

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

November 12, 2015

PRESENT:

Commissioner Newman
Commissioner Dale – arrived at 6:05 p.m.
Commissioner Marks
Commissioner Wilson
Commissioner Higgins – arrived at 6:04 p.m.

President Marks called the regular meeting of the Board of Commissioners to order at 6:02 p.m.

President Marks led those present in the Pledge of Allegiance.

PUBLIC COMMENT: None

CONSENT CALENDAR

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

Susan Penn said it was wonderful to have the minutes done on time, especially because she was not able to attend the last Board meeting.

MOTION CARRIED WITHOUT DISSENT.

COMMUNICATIONS AND REPORTS

EXECUTIVE DIRECTOR'S REPORT: None

STAFF REPORTS: None

DISTRICT COUNSEL REPORT: District Counsel reported a Motion to Dismiss was filed on the Conflict of Interest lawsuit filed against the Harbor District, its Board of Commissioners and Executive Director. He said he is cautiously optimistic the suite will be dismissed.

COMMISSIONER AND COMMITTEE REPORTS:

Commissioner Newman:

- ❖ He was elected last week for his 14th year as President of the Humboldt Fisherman's Marketing Association.
- ❖ Domoic Acid levels are above the warning level in Dungeness Crab. The season would have opened on November 15 in the Bay Area if the levels were not elevated.
- ❖ The fisherman moored at Woodley Island Marina would like gangway gates installed or more security due to increased unwanted activity on the docks.

Commissioner Dale:

- ❖ Apologized for tardiness – had just returned from Sacramento.
- ❖ Glad the elections are behind him and happy he won.
- ❖ Had lunch with David Smollett and Executive Director in Shelter Cove.

Commissioner Wilson:

- ❖ He has been asked to speak at a Friends of the Dunes meeting on November 18 at 7 p.m. regarding the pulp mill property cleanup.

Commissioner Higgins:

- ❖ Eel River – 3,000 fish sitting in the lower Eel River, but are developing and eye disease due to low water flow.
- ❖ Attended the Governor's Office of Planning and Research meeting in Eureka on the future and how the State can help. Multimodal transportation, cogeneration and wood related industries were discussed.
- ❖ Glad the election is over and thinks he prevailed narrowly. He has been thinking about what he wants to accomplish in the next four years, such as partnering with HASA. Feels wealth for the community can be generated through the Harbor District. He cannot wait for the next four years of productivity.

OTHER: None

NON AGENDA: None

UNFINISHED BUSINESS: None

NEW BUSINESS

A. CONSIDERATION OF ACCEPTING BID FROM REDWOOD ELECTRICAL SERVICES FOR REDWOOD TERMINAL 2 ELECTRICAL POWER SUPPLY NOT TO EXCEED \$400,000.00.

Executive Director reported in the 2014 Scope of Work using the 60kv substation and creating two new 12kv circuits - a \$900,000 bid - would violate PG&E's Rule 18. In 2015, the Samoa Wood Pellets lease required tenant to lease/repair and maintain 60kv substation for reduced power cost. A revised Scope of Work was distributed October 5, 2015 based on a new 12kv connection with multiple meter bases for multiple tenants and 2nd service with no PG&E discount. No bids were received by October 21, 2015. Redwood Electrical Services "missed the due date" and submitted their bid on October 26, 2015 – per scope of work \$400,000. Executive Director said Staff is recommending awarding the bid to Redwood Electrical for \$400,000 including all engineering and permits.

COMMISSIONER HIGGINS MOVED TO ACCEPT THE BID FROM REDWOOD ELECTRICAL SERVICES FOR REDWOOD TERMINAL 2 ELECTRICAL POWER SUPPLY NOT TO EXCEED \$400,000.00. COMMISSIONER NEWMAN SECONDED.

Commissioner Wilson asked about the value of the assets. Executive Director said the 60kv substation has a value of \$5 million. The District has been paying for the gas to protect the transformer at \$2,000 per month.

Commissioner Marks asked when the District can stop paying for that gas. Executive Director stated as soon as the funds are available to do the work.

Commissioner Dale asked why there was only one bid. Executive Director said it will cost at least \$25,000 to do the engineering. Many contractors wanted to see the engineering done before the bids were submitted. The challenge has been to not violate PG&E's Rule 18 – PG&E is watching closely. It was resolved to put in meter bases for tenants. If a tenant needs 8-10 megawatts of power, the District is the only one that can provide it. The Samoa Pellet Mill requires 5 megawatts.

Commissioner Marks said it is time for the infrastructure to be upgraded now.

MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF NOMINATIONS OF BOARD AND PUBLIC MEMBERS TO THE NEW MARKETS TAX CREDIT NON-PROFIT.

Executive Director reported District Counsel has the documents for the Non-Profit now to borrow \$7.5 million. The Non-Profit will be a QALICB-Qualified Active Low Income Community Business; a Public Benefit Corporation. It will be the borrower of CDE (Community Development Entities) funds; will have the lease on RMT2 and sublease back to the District; will pay CDE loan interest held in trust; will meet monthly or as determined during the term of lease-7 years and will return control back to the District at the end of lease. The Board will consist of five members, only two can be current District Commissioners or Staff.

Commissioner Wilson nominated Commissioner Higgins as a member of the Board.
Commissioner Higgins nominated Aaron Newman as a member of the public.
Commissioner Marks nominated Andrew Whitney as a member of the public.
Commissioner Newman nominated Commissioner Marks as a member of the Board.
Commissioner Dale nominated Tom Herman as a member of the public.
Commissioner Higgins nominated Larry Oetker as a member of the public.
Commissioner Wilson nominated Gregg Foster as a member of the public.

It was decided this issue will return to the Board for consideration in December.

C. CONSIDERATION OF ADOPTION OF THE FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR REDWOOD MARINE TERMINAL 2 COASTAL DEVELOPMENT PERMIT/CONDITIONAL USE PERMIT.

Deputy Director provided the project description as follows: Renovation of existing facilities – roofing, siding, access doors, water, waste water, fire suppression system, electrical and security fencing. Interim Non "Coastal Dependent Industrial" Uses – a) Industrial and research uses that would utilize existing facilities with no change to size, shape, and capacity of buildings or infrastructure; b) Priority to Coastal Dependent and Coastal Related uses and c) Interim leases would have a clause for six-month vacation if priority uses are secured.

The process is: the District is the CEQA Lead Agency but is not a Permitting Agency (Project is not in the area regulated by the District); Coastal Development Permit / Conditional Use Permit submitted to County; Draft Initial Study / Mitigated Negative Declaration Circulated on September 1, 2015; Comments/Discussions with: California Coastal Commission and Wiyot Tribe, Blue Lake Rancheria, Bear River Band of Rohnerville Rancheria.

The California Coastal Commission says the Interim uses are not consistent with Local Coastal Plan. Wait for processing of County's LCP amendment. The District's Response is: Revised CDP/CUP to only include the renovations (not interim uses); can adopt CEQA document with both project components and could submit separate CDP/CUP application for the interim uses.

The Wiyot Tribe, Blue Lake Rancheria and the Bear River Band of Rohnerville Rancheria say the Mitigated negative Declaration calls for cultural resource studies prior to ground disturbance in undeveloped areas and standard District protocol for inadvertent discovery of cultural or archeological resources. Tribes maintain that an archival study should be conducted as a "permit condition". District staff maintains that with the existing mitigation measures, an archival study is not needed in order for environmental effects to be less than significant.

Executive Director said the District is trying to generate revenue and protect the current infrastructure. It is well worth it to focus on the pulp mill property.

Deputy Director recommended the Board adopt the Final Initial Study/Mitigated Negative Declaration as is without the archival study and the District could consider doing the study for the entire site. Executive Director stated some of the study was included in the Samoa Industrial Waterfront Transportation Access Plan.

COMMISSIONER HIGGINS MOVED FOR THE ADOPTION OF THE FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR REDWOOD TERMINAL 2 COASTAL DEVELOPMENT PERMIT/CONDITIONAL USE PERMIT. COMMISSIONER WILSON SECONDED.

Executive Director stated it is necessary to keep pushing; otherwise the process will be to go through the General Plan. Six months ago it was a nine-month process. With the California Coastal Commission letter, it pushes the process out another year.

Deputy Director stated that process for permitting has been separated from the rest of the project. The Board can move forward with the interim use part, costing staff time and having a 50/50 chance of success, but will bring the project forward. However the risk is antagonizing the California Coastal Commission. Executive Director said it would be worse to enter into non-compliant leases.

Commissioner Higgins said it is important to be diplomatic and educate.

Commissioner Wilson said if the separated projects are going to the Humboldt County Planning Commission, the decision can be appealed to the Board of Supervisors.

Susan Penn said she agrees the chances of changing the Local Coastal Plan for this use is 90%, not 50 – it is good to keep pushing forward.

Larry Doss asked at what point does this property become owned by the Non-Profit. Executive Director said the Harbor District will always own the property, but will be leasing it to the Non-Profit, which will sublease back to the Harbor District.

MOTION CARRIED WITHOUT DISSENT.

D. CONSIDERATION OF ADOPTING RESOLUTION 2015-15, A RESOLUTION ADOPTING AN INITIAL STUDY WITH A MITIGATED NEGATIVE DECLARATION AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE REDWOOD MARINE TERMINAL 2 INTERIM USE AND SITE IMPROVEMENT PROJECT.

COMMISSIONER WILSON MOVED FOR THE ADOPTION OF RESOLUTION 2015-15, A RESOLUTION ADOPTING AN INITIAL STUDY WITH A MITIGATED NEGATIVE DECLARATION AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE REDWOOD MARINE TERMINAL 2 INTERIM USE AND SITE IMPROVEMENT PROJECT. COMMISSIONER NEWMAN 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.

E. CONSIDERATION OF APPROVAL OF PERMIT AND AGREEMENT TO OPERATE JENNA LEE'S SEAFOOD TO KEVIN PINTO DBA JENNA LEE'S SEAFOOD.

Deputy Director reported this is a Standard Permit and Agreement for businesses on District properties. This is not direct sales from a fishing vessel that caught the seafood, it is sales of seafood from a "platform" in Woodley Island Marina. Insurance and other requirements are in place. District staff recommends approving the Permit and Agreement to Operate Jenna Lee's Seafood.

COMMISSIONER NEWMAN MOVED FOR THE APPROVAL OF PERMIT AND AGREEMENT TO OPERATION *JENNA LEE'S SEAFOOD* TO KEVIN PINTO DBA *JENNA LEE'S SEAFOOD*. COMMISSIONER HIGGINS SECONDED. MOTION CARRIED WITHOUT DISSENT.

F. CONSIDERATION OF SELECTION OF EEL GRASS MANAGEMENT PLAN DEVELOPMENT CONSULTANT.

Deputy Director spoke about the Review Criteria: Does the project team have the ability and experience to successfully complete the project? Is the proposed cost reasonable for the proposed project? Would the proposed project satisfy the following objectives, which were identified in the request for proposals?

Other criteria included: Describe our current understanding of baseline conditions of eel grass in Humboldt Bay, identify key information gaps in our knowledge, and determine research priorities for eel grass management in Humboldt Bay. Develop a process for managing eel grass in Humboldt Bay that: 1) Achieves conservation of eel grass and the ecosystem and wetland functions that eel grass provides in Humboldt Bay. 2) Facilitates predictable and coordinated processing of regulatory approvals by all agencies with regulatory authority over eel grass in Humboldt Bay. 3) Provides a bay wide approach for avoiding, minimizing and mitigating impacts of different activities on eel grass.

The Review Committee consisted of: California Coastal Conservancy, City of Eureka, Wiyot Tribe, California Department of Fish and Wildlife, National Marine Fisheries Service, Harbor District, Humboldt Baykeeper and Humboldt State University.

Seven Proposals were received. All but two reviewers ranked the proposal by Pacific Watershed Associates and Merkel & Associates as 1st (or tied for first). Pacific Watershed Associates has extensive eel grass related experience in Humboldt Bay. They have conducted modelling, surveying, and permitting related to eel grass in the bay. Merkel & Associates has 32 years' experience with eel grass management along the Pacific Coast. Successful consultations and work with NMFS, Army Corps, US Navy, Morro Bay National Estuary Program, Coastal Conservancy, Port of Los Angeles and Port of San Diego. Strong, realistic proposal that aligns with project objectives

Deputy Director asked the Board to direct staff to work with Merkel & Associates / Pacific Watershed Associates on contractual language. Contract would be brought back for Board consideration at a December meeting.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL TO DIRECT STAFF TO WORK WITH MERKEL & ASSOCIATES/PACIFIC WATERSHED ASSOCIATES ON CONTRACTUAL LANGUAGE FOR THE EEL GRASS MANAGEMENT PLAN DEVELOPMENT CONSULTANT. COMMISSIONER DALE SECONDED. MOTION CARRIED WITHOUT DISSENT.

President Marks moved New Business Item (I) to this place in the agenda since there were several people who had traveled from Shelter Cove to the Board meeting for discussion.

I. DISCUSSION OF SHELTER COVE.

Executive Director explained the history of the District's relationship with Shelter Cove. District got involved to solve a waste problem from fish carcasses. District continued involvement to improve access road and launch. District continued involvement to rebuild breakwater. District ONLY agreement: State Lands beach & cove lease- 5/31/34. District ONLY easement: Beach access road- Recreation only. District "bitter/sweet" relationship- 2-lawsuits, regulatory, property. District spends \$25K+/year on cleaning station and maintenance. District has tried for years to transfer responsibility to the Resort Improvement District (RID).

In the past three years: Pelican problem at cleaning station highlighted the discharge pipe. Waste discharged reduction by process fish carcasses & table water. Fish buyer Patrick O'Shea leased marina area including station. O'Shea's lease included improvements to process fish carcasses. O'Shea challenges: Past tenant lawsuit, cultural dig & local politics. O'Shea's lease terminated for non-performance on 11/4/2015. District recent meetings: 3-David Smollett (owner of the Mario's marina property), RID, 2- Patrick O'Shea. Findings: RID will clean station only \$25K/yr. no other involvement. David Smollett will lease to District marina area with all commercial activity.

Executive Director stated the District's site control options and potential lease terms: Terms- 5 years with (3) 5 year extensions - match State Lands Lease. Area - 5.37 acres, includes: marina, cleaning station and storage. Includes all commercial rights: boat storage, fees & tractor launch. Terms: 1-5 years - no lease payments. Tenant builds Marina Building. 6-20 years - % of marina building sales. First right of refusal to lease all operations: Hotel, Restaurant, rentals. Right to sublease all or part of the leased area and operations. At termination landlord retains all fixed assets.

Commissioner Dale said there has been no measurable impact from the stormwater and discharge in the ASBS; it has been addressed by the Harbor District staff by covering the fish cleaning station. The real issue is the point source discharge into the ASBS. The District is working to address the issue. The State Water Quality Control Board could shut it down, but the District continues to address the situation.

Commissioner Higgins said he would like to see the area cleaned up. There is risk, but this is the only path.

Executive Director said there is enough business to cover the costs, but the "right" staff member needs to be there. Potential revenues per Pat O'Shea are as follows: Boat Storage- Potential space available 50+ @ \$40/min = \$24,000 (Pat's average)=\$13,000; 3- Commercial charter boats-8% of gross (Pat's average)= \$18,000; 2,300 tractor launches @ \$28 average (Pat average)= \$64,000; \$13,500 ice and bait sales @ 30% (Pat's average)=\$4,000; \$150,000 ex-vessel crab/fish fee @ 2% (Pat agreed)=\$3,000; Total Revenues per Patrick O'Shea = \$102,000.

Potential Costs: Boat Storage Lot- gravel, power and water- \$2,000; Charter Operators- reduced launch, gravel = \$2,000; Tractor Launch- Operator & helper @ \$15/boat= \$35,000; Tractor Launch fuel and repairs = \$15,000; Retail sales and accounting = \$2,000; Total costs per Pat O'Shea = \$56,000. Net profit from operations =+\$46,000.

District's potential Investment/Risk: 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.

District's Future Investment/Risk: Operations and Investment year 2-5 and beyond - Marina Building- Phase 1- (1,500 sq. ft.) \$150,000; Phase 1- Freezer, seafood processing and sales - Ice machine, charter and launch office. \$50,000; Phase 2- Expand Marina Building+ 1,500 sq ft. \$150,000; Retail space, Kayak rentals, security. Tractor Launch Operations- Equipment purchase. \$100,000; Cove Anchorage cleanup and improvements \$10,000. Total Investment risk \$410,000 @ 20 years- \$36,000/year.

Commissioner Dale said the fish cleaning station is an important asset, but can they do without it? The District could paint lines on the boat ramp and pay \$10,000 for sampling and walk away; but his predecessor (Commissioner Roy Curless) would not be happy.

President Marks said he is unhappy about the RID's interaction. They should step up – it is their community – they should not want that blight.

Butch Bolton said he has been fishing out of Shelter Cove for 50 years. Before the fish cleaning station, the carcasses were left on the beach. He said there are many options to consider. Part of

the property can be leveled and at least 150 boats could be stored. There are probably 20 derelict boats, cars, and trucks. He asked what kind of mooring would the District put in place – currently motor blocks are being used – there is solid iron in the silt.

Laura Casali said she is not a resident of Shelter Cove, but she and her husband are recreational fishermen, but said Shelter Cove does need help with its infrastructure. She offered to assist with contacting media and fishermen for future meetings regarding the District's options.

Laurie Richmond, Professor of Environmental Sciences at HSU, said she and several others (including Ms. Casali) have put together a proposal for National Marine Fisheries Services for the Saltonstall-Kennedy grant on fishing communities' sustainability plan for Eureka and Shelter Cove. She just finished a three-year study looking at the implications of the MPA network and also gathering socioeconomic data. She said the fishermen are interested in strengthening the communities, but less interested in talking about impacts. The average age of a commercial operator in Shelter Cove is 60. She said she would be happy to coordinate planning meetings for the fishing community.

Tom Gast said he is looking at Prop 1 funds to help with the fish cleaning station. A letter of interest is due December 1; a full proposal is not needed at that time. Composted waste with rhizomes – there is a possibility to get the California Coastal Commission involved.

Butch Bolton said years ago fish carcasses were used for mulching.

Commissioner Wilson said he doesn't want the District to become responsible for the clean-up disposal costs for derelict boats and cars and he is not excited about not having ownership of the property. He said funding can be leverage on the pulp mill property because the District owns it.

District Counsel said a benefit of leasing the property is there is less liability, but potential ownership is a good goal.

President Marks said the Board should plan on having a regular meeting in Shelter Cove in order to provide an opportunity for input from the community.

Commissioner Higgins said he would like to hear lots of enthusiasm from Shelter Cove with a share community vision. The upside potential to Shelter Cove is enormous.

Executive Director said the option to purchase the Shelter Cove property and holding a special meeting in Shelter Cove will be pursued.

G. CONSIDERATION OF COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY PRIORITY INFRASTRUCTURE LIST OF PUBLIC WORKS PROJECTS.

Executive Director reported the following are the District's list of 2011-12 CEDS projects: Water Trails; Samoa Industrial Waterfront Development; Northern CA Alternative Highway Project; Acquisition of Freshwater Property and Fields Landing Marine/Industrial Development. The Acquisition of Freshwater Property has been removed from the list.

Staff recommended the following revisions/clarifications: **Redwood Terminal 2 multi-purpose cargo dock** Design, permitting and construction; **Samoa Industrial Waterfront Transportation Improvement Project** Roadway and rail to docking facilities: design, permitting, construction; **Fields Landing Marine/Industrial Development** Heavy haulout (500+ tons), dry stack storage and boat ramp; **Harbor Dredging Support Equipment** Tug, crane, flat top and dump barges; and **Water Trails** Docks and access.

Commissioner Wilson suggested adding a structure (2-3 large bays) for fabrication at the Fields Landing Boat Yard in light of the new tenant coming this next month.

COMMISSIONER HIGGINS MOVED TO APPROVE STAFF'S RECOMMENDATION FOR THE COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY PRIORITY INFRASTRUCTURE LIST OF PUBLIC WORKS PROJECTS. COMMISSIONER DALE SECONDED. MOTION CARRIED WITHOUT DISSENT.

H. CONSIDERATION OF LETTER OF SUPPORT FOR HR 3927, PERMANENTLY PROHIBITING OFFSHORE DRILLING OFF THE WEST COAST.

COMMISSIONER HIGGINS MOVED TO APPROVE THE LETTER OF SUPPORT FOR HR 3927, PERMANENTLY PROHIBITING OFFSHORE DRILLING OFF THE WEST COAST. COMMISSIONER WILSON SECONDED.

Commissioner Wilson said recently Congressman Huffman put forward a nexus with land use issues – Coastal Dependent Industrial Lands, Aquaculture, oil pipelines and storage. He suggested it be made clear that offshore oil is not what the District wants to see and adjust land uses accordingly.

COMMISSIONER WILSON ASKED FOR A FRIENDLY AMENDMENT TO THE MOTION IN ORDER FOR HIM TO WORK WITH STAFF TO ADD A PARAGRAPH ABOUT THE RELATIVITY TO COASTAL COMMUNITIES. COMMISSIONER HIGGINS AGREED TO THE FRIENDLY AMENDMENT.

Commissioner Dale said he worked on an offshore drilling platform in a seismically active and energetic area. The platforms can withstand the activity. However he also stated he has participated in three substantial oil spills and does not feel it is worth the risk.

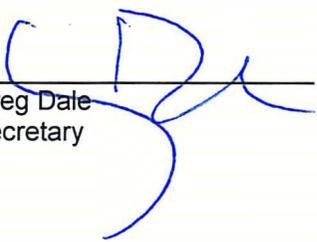
District Counsel stated that even if we need the oil, there are more environmentally safe options to get it.

MOTION CARRIED WITHOUT DISSENT.

ADMINISTRATIVE AND EMERGENCY PERMITS: None

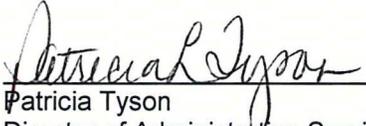
The Regular Meeting of the Board of Commissioners adjourned at 8:35 p.m.

APPROVED BY:



Greg Dale
Secretary

RECORDED BY:



Patricia Tyson
Director of Administrative Services