

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

January 14, 2016

PRESENT:

Commissioner Doss
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 Executive Closed Session at 6:48 p.m.

President Marks called the regular meeting of the Board of Commissioners to order at 7:00 p.m.

President Marks led those present in the Pledge of Allegiance.

District Counsel 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.

PUBLIC COMMENT

Kent Sawatzky told the Board of Commissioners transparency is necessary and gave them a handout, which was a Public Records Act request. He said he has major concerns about the District's transparency, but this request is not being done on a litigious basis. Public Records Act requires requested information is provided in a timely manner.

CONSENT CALENDAR

COMMISSIONER DALE MOVED FOR THE APPROVAL OF THE CONSENT CALENDAR. COMMISSIONER WILSON SECONDED.

Susan Rotwein said she is pleased to see the Travelift brakes are being maintained.

MOTION CARRIED WITHOUT DISSENT.

COMMUNICATIONS AND REPORTS

COMMISSIONER AND COMMITTEE REPORTS:

Commissioner Higgins:

- ❖ Reported he and Commissioner Wilson met with Yvonne Everett at HSU regarding some projects for the senior students, such as management of Woodley Island Wildlife Area by adding more native habitat, removal of non-native plants, etc.
- ❖ Met with a group of Koreans who are wanting to turn logs into chips and considering leasing some property at Redwood Terminal 2.
- ❖ Is on the Board of Directors for the Humboldt Bay Development Association, along with Rhea Williamson, Larry Oetker, Richard Marks and Aaron Newman.
- ❖ Steelhead are running and seals are gathering at the mouth of the Mad River.
- ❖ The levy between King Salmon and the dog pound is in a perilous condition, especially with high tides expected this weekend.

Commissioner Wilson:

- ❖ Met with Commissioner Higgins and HSU's Yvonne Everett. As well as management of the Woodley Island Wildlife Area, another project being considered is looking at bioengineering revetments around Humboldt Bay.

Commissioner Marks:

- ❖ Met with multiple agencies regarding the remaining waste at the pulp mill property.

Commissioner Dale:

- ❖ Had a great Christmas with his family; week of skiing at Mount Bachelor.
- ❖ Attended an aquaculture meeting at the Moss Landing Marine Lab.

Commissioner Doss:

- ❖ Turned 50 a couple of weeks ago.
- ❖ Met with Supervisor Bohn, received many phone calls and had live conversations regarding illegal camping and gangway gates at Woodley Island. Commissioner Wilson said he would like to discuss the formation of a Woodley Island Tenant Committee with Commissioner Doss.

EXECUTIVE DIRECTOR'S REPORT

- ❖ Humboldt Bay Development Association Meeting – Election of Officers
 - Richard Marks- President
 - Patrick Higgins- Secretary
 - Larry Oetker- Treasurer
- ❖ Dredge Sediment Sampling Schedule- 2016 for dredging in 2017
 - City of Eureka Marina
 - "C" Dock
 - Woodley Island
 - Fields Landing
- ❖ Dredging Schedule and Disposal Locations:
 - King Salmon - 2016 at White Slough
 - Fields Landing - 2016-17? at White Slough
 - City of Eureka Marina and "C" Street - 2017 at RMT2 to ocean or bay
 - Woodley Island Marina - 2017 at Samoa dewatering lagoons to bay
 - City Docks and Redwood Terminals - 2018-19 at RMT2 or Samoa
- ❖ Dredge priority at problem areas first, all areas to depth by 2021; Total volume 290,000 cy - final sediment destination - TBD
- ❖ No bids received on Redwood Terminal 2 Substation Repair which were due December 21, 2015; Follow up bids just received - "circuit breakers cannot be repaired"; Installed used rebuilt circuit breakers plus all other work- \$395K; With substation, new total of the New Market Tax Credits projects \$3,175,317 - budgeted \$3,218,742
- ❖ Meeting with Regional Water Quality Control Board Staff, DTSC, County Health and EPA regarding Redwood Terminal 2
 - EPA will take 90% of the remaining toxic waste; Remaining 10% is normal house waste, cleaners and paints.
 - Water Board Staff discussions on Dredging and Ocean outfall use.

STAFF REPORTS

Deputy Director

- ❖ Working with Wiyot Tribe regarding Assembly Bill 52: Native Americans, California Environmental Quality Act
- ❖ Presentation to Wiyot Tribe regarding Coast Seafoods Company Permit Renewal and Expansion Project
- ❖ King Salmon dredging permit applications filed
- ❖ Water trails implementation grant proposal being developed with City of Arcata

Director of Harbor Operations

- ❖ Shelter Cove visit to take inventory of the boats/cars parked on the land – some abandoned. Also working on a business plan to see if it viable for the District to take over the Shelter Cove lease.
- ❖ Water Sampling for Mariculture Pre-permitting Project
- ❖ Worked with PG&E on the permitting for Redwood Terminal 2 Electrical Upgrade
- ❖ Received soundings From Pacific Affiliates which verified shoaling and the need for a 32ft Draft Restriction— Army Corps of Engineers Survey to Come

Director of Facility Maintenance

- ❖ Redwood Marine Terminal Berth 1 improvements: Lighting and Secondary Pump
- ❖ Redwood Terminal 2 Inspections: Storm water Cleanup and Hazardous Material Inventory

- ❖ New Marina Dock Sections Completed, Waiting for Weather Window to Install
- ❖ Next Priority is Dredge Wiring

DISTRICT COUNSEL REPORT

- ❖ Reported he has been working with the consultants on the New Market Tax Credits documents.

DISTRICT PLANNER REPORT:

- ❖ Planning Commission has approved the CDP; appeals period completed with no appeals filed.
- ❖ Working on modifying the grant for the CUP/CDP. The County has added staff assigned to that project.
- ❖ Woodley Island – moving forward on the seafood market. The Coastal Commission has asked for a Coastal Dependent Industrial variance.
- ❖ PG&E's Fields Landing permit application has been filed. A lot line adjustment is needed to convey a parcel of land and requires a general conformity decision by the County.
- ❖ Samoa Peninsula Fire District will be reorganized into a community services district.

DISTRICT TREASURER REPORT:

- ❖ Continues to work with the auditors' towards the completion of the District's FY 2014-15 audit, which should be completed in 2-3 weeks.

OTHER: None

NON AGENDA: None

UNFINISHED BUSINESS: None

NEW BUSINESS

A. CONSIDERATION OF LETTER OF SUPPORT TO CONGRESSMAN JARED HUFFMAN ENCOURAGING HIM TO INTRODUCE PUBLIC LANDS LEGISLATION – ALISON STERLING NICHOLS.

Alison Sterling Nichols urged the Board to write a letter to Congressman Huffman encouraging him to introduce legislation which would provide protection for watersheds and biologically important places in our public lands, while restoring damaged areas that can expand economic benefits. Many of the damaged areas come from trespass marijuana grows.

COMMISSIONER HIGGINS MOVED FOR APPROVAL OF LETTER OF SUPPORT TO CONGRESSMAN JARED HUFFMAN ENCOURAGING HIM TO INTRODUCE PUBLIC LANDS LEGISLATION.
COMMISSIONER DALE SECONDED.

Commissioner Doss said Humboldt Bay is very unique in that there is a lot of commerce and potential for future commerce and harbor activity to work in great balance, one of the District's main charges.

Kent Sawatzky said he strongly supports this type of legislation; protection of our assets and illumination of trespass marijuana grows.

Karen Brooks suggested adding wording to protect hunters. There must be grants for prevention and economic development strategies.

Ms. Sterling said there are grants available for law enforcement. When the infrastructure of the trespass grow is removed, re-establishing the grow usually does not happen because the overhead is too high.

Commissioner Higgins said the Eel River Restoration Projects is an active wilderness movement; areas are cleaned, eco-tourism is promoted.

Commissioner Doss said he would like to amend the motion to include edits about commercial activity and hunting.

COMMISSIONER HIGGINS AND COMMISSION DALE ACCEPTED COMMISSIONER DOSS' FRIENDLY AMENDMENT. MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF ADOPTION OF RESOLUTION 2016-01, A RESOLUTION AUTHORIZING THE FINANCING OF CERTAIN CAPITAL IMPROVEMENTS AND APPROVING AND DIRECTING THE EXECUTION AND DELIVERY OF AN INSTALLMENT SALE AGREEMENT AND RELATED DOCUMENTS; APPOINTING THE WEIST LAW FIRM AS BOND COUNSEL IN CONNECTION THEREWITH; AND PROVIDING FOR OTHER MATTERS PROPERTY RELATING THERETO.

Cameron Weist attended the meeting by phone.

COMMISSIONER HIGGINS MOVED FOR THE ADOPTION OF RESOLUTION 2016-01, A RESOLUTION AUTHORIZING THE FINANCING OF CERTAIN CAPITAL IMPROVEMENTS AND APPROVING AND DIRECTING THE EXECUTION AND DELIVERY OF AN INSTALLMENT SALE AGREEMENT AND RELATED DOCUMENTS; APPOINTING THE WEIST LAW FIRM AS BOND COUNSEL IN CONNECTION THEREWITH; AND PROVIDING FOR OTHER MATTERS PROPERTY RELATING THERETO. COMMISSIONER DALE SECONDED.

Mr. Weist said the reason the Board is approving an Installment Sale Agreement vs. Loan Agreement is because on new money debt for new project financing there is no body of law that allows for special districts to incur loan agreements. Also this is a taxable transaction as there will be vendors and lessees requiring it to be a taxable transaction. Commissioner Higgins asked why, as a government entity would the District be taxed. Mr. Weist responded that because of the nature of the New Markets Tax Credit program, the assets will be utilized for private purposes.

Commissioner Wilson asked about the rate stabilization fund. Mr. Weist said it is for the protection of the District; there is a need to cover the senior debt service (the 2014 Refunding bonds) with the net revenue. Commissioner Wilson said there was some concern about the District leasing to the marijuana-related industry. Executive Director stated this is a Federal Treasury-related transaction and the District will be taking advantage of federal taxes; therefore Federally-prohibited industries are not allowed to benefit by this transaction.

ROLL CALL VOTE WAS TAKEN:

COMMISSIONER DOSS – AYE
COMMISSIONER DALE – AYE
COMMISSIONER MARKS – AYE
COMMISSIONER WILSON – AYE
COMMISSIONER HIGGINS – AYE

MOTION CARRIED WITHOUT DISSENT.

C. CONSIDERATION OF AGREEMENT FOR BOND COUNSEL SERVICES WITH THE WEIST LAW FIRM.

Executive Director reported that through a 2014 RFP process, the District hired Weist Law Firm for the 2014 refunding revenue bond - extension of services. Lender BBVA Compass Bank recommended Weist Law Firm for New Market Tax Credit Leverage loan - familiarity with terms and conditions of 2014 bond. Under the terms of the agreement, Mr. Weist will prepare and review all documents and render a legal opinion. His fee will be \$37,500 plus out of pocket expenses - not to exceed \$2,750. Executive Director stated Staff recommends hiring Weist Law Firm.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF THE AGREEMENT FOR BOND COUNSEL SERVICES WITH THE WEIST LAW FIRM. COMMISSIONER WILSON SECONDED. MOTION CARRIED WITHOUT DISSENT.

D. CONSIDERATION OF INSTALLMENT SALE AGREEMENT BETWEEN THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT AND COMPASS BANK FOR \$1,154,000.00

Executive Director stated the Installment Sale Agreement is the District's leverage loan for the New Market Tax Credit Program. The Taxable Loan is for 15 years at 6.23% with an annual debt service of \$160,000. Lenders cost - no points - lenders counsel not to exceed \$12,500. The District must maintain revenue to debt service ratios of 1.25. No property collateral only revenues generated at RMT2. Final approval and documents will be presented to the Board at the January 28th Board meeting. If the NMTC program does not close, Loan is not required. Executive Director stated Staff recommends approval.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF INSTALLMENT SALE AGREEMENT BETWEEN THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT AND COMPASS BANK FOR \$1,154,000.00. COMMISSIONER DALE SECONDED.

Kent Sawatzky asked if the collateral does not actually meet the obligation, is there a penalty. Renegotiate?

MOTION CARRIED WITHOUT DISSENT.

E. CONSIDERATION OF APPROVAL OF AGREEMENT WITH JZ CONTRACTING FOR THE REDWOOD TERMINAL 2 PERMANENT INSTALLATION OF NATURAL GAS AND WATER SUPPLY AND EXPANSION OF EXISTING RESTROOMS, NOT TO EXCEED \$157,576.00.

Executive Director reported four bids were received, ranging from \$157,576 - \$302,500. The project consists of installing 2,500' underground two-inch water line and metered laterals into warehouse; 1,300' underground two-inch gas line and metered lateral into warehouse; water and gas connections for future tenants and ADA compliant men's and women's restrooms.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF AGREEMENT WITH JZ CONTRACTING FOR THE REDWOOD TERMINAL 2 PERMANENT INSTALLATION OF NATURAL GAS AND WATER SUPPLY AND EXPANSION OF EXISTING RESTROOMS, NOT TO EXCEED \$157,576.00. COMMISSIONER WILSON SECONDED.

Kent Sawatzky asked if the contractor was local and if it is a prevailing wage project. Executive Director replied the contractor is local and it is a prevailing wage project.

MOTION CARRIED WITHOUT DISSENT.

F. CONSIDERATION OF ACCEPTING FOR FILING PERMIT APPLICATION NO. 16-01 FROM THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT FOR THE FISHERMAN'S CHANNEL DREDGING AND BENEFICIAL REUSE PILOT PROJECT.

Commissioner Wilson recused himself because included in the project description are some of his writings for a client.

COMMISSIONER DOSS MOVED FOR ACCEPTING FOR FILING PERMIT APPLICATION NO. 16-01 FROM THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT FOR THE FISHERMAN'S CHANNEL DREDGING AND BENEFICIAL REUSE PILOT PROJECT. COMMISSIONER HIGGINS SECONDED.

Deputy Director reported on the areas of dredging and the reuse of the dredge materials. There are four components to the project: 1) dredge the Fisherman's Channel; 2) Conveyance of dredge slurry through the pipeline to White Slough; 3) Sediment will be used for the White Slough restoration project; and) Mitigation/habitat restoration at the Fields Landing Boat Yard site. He said if the Board accepts this application for filing, the 30-day comment period will begin. The District is the CEQA lead agency and the project qualifies for a Mitigated Negative Declaration that will be circulated on Tuesday, Jan 18.

Commissioner Doss stated the dredging is valuable for the impact it will have on land values.

Deputy Director stated the fingers are privately owned and not all of the landowners are in agreement with the dredging. Executive Director said the beauty of the District owning its own dredge is that not all of the dredging has to be done at once.

Commissioner Doss asked if the fingers would leach into the main channel. Executive Director responded there will be some, but not all the way. The main channel will be dredged. Commissioner Doss commended Staff and the completeness of the information; a great project.

President Marks said it seems ridiculous to move that much dredge spoils through so much pipeline; it should be put on the beach.

Susan Rotwein asked if there will be a formal mitigation bank for the future. Deputy Director responded that a formal mitigation bank would take years and are set up for unknown projects; at this time the District is only looking for agreement from the agencies on mitigation for the Fisherman's Channel dredging.

Kent Sawatzky was surprised there is no one at this meeting from Humboldt Baykeeper, who typically have much to say about these project. He asked when the District removes the pilings around the bay do they have to put in coffer dams for containment. Deputy Director said placement of boom is sufficient.

Alison Talbot, PG&E, said the submittal of the permits this week is a significant milestone. One behalf of Director Loren Sharp, she acknowledged with appreciation the work of the District Staff and Board.

Karen Brooks said there should be a formal mitigation bank for future projects with all the restoration needed around the bay. Levees and dikes need to be restored. Sediment and dredge spoils are too fine to levees and dikes, but could be swapped with CalTrans or combine for use on levees and dikes.

MOTION CARRIED WITHOUT DISSENT.

Commissioner Wilson returned to the meeting.

G. CONSIDERATION OF NOMINATION OF A HARBOR DISTRICT COMMISSIONER TO BE A CANDIDATE FOR THE LAFCO DISTRICT MEMBER.

After some discussion, it was determined there was no interest from the Commissioners to be a LAFCo District member.

H. DISCUSSION OF ILLEGAL CAMPING WITHIN THE HARBOR DISTRICT'S JURISDICTION.

Commissioner Doss said illegal camping is a serious issue across the community. It conflicts with the District's responsibilities. He said the Board should take a stance and let other agencies the District is not in favor of this type of camping and is not going to assist in any way. His constituents' businesses on Broadway are affected. Tourists notice the transients and are alarmed. As a real estate agent, he said the District is a bad steward of the bay if this is allowed to continue. We are very proud of what comes out of Humboldt Bay. The District is not in a social welfare business, but can help other agencies. Commissioner Doss suggested a letter regarding the District's concern be written to the City of Eureka, even if the illegal camping is in their jurisdiction; the lines are blurry. Camping on City property next to the bay is a District concern. Human waste is leaching into the bay. Humboldt Bay is our gem that attracts new people to visit and move here. Let's look at the District's charge and what the Board is expected to do.

Commissioner Higgins said Commissioner Doss' has made good points; but the District's jurisdiction is the mud in the bay, not the land. This is a national problem. The City of Eureka has recognized illegal camping as a crisis. There is a great deal of inhumanity how it is being dealt with; but Commissioner Higgins pointed out it is not his jurisdiction.

Commissioner Dale stated this is not a new subject for the community. He said he is intimately involved through his day to day activities. There are several agencies addressing the problem, but there is no easy fix. Even the portable toilets are a temporary fix. Agrees with supporting the City and County, but not sure what the District can do.

Commissioner Marks said he has a blog and wrote on this issue in 2008. At that time there were hundreds of people living behind the Bayshore Mall. 80% of the people are home grown and have been living there five years or more. It is the same today. What do you do about it?

Commissioner Wilson said people need to be part of the solution, not just complain about the problem. Talk about the impacts to Humboldt Bay, not about the people.

Commissioner Higgins suggested inviting the City of Eureka and County of Humboldt to make a presentation on what they are doing about the illegal camping and how the District can help.

Commissioner Doss said he is surprised, disappointed and ashamed of the State. They don't have a solution, so are staying quiet. The District is the steward of the Bay. Commissioner Doss said he wanted it to be on record that it is not acceptable, not allowable, and not zoned.

Kent Sawatzky said if the homeless are pushed out of one place, they will come to Woodley Island. He urged the District to be proactive and partner with the City of Eureka and County of Humboldt; bring City of Arcata into the mix as well.

Karen Brooks reported Manila has a large homeless population. The Harbor District should be able to go to other state agencies and ask for resources. It is important to work with the children and give them a hand up, but they should have responsibility as well.

Dorothy Shonski said the news said the Harbor District was going to take care of the raw sewage that runs into the bay. Do not get involved on where the people are going. Be watchdogs and take a strong stance on the impacts.

Commissioner Wilson said within the confines of the Harbor District, it is the purview of the Board to address the impacts, not where the people go.

Commissioner Dale said he knows about the impact of raw sewage on water quality. There is human waste on these sites, but the vast majority does not meet the bay. Garbage is the concern for the bay.

I. CONSIDERATION TO PURCHASE AND MAINTAIN PORTA-POTTIES AT PALCO MARSH.

Commissioner Marks said the District had placed porta-potties at the trailhead in Samoa and that was a successful project. Then one was placed behind the Bayshore Mall and at Del Norte Street. The City of Eureka served an eviction notice to the illegal campers behind the Bayshore Mall and they retaliated by vandalizing the porta-potties. This time, he would like the District to partner with the City of Eureka, improve communication and secure the porta-potties, which will have to be purchased.

Commissioner Higgins said he needed further study, determine impacts on staff and consider working with New Directions.

Commissioner Dale suggested asking Harold Hilfiker to build a brick restroom.

Executive Director said the porta-potties can be purchased used and staff will do a better job of anchoring.

Commissioner Wilson asked staff to reach out to John Shelter and New Directions.

Commissioner Doss asked if the restrooms are ADA compliant.

Jack Birdwell, owner of B&B Toilets, said the Department of Health requires one unit for every 15 people. He requires a contract for a responsible party in case of damage. Quite a few units will be needed.

Kent Sawatzky suggested contacting Charlie Bean at Tri-County Living regarding ADA compliance.

Barbara Shumacker, Friends of the Marsh, said on Fridays they provide lunches to the homeless. The women hope the porta-potties return. Buying porta-potties for the marsh would be a win-win with the cleanliness of the bay and allow people to take care of themselves.

Sylvia Shaw, Friends of the Marsh, said she volunteers because of John Shelter; she wanted to see what it is like, who is there and why. On Wednesdays they would haul the trash out of the homeless areas; but now the dumpster has been removed and the trash is piling up. As a group, they could do a fundraiser and purchase porta-potties; but the Harbor District has a different advantage. Collaboration of many agencies would be helpful.

Kim Bergel, Eureka City Councilmember, said the Council has been working on an open space ordinance for over a month. The police have moved people from Del Norte Street south and more attention is being paid – service representatives, trash hauled, etc. Environmental concerns need to be addressed. The porta-potties will be the opportunity for harm reduction. The City cannot have a sanctioned camp, but porta-potties and dumpsters could create that environment. Ms. Bergel encouraged the Board to move forward purchasing porta-potties.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL TO PURCHASE AND MAINTAIN PORTA-POTTIES AT PALCO MARSH. COMMISSIONER DALE SECONDED.

Commissioner Doss said birds and wildlife are endangered by enabling this type of activity. How many egrets and other animals are not hanging out because people are living in their space?

COMMISSIONER WILSON OFFERED A FRIENDLY AMENDMENT TO DIRECT STAFF TO EXPLORE PLACING DUMPSTERS AS WELL. COMMISSIONERS HIGGINS AND DALE ACCEPTED THE FRIENDLY AMENDMENT. MOTION CARRIED WITH COMMISSIONER DOSS DISSENTING.

ADMINISTRATIVE AND EMERGENCY PERMITS: None

The Regular Meeting of the Board of Commissioners adjourned at 9:55 p.m.

APPROVED BY:



Greg Dale
Secretary

RECORDED BY:



Patricia Tyson
Director of Administrative Services