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

DATE: February 29, 2016
TIME: Regular Session – 10:00 AM
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 Regular Session at 10:00 AM and Roll Call
2. Pledge of Allegiance
3. 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 Presiding Member of the Board of Commissioners at the regular meeting of the District. The three (3) minute time limit for each speaker may be enforced by the President of the Board of Commissioners or the Presiding Member of the Board of Commissioners at the regular meeting of the District.
4. Consent Calendar
   a. Consideration of approval of minutes from the Special Board Meeting of December 11, 2015.
   b. Consideration of approval of minutes from the Board Meeting of February 11, 2016
5. New Business
   a. Consideration of Resolution 2016-06, A Resolution Declaring Various Items As Surplus Property And For The Disposal Of Surplus Personal Property Belonging To the Humboldt Bay Harbor, Recreation and Conservation District.
   b. Consideration of Authorizing President of the Board of Commissioners of the Humboldt Bay Harbor, Recreation and Conservation District to sign all New Market Tax Credit Documents.
   c. Consideration of Reliance Letter Option from LACO Associates.
6. Adjournment
PRESENT:
Commissioner Doss
Commissioner Dale
Commissioner Marks
Commissioner Higgins

ABSENT:
Commissioner Wilson

President Marks called the Special Meeting to order at 5:10 p.m. The meeting was held in the Shelter Cove Resort Improvement District Conference Room.

President Marks led those present in the Pledge of Allegiance

PUBLIC COMMENT: None

NEW BUSINESS

A. DISCUSSION OF THE HARBOR DISTRICT’S FUTURE INVOLVEMENT AND INVESTMENT IN SHELTER COVE.

Executive Director reported the Harbor District’s initial involvement in Shelter Cove was to try to solve the problem of fish waste on the beach. This grew into the improvement of the beach access road and boat launch and then into the rebuilding of the breakwater. The Harbor District, with help from CA Dept. of Boating and Waterways, has invested millions of dollars into Shelter Cove.

The District’s only agreement is with State Lands, the beach and cove lease through May 31, 2034. The District’s only easement is for the beach access road for recreational purposes only. There have been “bittersweet” partnerships, resulting in lawsuits, regulatory requirements and property owner changes. Approximately $35,000 per year is spent on the cleaning station, maintenance and ASBS (Area of Special Biological Significance)/stormwater requirements. For years, the Harbor District has tried to transfer these responsibilities to the Resort Improvement District (RID), with no luck.

In 2013 there was the pelican issue; a roof net was installed as a temporary solution, but the discharge was still illegal into the ASBS.

In the last three years, the pelican problem at the cleaning station highlighted the discharge pipe: Waste discharge reduction by processing fish carcasses & table waste; Fish buyer Patrick O’Shea leased the marina area including station; O’Shea’s lease included improvements to process fish carcasses; O’Shea’s challenges: Past tenant lawsuit, cultural dig & local politics; O’Shea’s lease terminated for non-performance on November 4, 2015. The Harbor District has had recent meetings: 3 with David Smollett, RID and 2 with Patrick O’Shea. Findings: RID will clean the fish cleaning station for $25K/yr. with no other involvement. David Smollett will lease to the Harbor District the marina area w/ all commercial activities.

Why would the Harbor District lease the marina? Tourism and Fishing are the largest industries at the Cove; the Harbor District’s legislative authority allows for marina development; the Harbor District has successful operations & capital improvements at the Cove; the fish cleaning station ocean discharge needs to be solved; the Harbor District is the only jurisdiction with legal authority on the beach/cove; the Marina Lease gives the Harbor District site control and revenue opportunities; the Harbor District has experience managing marina operations & boat launching and the Harbor District has access to grant funds for capital improvements.

Executive Director spoke about site control and lease terms. Terms - 5 years with (3) 5 year extensions to match the State Lands Lease; Area - 5.37 acres, includes: marina, cleaning station and storage; Includes all commercial rights: boat storage, fees & tractor launch; first right or refusal to lease all operations; Hotel, Restaurant, rentals, right to sublease all or part of the leased area and operations; intent is to sublease to
private operator under District’s control; at termination landlord retains all fixed assets or District has option to purchase property.

The Harbor District’s potential investment and risk is as follows:

- Year 1 Operations 1) Contract with current Tractor operator for 8% fee
  2) Fence and control boat storage area. -$ 5,000
  3) Demo and remove Marina building. -$10,000
  4) Cultural Investigation entire property -$10,000
  5) Hire Local seasonal employee -$25,000
- Revenues to cover new operations: Tractor Launch +$ 5,000
  Boat Storage +$15,000
  Charter Boat +$15,000
  Misc. fees +$ 5,000
  Fish Cleaning Station Savings +$10,000

Future investment and risk are as follows:

- Operations and Investment year 2-5 and beyond.
  - Marina Building- Phase 1- (1,500 sqft.) $150,000
  - Phase 1- Freezer, seafood processing and sales
    - Ice machine, charter and launch office. $50,000
  - Phase 2- Expand Marina Building+ 1,500 sqft.
    - Retail space, Kayak rentals, security. $150,000
  - Tractor Launch Operations- Equipment purchase. $100,000
  - Cove Anchorage cleanup and improvements. $10,000

Total Investment risk $410,000+ @ 20 years- $36,000/year

Executive Director then asked “What does the community want?”

Commissioner Dale said the Harbor District is here to help, to do the right thing; but you cannot make everyone happy. He asked everyone to believe this until proven differently. It is frustrating that the discharge pipe is a point source discharge into the ASBS and the pipe was there first. But the ASBS is there forever now and a point source discharge is against the law. The Harbor District could be forced to remove the pipe or face large fines, but the State Water Quality Control Board is giving the Harbor District some leeway while a solution is found. It is the Harbor District’s responsibility to find a solution.

Commissioner Higgins asked how the Harbor District can allow the community to reach its potential and eliminate the blighted areas. He asked the participants to help the Harbor District improve Shelter Cove’s assets by giving thoughts and solutions.

The Board heard comments from the public, mostly favorable on the Harbor District’s involvement in Shelter Cove.

Rex Olander said he did not agree with the Harbor District having a presence in Shelter Cove since the District does not have money and they cannot even operate their marina efficiently.

President Marks said he disagreed. At one point several years ago, the Harbor District was on a path to insolvency, but has turned its financial situation around and continues to thrive.

Commissioner Higgins said if the residents do not want the Harbor District there, who would they want?

Commissioner Dale said he understands frustration with change and change is expensive. The Board is not talking about spending a lot of money.

President Marks said the Board will continue to have meetings in Shelter Cove as more information comes available.
The Special Meeting of the Board of Commissioners adjourned at 6:40 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 11, 2016

PRESENT:
Commissioner Doss
Commissioner Marks
Commissioner Wilson
Commissioner Higgins

ABSENT:
Commissioner Dale

President Higgins called the Executive Closed Session to order at 6:04 p.m.

Aaron Newman spoke to the Board about disaster relief being offered to the crab fishermen at other ports since the crab season is not likely to open this year. Ports are offering free moorage or storage for a couple of months, no late fees or interest, etc. Mr. Newman asked the Board of Commissioners to find a way to assist the local crab fishermen.

The Board of Commissioners then adjourned to Executive Closed Session at 6:07 p.m. District Counsel attend by phone.

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

President Higgins called the regular meeting of the Board of Commissioners to order at 7:07 p.m. District Counsel attended by phone.

Commissioner Doss led those present in the Pledge of Allegiance.

President Higgins reported on the Executive Closed Session as follows: Conference with Real Property Negotiators regarding the Lease with Mario’s Marina at Shelter Cove – no action taken; Conference with Real Property Negotiators regarding the New Market Tax Credits – Lease of Redwood Terminal 2 – no action taken and will be discussed during the regular meeting.

PUBLIC COMMENT

Susan Penn said she would like to talk about the gangway gates and security. The Board is tasked with managing a public marina owned by the taxpayers. She said she is concerned with the appearance of secrecy and decisions made without the input of those being impacted. Some tenants want the gates, some do not. Some tenants want full-time security. She urged the Board to give the tenants the info, including financial, to help make the decisions. She said the tenants are being told there is crime, but no one can say what kind of crime there is; nobody is saying what or why. She said she has been told the information is not available. This is not a secret society; it is a public entity. Ms. Penn said a tenant committee had been previously suggested and she said she would like to see this happen.

Jim Roberts, a resident of King Salmon, said the Harbor District received $2 million from PG&E to dredge the King Salmon canal, but now it looks as though a couple of shovels full will be removed and the project is done. The residents want the fingers permitted and some are even willing to pay for it. He said the District stole the money from the residents of King Salmon. The Board spent the money on something else and then had to borrow money from Coast Seafoods. The letter that was sent out regarding the dredging was misleading. The fingers are not being permitted. The Board has been lying to him for years. Where did the money go?

Julie Owens, resident of King Salmon since 1985, said they moved to King Salmon because of the quality of life and they have sail and power boats. She did not receive the letter Mr. Roberts referred to. Ms. Owens feels mislead by PG&E in that they were going to get the permits to dredge the fingers. Homeowners should be more informed. They could have obtained their own permits and dredged at the same time. The maps show only the high spots will be dredged, the fingers at the channel are getting high spots too. The King Salmon residents want to maintain the canals.
Jim Roberts Sr. said he was disappointed in the letter. He obtained several landowners' signatures of those wanting the dredging. He looked up eelgrass on the Web and it is very prolific; it should not be an issue – you could not kill it if you tried. Many King Salmon residents did not receive the letter. Landowners want to know the cost of dredging. A 30-day public comment period is unfair.

Sharon Fracker also said the letter was not clear. She also wanted to know who takes care of the King Salmon beach. There is an area between low tide and high tide where there used to be a beach.

Clyde Berghogen said he did not get the letter. He was at the meeting where PG&E gave the Harbor District the $2 million check. Buying the dredge made sense. Eel grass needs to be mitigated; should have been done all along. The transparency “sucks”. At the meeting when asked if the side canals could be dredged, one of the Commissioners said something could be worked out. This sounds like a verbal contract; we might have to get a lawyer.

CONSENT CALENDAR: None

COMMUNICATIONS AND REPORTS

EXECUTIVE DIRECTOR REPORT: None

STAFF REPORTS

Deputy Director

- King Salmon dredging: the letter that was sent out is a form letter and is required when a permit is applied for from the Harbor District; it goes to adjacent landowners; therefore not everyone in King Salmon would receive the letter. The letter is specifically related to the Harbor District's permit application to itself. A workshop is planned for March 3 at 6 p.m. in the Woodley Island Conference Room. PG&E will attend.

- Spoke about the area to be dredged. The project is in four parts:
  - Dredging of the channel
  - Movement of sediment to the White Slough Restoration Project
  - White Slough Restoration Project – sediment reused to build up habitat
  - Necessary mitigation habitat restoration project at Fields Landing for the White Slough Restoration Project.

DISTRICT PLANNER REPORT:

- Working with the County on Redwood Terminal 2 permitting issues and working on interim use order.

COMMISSIONER AND COMMITTEE REPORTS:

Commissioner Doss:

- Has had many conversations with King Salmon residents. Was unaware of the letter that was sent. Agrees that dredging the fingers has many values, including improvements to real estate.
- Unaware of beach erosion issues and will take a trip to research.
- Toured Harbor District facilities with Executive Director. Saw the repairs to the sea wall at King Salmon.
- Concerned with future floodgate repair and mitigation grounds in Fields Landing.

Commissioner Higgins:

- HSU students visited the Woodley Island Wildlife Area and will be back in May to give their report on ideas for habitat restoration.
- Shared Eel River pictures, including the Round Valley Tribe.

Commissioner Wilson:

- Met with HSU students regarding their Capstone projects. Project ideas included habitat restoration in the Woodley Island Wildlife Area and design and devise guidelines for living shore lines.
- Toured Redwood Terminal 2 with members of the Prosperity Center.
- Would like amendments to Local Coastal Plan. Infrastructure is being lost due to non-use. The District is trying to get an interim use to keep structures working. California Coastal Commission is concerned with how difficult it would be to move an interim use if a Coastal Dependent Industrial projects wants to come in.
- An LCP Amendment workshop will be held on February 23 at 6 p.m. at the Wharfinger Building.
California Coastal Commission Executive Director was terminated yesterday. His staff was diligent in protecting the Coastal Act. More lawsuits will come, the process will slow down.

Commissioner Marks:
- Chaired the Humboldt Bay Development Association Meeting earlier this evening – several New Market Tax Credit documents were approved.
- Attended the 2x2 Committee meeting; discussed potential spots for the portable toilets.
- Attended a NCRA meeting. The Agreement with the City ofArcata for the Rail to Trail project is complete. Anderson Valley residents complained to the NCRA Board because they are now being charged for the use of the railroad right of way. NCRA is land rich, cash poor.
- Seems ridiculous to dredge and pump sediment away from King Salmon when it could be used to rebuild the beach.

OTHER: None

NON AGENDA: None

UNFINISHED BUSINESS

A. CONSIDERATION OF ADOPTING RESOLUTION 2016-03 WHICH ESTABLISHES FINDINGS RELATIVE TO THE APPLICATION BY COAST SEAFOODS COMPANY FOR THE INSTALLATION AND OPERATION OF A WATER INTAKE AND DISCHARGE IN HUMBOLDT BAY AT REDWOOD TERMINAL 2 IN SAMOA, CALIFORNIA.

B. CONSIDERATION OF GRANTING PERMIT 15-05 TO COAST SEAFOODS COMPANY FOR THE INSTALLATION AND OPERATION OF A WATER INTAKE AND DISCHARGE IN HUMBOLDT BAY AT REDWOOD TERMINAL 2 IN SAMOA, CALIFORNIA.

These items were tabled for a future meeting.

NEW BUSINESS

A. CONSIDERATION OF AUTHORIZATION AND APPROVAL OF THE EXECUTION OF THE NEW MARKET TAX CREDITS DOCUMENTS AS FOLLOWS:

- Fund Loan Agreement
- Pledge Agreement
- Credit Agreement
- Environmental Indemnity Agreement
- Guaranty of Payment and Completion
- Reimbursement Agreement
- Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- Ground Lease
- Operating Lease
- Project Management Agreement
- Assignment and Assumption of Agreement for Warehouse, Shop, Laboratory, Storage & Office Siding and Window Replacement
- Assignment and Assumption of Door Replacement Agreement
- Assignment and Assumption of Agreement for Warehouses, Shop, Laboratory & Office Roof Repairs
- Assignment and Assumption of Agreement for Electrical Power Supply
- Assignment and Assumption of Agreement for Fire Alarm System
- Assignment and Assumption of Agreement for Permanent Installation of Natural Gas and Water Supply and Expansion of Existing Restrooms
- Assignment and Assumption of Agreement for 60kV Substation Repairs
- Assignment and Assumption of Agreement for installation of a new 12kV primary riser and conductors
- Indemnification Agreement
- Put/Call Option Agreement
• Subordination, Nondisturbance and Attornment Agreements with Coast Seafoods Company and Taylor Mariculture

Albert Lemus, Lowes Enterprises, reported to the Board this has been a two-year process to obtain funding for the rehabilitation of the pulp mill property. The Board directed staff to work diligently to get to this point and without the hard work of staff, it would not have been possible to get the $3.15 million for the project. The documents have been reviewed by District Counsel, outside attorneys and accountants.

COMMISSIONER WILSON MOVED FOR THE AUTHORIZATION AND APPROVAL OF THE NEW MARKETS TAX CREDIT DOCUMENTS AS LISTED IN THE AGENDA ITEM TITLE. COMMISSIONER MARKS SECONDED.

Commissioner Marks commended Mr. Lemus for explaining the complex process multiple times during its course. It has been a big education.

The lender is JP Morgan Chase, the intermediary is New Market Community Capital. The leverage loan is from BBVA Compass, lending the $1.54 million to the Harbor District as the District’s contribution.

Debbie Provolt asked if the $1.54 million goes to the Harbor District and the rest to the non-profit (Humboldt Bay Development Association (HBDA)). Mr. Lemus said the District is borrowing the $1.54 million and contributing it to the transaction. HBDA will receive $1.54 million from the District and $1.6 million from the government. HBDA hired the District as the project manager. The credit agreement is approximately $5 million; the basic premise is the local and government’s contribution will match the 2:1 ratio. The idea is to make the local match (dollars and capital) as large as possible so that the government match will be larger as well.

Commissioner Wilson said it was good to see actual documents now instead lines on a flow chart. Mr. Lemus said this transaction contains 170-180 items for completion. Once the paperwork is done, the exciting part begins. The capital will be here, ready to be infused into this region, used for exactly what it is meant — to instill economic development vitality into a region of the country that really needs it.

MOTION CARRIED WITHOUT DISSENT.

ADMINISTRATIVE AND EMERGENCY PERMITS: None

The Regular Meeting of the Board of Commissioners adjourned at 8:13 p.m.

APPROVED BY: 

RECORDER BY:

Patrick Higgins, President for
Greg Dale, Secretary

Patricia Tyson
Director of Administrative Services
HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT

Resolution 2016-06

A RESOLUTION DECLARING VARIOUS ITEMS AS SURPLUS PROPERTY AND FOR THE DISPOSAL OF SURPLUS PERSONAL PROPERTY BELONGING TO THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT

WHEREAS, the Board of Commissioners of the HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, is empowered by the provisions of Section 28 of Appendix II of the California Harbors and Navigation Code to take by grant, purchase, gift, devise, lease or otherwise acquire, hold and enjoy, lease and dispose of real or personal property of every kind, within the District, necessary to the full and convenient exercise of its powers; and,

WHEREAS, in order to dispose of the unwanted items, the HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT must declare the items as surplus property prior to disposal of property.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, the following items are hereby declared surplus property of the Humboldt Bay Harbor, Recreation and Conservation District:

   A. Cummins QSK 19-M750 Diesel Engine, Tier 0, Serial Number 37170522A

   B. Cummins V12 700 Diesel Engine, Tier 0, Serial Number 10877169

BE IT FURTHER RESOLVED, the Executive Director of the Humboldt Bay Harbor, Recreation and Conservation District, is directed to dispose of the item in this Resolution.

PASSED AND ADOPTED THIS 29th DAY OF FEBRUARY 2016, BY THE FOLLOWING POLLED VOTE:

AYES:

NOES:

ABSENT:

________________________________________
Patrick Higgins, President
Board of Commissioners

ATTEST:

_____________________________
Greg Dale, Secretary
Board of Commissioners
CERTIFICATE OF SECRETARY

The undersigned, duly qualified and acting Secretary of the HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, does hereby certify that the attached Resolution is a true and correct copy of RESOLUTION NO. 2016-06 entitled,

A RESOLUTION DECLARING VARIOUS ITEMS AS SURPLUS PROPERTY AND FOR THE DISPOSAL OF SURPLUS PERSONAL PROPERTY BELONGING TO THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT

as regularly adopted at a legally convened meeting of the Board of Commissioners of the HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, duly held on the day of 29th day of February 2016; and further, that such Resolution has been fully recorded in the Journal of Proceedings in my office, and is in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of February 2016.

Greg Dale, Secretary
Board of Commissioners