK Industries. He has no financial interest in Wonderland.
Vice President Higgins took the gavel from President Marks.

Commissioner Wilson said he could see why someone might have questions, but he is comfortable approving the waiver.

Kent Sawatzky said the Board of Commissioners has competent counsel. It is good to pay attention to conflict of interest issues with Board and/or staff.

Leo Sears said he is still concerned with the way things are being handled. He said he understands there are two separate issues. District Counsel clarified this as a technical conflict and can be waived by both parties. If there are two completely separate issues, there is no conflict to be waived.

Sebastian Elrite said there are inner circles, closed doors, attorney-client privilege. The Board should not approve the waiver.

Commissioner Wilson said there is no litigation. This is about land use advice; a form of lobbying. He said he appreciates the public keeping an eye out for the Board.

MOTION CARRIED WITHOUT DISSENT.

President Marks returned to the meeting.

B. CONSIDERATION OF PAYING LEGAL EXPENSES FOR NIXON PEABODY.

District Counsel stated this item for approval is a claim by Nixon Peabody for legal expenses for New Market Tax Credit work. There was an actual claim for $38,000. The amount was questioned due to a conflict of interest issue, but the work that was done was beneficial to the Harbor District. Nixon Peabody agreed to reduce the claim to $20,000.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF PAYING LEGAL EXPENSES FOR NIXON PEABODY for $20,000. COMMISSIONER WILSON SECONDED.

Commissioner Higgins said the New Market Tax Credits have phenomenal upside to the community for repurposing Redwood Terminal 2.

Commissioner Newman said he agrees with Commissioner Higgins and a 50% savings is a good resolution.

Sebastian Elrite asked if the work was worth $20,000.

Executive Director responded that Nixon Peabody reviewed the environmental work. Part of the purpose of the New Market Tax Credits is to leverage borrowing and Nixon Peabody identified all conditions a lender would consider in order for the New Market Tax Credits would be comfortable expending resources for the property.

MOTION CARRIED WITHOUT DISSENT.
C. CONSIDERATION OF PAYING LEGAL EXPENSES FOR FRESHWATER TISSUE COMPANY.

This item was pulled from the agenda.

The Special Meeting of the Board of Commissioners adjourned at 1:23 p.m.

APPROVED BY:  
Greg Dale  
Secretary

RECORDED BY:  
Patricia Tyson  
Director of Administrative Services
MINUTES (Subject to Approval)
REGULAR MEETING OF THE BOARD OF COMMISSIONERS
HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT

February 12, 2015

PRESENT:

Commissioner Newman
Commissioner Marks
Commissioner Wilson
Commissioner Higgins

ABSENT:

Commissioner Dale

President Marks called the Executive Closed Session to order at 6:05 p.m. District Counsel attended Executive Closed Session by phone.

President Marks adjourned the Executive Closed Session at 6:50 p.m.

President Marks called the regular meeting of the Board of Commissioners to order at 7:09 p.m.

President Marks led those present in the Pledge of Allegiance.

District Counsel reported on the Executive Closed Session as follows: Status of Conference with Real Property Negotiators for Exclusive Right To Negotiate with US Mine for a portion of the Redwood Terminal 2 property, Freshwater Tissue Company Notice of Retaining Parcel C per the Option Agreement and Sale of Boiler at Redwood Terminal 2 property – No action taken on these items. Threatened Litigation – Freshwater Tissue Company – A unanimous vote by the Board of Commissioners for a successful resolution was reached and New Business 11(b) was pulled from the agenda.

President Marks allowed Public Comment on New Business 11(b) since it was pulled from the agenda.

Kent Sawatzky said the Board had to indemnify and the District got the pulp mill site. Hopefully this is a good move. He said he approves the Board’s action.

PUBLIC COMMENT

Kent Sawatzky urged the Board to try and make the pulp mill project financially viable, in light of potential significant dollars owed to USEPA. Put the property back in the possession of private owners, not public. He says the Board has done God’s work cleaning the property.

CONSENT CALENDAR: None

COMMUNICATIONS AND REPORTS

EXECUTIVE DIRECTOR’S REPORT:

winter storms have added an additional 10’ of shoaling to the bar and entrance of Humboldt Bay. The 2014 annual Army Corps of Engineers budget for dredging allowed for only dredging to a 44’ depth. Humboldt Pilots Association issued a 32’ draft restriction. The ship due in February has been cancelled. The Corps will conduct soundings next week. The ESSAYONS is currently dry-docked. The Corps dredging has been delayed until July. The 2015 Corps work plan was for $3.8 million; the President signed a $1.8 million budget. Tonnage is increasing; this leads to better talking points with legislators for additional dredging budget.

STAFF REPORTS: None
DISTRICT COUNSEL REPORT

- Reported on SB141, which is going through the Senate. This bill is for Harbor District benefit only. It was initiated by Stated Lands Commission and compliments the District's work on public trust properties. The legislation states that if the District owns properties that have public trust implications, the District can only convey title if it is in the public's benefit. The bill does not affect the management of state lands.

COMMISSIONER AND COMMITTEE REPORTS:

Commissioner Higgins
- A strong contingency is attending the Pacific Halibut Commission meeting. Within a couple of years, it is expected the fishing season will be all summer long.
- March 21 – Earth Water and Fire Day in Garberville.

OTHER

Albert Lemus, Lowes Enterprises, stated the New Market Tax Credits project has been extended for 2015. The inability to secure large tenants suggests a more conservative path. Meetings were held in San Diego in January with 6 Community Development Entities (CDE)/intermediaries. Two have asked to schedule tours of the property and last year's group are interested as well.

Completed: Phase 1 updates; appraisals; rent analysis; ALTA survey; NFA letter from Regional Water Quality Control Board and the bond closing.

Open: Fields Landing Marine Travelift collateral; EPA muni-pay; leasing; port proforma and loan term sheets.

Timeline: schedule CDE tours and achieve CDE commitment May 2015; Complete transaction August 2015; start construction September 2015; Project completed May 2016.

Commissioner Higgins spoke about the benefits of redevelopment to Humboldt County.

Commissioner Newman asked why the Fields Landing collateral makes the NMTC dollars change so dramatically.

Mr. Lemus responded for every $3 committed, the government matches $1, a 75/25 ratio. Revenue was not included in the bond closing, so would like to try to include the revenue the match.

Kent Sawatzky said he was glad to see the NMTC continuing to move forward. He thanked everyone for all their efforts.

Craig Spjut said he hopes that any local projects will use local apprentices.

NON AGENDA: None

UNFINISHED BUSINESS: None

NEW BUSINESS

A. CONSIDERATION OF EXCLUSIVE RIGHT TO NEGOTIATE WITH US MINE AT REDWOOD TERMINAL 2.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF EXCLUSIVE RIGHT TO NEGOTIATE WITH US MINE AT REDWOOD TERMINAL 2. COMMISSIONER NEWMAN SECONDED.
Executive Director reported this is a standard Harbor District agreement. The area consists of the shop and stores building, machine building, 8-acre yard and dock area. It is a six-month agreement with an option to extend. The fee is $5,000, which will be credited to a future lease.

Guy Reed, General Manager of US Mine Corp, and Scott Docktor, President and CEO of US Mine Corp, spoke to the Board about the proposal.

Commissioner Higgins asked how many jobs will be created. The entire operation will create 30-50 jobs.

Kathy Marshall said she is not interested in the white wash of what this project means to our county – replacing one toxic process for another, plus this is a seismically active area. Cyanide, mercury and other heavy metals will be used for coastal degradation. $5,000 is a drop in the bucket and not responsible. This is similar to the LNG project and Goldman-Sachs – not worth the while of dealing with community rage. She said she was concerned with particulate matter and containment – tradewinds will impact many coastal areas.

Diane Beck, Redwood Chapter of Sierra Club, said it is difficult to comprehend this proposal – toxic chemicals in a tsunami zone.

Rocky Drill asked if cyanide is part of the project.

Mr. Docktor replied in mining operations ore is impregnated with cyanide and then leached out. It is possible US Mine will not do this type of process here; it depends on the type of ore brought here. Not all ore is treated with cyanide.

Sandra Klinge said when the pulp mill started here the advertising was all about clean air and water; but that is not so. Could we get more toxic, hazardous materials to the forests and fish?

Leo Sears said any proposal should not be rejected out of hand; it should be analyzed and if the Harbor District thinks it has merit, then the proposer needs to get all required permits. He said he is not in favor of the project, but is in favor of the process. Give US Mine the opportunity to go through the process.

John Schafer said he agrees that it makes sense to hear them out. When will the project details be available? The CA Environmental Impact Study will contain all the details.

Nova Cramer said her great grandfather was a gold miner, but she is not fond of the idea. She said she would prefer a project involving edibles or fish, something safer. She said she doesn’t like the idea of chemicals, doesn’t want them here.

Ralph Faust said he understands the financial concerns of the Harbor District. When someone comes before you with an opportunity it is easy to get caught up, but is the opportunity worth the cost of typifying up property. The Harbor District should consider the likelihood of success. He has spent 30 years working with the Coastal Act and doesn’t think the project will be compatible.

Kent Sawatzky said he is glad to see people participate in the discussion. He urged everyone to look at the benefits and share concerns. If it is determined the project is not functional in Humboldt County, it will not proceed. Ralph (Faust) can sue when they are done. Support the Harbor District to follow the process; there are enough environmental constraints to cover any issue.

Erik Schlagenhaus, Hog Island Oyster Company, asked if there was any estimate on the volume processed and what the restrictions are.

Charles Benbow said there is no way this project will make it through all the agencies unless all details are answered. At what price point does gold have to be to be viable?
Diane Ryerson asked if there are already businesses lined up to take the product. How much homework has been done on the background of the industry; how reliable is it. $5,000 seems like a pittance if the property is going to be tied up.

Sebastian Elrite asked about the volume and shipping process to bring the base oil in. Consider shoaling issues and shallow draft.

Craig Spjut asked for local apprentices to be used on the project.

Jen Kalt, Humboldt Baykeeper, said it seems the proposal is unformed at this time. Spill response can be engineered and designed, but when accidents happen it all changes. There are probably other places more appropriate, not near oyster cultivation, flora and fauna. The Harbor District has done a great job cleaning the property at great cost to the public. Tying up property is not practical. Keep to the earlier strategic plan – light industry. There are many solid projects for Humboldt Bay; focus on real projects.

Susan Penn said she doesn’t know much about ore and processing, but she is concerned about cyanide and mercury. She is supportive of the process and supports US Mine taking time to explore the area and project; it gives the public and the Board time also.

Pete Oringer commented on how respectful the speakers have been.

Dennis Mayo said $5,000 is not enough; he likes the thoughts of the project, but US Mine needs to pay more. He has been involved in local coastal plans and it wasn’t easy to designate Coastal Dependent Industrial sites. When looking at projects, the Harbor District has a responsibility to give equal and full vetting.

Larry Glass, President of Northcoast Environmental Center, said he is not clear about the process. The Harbor District has been off their radar, but this will put the District back on the radar. This would be a real distraction.

Karen Brooks said she is concerned – the Corps of Engineers does not have the budget to dredge. The tonnage statistics are beneath those required to get the dredging done. Aggregate is heavy and will increase the tonnage figures. Protect Coastal Dependent property. She agrees with the temporary use, but not a long-term designation change. Make sure US Mine leaves the property better than when they arrived.

Claire Perricelli said tying up the property for $5,000 is not enough; it blocks other options. Remember this is a Cascadia conduction zone. She believes in the process, but don’t bottle up the property.

Brenna Schlagenhauf said she is concerned about the compatibility of the expanding shellfish operations in Humboldt Bay and this project. The company will be using chemicals and toxins. She believes in the process, but thinks $5,000 is not enough to tie up the property.

Sandra Kingle asked where the local aggregate will come from.

Scott Docktor said US Mine is trying to set the bar high as they lay out more money to test the viability of the project.

President Marks said he will need a lot of convincing that the project is safe.

Commissioner Higgins asked Executive Director about lost opportunities if the property is tied up through an Exclusive Right to Negotiate. Executive Director replied there has not been much interest in the property. He said there are many controls built into the ERTN. This is a draft agreement; can negotiate for additional reimbursement if the costs increase.
Commissioner Newman asked how much of the pulp mill property will be tied up. Executive Director responded about one-third of the property. Interaction with Taylor Mariculture and Coast Seafoods Company has been purposely avoided. He spoke with both companies and they said there are no worried as long as the product is on conveyors or covered. Commissioner Higgins said he realizes there is a great deal of angst about this project; and there is a huge desire for job creation. It is the Board’s responsibility to vet all options, develop economically; but do not harm the bay.

Commissioner Wilson said the opportunity cost issue is meaningful – how does this fit into how we market who we are and where we live. Tying up the property for six months allows six months of discussion – will it be a positive experience? He suggested a three month ERTN and the $5,000 would be a retainer, not applicable to the lease, to cover potential costs of staff time for such a controversial project.

COMMISSIONER WILSON ASKED FOR A FRIENDLY AMENDMENT TO THE MOTION – APPROVE THE EXCLUSIVE RIGHT TO NEGOTIATE WITH US MINE AT REDWOOD TERMINAL 2 FOR THREE MONTHS WITH A $5,000 RETAINER PLUS COSTS IF OVER THE $5,000 RETAINER.

COMMISSIONER HIGGINS ACCEPTED THE FRIENDLY AMENDMENT. COMMISSIONER NEWMAN SECONDED.

Commissioner Higgins said the people who normally come to the Board meetings are about jobs; it is not harmful to have dialogue.

Commissioner Wilson said 100,000 tons is not a huge amount of tonnage; dredge allocations are increasing.

Mr. Reed said they have a local environmental firm that he will engage if allowed to move forward. He said they feel like the project is a conforming use for the Coastal Dependent Industrial designation. Concerned about the three month time period; may not be enough time to get all the answers necessary for the project.

Commissioner Wilson said the Board just wants answers to questions; 85% of the vision. Mr. Docktor and Mr. Reed said they understood the Board’s needs.

MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF PAYING LEGAL EXPENSES FOR FRESHWATER TISSUE COMPANY.

This item was pulled from the agenda.

C. CONSIDERATION OF ACCEPTING FOR FILING PERMIT NO. 15-01 TO PACIFIC GAS AND ELECTRIC COMPANY FOR THE HUMBOLDT BAY POWER PLANT FINAL SITE RESTORATION PLAN.

Commissioner Wilson recused himself. He works for the consultant subcontractor who wrote the Biological Mitigation and Monitoring Plan and the Preliminary Delineation of Waters and Wetlands report for the Plan.

Adam Wagschal, HT Harvey & Associates, said the application permit was complete and recommended accepting the permit for filing. The Harbor District is the lead agency for CEQA.

COMMISSIONER HIGGINS MOVED TO ACCEPT FOR FILING PERMIT NO. 15-01 TO PACIFIC GAS AND ELECTRIC COMPANY FOR THE HUMBOLDT BAY POWER PLANT FINAL SITE RESTORATION PLAN. COMMISSIONER NEWMAN SECONDED. MOTION CARRIED WITHOUT DISSENT.
Commissioner Wilson returned to the meeting.


COMMISSIONER HIGGINS MOVED TO APPROVE RESOLUTION 2015-01, A RESOLUTION DESIGNATING BUSINESS MATTERS, APPOINTMENT AND AUTHORIZATION FOR THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT FOR CALENDAR YEAR 2015. COMMISSIONER NEWMAN SECONDED. ROLL CALL VOTE WAS TAKEN:

COMMISSIONER NEWMAN – AYE
COMMISSIONER DALE – ABSENT
COMMISSIONER MARKS – AYE
COMMISSIONER WILSON – RECUSED
COMMISSIONER HIGGINS – AYE

MOTION CARRIED WITHOUT DISSENT.

E. CONSIDERATION OF DISTRICT MEMBER OF THE WOODLEY ISLAND WILDLIFE AREA COMMITTEE.

Executive Director reported the committee as established in 1977 as a condition of the development and building of Woodley Island Marina. The committee members are from the Harbor District, Coastal Commission and Humboldt State University among others. Current discussion items will be maintenance of the wildlife area and new fencing.

Bob Merrill, CA Coastal Commission; Rhea Williamson, HSU; Dave Lancaster, CA Dept. Fish & Wildlife and Ken Griggs, US Fish & Wildlife have all agreed to serve on the committee.

COMMISSIONER NEWMAN MOVED TO APPOINT COMMISSIONER HIGGINS AS THE DISTRICT MEMBER, COMMISSIONER WILSON THE ALTERNATE. COMMISSIONER WILSON SECONDED. MOTION CARRIED WITHOUT DISSENT.

F. CONSIDERATION OF TRAVEL FOR COMMISSIONER WILSON TO UCLA AND WASHINGTON DC.

Commissioner Wilson reported he has been asked to speak at the UCLA law school at a symposium on aquaculture law. Expenses will be sponsor-paid. He said he would also like to attend the March 9-11 CMANC Annual Washington DC Meeting to meet with legislators and lobbyists.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF TRAVEL FOR COMMISSIONER WILSON TO UCLA AND WASHINGTON DC NOT TO EXCEED $5,000. COMMISSIONER NEWMAN SECONDED.

Dennis Mayo, McKinleyville Community Services District Board Member, said he supports this type of effort – it is important to go to Washington DC. It definitely makes a difference for your agency when you make the effort to meet with the legislators. Our representatives help us in forming policy and the action happens in the agencies.

Sebastian Elite said the Washington DC trips are invaluable. It is important to meet with representatives and their staff who are tasked with agencies’ specific projects.

Kent Sawatzky said Dennis Mayo personally pays for most of his trip expenses. It is worth the time and money.
Commissioner Newman said it is important to participate in these organized trips to Washington DC. You do not get what you need if you do not meet with the representatives in Washington DC.

MOTION CARRIED WITHOUT DISSENT.

G. CONSIDERATION OF RATES FOR REDWOOD TERMINAL 1 OUTSIDE STORAGE.

Executive Director said staff recommends an outside storage rate of $0.15/sf/mo with no annual discount.

COMMISSIONER NEWMAN MOVED FOR THE APPROVAL OF STAFF RECOMMENDATION FOR RATES FOR REDWOOD TERMINAL 1 OUTSIDE STORAGE. COMMISSIONER WILSON SECONDED. MOTION CARRIED WITHOUT DISSENT.

The Regular Meeting of the Board of Commissioners adjourned at 9:43 p.m.

APPROVED BY: RECORDED BY:

Patrick Higgins, Vice President Patricia Tyson
For Greg Dale, Secretary Director of Administrative Services
PRESENT:
Commissioner Newman
Commissioner Dale
Commissioner Marks
Commissioner Wilson
Commissioner Higgins

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

President Marks led those present in the Pledge of Allegiance.

PUBLIC COMMENT: None

CONSENT CALENDAR

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

COMMUNICATIONS AND REPORTS

EXECUTIVE DIRECTOR’S REPORT:

- Crescent Asset Partners inspected the turbine and are happy with the equipment. They will be making a proposal.
- Attended the CA Shellfish Initiative meeting, where they completed their charter.
- California Maritime Leadership Symposium – larger Southern California ports are at 38% of capacity. Shipbuilders are building ships at 20,000 TEU, which are too big to go through the Panama Canal.
- Public scoping meeting on Coast Seafoods Company Draft Initial Study. Approximately 3,000 emails were received. Coast Seafoods Company would like the Harbor District to do the Environmental Impact Report process.
- King Salmon Channel dredging – PG&E has hired Chris Vargas as the Project Manager. The Phase 1 will be completed in 2016.
- Completed all interviews with mariculture pre-permitting tenants. Half are from Tomales Bay; some will have over 100 acres. All new tenants will bring $265,000 annual lease income to the Harbor District.

STAFF REPORTS

Director of Facility Maintenance:
- The proposals for the dredge engine replacement are due tomorrow.
- Minor repairs needed on the tender BarFly.
- Hired a second Harbor Maintenance Worker III, a hydraulics mechanic who is ready to start work on the dredge.

Director of Harbor Operations:

- Has been working with Bruce Conner to get ready for the Cruise The West SeaTrade conference and looking at cruise ship options.
- Corps of Engineers sounding are not what was hoped for. There is no exact time for the dredge to arrive, late June or early July.
- Director of Harbor Operations and Director of Facility Maintenance are now certified for water sampling.
- Worked with HSU on PORTS; a quarterly meeting will be held tomorrow.
- Recovery operation for a deceased person.
District Planner:
- Helped with Coast Seafoods Company Draft Initial Study and participated in the public comment meeting last week. Next step is the determination of the CEQA document.
- Land use committee – proposed for unincorporated lands on the Samoa Peninsula and Woodley Island.
- PG&E – Received assignment of project description, which will be the framework for the CEQA documents and will be used by other agencies.
- Has an intern from HSU who is interested in research for tenants for Redwood Terminal 2.
- March 4 – Mariculture pre-permitting project Draft EIR public comment meeting.

District Treasurer:
- Working on audit items, Management Discussion and Analysis letter and final adjustment and review.

COMMISSIONER AND COMMITTEE REPORTS:

Commissioner Higgins:

Commissioner Wilson:
- 3/3 – Sea Level Rise public meeting sponsored by the CA Coastal Commission.
- Recently travelled to Bay Area to visit grandparents; the Oakland terminals were very quiet; there is an extreme labor issue on the West Coast.
- Presented at the UCLA law seminar; Humboldt Bay's Mariculture Pre-Permitting Project is looked at as a model for other areas.
- Attended a Planning Commission meeting regarding the Samoa Peninsula and Fields Landing.

Commissioner Marks:
- The one-day work stoppage on the West Coast is causing a back log of citrus fruit.

Commissioner Dale:
- Coast Seafoods Company had their first public hearing on their permit
- Attended a CA Dept. Fish & Wildlife meeting on aquaculture disease.
- Attended the CA Shellfish Initiative meeting.

Commissioner Newman:
- The numbers for the analysis of west coast salmon fishing are good; looking like the salmon season this year will be a good one.

OTHER: None

NON AGENDA: None

UNFINISHED BUSINESS: None

NEW BUSINESS

A. CONSIDERATION OF RECEIVING AND FILING FY 2013/14 AUDIT – HUNTER, HUNTER & HUNT, LLP PRESENTATION.

Donna Taylor and Patrick Shanahan presented the FY 2013/14 Audit to the Board in the form of a PowerPoint presentation.

Operating Revenue – increased approximately $250,000 due to new rents and leases.
Operating Expenses – no real increase; $179,000 Redwood Terminal 2 expenses were unique for FY 2013/14.

Non-Operating Revenues and Expenses – the net doubled from FY 2012/13. There was a loss due to the disposal of Building 14 at Redwood Marine Terminal Berth 1 and a portion of the PGE grant was realized $530,000. Unrestricted Cash decreased, partly due to Parcels B & C escrow $320,000.

Capital Assets – increased due to $1.6 capital expenses for Redwood Terminal 2 cleanup and depreciation.

Mr. Shanahan told the Board the final fee for the audit had increased over the contracted amount due to more hours were incurred than thought when the audit was bid. This was due to the disposal of Building 14 and the addition of Redwood Terminal 2.

COMMISSIONER WILSON MOVED TO RECEIVE AND FILE THE FY 2013/14 AUDIT FROM HUNTER, HUNTER AND HUNT, LLP. COMMISSIONER HIGGINS SECONDED. MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF APPROVAL OF PERMIT AND AGREEMENT TO OPERATE KAYAK RENTAL SERVICES FOR BRIAN SAXTON DBA HUMBOATS KAYAK ADVENTURES.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF PERMIT AND AGREEMENT TO OPERATE KAYAK RENTAL SERVICES FOR BRIAN SAXTON DBA HUMBOATS KAYAK ADVENTURES. COMMISSIONER WILSON SECONDED. MOTION CARRIED WITHOUT DISSENT.

C. CONSIDERATION OF ACCEPTING FOR FILING APPLICATION FOR PERMIT 15-02 FOR CHEVRON USA FOR THE CHEVRON EUREKA MARINE TERMINAL REPAIR PROJECT.

This permit is for the removal of additional concrete floats – eelgrass mitigation associated with Chevron’s dock repairs.

COMMISSIONER HIGGINS MOVED TO ACCEPT FOR FILING APPLICATION FOR PERMIT 15-02 FOR CHEVRON USA FOR THE CHEVRON EUREKA MARINE TERMINAL REPAIR PROJECT. COMMISSIONER DALE SECONDED. MOTION CARRIED WITHOUT DISSENT.

D. CONSIDERATION OF ACCEPTING THE GRANT AGREEMENT WITH THE CALIFORNIA NATURAL RESOURCES AGENCY FOR THE HUMBOLDT BAY SPARTINA ERADICATION PROJECT.

The grant is for the eradication of Spartina on 250 acres of City of Arcata and US Fish & Wildlife Service property. The deed restrictions have been removed.

COMMISSIONER WILSON MOVED TO ACCEPT THE GRANT AGREEMENT WITH THE CALIFORNIA NATURAL RESOURCES AGENCY FOR THE HUMBOLDT BAY SPARTINA ERADICATION PROJECT. COMMISSIONER HIGGINS SECONDED. MOTION CARRIED WITHOUT DISSENT.

E. CONSIDERATION OF LEASE TERMINATION – AGRIMARINE.

Executive Director reported previously Agrimarine signed a lease for an aquaponics pilot project at Redwood Marine Terminal Berth 1. There has been no activity, no insurance, no surety bond. The company has new ownership and new priorities. There is future interest in Redwood Terminal 2.
President Marks said he was disappointed. The property has been tied up for a whole year free of charge and nothing comes of it.

Commissioner Higgins attended a conference on aquaponics at HS and there is not a lot of people who have the capital for such a project.

COMMISSIONER HIGGINS MOVED FOR APPROVAL OF THE LEASE TERMINATION WITH AGRIMARINE. COMMISSIONER DALE SECONDED. MOTION CARRIED WITHOUT DISSENT.

F. CONSIDERATION OF EXCLUSIVE RIGHT TO NEGOTIATE WITH SUSTAINABLE WORLD SOLUTIONS – REDWOOD TERMINAL 2 WATER TREATMENT PLANT.

Executive Director called Ava Stern and Judd Canepari of Sustainable World Solutions. The company is interested in hydroponics and aquaponics at the water treatment site of Redwood Terminal 2. The ERTN would be for 6 months with extensions at $5,000, plus six acres of associated property. Ms. Stern said they have several sustainable businesses who want to sublease the property.

COMMISSIONER NEWMAN MOVED FOR THE APPROVAL OF EXCLUSIVE RIGHT TO NEGOTIATE WITH SUSTAINABLE WORLD SOLUTIONS – REDWOOD TERMINAL 2 WATER TREATMENT PLANT FOR 90 DAYS. COMMISSIONER DALE SECONDED.

Commissioner Higgins asked about their capital and partners. Ms. Stern said they are refining their list of partners.

District Counsel said it is not clear what the entity is.

Commissioner Wilson asked if there is any competition for the parcels. Executive Director replied there is need for smaller chunks of the property.

Ms. Stern requested a six month ERTN.

President Marks said there is a motion on the floor and the Board is moving through the process.

Commissioners Higgins said it is appropriate for the Board to allow US Mine to have a six-month ERTN due to the level of community anxiety.

Commissioner Wilson asked if the fishermen’s storage area would be impacted. Executive Director said that area was avoided.

Commissioner Wilson stated the aquaponics pilot project is still on the property. What is the timeline to get it running again? Ms. Stern said they do not have a timeline yet. They will need three months for financing and three months for set up.

Commissioner Newman said his intent in shortening the time period is to be able to see the progress. District Counsel stated within the ERTN there are mile posts to meet within 60 days.

COMMISSIONER NEWMAN WITHDREW HIS MOTION. COMMISSIONER DALE WITHDREW HIS SECOND.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF EXCLUSIVE RIGHT TO NEGOTIATE WITH SUSTAINABLE WORLD SOLUTIONS – REDWOOD TERMINAL 2 WATER TREATMENT PLANT. COMMISSIONER WILSON SECONDED.

Commissioner Wilson said his biggest concern is the existing aquaponics infrastructure; there has been interest expressed.
Mr. Canepari said his gut feeling is that they will not need the existing infrastructure.

Commissioner Higgins asked if the aquaponics infrastructure could be moved to another site since it is portable.

Commissioner Wilson suggested the aquaponics demonstration project equipment be excluded from the lease. District Counsel stated the way to ensure there are no problems is to exclude any personal property.

COMMISSIONER HIGGINS AMENDED HIS MOTION TO ADD A SECTION TO THE ERTN REMOVING ALL PERSONAL PROPERTY. COMMISSIONER WILSON SECONDED.

Commissioner Dale said he is hoping there will be interest in using the equipment that has sat unused for 1 ½ years.

Mr. Canepari said the equipment will not be a hindrance to this project. He would be interested in crafting a relationship with anyone interested in the equipment.

Susan Penn asked what water is being clarified. Mr. Canepari said there would be a transferable, sustainable source of make-up water and make up of evaporation and aspiration, depending on the size of gardens and tanks. The water would be used for storage, not treatment.

MOTION CARRIED WITHOUT DISSENT.

G. CONSIDERATION OF EXCLUSIVE RIGHT TO NEGOTIATE WITH SUSTAINABLE WORLD SOLUTIONS – REDWOOD TERMINAL 1 – PARCELS 1 AND 2.

Executive Director reported the site at Redwood Terminal 1, Parcels 1 and 2, would be used for an aquaponics research and productions business part. The ERTN is for six months with extensions at $5,000 for 13.52 acres.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF EXCLUSIVE RIGHT TO NEGOTIATE WITH SUSTAINABLE WORLD SOLUTIONS – REDWOOD TERMINAL 1 – PARCELS 1 AND 2 FOR 90 DAYS. COMMISSIONER WILSON SECONDED. MOTION CARRIED WITHOUT DISSENT.

Staff was directed to remove aquaponics equipment from the ERTN.

H. DISCUSSION/PRESENTATION – ATHENA GREENE, INC. – KATIE KELLEY.

Katie Kelley, representing Athena Greene Inc., explained how their aquaponics and biochar business operates. Fruits, vegetables, and herbs are organically certified. Biochar is charcoal used for soil addition and other uses. They are working with UC Davis and HSU on education for the public. They are expecting 40-65 part-time jobs and 30+ full-time jobs with two acres of greenhouses. Trout, bass, catfish and sturgeon, depending on the permitting, are used in the aquaponics area.

Ms. Kelley said she has a meeting scheduled to tour the Fields Landing Sea Scouts building and surrounding area for their use.

Commissioner Dale asked what the base material for the biochar is. Ms. Kelly responded recycled untreated pallets and other waste wood.
The Regular Meeting of the Board of Commissioners adjourned at 8:55 p.m.

APPROVED BY: GREG DALE
Secretary

RECORDED BY: PATRICIA TYSON
Director of Administrative Services
MINUTES (Subject to Approval)
REGULAR MEETING OF THE BOARD OF COMMISSIONERS
HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT

March 12, 2015

PRESENT:
Commissioner Newman
Commissioner Marks
Commissioner Higgins

ABSENT:
Commissioner Dale
Commissioner Wilson

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

Commissioner Higgins led those present in the Pledge of Allegiance.

PUBLIC COMMENT
Karen Brooks attended the County Board of Supervisors meeting where they considered a Fish & Wildlife grant proposal for sea level monitoring. The Harbor District Board should have a standard agenda item for sea level rise. Need to get going to get levies master-permitted. It is a multi-year project, so the Board needs to get ahead of it. 60-80% of Humboldt County’s population lives around the bay.

Uri Driscoll said agricultural lands are vital and infrastructure is necessary to preserve and protect. There are some challenges with the California Coastal Commission. County Board of Supervisors is willing to write a conditional letter of support.

CONSENT CALENDAR: None

COMMUNICATIONS AND REPORTS

EXECUTIVE DIRECTOR’S REPORT:

❖ King Salmon Permitting:
  • Phase 1 and 2 require mitigation of 3+ acres of Eelgrass plus Longfin Smelt take permit.
  • Total potential inventory of Bay mitigation sites is only 13 acres and would require “conservation easements”.
  • 1982 channel dredging established a 7’ depth.
  • PGE plan design is based on an 8’ depth.
  • District’s recommended plan design - min. 6’ depth in main channel and 8’ entrance.
  • New design plan will reduce eelgrass impact by 50% (approx. 3.0 acres reduced to 1.4 acres).
  • 6’ depth expected to rapidly colonize with eelgrass, so the impact would be temporary. Will negotiate with agencies on how to gauge the impact.

❖ Boiler Sale
  • Kapstone Inspection March 10-11; Team of 8
  • Interest in Turbine/generator, crane, controls
  • Recovery Boiler- Foxboro cards and console
  • Found new turbine bearings- $40K
  • Crescent Assets Partners will make offer-resell
  • Value to District- $300K-$500K
  • Need to remove a section of roof to remove
  • Offer and Purchase Agreement- March 26.
STAFF REPORTS

Director of Harbor Operations:

- Marine debris was recovered and recycled by Kernen Construction. The cost is covered under a grant.
- PORTS system – all buoys are now reporting to the US Coast Guard.
- Bruce Conner – will be attending the Cruise The West trade show in Florida. Mr. Conner will present to the Board of Supervisors in April.
- Sea Scouts Building – repairs are being done on the building in anticipation of Athena Greene Inc. locating the aquaponics/biochar business there.
- Redwood Marine Terminal Berth 1 – working with a potential new tenant.

Deputy Director

- Spartina control project – applied for a State Lands lease and it was received. Still need a Coastal Development Permit.
- Finalized grant agreement with State Resources Agency for Spartina control.
- Mariculture Pre-Permitting Project Draft EIR – Public Comment period ended today. A public meeting will be held next week.
- Coast Seafoods Company Draft Initial Study – received good feedback from the public.

Director of Facility Maintenance:

- Took Humboldt Baykeeper group and HSU Lumberjack reporter on a tour of the MPA areas in Humboldt Bay.
- Working with Director of Harbor Operations on their first bay water sampling to certify areas for shellfish culture, which is required as a part of the Mariculture Pre-Permitting Project. 30 samples have to be taken.
- Fields Landing Boat Yard – expanded the fenced area for long term storage of boats and death row for derelict boats. Prices for contractors to do the fencing came in to high; District staff expanded the fencing saving the District thousands of dollars.
- Landfill sampling for ash landfill and pulp mill property – monitoring wells and submit findings to local labs required by State Water Quality Control Board.

COMMISSIONER AND COMMITTEE REPORTS:

Commissioner Newman:

- Attended the Pacific Fisheries Management Council meeting in Vancouver, WA. Commercial and recreational salmon season open for comments.

Commissioner Marks:

- Attended a photo opportunity with Timber Heritage Association on the signing of the Purchase Sale Agreement.
- Attended the NCRA meeting yesterday; the rail with trail project in Ukiah Phase 1 will be completed in April. There is no funding yet for Phase 2.

Commissioner Higgins:

- Did a radio interview on KMUD.
- Was surprised at the US Mine termination of their ERTN.
- Attended a Woodley Island Wildlife Area Committee meeting.
- Mariculture Pre-Permitting Project – received many comments from proposers. Looking forward to further discussions.

OTHER: None

NON AGENDA: None
UNFINISHED BUSINESS

A. DISCUSSION OF SAMOA ENHANCED TRAILS MANAGEMENT LETTER OF INTENT.

Executive Director reported: the County of Humboldt Public Works Dept. intends to apply for state funds to construct the Samoa Enhanced Trails Project. If approved, public funds would be expended for trail construction and trail corridor easements must be held by a public entity. A trail system maintenance revenue source will be needed. The source under consideration is a property based assessment.

The enhanced trail system is anticipated to attract a wide variety of users due to flat terrain, adjacent natural features, Samoa Peninsula location & close proximity to Humboldt Bay and the Pacific Ocean.

Active Transportation Program Goals: Increase the proportion of biking and walking trips; Increase the safety and mobility of non-motorized users; Advance active transportation efforts of regional agencies to achieve greenhouse gas reduction goals per SB 375 & SB 391; Enhance public health, including reduction of childhood obesity through the use of programs including, but not limited to, projects eligible for Safe Routes to School Program funding; Ensure that disadvantaged communities fully share in the benefits of the program’ and Provide a broad spectrum of projects to benefit many types of active transportation users.

Samoa Pacific Group (SPG) requests that the Harbor District proceed with steps necessary for the maintenance assessment, including the engineers report. SPG will reimburse the Harbor District for costs of preparing the assessment, estimated to be $3,000.00.

Assessment Action Items: Notice of assessment to property owners and ballot printed; Special District Board preliminary approval of assessment (accept Engineers Report), assessment ballot proceeding and public hearing; Notice and Ballot printing; Mail notice of assessment and ballot to property owners; Hold assessment public hearing; Tally ballots at public hearing or at alternate public location; and Certify election results at subsequent Board meeting.

The Engineer Report will include the following: Engineer’s Affidavit; Introduction and Background; Assessment Methodology; Maintenance Expenditure Detail; Assessment Notice; Sample Assessment; Notice of Public Hearing & Ballot; and Property Based Assessment.

Executive Director said the action items for the Board’s consideration in the future are: Authorize Executive Director to contract for Engineers Report and other trail maintenance revenue assessment expenses paid for by Samoa Pacific Group; Coordinate with Humboldt County Public Works Department and Samoa Pacific Group on trail easement descriptions; Overseer Maintenance Benefit Assessment for Samoa Pacific Group Properties; and Sign Letter of Intent to Maintain Trails.

District Counsel said this is a harbor, recreation and conservation district. Consider there is no guarantee that assessment the District will receive may not cover expenses. Why is the County, with Public Works and Parks divisions, willing to do a grant application, but not take responsibility?

Commissioner Higgins asked who bears the responsibility of liability. District Counsel said the real potential problem is that the County may not want the responsibility of liability.

President Marks asked if the District can ask Samoa Pacific Group to help defer costs and partnership with the District.
Executive Director said a question to ask is regarding the base assessment. Are we able to negotiate and increase the assessment if costs increase or are we stuck with the assessment dollars?

Karen Brooks said she loves trails and understands there is a trails steward program. The Harbor District should support this project – it feels like a shiny penny. However, she is not in favor of the assessment district. Also it is not a good fit with the District’s legislation. The assessment should come through Samoa – maintenance is going to be a nightmare. But this is a good project with great community benefit.

Susan Penn said the Harbor District does not own the property. Samoa Pacific Group is going to pay for the assessment; seems like a conflict of interest in their favor. The City of Eureka pays a lot to maintain and manage the Hiksan Trail.

President Marks stated the Samoa Peninsula Fire District Director has attempted a community services district, but there is too much push back.

NEW BUSINESS

A. CONSIDERATION OF ACCEPTING FOR FILING APPLICATION FOR PERMIT 15-03 TO THE HUMBOLDT BAY NATIONAL WILDLIFE REFUGE FOR THE WHITE SLOUGH TIDAL WETLANDS RESTORATION PROJECT.

Deputy Director reported accept for filing the application starts the 30-day comment period. This project is part of the beneficial reuse project.

COMMISSIONER HIGGINS MOVED TO ACCEPT FOR FILING APPLICATION FOR PERMIT 15-03 TO THE HUMBOLDT BAY NATIONAL WILDLIFE REFUGE FOR THE WHITE SLOUGH TIDAL WETLANDS RESTORATION PROJECT. COMMISSIONER NEWMAN SECONDED.

Steve Rosenberg asked if there are any provisions for a part of the wetlands to be conserved as freshwater or transitioned. Are there plans to use levy material fill?

Deputy Director said there are many questions, which will be answered within the 30-day comment period.

MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF 2015 CALIFORNIA EMISSIONS-READY CUMMINS MARINE 750 HP QSK 19 T3 TURBO ENGINE PURCHASE AGREEMENT WITH CUMMINS PACIFIC LLC FOR $134,134.69.

The Harbor District acquired the dredge, the engine was not California compliant. Staff will install the engine; Cummins West LLC will supply and assist.

Director of Harbor Operations said the price of the engine is less than estimated.

COMMISSIONER NEWMAN MOVED FOR THE APPROVAL OF THE 2015 CALIFORNIA EMISSIONS-READY CUMMINS MARINE 750 HP QSK 19 T3 TURBO ENGINE PURCHASE AGREEMENT WITH CUMMINS PACIFIC LLC FOR $134,134.69. COMMISSIONER HIGGINS SECONDED. MOTION CARRIED WITHOUT DISSENT.

C. CONSIDERATION OF LEASE WITH STONE COLD CHILLIN – REDWOOD TERMINAL 2.

COMMISSIONER NEWMAN MOVED FOR THE APPROVAL OF LEASE WITH STONE COLD CHILLIN – REDWOOD TERMINAL 2. COMMISSIONER HIGGINS SECONDED.
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Joseph Thompson, Stone Cold Chillin, stated the business is local ice production. The lease area is 6,400 sqft at Redwood Terminal 2; a five year lease at $2,250/mo with a 2% CPI increase annually.

Issues to resolve are: a single loading dock for 30 loads per day, location of cooling units, cost of power and water access and compatibility with Taylor Mariculture.

Executive Director recommended the Board direct staff to work with tenant with District Counsel’s assistance and bring back for the Board’s consideration on March 26.

MOTION CARRIED WITHOUT DISSENT.

D. CONSIDERATION OF ADOPTION OF RESOLUTION 2015-02, A RESOLUTION AUTHORIZING CERTAIN HARBOR DISTRICT STAFF TO ACQUIRE FEDERAL SURPLUS PROPERTY FROM THE CALIFORNIA STATE AGENCY FOR SURPLUS PROPERTY.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF ADOPTION OF RESOLUTION 2015-02, A RESOLUTION AUTHORIZING CERTAIN HARBOR DISTRICT STAFF TO ACQUIRE FEDERAL SURPLUS PROPERTY FROM THE CALIFORNIA STATE AGENCY FOR SURPLUS PROPERTY. COMMISSIONER NEWMAN SECONDED. ROLL CALL VOTE WAS TAKEN:

COMMISSIONER NEWMAN – AYE
COMMISSIONER DALE – ABSENT
COMMISSIONER MARKS – AYE
COMMISSIONER WILSON – ABSENT
COMMISSIONER HIGGINS AYE

MOTION CARRIED WITHOUT DISSENT.

E. CONSIDERATION OF LETTER OF SUPPORT FOR SENATE BILL 141.

Executive Director reported Senate Bill 141 amends the District's Enabling Legislation to allow for the granting/issuing of irrevocable grants of fee title as it relates to after-acquired lands.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF LETTER OF SUPPORT FOR SENATE BILL 141. COMMISSIONER NEWMAN SECONDED. MOTION CARRIED WITHOUT DISSENT.

The Regular Meeting of the Board of Commissioners adjourned at 8:48 p.m.

APPROVED BY:               RECORDED BY:

Patrick Higgins, Vice President               Patricia Tyson
For Greg Dale, Secretary               Director of Administrative Services
MINUTES (Subject to Approval)
REGULAR MEETING OF THE BOARD OF COMMISSIONERS
HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT

March 26, 2015

PRESENT:
Commissioner Newman
Commissioner Dale
Commissioner Marks
Commissioner Wilson
Commissioner Higgins

President Marks called the Executive Closed Session to order at 6:08 p.m.

President Marks adjourned the Executive Closed Session at 6:34 p.m.

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

President Marks led those present in the Pledge of Allegiance.

District Counsel reported on the Executive Closed Session as follows: Status of Conference with Real Property Negotiators for the Sale of Turbine/Generator at Redwood Terminal 2 property— No action taken.

PUBLIC COMMENT

Karen Brooks attended the County Board of Supervisors meeting where they considered a Fish & Wildlife grant proposal for sea level monitoring. The Harbor District Board should have a standard agenda item for sea level rise. Need to get going to get levies master-permitted. It is a multi-year project, so the Board needs to get ahead of it. 60-80% of Humboldt County’s population lives around the bay.

Uri Driscoll said agricultural lands are vital and infrastructure is necessary to preserve and protect. There are some challenges with the California Coastal Commission. County Board of Supervisors is willing to write a conditional letter of support.

CONSENT CALENDAR: None

COMMUNICATIONS AND REPORTS

EXECUTIVE DIRECTOR’S REPORT:
- Fiscal Year financials through January 31 shows a perfect storm. Executive Director reported on turnover of employees, the recent annual audit, purchases, New Market Tax Credits, bond refinancing and US EPA cleanup of the Redwood Terminal 2 property.
- By the second meeting of the month, the Board will have the current unaudited financial information.

STAFF REPORTS

Deputy Director
Spoke on the status of the King Salmon Channel dredging, beneficial reuse project, Mariculture Pre-Permitting Project and the Eelgrass Management Plan RFP distribution.

Director of Harbor Operations:
- Reported the District’s fire boat, made by Moose Boats, is a flagship model and has been highlighted at trade shows.
- Met with the US Army Corps of Engineers in San Francisco about Humboldt Bay’s dredging needs. There is approximately 1.3 million cubic yards to be removed from the bar and entrance. Currently the funding is for 600,000 cubic yards; looking to increase the funding for
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900,000 cubic yards. The Corps is committed to use both federal and private dredges. There was a discussion of the sediment management study to help prevent shoaling in the future.
✓ King Salmon – an abandoned sunken boat was refloated and towed to Fields Landing Boat Yard. Staff is working with Humboldt County Sheriff’s Office and Fish & Wildlife on responsibility and storage costs.
✓ Round 2 of water sampling for the Mariculture Pre-Permitting Project. The results today looked good.

Director of Facility Maintenance:
✓ The Humboldt Bay Aquatic Center had a sewer main leak; took 3 ½ days to find it and one hour to repair. City of Eureka helped with their pumping truck and there were no dump fees.
✓ Shelter Cove – water sampling must be done three days before a storm and testing of water off the boat ramp and water in the ocean. This supports compliance of ASBS established by the State Water Quality Control Board.

District Planner:
✓ King Salmon Fisherman’s Channel dredging – helping with the pilot project team.
✓ Mariculture Pre-Permitting Project – helped with the Draft EIR scoping meeting.
✓ City of Eureka General Plan Update – soliciting landowners to submit suggestions for changes.

District Treasurer:
✓ Working with staff on streamlining month end process for more timely financials.
✓ Muni-pay – reviewing model that was submitted last year.

COMMISSIONER AND COMMITTEE REPORTS:

Commissioner Newman:
✓ Last week his fishing boat MARIA ISABEL was hauled out at Fields Landing Boat Yard. Great staff, very competent.
✓ Negotiations for commercial and recreational salmon season are ongoing.
✓ Helped Commercial Fisherman’s Wives of Humboldt raise $4,000 for their scholarship fund. Thanked Commissioner Dale for the oyster donation.

Commissioner Dale:
✓ Said he has also used the services of the Fields Landing Boat Yard; great service.
✓ Attended Ocean’s Day in Sacramento; an opportunity for lobbying for shellfish and ocean issues.

Commissioner Marks:
✓ Attended a Humboldt Bay Harbor Working Group meeting; topic was fishing.
✓ Spent last week in rainy Arizona at spring training for major league baseball.

Commissioner Wilson:
✓ Spent several days in Washington DC lobbying on behalf of the Harbor District and attended some of the CMANC meetings. Met with staff from several legislators’ offices, US EPA and NOAA discussing dredge/shoaling and the Redwood Terminal 2 cleanup.
✓ Spoke at the Aquaculture Law Symposium at UCLA about the Mariculture Pre-Permitting Project. A similar project is being considered in Ventura. Commissioner Dale said he was at the conference and listened to Commissioner Wilson’s presentation; said he is a great asset for the Harbor District.
Commissioner Higgins:
- Earth, Water and Fire Day at the CR Campus in Garberville included education on water conservation, fire prevention and erosion control.
- Humboldt Bay Harbor Working Group meeting – Ken Bates gave an interesting presentation on the history of Woodley Island and commercial fishing in Humboldt Bay.
- Said there should be a good sport salmon fishing season; halibut, however, not so good.

OTHER: None

NON AGENDA: None

UNFINISHED BUSINESS: None

NEW BUSINESS

A. CONSIDERATION OF ADOPTION OF RESOLUTION 2015-03, A RESOLUTION ESTABLISHING FEDERAL AND STATE LEGISLATIVE PRIORITIES FOR THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT DURING THE 2015 LEGISLATIVE SESSION.

COMMISSIONER HIGGINS MOVED FOR THE ADOPTION OF RESOLUTION 2015-03, A RESOLUTION ESTABLISHING FEDERAL AND STATE LEGISLATIVE PRIORITIES FOR THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT DURING THE 2015 LEGISLATIVE SESSION. COMMISSIONER DALE SECONDED.

The National Marine Research and Innovation Park and the Samoa Industrial Waterfront Transportation Access Plan projects were added to the list.

By adopting these priorities, the Board is giving the Executive Director authority to write letters on various subjects without receiving prior consent from the Board.

ROLL CALL VOTE WAS TAKEN:
- COMMISSIONER NEWMAN – AYE
- COMMISSIONER DALE – AYE
- COMMISSIONER MARKS – AYE
- COMMISSIONER WILSON – AYE
- COMMISSIONER HIGGINS - AYE

MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF SAMOA TRAIL LETTER OF INTENT.

Troy Nicolini, President of the Board of Directors of the Samoa Peninsula Fire District, attended the meeting by phone.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF THE SAMOA TRAIL LETTER OF INTENT. COMMISSIONER WILSON SECONDED.

District Planner reported Samoa Pacific Group will pay the cost of assessment. Omsburg and Preston has been retained for an engineer’s assessment and to put together a maintenance cost assessment.

Public funds will be used to build the trail, but maintenance costs will be borne by whom? Harbor District?
Executive Director stated the letter of intent is the conduit to get the facility funded, designed and built over several years. By then it is hoped the Community Services District (CSD) will be formed and will take over the maintenance of the trail, which will be a source of revenue for the CSD. Commissioner Dale said Dan Johnson's letter says the Samoa Pacific Group agrees they will pay the Harbor District to maintain the trail until the CSD is formed.

District Counsel stated if the revenue is not enough to maintain the trail, then there will have to be a special election. Also there is no component for security and potential tort liability; he cautioned the Board to consider these factors.

Commissioner Higgins said he likes trails and thinks the Harbor District should accept some risk. Hammond Trail is not the problem that it was expected to be. The Harbor District will have to work with the community if going to adopt the trail.

President Marks said there is a lot of push back on the CSD. He does not think the CSD will succeed through the Samoa Peninsula Fire District. A town serviced by septic tanks cannot build new facilities in Fairhaven.

Commissioner Wilson asked if there would be CPI increases. Executive Director responded the time is now to negotiate with Dan Johnson. It is unique to have a pledge of $53,265 per year for maintenance.

District Counsel stated an agreement to agree is not legally binding.

MOTION CARRIED WITH COMMISSIONER MARKS ABSTAINING.

C. DISCUSSION OF POTENTIAL MITIGATION PROJECTS AND PERMITTING.

Deputy Director reported several of the District's projects require mitigation: dredging, aquaculture, dock maintenance, etc. These resulting mitigation projects must be identified, permitted and implemented; and it is much more efficient to do all this at once in order to develop a more comprehensive mitigation program. This idea was presented to the Corps of Engineers and regulatory agencies at the last joint meeting. A long list of mitigation opportunities has been developed.

The recommended process is: establish a Board committee; identify appropriate mitigation sites from the list; make recommendations to the full Board; map and describe mitigation sites; work with agencies to quantify mitigation credits and process; permit; implement; project specific mitigation and as a "program".

Commissioners Dale and Wilson volunteered to be on the mitigation committee.

Commissioner Wilson asked how many acres are involved. Deputy Director responded there are many different way for determining size.

D. DISCUSSION OF FUTURE PARTICIPATION AT SHELTER COVE.

Executive Director reported the Harbor District has a 25-year lease agreement with State Lands for the entire beach and breakwater at Shelter Cove. There is no legal agreement for the fish cleaning station and cleaning costs average $30,000 per year. There is a recreation easement for the beach access.

Marina development is on hold due to cultural site costs. Access road and outfall pie management is $10,000 per year. An ASBS designation costs $10,000 per year.

The owner of Mario's Marina will be in Shelter Cove in April to discuss future plans.
Harbor District desires to transfer responsibility to the Shelter Cove Resort Improvement District (RID) and should take these next steps: confirm ownership with County; meet with owner and RID; transfer lease to RID; transfer fish cleaning station and equipment to RID; owner and RID structure agreement on the fish cleaning station; and harbor District pays annual fee for a number of years for the release of responsibility.

Executive Director asked the Board if they feel staff is heading down the right path.

Commissioner Higgins said he is conflicted. Shelter Cove is a beautiful area and he is happy the Harbor District maintains access. Do the local people want to take it over?

President Marks asked if a special meeting in Shelter Cove is needed. Executive Director said negotiations should be done through Board committee process.

Commissioners Dale and Newman volunteered to be the Shelter Cove committee.

The Regular Meeting of the Board of Commissioners adjourned at 8:25 p.m.

APPROVED BY:                                           RECORDED BY:

Greg Dale                                           Patricia Tyson
Secretary                                           Director of Administrative Services
UNIVERSAL STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

IN THE MATTER OF:

Samoa Pulp Mill
Samoa, Humboldt County, CA

Humboldt Bay Harbor, Recreation
and Conservation District

Respondent

SETTLEMENT AGREEMENT

U.S. EPA Region IX
CERCLA Docket No. 09-2015-0009

Proceeding Under Section 122(h)(1) of the
Comprehensive Environmental Response,
Compensation, and Liability Act, as
amended, 42 U.S.C. § 9622(h)(1)
I. JURISDICTION

1. This Settlement Agreement is entered into pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9622(h)(1), which authority has been delegated to the Regional Administrators of the EPA by EPA Delegation No. 14-14-D (Cost Recovery Non-Judicial Agreements and Administrative Consent Orders) and redelegated to the Superfund Branch Chiefs pursuant to Regional Delegations 1290.15 (September 29, 1997) and 1290.20 (September 29, 1997). This Settlement Agreement is also entered into pursuant to the authority of the Attorney General of the United States to compromise and settle claims of the United States, which authority, in the circumstances of this settlement, has been delegated to the Deputy Chief of the Environmental Enforcement Section of the United States Department of Justice.

2. This Settlement Agreement is made and entered into by EPA and Humboldt Bay Harbor, Recreation and Conservation District, a California public entity ("Settling Party"). Settling Party consents to and will not contest the authority of the United States to enter into this Settlement Agreement or to implement or enforce its terms.

II. BACKGROUND

3. This Settlement Agreement concerns the Samoa Pulp Mill Removal Site ("Site") located at 1 TCF Drive in Samoa, Humboldt County, California. The Site encompasses approximately 70 acres on the shoreline of Humboldt Bay. EPA alleges that the Site is a facility as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

4. The Site had been an idle and deteriorating Kraft pulp mill for several years before August 2013, when the Settling Party acquired the Site for the express purpose of facilitating a response to the release or threatened release of hazardous substances at the Site for the protection of the Humboldt Bay environment and public health and welfare.

5. In response to the release or threatened release of hazardous substances at or from the Site, EPA undertook response actions at the Site pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, specifically to address above-ground and containerized hazardous substances, as generally described in the REQUEST FOR A CONTINUATION OF AN EMERGENCY RESPONSE REMOVAL ACTIONS AT THE SAMOA PULP MILL SITE LOCATED IN SAMOA, HUMBOLDT COUNTY, CA, dated November 4, 2013 and as amended on July 30, 2014, which is included with this Settlement Agreement as Attachment A. The hazardous substances EPA addressed included pulping liquors and other caustic liquids, acidic liquids, sludges and laboratory wastes.

6. In concert with EPA, the Settling Party also expended its own staff and resources toward response activities at the Site. The Settling Party issued a limited obligation note in an amount not to exceed $1,250,000 to obtain an advance on funds to pay toward these response activities. Consistent with the Settling Party’s charter, the Settling Party anticipates incurring additional debt secured by the real property that is the Site for the further removal of the former pulp mill operations and economic redevelopment of the Site.

7. In performing response action at the Site, EPA has incurred response costs at the Site.
8. EPA alleges that Settling Party is a responsible party pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is jointly and severally liable for response costs incurred or to be incurred at the Site.

9. EPA has reviewed the Financial Information submitted by Settling Party to determine whether Settling Party is financially able to pay response costs incurred and to be incurred at the Site. Based upon this Financial Information, EPA has determined that Settling Party has limited financial ability to pay for response costs incurred and to be incurred at the Site.

10. EPA and Settling Party recognize that this Settlement Agreement has been negotiated in good faith and that this Settlement Agreement is entered into without the admission or adjudication of any issue of fact or law. The actions undertaken by Settling Party in accordance with this Settlement Agreement do not constitute an admission of any liability. Settling Party does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the facts or allegations contained in this Section.

III. PARTIES BOUND

11. This Settlement Agreement shall be binding upon EPA and upon Settling Party and its successors, and assigns. Any change in ownership or corporate or other legal status of Settling Party, including but not limited to any transfer of assets or real or personal property, shall in no way alter Settling Party’s responsibilities under this Settlement Agreement. Each signatory to this Settlement Agreement certifies that he or she is authorized to enter into the terms and conditions of this Settlement Agreement and to bind legally the party represented by him or her.

IV. STATEMENT OF PURPOSE

12. By entering into this Settlement Agreement, the mutual objective of the Parties is to avoid difficult and prolonged litigation by allowing Settling Party to make a cash payment to address its alleged civil liability for the Site as provided in the Covenants by EPA in Section VIII, subject to the Reservations of Rights by EPA in Section IX.

V. DEFINITIONS

13. Unless otherwise expressly provided in this Settlement Agreement, terms used in this Settlement Agreement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or its appendices, the following definitions shall apply:


“Day” or “day” shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or federal or State holiday, the period shall run until the close of business of the next working day.
“Effective Date” shall mean the effective date of this Settlement Agreement as provided by Section XVIII.

“EPA” shall mean the U.S. Environmental Protection Agency and its successor departments, agencies, or instrumentalities.

“EPA Hazardous Substance Superfund” shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

“Financial Information” shall mean the spreadsheet that Settling Party provided to EPA on October 23, 2014 (“MUNIPAY Detail 2014-10-22,” which summarizes assets and liabilities for input into EPA’s MUNIPay financial model), and the audited financial statements that Settling Party provided to EPA on March 9, 2015 (“Basic Financial Statements and Supplementary Information, Years Ended 2014 and 2013”).

“Interest” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year. Rates are available online at http://www.epa.gov/ocfopage/finstatement/supercupfund/int_rate.htm.

“Net Proceeds” shall mean proceeds that the Settling Party receives in consideration of any sale of all or a portion of the real property that is the Site, after deduction for payment of all encumbrances and costs incurred in the sale, including but not limited to commissions, appraisal fees, escrow fees, title insurance and recordation and document fees.

“Paragraph” shall mean a portion of this Settlement Agreement identified by an Arabic numeral or a lower case letter.

“Parties” shall mean EPA and Settling Party.

“Property” shall mean the real property that is the Site, which has been owned by Settling Party since August 13, 2013.

“RCRA” shall mean the Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992 (also known as the Resource Conservation and Recovery Act).

“Section” shall mean a portion of this Settlement Agreement identified by a Roman numeral.

“Settlement Agreement” shall mean this Settlement Agreement and any attached appendices. In the event of conflict between this Settlement Agreement and any appendix, the Settlement Agreement shall control.

“Settling Party” shall mean Humboldt Bay Harbor, Recreation and Conservation District.
“Site” shall mean the Samoa Pulp Mill Removal Site, at 1 TCF Drive in Samoa, Humboldt County, California. The Site encompasses approximately 70 acres on the shoreline of Humboldt Bay.

“Samoa Pulp Mill Special Account” shall mean the special account, within the EPA Hazardous Substance Superfund, established for the Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3).

“State” shall mean the State of California.

“United States” shall mean the United States of America and each department, agency, and instrumentality of the United States, including EPA.

VI. PAYMENT OF RESPONSE COSTS

14. On October 22, 2014, the Settling Party provided to EPA Financial Information to analyze Settling Party’s ability to reimburse EPA’s response costs according to EPA’s financial model, “MUNIPay.” Based on the information Settling Party provided, EPA’s analysis concluded that Settling Party’s ability to reimburse EPA’s response costs is based on the value of salvage material at the Site and the value of the Property that comprises the Site. To establish the maximum value of response costs that may be paid from these sources, EPA will send Settling Party an invoice that includes an itemized cost summary (SCORPIOS Report).

15. Payment of Response Costs. The Parties anticipate that the Settling Party will obtain funds to reimburse all or a portion of EPA’s response costs from the salvage of fixtures and improvements at the Site, particularly the Kraft mill boiler, or from the potential sale of the Property. Settling Party shall, annually from the date of this Settlement Agreement, provide notice as provided in Section XIV (Notices and Submissions) to EPA of the status of salvage activity at the Site. If Settling Party has funds available to reimburse EPA for the full amount of any invoice received pursuant to Paragraph 14, Settlement Party shall, following the instructions stated in Paragraph 16, make the payment within ninety (90) days of receipt of the invoice. If EPA invoices Settling Party pursuant to Paragraph 14 and Settling Party has not yet obtained sufficient funds from salvage actions, sale of the Property or otherwise to reimburse EPA’s response costs invoice in full, within ninety (90) days of receipt of the invoice Settling Party shall provide notice advising EPA of that fact in the manner for notice stated in Paragraphs 18 and 44. In such event, the date that payment is due shall be thirty (30) days after Settling Party receives Net Proceeds from any salvage of fixtures or improvements at the Property or Net Proceeds from sale of the Property, subject to the first application, up to $1,250,000, of such funds toward the limited obligation noted referenced in Paragraph 6. Settling Party shall make periodic payments based on the value of Net Proceeds from ongoing salvage operations if respective salvage operations are not sufficient to pay the full EPA invoice, but Settling Party may aggregate payments from Net Proceeds from respective salvage operations that occur within any twelve (12) month period. Nothing in this Agreement shall be construed to require the Settling Party to sell any real property within the Site. The obligation to reimburse the EPA from the Net Proceeds of a sale of any real property within the Site shall not apply to the Property for any sale that occurs at least seven (7) years after the date of this Agreement. Nothing in this Settlement Agreement shall be construed to preclude the Settling Party, in its sole discretion, from reimbursing EPA from any sources of funding not specified in this Paragraph.
16. Settling Party’s payment(s) shall be made to EPA by Fedwire Electronic Funds Transfer (EFT) to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read “D 68010727 Environmental Protection Agency”

The payment shall reference Site/Spill ID Number A949 and the EPA docket number for this action.

17. Deposit of Payment. The total amount of any payment to be paid pursuant to Paragraph 15 (Payment of Response Costs) shall be deposited by EPA in the Samoa Pulp Mill Special Account to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

18. Notice of Payment. At the time of any payment, Settling Party shall also send notice that such payment has been made: (a) to EPA in accordance with Section XIV (Notices and Submissions); and (b) to the EPA Cincinnati Finance Center (CFC) by email or by regular mail at:

EPA CFC by email: cinwd_acctsreceivable@epa.gov

EPA CFC by regular mail:  
EPA Cincinnati Finance Center  
26 W. Martin Luther King Drive  
Cincinnati, Ohio 45268

Such notice shall reference the Site/Spill ID Number A949 and EPA docket number for this action.

VII. FAILURE TO COMPLY WITH SETTLEMENT AGREEMENT

19. Interest on Payments. If Settling Party fails to make any payment required by Paragraph 15 (Payment of Response Costs) by the required due date, Interest shall accrue on the unpaid balance from the Effective Date through the date of payment.

20. Stipulated Penalty.

a. If any amounts due to EPA under Paragraph 15 (Payment of Response Costs) are not paid by the required date, Settling Party shall be in violation of this Settlement Agreement and shall pay to EPA, as a stipulated penalty, in addition to the Interest required by Paragraph 19 (Interest on Payments), $500 per violation per day that such payment is late.
b. All penalties accruing under this Section shall be due and payable to EPA within 30 days after Settling Party’s receipt from EPA of a demand for payment of the penalties. Settling Party shall make all payments required by this Section to EPA by Fedwire EFT to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read “D 68010727 Environmental Protection Agency”

and shall reference stipulated penalties, Site/Spill ID Number A949, and the EPA docket number for this action.

c. At the time of each payment, Settling Party shall send notice that payment has been made as provided in Paragraph 18 (Notice of Payment).

d. Penalties shall accrue as provided in this Paragraph regardless of whether EPA has notified Settling Party of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after payment is due and shall continue to accrue through the date of payment. Nothing in this Settlement Agreement shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

21. In addition to the Interest and Stipulated Penalty payments required by this Section and any other remedies or sanctions available to the United States by virtue of Settling Party’s failure to comply with the requirements of this Settlement Agreement, if Settling Party fails or refuses to comply with any term or condition of this Settlement Agreement, it shall be subject to enforcement action pursuant to Section 122(h)(3) of CERCLA, 42 U.S.C. § 9622(h)(3). If the United States brings an action to enforce this Settlement Agreement, Settling Party shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

22. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Settlement Agreement. Settling Party’s payment of stipulated penalties shall not excuse Settling Party from payment as required by Section VI (Payment of Response Costs) or from performance of any other requirements of this Settlement Agreement.

VIII. COVENANTS BY EPA

23. Except as specifically provided in Section IX (Reservations of Rights by EPA), EPA covenants not to sue or to take administrative action against Settling Party pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), with regard to the Site. With regard to present and future liability, these covenants shall take effect upon the Effective Date. These covenants are conditioned upon the satisfactory performance by Settling Party of its obligations under this Settlement Agreement, including but not limited to, payment of all
amounts due under Section VI (Payment of Response Costs) and any Interest or stipulated penalties due thereon under Section VII (Failure to Comply with Settlement Agreement). These covenants are also conditioned upon the veracity and completeness of the Financial Information provided to EPA by Settling Party and the financial, insurance, and indemnity certification made by Settling Party in Paragraph 43. These covenants extend only to Settling Party and do not extend to any other person.

IX. RESERVATIONS OF RIGHTS BY EPA

24. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Settling Party with respect to all matters not expressly included within Paragraph 23 (Covenants by EPA). Notwithstanding any other provision of this Settlement Agreement, EPA reserves all rights against Settling Party with respect to:

a. liability for failure of Settling Party to meet a requirement of this Settlement Agreement;

b. criminal liability;

c. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

d. liability, based on the ownership or operation of the Site by Settling Party when such ownership or operation commences after signature of this Settlement Agreement by Settling Party;

e. liability based on Settling Party’s transportation, treatment, storage, or disposal, or arrangement for transportation, treatment, storage, or disposal of a hazardous substance or a solid waste at or in connection with the Site, after signature of this Settlement Agreement by Settling Party; and

f. liability arising from the past, present, or future disposal, release or threat of release of a hazardous substance, pollutant, or contaminant outside of the Site.

25. Notwithstanding any other provision of this Settlement Agreement, EPA reserves, and this Settlement Agreement is without prejudice to, the right to reinstitute or reopen this action, or to commence a new action seeking relief other than as provided in this Settlement Agreement, if the Financial Information provided by Settling Party, or the financial, insurance, or indemnity certification made by Settling Party in Paragraph 43, is false or, in any material respect, inaccurate.

26. Nothing in this Settlement Agreement is intended to be nor shall it be construed as a release, covenant not to sue, or compromise of any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which EPA may have against any person, firm, corporation or other entity not a signatory to this Settlement Agreement.

X. COVENANTS BY SETTLING PARTY

27. Settling Party covenants not to sue and agrees not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Site and this Settlement Agreement, including but not limited to:
a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the California Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, or at common law; or

c. any claim pursuant to Sections 107 or 113 of CERCLA, 42 U.S.C. §§ 9607 or 9613, Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), or state law, relating to the Site.

28. Except as provided in Paragraph 30 (claims against other PRPs) and Paragraph 35 (res judicata and other defenses), these covenants shall not apply in the event EPA brings a cause of action or issues an order pursuant to any of the reservations in Section IX (Reservations of Rights by EPA), other than in Paragraph 24.a (liability for failure to meet a requirement of the Settlement Agreement) or 24.b (criminal liability), but only to the extent that Settling Party’s claims arise from the same response action or response costs that EPA is seeking pursuant to the applicable reservation.

29. Nothing in this Settlement Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

30. Settling Party agrees not to assert any claims and to waive all claims or causes of action (including but not limited to claims or causes of action under Sections 107(a) or 113 of CERCLA) that it may have for response costs relating to the Site against any other person who is a potentially responsible party under CERCLA at the Site. This waiver shall not apply with respect to any defense, claim, or cause of action that Settling Party may have against any person if such person asserts a claim or cause of action relating to the Site against Settling Party.

XI. EFFECT OF SETTLEMENT/CONTRIBUTION

31. Except as provided in Paragraph 30 (claims against other PRPs), nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Settlement Agreement. Except as provided in Section X (Covenants by Settling Party), each of the Parties reserves any and all rights (including, but not limited to, under Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action that it may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Settlement Agreement diminishes the right of the United States, pursuant to Sections 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613 (f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

32. The Parties agree that this Settlement Agreement constitutes an administrative settlement pursuant to which Settling Party has, as of the Effective Date, resolved liability to the United States within the meaning of Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C.
§§ 9613(f)(2) and 9622(h)(4), and is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, or as may be otherwise provided by law, for the “matters addressed” in this Settlement Agreement. The “matters addressed” in this Settlement Agreement are all response actions taken or to be taken and all response costs incurred or to be incurred, at or in connection with the Site, by the United States or any other person, except for the State; provided, however, that if EPA exercises rights under the reservations in Section IX (Reservations of Rights by EPA), other than in Paragraphs 24.a (liability for failure to meet a requirement of the Settlement Agreement) or 24.b (criminal liability), the “matters addressed” in this Settlement Agreement will no longer include those response costs or response actions that are within the scope of the exercised reservation.

33. The Parties further agree that this Settlement Agreement constitutes an administrative settlement pursuant to which Settling Party has, as of the Effective Date, resolved liability to the United States within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

34. Settling Party shall, with respect to any suit or claim brought by it for matters related to Settlement Agreement, notify EPA in writing no later than 60 days prior to the initiation of such suit or claim. Settling Party also shall, with respect to any suit or claim brought against it for matters related to this Settlement Agreement, notify EPA in writing within 10 days after service of the complaint or claim upon Settling Party. In addition, Settling Party shall notify EPA within 10 days after service or receipt of any Motion for Summary Judgment and within 10 days after receipt of any order from a court setting a case for trial, for matters related to this Settlement Agreement.

35. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Party shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been addressed in this Settlement Agreement; provided, however, that nothing in this Paragraph affects the enforceability of the Covenants by EPA set forth in Section VIII.

36. Effective upon signature of this Settlement Agreement by Settling Party, Settling Party agrees that the time period commencing on the date of its signature and ending on the date EPA receives from Settling Party the payment(s) required by Section VI (Payment of Response Costs) and, if any, Section VII (Failure to Comply with Settlement Agreement) shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the United States related to the “matters addressed” as defined in Paragraph 30, and that, in any action brought by the United States related to the “matters addressed,” Settling Party will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If EPA gives notice to Settling Party that it will not make this Settlement Agreement effective, the statute of limitations shall begin to run again commencing 90 days after the date such notice is sent by EPA.
XII. ACCESS TO INFORMATION

37. Settling Party shall provide to EPA, upon request, copies of all records, reports, documents, and other information (including records, reports, documents and other information in electronic form) (hereinafter referred to as “Records”) within its possession or control or that of its contractors or agents relating to activities at the Site, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information regarding the Site.

38. Privileged and Protected Claims.

   a. Settling Party may assert that all or part of a Record is privileged or protected as provided under federal law, provided it complies with Paragraph 38.b, and except as provided in Paragraph 38.c.

   b. If Settling Party asserts a claim of privilege or protection, it shall provide EPA with the following information regarding such Record: its title; its date; the name, title, affiliation (e.g., company or firm), and address of the author, each addressee, and of each recipient; a description of the Record’s contents; and the privilege or protection asserted. If a claim of privilege or protection applies only to a portion of a Record, Settling Party shall provide the Record to EPA in redacted form to mask the privileged or protected portion only. Settling Party shall retain all Records that it claims to be privileged or protected until EPA has had a reasonable opportunity to dispute the privilege or protection claim and any such dispute has been resolved in Settling Party’s favor.

   c. Settling Party may make no claim of privilege or protection regarding:

   (1) any data regarding the Site, including but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, radiological, or engineering data, or the portion of any other Record that evidences conditions at or around the Site; or

   (2) the portion of any Record that Settling Party is required to create or generate pursuant to this Settlement Agreement.

39. Business Confidentiality Claims. Settling Party may assert that all or part of a Record submitted to EPA under this Section or Section XIII (Retention of Records) is business confidential to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Settling Party shall segregate and clearly identify all Records or parts thereof submitted under this Settlement Agreement for which Settling Party asserts a business confidentiality claim. Records submitted to EPA determined to be confidential by EPA will be accorded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies Records when they are submitted to EPA, or if EPA has notified Settling Party that the Records are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2 Subpart B, the public may be given access to such Records without further notice to Settling Party.

40. Notwithstanding any provision of this Settlement Agreement, EPA retains all of its information gathering and inspection authorities and rights, including enforcement actions related thereto, under CERCLA, RCRA, and any other applicable statute or regulations.
XIII. RETENTION OF RECORDS

41. Until 10 (10) years after the Effective Date, Settling Party shall preserve and retain all non-identical copies of Records now in its possession or control, or that come into its possession or control, that relate in any manner to its liability under CERCLA with respect to the Site, provided, however, that if Settling Party is potentially liable as an owner or operator of the Site, Settling Party must retain, in addition, all Records that relate to the liability of any other person under CERCLA with respect to the Site. Each of these requirements shall apply regardless of any corporate retention policy to the contrary.

42. At the conclusion of the document retention period, Settling Party shall notify EPA at least 90 days prior to the destruction of any such Records, and, upon request by EPA, and except as provided in Paragraph 42 (Privileged and Protected Claims), Settling Party shall make available any such Records to EPA.

43. Settling Party certifies that, to the best of its knowledge and belief, after thorough inquiry, it has:

a. not altered, mutilated, discarded, destroyed or otherwise disposed of any Records (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by the United States or the State and that it has fully complied with any and all EPA and State requests for information regarding the Site and Settling Party’s financial circumstances, including but not limited to insurance and indemnity information, pursuant to Sections 104(e) and 122(e)(3)(B) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e)(3)(B), Section 3007 of RCRA, 42 U.S.C. § 6927, and state law;

b. submitted to EPA financial information that fairly, accurately, and materially sets forth its financial circumstances, and that those circumstances have not materially changed between the time the financial information was submitted to EPA and the time Settling Party executes this Settlement Agreement; and

c. fully disclosed any information regarding the existence of any insurance policies or indemnity agreements that may cover claims relating to cleanup of the Site, and submitted to EPA upon request such insurance policies, indemnity agreements, and information.

XIV. NOTICES AND SUBMISSIONS

44. Whenever, under the terms of this Settlement Agreement, notice is required to be given or a document is required to be sent by one Party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Party in writing. Except as otherwise provided, notice to a Party by email (if that option is provided below) or by regular mail in accordance with this Section satisfies any notice requirement of this Settlement Agreement regarding such Party.

As to EPA:

Tana Alert
EPA, Region IX
75 Hawthorne Street
San Francisco, California 94105
As to Settling Party:

Jack Crider  
Chief Executive Officer  
Humboldt Bay Harbor, Recreation and Conservation District  
P.O. Box 1030  
601 Startare Drive  
Eureka, CA 95502-1030

XV. INTEGRATION/APPENDICES

45. This Settlement Agreement and any appendices constitute the final, complete, and exclusive agreement and understanding between the Parties with respect to the settlement embodied in this Settlement Agreement. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. Attached hereto and incorporated into this Settlement Agreement as Appendix A is the Action Memorandum for the Site, including any amendments.

XVI. PUBLIC COMMENT

46. This Settlement Agreement shall be subject to a public comment period of at least 30 days pursuant to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i). In accordance with Section 122(i)(3) of CERCLA, the United States may modify or withdraw its consent to this Settlement Agreement if comments received disclose facts or considerations that indicate that this Settlement Agreement is inappropriate, improper, or inadequate.

XVII. EFFECTIVE DATE

47. This Settlement Agreement shall be effective five (5) days after the Settlement Agreement is signed by the Assistant Director.

IT IS SO AGREED:

U.S. ENVIRONMENTAL PROTECTION AGENCY:

Dated ____________________________

Daniel A. Meer  
Assistant Director, Superfund Division  
Region IX  
U.S. Environmental Protection Agency

CERCLA R9-2015-009
Signature Page for Settlement Agreement Regarding Samoa Pulp Mill Removal Site

U.S. DEPARTMENT OF JUSTICE:

Dated

Ellen M. Mahan
Deputy Section Chief
U.S. Department of Justice
Environment and Natural Resources Division
Environmental Enforcement Section
Washington, D.C. 20044-7611

Mark Sabath
Senior Attorney
U.S. Department of Justice
Environment and Natural Resources Division
Environmental Enforcement Section
P.O. Box 7611
Washington, DC 20044-7611

HUMBOLDT BAY HARBOR, RECREATION
AND CONSERVATION DISTRICT:

Dated: ________________

By: ____________________________________________________________________

Title: ____________________________________________________________________
EMPLOYMENT AGREEMENT
With
ALAN BOBILLOT

THIS AGREEMENT, made this 1st day of July, 2015 between the
HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT,
a public entity, located in Humboldt County, California, herein referred to as
"District", and Alan Bobillot, herein referred to as "Employee".

The parties recite that:

A. District is a public entity with legal duties, powers and obligations set
forth in Sections 1 through 83 of Appendix 2 of the Harbors and

B. Employee is willing to be employed by District, and District is willing to
employ Employee in the unclassified, at-will position of Director of
Facility Maintenance on the terms and conditions hereinafter set forth.

C. The position of Director of Facility Maintenance is an unclassified
service employee as defined in Section 73 of Appendix 2 of the
Harbors and Navigation Code. Said position is an "At Will" position
terminable at the will of either the employer or the employee.

FOR THE REASONS SET FORTH ABOVE, AND IN CONSIDERATION
OF THE MUTUAL COVENANTS AND PROMISES OF THE PARTIES
HERETO, DISTRICT AND EMPLOYEE COVENANT AND AGREE AS
FOLLOWS:

1. Pursuant to this Agreement, Employee is employed as Director of
Facility Maintenance for the Humboldt Bay Harbor, Recreation and
Conservation District effective July 1, 2015, and Employee hereby
accepts and agrees to such employment.

2. Employee shall perform and complete the services and tasks set forth
in and according to the time frame set forth in Exhibit "A", attached
hereto and incorporated by reference, entitled "Scope of Work".

3. Employee shall at all times faithfully, industriously, and to the best of
his ability, experience, and talent perform all duties that may be
required pursuant to the expressed and implicit terms as set forth by
the Executive Director of the District. Such duties shall be rendered in
Humboldt County, California and at such other place or places as
District shall in good faith require or the interest, and needs or requests
of District shall require or make advisable.

4. Employee shall serve in the position of Director of Facility Maintenance
at the will and pleasure of the Executive Director of District. The
Executive Director of the District or Employee may terminate this
Agreement and terminate Employee's employment with or without
cause at any time. In the event Employee desires to terminate employment with the District as Director of Facility Maintenance, it is expected that Employee shall give to District a minimum of thirty (30) days written notice of said intention to terminate. Employee shall be compensated for accrued benefits to the date of termination in accordance with the provisions of the Personnel Policy.

5. District shall pay Employee and Employee agrees to accept from District, in full payment of Employee’s services for his position as Director of Facility Maintenance hereunder, compensation to be set by the Board of Commissioners and as adjusted from time to time.

In addition to the foregoing, Employee shall receive the employee benefits for full time employees as now established by the District’s personnel policy, or different employee benefits as may be modified or established by the District in the future. However, nothing in this section or any other part of this Agreement shall be interpreted as preventing or precluding the District from rescinding, amending or otherwise modifying the existing Personnel Policy or from adopting additional personnel policies or procedures concerning the employment, including but not limited to modifications of the benefits of employment.

6. Employee’s salary, job duties and performance shall be reviewed in May of each year by the Executive Director of the District. The annual performance review may be used to adjust Employee’s salary based upon performance and/or cost of living, as negotiated and recommended by the Executive Director and approved by the Board of Commissioners. However, nothing in this section shall be construed as a promise or commitment by the District to increase compensation, or concerning the amount of any such increase.

7. The effective date of appointment of Employee as Director of Facility Maintenance shall be July 1, 2015 and unless renewed, will terminate on June 30, 2016. In the event the Employee is terminated without cause or the Employee’s contract is not renewed, Employee will be given the opportunity to retire.

8. Employee shall devote his full time, attention, knowledge and skill solely and exclusively as Director of Facility Maintenance, solely and exclusively to the business and interest of the District. The position is considered to be an exempt position within the meaning of the California Labor Code for the purposes of wage and hour provisions. Employee’s workweek is not necessarily limited to 40 hours per week. Employee may be expected to work in excess of 40 hours per week if required to perform his duties as Director of Facility Maintenance at the regular monthly salary with no provision for overtime pay.

9. Employee is an unclassified employee as Director of Facility Maintenance. The position of Director of Facility Maintenance is not
entitled to participate as a member of the International Longshoremen's and Warehousemen's Union AFL/CIO Local 14, Unit A, pursuant to the Union Contract with District and Director of Facility Maintenance is not included as a member of the bargaining unit represented by the Union.

10. Employee shall abide by all applicable provisions of District's Personnel Policy as amended and with all other District policies and procedures currently in force or as may be implemented during the term of employment.

11. This written Agreement contains the sole and entire agreement between the parties. It supersedes any and all other agreements between the parties. The parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of this Agreement or any representations including the execution and delivery hereof except such representations as are specifically set forth herein, and each party acknowledges that he/she or it has relied on his/her or its own judgment in entering into this Agreement. The parties further acknowledge that any statements or representations that may have heretofore been made by either of them to the other are void and of no effect and that neither of them has relied thereon in connection with his or its dealings with the other.

12. No waiver of modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith.

13. This Agreement and performance hereunder and all suits and special proceedings hereunder shall be construed in accordance with the laws of the State of California. In any action, special proceeding, or other proceedings that may be brought arising out of, in connection with, or by reason of this Agreement, the laws of the State of California shall be applicable and shall govern to the exclusion of the law of any other form. Any legal proceedings or actions arising out of this agreement shall be venued in Humboldt County, California.

Executed at Humboldt County, California, on the date first above written.

HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT

By ________________________

Alan Bobillo- Employee
EMPLOYMENT AGREEMENT
With
PATRICIA TYSON

THIS AGREEMENT, made this 1st day of July, 2015 between the HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, a public entity, located in Humboldt County, California, herein referred to as "District", and Patricia Tyson, herein referred to as "Employee".

The parties recite that:

A. District is a public entity with legal duties, powers and obligations set forth in Sections 1 through 83 of Appendix 2 of the Harbors and Navigation Code of the State of California.

B. Employee is willing to be employed by District, and District is willing to employ Employee in the unclassified, at-will position of Director of Administrative Services on the terms and conditions hereinafter set forth.

C. The position of Director of Administrative Services is an unclassified service employee as defined in Section 73 of Appendix 2 of the Harbors and Navigation Code. Said position is an "At Will" position terminable at the will of either the employer or the employee.

FOR THE REASONS SET FORTH ABOVE, AND IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES OF THE PARTIES HERETO, DISTRICT AND EMPLOYEE COVENANT AND AGREE AS FOLLOWS:

1. Pursuant to this Agreement, Employee is employed as Director of Administrative Services for the Humboldt Bay Harbor, Recreation and Conservation District effective July 1, 2015, and Employee hereby accepts and agrees to such employment.

2. Employee shall perform and complete the services and tasks set forth in and according to the time frame set forth in Exhibit "A", attached hereto and incorporated by reference, entitled "Scope of Work".

3. Employee shall at all times faithfully, industriously, and to the best of his ability, experience, and talent perform all duties that may be required pursuant to the expressed and implicit terms as set forth by the Executive Director of the District. Such duties shall be rendered in Humboldt County, California and at such other place or places as District shall in good faith require or the interest, and needs or requests of District shall require or make advisable.

4. Employee shall serve in the position of Director of Administrative Services at the will and pleasure of the Executive Director of District. The Executive Director of the District or Employee may terminate this Agreement and terminate Employee's employment with or without cause at any time. In the event Employee desires to terminate employment with the District as Director of Administrative Services, it is expected that Employee shall give to District a minimum of thirty (30) days written notice of said intention to terminate. Employee shall be compensated for accrued benefits to the date of termination in accordance with the provisions of the Personnel Policy.
5. District shall pay Employee and Employee agrees to accept from District, in full payment of Employee's services for her position as Director of Administrative Services hereunder, compensation to be set by the Board of Commissioners and as adjusted from time to time.

In addition to the foregoing, Employee shall receive the employee benefits for full time employees as now established by the District's personnel policy, or different employee benefits as may be modified or established by the District in the future. However, nothing in this section or any other part of this Agreement shall be interpreted as preventing or precluding the District from rescinding, amending or otherwise modifying the existing Personnel Policy or from adopting additional personnel policies or procedures concerning the employment, including but not limited to modifications of the benefits of employment.

6. Employee’s salary, job duties and performance shall be reviewed in May of each year by the Executive Director of the District. The annual performance review may be used to adjust Employee’s salary based upon performance and/or cost of living, as negotiated and recommended by the Executive Director and approved by the Board of Commissioners. However, nothing in this section shall be construed as a promise or commitment by the District to increase compensation, or concerning the amount of any such increase.

7. The effective date of appointment of Employee as Director of Administrative Services shall be July 1, 2015 and unless renewed, will terminate on June 30, 2016. In the event the Employee is terminated without cause or the Employee’s contract is not renewed, Employee will be given the opportunity to retire.

8. Employee shall devote her full time, attention, knowledge and skill solely and exclusively as Director of Administrative Services, solely and exclusively to the business and interest of the District. The position is considered to by an exempt position within the meaning of the California Labor Code for the purposes of wage and hour provisions. Employee’s workweek is not necessarily limited to 40 hours per week. Employee may be expected to work in excess of 40 hours per week if required to perform his duties as Director of Administrative Services at the regular monthly salary with no provision for overtime pay.

9. Employee is an unclassified employee as Director of Administrative Services. The position of Director of Administrative Services is not entitled to participate as a member of the International Longshoremen's and Warehousemen's Union AFL/CIO Local 14, Unit A, pursuant to the Union Contract with District and Director of Administrative Services is not included as a member of the bargaining unit represented by the Union.

10. Employee shall abide by all applicable provisions of District’s Personnel Policy as amended and with all other District policies and procedures currently in force or as may be implemented during the term of employment.

11. This written Agreement contains the sole and entire agreement between the parties. It supersedes any and all other agreements between the parties. The parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of this Agreement or any representations including the execution and delivery hereof except such
representations as are specifically set forth herein, and each party acknowledges that he/she or it has relied on his/her or its own judgment in entering into this Agreement. The parties further acknowledge that any statements or representations that may have heretofore been made by either of them to the other are void and of no effect and that neither of them has relied thereon in connection with his or its dealings with the other.

12. No waiver of modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith.

13. This Agreement and performance hereunder and all suits and special proceedings hereunder shall be construed in accordance with the laws of the State of California. In any action, special proceeding, or other proceedings that may be brought arising out of, in connection with, or by reason of this Agreement, the laws of the State of California shall be applicable and shall govern to the exclusion of the law of any other form. Any legal proceedings or actions arising out of this agreement shall be venued in Humboldt County, California.

Executed at Humboldt County, California, on the date first above written.

HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT

By __________________________

PATRICIA TYSON- Employee
EXHIBIT A

DIRECTOR OF ADMINISTRATIVE SERVICES

Scope of Work

Definition of Duties:

Under the direction of Executive Director, Director of Administrative Services shall supervise the administrative details of the Harbor District office and its staff, shall perform accounting and keeping of financial and statistical records, maintain lease and permit records, review agreements for compliance, perform clerical and stenographic work and preparation of and maintenance of records and minutes of Board Meetings, act as Clerk of the Board and other related work as required.

Examples of Duties:

- Supervise the receiving of monies from the public and issuance of receipts
- Prepare payrolls and related records and reports
- Perform accounting, bookkeeping, billing and collection duties
- Prepare monthly financial reports
- Work closely with annual auditor and ensure District financial records are ready for audit
- Coordinate in preparing the budget
- Maintain financial and administrative records
- Supervise office personnel
- Maintain personnel files, including legal documents and confidential personnel information
- Maintain Permit records and timelines
- Assure compliance with applicable state and federal personnel laws
- Maintain proper insurance coverage for District property, liability, Workers Compensation and Marina Operations
- Assist Executive Director with administrative details
- Plan and direct the work involved in maintaining Official District documents and records, including the Seal of the District
- Prepare Board agendas, attends Board meetings, prepares Board minutes and supervises the keeping of a journal of Board proceedings and of ordinances, resolutions and other official documents
- Set up meetings as requested by the Board of Commissioners
- Answer questions from the public and officials regarding District organization and practice, ordinances and the status of communications, resolutions and actions of the Board
- Prepare Bid documents for distribution
- Prepare required legal notices for publication
- Update website with Board agendas, minutes, legal notices, other miscellaneous information
- Maintain current Notary Public commission
EMPLOYMENT AGREEMENT
With
TIM PETRUSHKA

THIS AGREEMENT, made this 1st day of July, 2015 between the
HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT,
a public entity, located in Humboldt County, California, herein referred to as
"District", and Tim Petrusha, herein referred to as "Employee".

The parties recite that:

A. District is a public entity with legal duties, powers and obligations set
forth in Sections 1 through 83 of Appendix 2 of the Harbors and

B. Employee is willing to be employed by District, and District is willing to
employ Employee in the unclassified, at-will position of Director of
Harbor Operations and Bar Pilot on the terms and conditions
hereinafter set forth.

C. The position of Director of Harbor Operations and Bar Pilot is an
unclassified service employee as defined in Section 73 of Appendix 2
of the Harbors and Navigation Code. Said position is an "At Will"
position terminable at the will of either the employer or the employee.

FOR THE REASONS SET FORTH ABOVE, AND IN CONSIDERATION
OF THE MUTUAL COVENANTS AND PROMISES OF THE PARTIES
HERETO, DISTRICT AND EMPLOYEE COVENANT AND AGREE AS
FOLLOWS:

1. Pursuant to this Agreement, Employee is employed as Director of
Harbor Operations and Bar Pilot for the Humboldt Bay Harbor,
Recreation and Conservation District effective July 1, 2015, and
Employee hereby accepts and agrees to such employment.

2. Employee shall perform and complete the services and tasks set forth
in and according to the time frame set forth in Exhibit "A", attached
hereto and incorporated by reference, entitled "Scope of Work".

3. Employee shall at all times faithfully, industriously, and to the best of
his ability, experience, and talent perform all duties that may be
required pursuant to the expressed and implicit terms as set forth by
the Executive Director of the District. Such duties shall be rendered in
Humboldt County, California and at such other place or places as
District shall in good faith require or the interest, and needs or requests
of District shall require or make advisable.

4. Employee shall serve in the position of Director of Harbor Operations
and Bar Pilot at the will and pleasure of the Executive Director of
District. The Executive Director of the District or Employee may
terminate this Agreement and terminate Employee’s employment with or without cause at any time. In the event Employee desires to terminate employment with the District as Director of Harbor Operations and Bar Pilot, it is expected that Employee shall give to District a minimum of thirty (30) days written notice of said intention to terminate. Employee shall be compensated for accrued benefits to the date of termination in accordance with the provisions of the Personnel Policy.

5. District shall pay Employee and Employee agrees to accept from District, in full payment of Employee’s services for his position as Director of Harbor Operations and Bar Pilot hereunder, compensation to be set by the Board of Commissioners and as adjusted from time to time.

In addition to the foregoing, Employee shall receive the employee benefits for full time employees as now established by the District’s personnel policy, or different employee benefits as may be modified or established by the District in the future. However, nothing in this section or any other part of this Agreement shall be interpreted as preventing or precluding the District from rescinding, amending or otherwise modifying the existing Personnel Policy or from adopting additional personnel policies or procedures concerning the employment, including but not limited to modifications of the benefits of employment.

6. Employee’s salary, job duties and performance shall be reviewed in May of each year by the Executive Director of the District. The annual performance review may be used to adjust Employee’s salary based upon performance and/or cost of living, as negotiated and recommended by the Executive Director and approved by the Board of Commissioners. However, nothing in this section shall be construed as a promise or commitment by the District to increase compensation, or concerning the amount of any such increase.

7. The effective date of appointment of Employee as Director of Harbor Operations and Bar Pilot shall be July 1, 2015 and unless renewed, will terminate on June 30, 2016. In the event the Employee is terminated without cause or the Employee’s contract is not renewed, Employee will be given the opportunity to retire.

8. Employee shall devote his full time, attention, knowledge and skill solely and exclusively as Director of Harbor Operations and Bar Pilot, solely and exclusively to the business and interest of the District. The position is considered to be an exempt position within the meaning of the California Labor Code for the purposes of wage and hour provisions. Employee’s workweek is not necessarily limited to 40 hours per week. Employee may be expected to work in excess of 40 hours per week if required to perform his duties as Director of Harbor
Operations and Bar Pilot at the regular monthly salary with no provision for overtime pay.

9. Employee is an unclassified employee as Director of Harbor Operations and Bar Pilot. The position of Director of Harbor Operations and Bar Pilot is not entitled to participate as a member of the International Longshoremen’s and Warehousemen’s Union AFL/CIO Local 14, Unit A, pursuant to the Union Contract with District and Director of Harbor Operations and Bar Pilot is not included as a member of the bargaining unit represented by the Union.

10. Employee shall abide by all applicable provisions of District’s Personnel Policy as amended and with all other District policies and procedures currently in force or as may be implemented during the term of employment.

11. This written Agreement contains the sole and entire agreement between the parties. It supersedes any and all other agreements between the parties. The parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of this Agreement or any representations including the execution and delivery hereof except such representations as are specifically set forth herein, and each party acknowledges that he/she or it has relied on his/her or its own judgment in entering into this Agreement. The parties further acknowledge that any statements or representations that may have heretofore been made by either of them to the other are void and of no effect and that neither of them has relied thereon in connection with his or its dealings with the other.

12. No waiver of modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith.

13. This Agreement and performance hereunder and all suits and special proceedings hereunder shall be construed in accordance with the laws of the State of California. In any action, special proceeding, or other proceedings that may be brought arising out of, in connection with, or by reason of this Agreement, the laws of the State of California shall be applicable and shall govern to the exclusion of the law of any other form. Any legal proceedings or actions arising out of this agreement shall be venued in Humboldt County, California.

Executed at Humboldt County, California, on the date first above written.

HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT

By ________________________________
Tim Petrusha- Employee