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

December 17, 2015

PRESENT:

Commissioner Doss
Commissioner Dale
Commissioner Marks
Commissioner Wilson
Commissioner Higgins

President Marks called the regular meeting of the Board of Commissioners to order at 6:00 p.m.

President Marks led those present in the Pledge of Allegiance.

PUBLIC COMMENT

John Shelter introduced himself as the coordinator and owner of New Directions. He said he has been given the opportunity to employ individuals who would otherwise not have the opportunity for employment. He hires some people from homeless encampments and they work for money – together finding solutions for their situations. Currently the Harbor District has hired his employees for security at Woodley Island and to work at King Salmon. Mr. Shelter said he cannot begin to thank the Board enough for their support and would like to help the Harbor District in any way possible.

Mike Cunningham, commercial fisherman and Woodley Island Marina tenant since it opened, commented about the installation of gangway gates. He said on December 2, President Marks did a television interview in which he said the tenants requested the gates. On December 3, four Board members voted in favor of the installation and Commissioner Wilson voted against. Since he is one of Commissioner Wilson's constituents, he contacted him to express his concerns about the gates and asked the item to be put back on the Board's agenda for further consideration. Mr. Cunningham said he thought the gate that was installed on F-dock was inefficient; too easy to climb around it. He said he rents space at Redwood Dock and it was recently breached by thieves and the forklift was stolen. Gates will not address the issues in the marina parking lots either where immoral and illegal activity occur. Mr. Cunningham said a tenant committee might get a better read on the issues; there is a common concern – the safety of people and property on Woodley Island. The Board would get a better understanding of the issues from a tenant committee. He requested the installation of the gates be stopped and a tenant committee be organized. (Candee Mooslin gave her three minutes of public comment to Mr. Cunningham).

Ken Bates thanked Commissioner Doss for his service on the Board. He said he is not in favor of the gates; they will not fix the problem of non-tenants and visitors. They will be a problem for tenants carrying things to their boats. We need to figure out how to get us all on the same page to take care of this valuable asset.

Kevin Pinto also congratulated Commissioner Doss. Mr. Pinto said he also attended the last Board meeting to talk about the gates. He said he is "even keel" on the issue, but would like to see a camera on the entrance to Woodley Island that would capture license plate numbers. He said he is inclined to agree with the installation if the gates are worth the money and will add safety for the tenants.

David Helliwell said he thought the issue of installing the gates was put to rest; they will not solve the problems happening on Woodley Island. Many are inside jobs. He asked if the restrooms at the east end of the island will be permanently closed.

Linda Hildebrand welcomed Commissioner Doss and gave her three minutes of public comment to Gary Mooslin.

Gary Mooslin said he surveyed 22 people: 2 wanted the gates, 20 did not. Gates do not hear, smell or see and they are inconvenient. He said he is against the gates.

Karen Brooks welcomed Commissioner Doss and thanked him for his willingness to step up and serve. She said he has the skills, attitude and attitude to serve well. She then thanked Commissioner Aaron Newman for his service.

Kent Sawatzky said the Board now has a poll on the gates and should act accordingly. Possibly John Shelter's New

regarding cannabis. Protection of our children and environment is important. He said he trusts the opinions of EPIC and Humboldt Baykeeper and urged the Board of Commissioners to talk to their County Supervisors and impress upon them the need to protect our environment.

Zack Rotwein said he is a 30 year tenant of Woodley Island Marina. He said Aaron Newman, Dave Bitts and Bob Borck do not represent him and others. He has been at odds with opinions. The Board has been antagonistic towards tenants of the marina, minus Commissioner Doss. A tenant work group should be formed and the Board should be required to attend the meetings.

CONSENT CALENDAR: None

COMMUNICATIONS AND REPORTS

EXECUTIVE DIRECTOR'S REPORT

- Regional Water Quality Board Meeting – Items discussed: Priority use Ocean Outfall; solve wastewater problems for Samoa and Fairhaven; Industrial/Aquaculture discharge; Dredge Slurry and City of Eureka discharge into the bay. SHN Consulting Engineers is working on the feasibility study for the ocean outfall.
- Met with Dr. Han, HSU- Nelson Bio-Energy and Beaver Korea Corp. tours
- First private tideland owner agrees to lease rates
- Red Tank meeting- Green Diamond, Danco and Samoa Fire District – working on an interim agreement to share the costs of the Red Tank. Danco will install a separate system next year.

STAFF REPORTS

Deputy Director

- King Salmon dredging design and permit applications are being finalized.
- Mariculture Pre-Permitting Project (subtidal component) permit applications are being finalized.
- Attended public and agency meetings related to Coast Seafoods Company permit renewal and expansion project. DEIR comment period ends Dec 31.

Director of Harbor Operations

- Large winter storm last weekend. The PORTS equipment was washed off Buoy 2.
- Shoaling at entrance, working with USACE, and USCG to obtain emergency soundings. Executive Director stated SHN Consulting Engineers did the last sounds and areas that should be 36' are at 48'.
- Delay of chip ship that was due to arrive the first week of January.

Director of Facility Maintenance

- Gave his Maintenance Department Year in Review report.

DISTRICT COUNSEL REPORT: None

DISTRICT PLANNER REPORT:

- Planning Commission has approved the CDU/CDP; now working on next steps for coastal related uses. Keeping on track for the LCP amendment.
- Working with City of Eureka on General Plan Update – keeping Woodley Island Component on track.
- Toured a fish farm – the fish are given a vegetarian diet to create sashimi grade fish flesh.

COMMISSIONER AND COMMITTEE REPORTS:

Commissioner Doss:

- Said the Shelter Cove meeting was enlightening. It was productive to hear from the community.
- Has had several calls regarding the gangway gates.

Commissioner Dale:

- Attended the Shelter Cove meeting – was productive, interesting and enlightening. The community supports the District's progress.
- Three years ago, when the Board started touring the pulp mill, there were many samples of pulp in the laboratory. Has been passing around samples to arts department to see if they are interested in making

Commissioner Marks:

- Attended the Shelter Cove meeting.
- Attended a NCRA meeting. Northwestern Pacific Company predicts 1,000 carloads next year and wants to talk partnership with NCRA.

Commissioner Wilson:

- Thanked John Shelter for his help with the security personnel. He worked with them on Ocean Day.
- Received one call regarding the gangway gates. He feels there is a need for a tenant committee.
- Has a video on his Facebook page of the waves breaking over the jetty during the recent storm surge.

Commissioner Higgins:

- Attended the Shelter Cove meeting and felt it was very productive. The community does not want the blight. He said there was validation for the District to move forward and improve Shelter Cove's circumstances.
- Eel River Recovery Project – doing BPM outreach to work with cannabis growers around the Eel River; to help them conform to higher standards to protect the health of the Eel River.
- Presented a video of a kayak ride down the lower Eel River.
- Had dinner with Korean visitors; potential tenants.

OTHER: None

NON AGENDA: None

UNFINISHED BUSINESS: None

NEW BUSINESS

Commissioner Wilson said there were several people in the audience from Shelter Cove and he asked that New Business Items (i) and (j) be moved up to address after Item (d).

COMMISSIONER WILSON MOVED TO HAVE NEW BUSINESS ITEMS (I) AND (J) MOVED UP TO ADDRESS AFTER ITEM (D). COMMISSIONER DALE SECONDED. MOTION CARRIED WITHOUT DISSENT.

A. CONSIDERATION TO PROCEED TO THE NEXT PHASE OF THE NEW MARKET TAX CREDITS – ALBERT LEMUS.

Albert Lemus, Lowes Enterprises, said preparations are being made for a January 25, 2016 close. CDE commitments are $7.0 million from New Markets Community Capital and $1.75 million from JP Chase Morgan. The total allocation is $8.75 million. The District's contribution (leverage) is $5.8 million: $1.5 million loan from BBVA Compass Bank; $3.7 million appraisal for Parcels A & B; $200,000 cash contribution and $400,000 expenditures to date. The District benefits: $3.1 million in improvements to Redwood Terminal 2 and $200,000 project management fee. The January Board of Commissioners approvals: leverage loan to investment fund; 65-year ground lease to Humboldt Bay Development Association (non-profit); master lease of Redwood Terminal 2 from HBDA, Inc. and a project management agreement.

Mr. Lemus stated the approvals from the Humboldt Bay Development Association in January are expected to be: loan agreements for capital; 65-year ground lease to District; master lease of Redwood Terminal 2 with District; and project management agreement with District.

Mr. Lemus said the next month will be busy with completing all the due diligence and financial model and document all agreements. It is expected the Board will consider whether to approve the transaction documents later in January. The District will incur approximately $150,000 in legal and accounting fees.

Tonight the Board is being asked to consider moving to the final step and authorize the Executive Director to return with the final documents for consideration by the Board of Commissioners.

Executive Director said a tremendous investment has been made in this property. The $3.1 million will protect that investment. It will solve the electrical challenges – the highest expense – and correct the gas leaks, putting a second 60 kV connection in, saving the District about $50,000 per year.

Commissioner Higgins said he favors the outcome, but not totally in favor of the process. The net benefit is a completely rehabilitated project.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL TO PROCEED TO THE NEXT PHASE OF THE NEW MARKET TAX CREDITS. COMMISSIONER WILSON SECONDED.

District Counsel said he has requested copies of Port of Hueneme's documents of the formation of their non-profit and lease-back. Hueneme's staff thought the process was convoluted also, but the end result has worked well for them.

Commissioner Wilson stated while this is a very complicated process, he is confident in the numbers now. It is important to maintain and keep the asset working; there is no replacing once it is gone. There is risk, but the risk seems reasonable.

Commissioner Doss said this process is not his preference. He is in favor of private, not public, ownership. But this is a good way of making lemonade out of lemons. He trusts the experts and does not see an alternative.

Commissioner Dale said the bottom line is it works. He would like to see $150,000 added to the $400,000 expenses already accumulated. Hopefully we will look back and say it as cheap money.

Kent Sawatzky said if it sounds too good to be true, it usually is. He has concerns regarding the process. If there is a $6.8 million EPA judgment on the asset, how can it even be an asset? What appraisal method was used? There were complications on how the non-profit was set up. There was a sitting Commissioner at the time the non-profit Board was set up, with the caveat that he was going to be a public person. How the Board was determined is questionable.

District Counsel stated there is no judgement or encumbrance on the pulp mill property.

Dennis Mayo welcomed Commissioner Doss. He said he would like to see this be successful. The process is very important. The Board has made searing errors; we live in a republic, not a democracy. The process to set up the Board was flawed; have to seek remedies before going to the next step. This Board has violated the Brown Act and several others.

Karen Brooks said the Harbor District does not need to own lands that could be owned privately. New Market Tax Credits are not exclusive to public agencies. The District is pioneering a process that could be used by other public agencies. Does the District have clear title to the property? District Counsel responded that the EPA drafted the settlement agreement in order for the District to move ahead without encumbrances. Ms. Brooks said that is good news. She asked if the pulp mill property is collateral on the Coast Seafoods Company loan. District Council replied that it is also not an encumbrance against the property; sources of the payment are specific. Ms. Brooks asked who BBVA is. Mr. Lemus said it is one of the largest financial institutions in the world. BBVA Compass is a US subsidiary and provided capital for the District's bond refinancing. Ms. Brooks asked about the 65-year ground lease. Mr. Lemus said the Humboldt Bay Development Association (HBDA) will request a 65-year ground lease from the Harbor District for Parcels A and B. Upon completion of the $3.1 million improvements, HBDA will lease the property back to the District.

Commissioner Wilson stated successful ports tend to be public entities with landside assets. To be functional, ports need to be a part of transportation links.

Commissioner Higgins said this blighted land is not going to be fixed. There is no effort by government to go after the previous owners to clean up the property.

MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF APPROVAL OF CONTRACT WITH ACGC INC. FOR THE REDWOOD TERMINAL 2 WAREHOUSES, SHOP, LABORATORY, STORAGE & OFFICE SIDING AND WINDOW REPLACEMENT.

Executive Director reported the project consists of remove and dispose of existing siding; Includes translucent FRP siding (app. 10%) and OSB board with metal sheeting siding (app. 90%); Windows to be white nylon Milgard or equivalent; Manufacturers warranties included; Prevailing wage required and it is a 4-month contract, not to exceed $871,286.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF CONTRACT WITH ACGC INC FOR THE REDWOOD TERMINAL 2 WAREHOUSES, SHOP, LABORATORY STORAGE & OFFICE SIDING AND WINDOW REPLACEMENT. COMMISSIONER WILSON SECONDED. MOTION CARRIED WITHOUT DISSENT.

C. CONSIDERATION OF APPROVAL OF CONTRACT WITH ALVES INC. FOR THE REDWOOD TERMINAL 2 WAREHOUSES, SHOP, LABORATORY & OFFICE ROOF REPAIRS.

Executive Director reported the project consists of removing and disposing of existing roof as needed to make repairs; Install mechanically fastened PVC 60 Mil-single-ply roofing with fire rated ¼" dens deck underlayment; 20-year warranty; Prevailing wage; 6-month Contract, not to exceed $932,500.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF CONTRACT WITH ALVES INC. FOR THE REDWOOD TERMINAL 2 WAREHOUSES, SHOP, LABORATORY & OFFICE ROOF REPAIRS. COMMISSIONER WILSON SECONDED. MOTION CARRIED WITHOUT DISSENT.

D. CONSIDERATION OF APPROVAL OF CONTRACT WITH THOMAS HOME CENTER FOR THE REDWOOD TERMINAL 2 DOOR REPLACEMENT.

Executive Director reported on this project as follows: Remove and replace eighteen commercial grade doors; Manufacturer warranty; Prevailing Wage; 5-month Contract, not to exceed $305,521.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF CONTRACT WITH THOMAS HOME CENTER FOR THE REDWOOD TERMINAL 2 DOOR REPLACEMENT. COMMISSIONER WILSON SECONDED.

Karen Brooks asked if ADA compliance or seismic retrofit was required. Executive Director responded neither is required.

MOTION CARRIED WITHOUT DISSENT.

I. DISCUSSION OF SHELTER COVE PUBLIC MEETING.

Executive Director reported the Shelter Cove public meeting as follows:

- Pre-meeting with 24 local business owners and citizens, who "Encouraged the District to move ahead - happy with new direction"
- Public meeting - 100 members from the public - short presentation.
- Open question and answer for approximately one hour. All positive.
- Asked for show of hands to move forward - 97 thumbs up and 3 No.
- The 3 who voted know felt the District will raise fees and should concentrate on increasing fish season.
- Next step: More detailed business plan, draft lease agreement, follow-up public meeting and Commission consideration in February 2016.

Commissioner Higgins said what is being proposed can be offset by revenue. "We're there, We care".

Commissioner Doss said it is a long road ahead. The property is currently privately owned. This would be an investment of public funds; there needs to be further discussion with the landowners. The urgency is water quality, but we should pace ourselves.

Commissioner Dale thanked his fellow Commissioners for attending a meeting in his District. He said he

The owner wants it to be managed as well. The District is spending money on the resource and he appreciates the time and discussions.

Commissioner Marks said it will be a long process, but he is encouraged.

Commissioner Wilson said the ownership issues and how they get worked out are a concern. The outreach to the community is important.

Kent Sawatzky said it is good to reach out to the community – he appreciates the Board's efforts.

Commissioner Wilson left the meeting at this time.

J. CONSIDERATION OF BOARD APPOINTMENTS TO 2X2 COMMITTEE.

Executive Director stated the committee was established with the City of Eureka to discuss Harbor District and City issues. The Harbor District members are Commissioners Marks and Newman. A replacement is needed for Commissioner Newman.

COMMISSIONER HIGGINS MOVED TO APPOINT COMMISSIONER DOSS AND COMMISSIONER NEWMAN'S REPLACEMENT ON THE 2X2 COMMITTEE. COMMISSIONER DALE SECONDED. MOTION CARRIED WITHOUT DISSENT.

E. CONSIDERATION OF ACCEPTING FOR FILING APPLICATION FOR PERMIT NO. 15-05 FROM COAST SEAFOODS COMPANY FOR INSTALLATION AND OPERATION OF A WATER INTAKE AND DISCHARGE IN HUMBOLDT BAY AT REDWOOD TERMINAL 2 IN SAMOA, CALIFORNIA.

Commissioner Dale recused himself and left the room.

Deputy Director reported on the project. If the Board accepts for filing the application for Permit No. 15-05, the public comment period will begin. The District is the CEQA lead agency and the project likely qualifies for a categorical exemption (Section 15303, New Construction of Small Structures).

COMMISSIONER HIGGINS MOVED FOR ACCEPTING FOR FILING APPLICATION FOR PERMIT NO. 15-05 FROM COAST SEAFOODS COMPANY FOR INSTALLATION AND OPERATION OF A WATER INTAKE AND DISCHARGE IN HUMBOLDT BAY AT REDWOOD TERMINAL 2 IN SAMOA, CALIFORNIA. COMMISSIONER DOSS SECONDED.

Kent Sawatzky said the State Water Resources Control Board says any kind of affluent through the outfall shall not go into the bay. He said he is also concerned with having a sitting Commissioner on the Board of the Lead Agency and staff is doing the CEQA review. The Board should consider an outside consultant in order to avoid a conflict of interest.

Karen Brooks said she thought the agencies would be satisfied with water from the bay going back into the bay.

MOTION CARRIED WITHOUT DISSENT.

Commissioner Dale returned to the meeting.

F. CONSIDERATION OF ACCEPTING FOR FILING APPLICATION FOR PERMIT NO. 15-06 FROM CITY OF EUREKA FOR DEVELOPMENT OF THE EUREKA WATERFRONT TRAIL IN EUREKA, CALIFORNIA BETWEEN TRUESDALE STREET AND TYDD STREET.

Deputy Director reported this portion of the Eureka Waterfront Trail consists of a 3.75 mile multi-use trail and six bridges. Upon approval by the Board, the 30-day public comment period will begin. City of Eureka is the lead agency and has completed the Mitigated Negative Declarations.

COMMISSIONER HIGGINS MOVED FOR THE ACCEPTING FOR FILING APPLICATION FOR PERMIT NO.

EUREKA, CALIFORNIA BETWEEN TRUESDALE STREET AND TYDD STREET. COMMISSIONER DOSS SECONDED.

Commissioner Higgins said this is a great improvement for the City and will help celebrate the bay.

Commissioner Dale asked if there will be showers and outhouses. Miles Slattery, City of Eureka, stated a restroom will be installed at the foot of Del Norte Street. When the trails have been developed, the homeless encampments will go away. This project beautifies the waterfront.

Kent Sawatzky urged the Board to accept this application for filing. He does not see a conflict of interest.

Karen Brooks said she has been waiting for this for 20 years. The annual Waterfront Run was intended to bring people to the Eureka waterfront. When the homeless are run out, where do they go? What is the timeline for the trail between Truesdale and Del Norte Streets? She said her only concern is the trail next to the rail if a passenger/commuter train is put in.

MOTION CARRIED WITHOUT DISSENT.

G. CONSIDERATION OF EXTENDING FOR ONE YEAR PERMIT 13-04 ISSUED TO PACIFIC GAS AND ELECTRIC COMPANY FOR THE HUMBOLDT BAY POWER PLANT INTAKE AND DISCHARGE CANAL REMEDIATION PROJECT.

Deputy Director stated PG&E has experienced delays in removing contaminated sediments in discharge canal due to construction of an inadequate coffer dam. They are currently reconstructing the dam.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF EXTENDING FOR ONE YEAR PERMIT 13-04 ISSUED TO PACIFIC GAS AND ELECTRIC COMPANY FOR THE HUMBOLDT BAY POWER PLANT INTAKE AND DISCHARGE CANAL REMEDIATION PROJECT. COMMISSIONER DALE SECONDED. MOTION CARRIED WITHOUT DISSENT.

H. CONSIDERATION OF PERMIT AND AGREEMENT WITH HUMBOLDT YACHT CLUB FOR OPERATION OF A DINGHY DOCK AT WOODLEY ISLAND MARINA.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF PERMIT AND AGREEMENT WITH HUMBOLDT YACHT CLUB FOR OPERATION OF A DINGHY DOCK AT WOODLEY ISLAND MARINA. COMMISSIONER DALE SECONDED.

Deputy Director reported the Humboldt Yacht Club's (HYC) permit is up for renewal, consideration of permit including costs and duration. HYC is a not for profit boating club and has operated since September 1998 at the same dock at no charge. The total standard yearly rate for a moored boat is $5.05 / ft / month: 30' = $1,818/ year. Woodley Island Marina Business permits are $250 / year, no existing rate for not-for profit entities. Deputy Director stated there is no specific precedent for the rate. He said Staff recommends $250 / year fee consistent with business permit, for a one-year term.

Executive Director said staff has spent the last three years trying to be consistent with charges. This is below market rates for fees; trying to increase the fees to come up to market rates.

COMMISSIONER HIGGINS AMENDED HIS MOTION TO ADD A RATE OF $250 PER YEAR. COMMISSIONER DALE WITHDREW HIS MOTION. COMMISSIONER DOSS SECONDED.

Commissioner Doss asked what the Humboldt Yacht Club is.

Bruce Braly said the HYC provides a service in getting more people out on the water; organizing boating activities and boating safety courses. He said the HYC compromised with the Corps of Engineers and provided CF#s for the docks; required because they shade and create eelgrass habitat. HYC is not a business, it is a club. The docks are professionally designed and cost $8,000 in materials. Originally the dock was deemed unsuitable to rent – too shallow. He said they are willing to pay something and offered $125/year with a 10-year lease.

Commissioner Higgins said it is never popular to increase fees, but $250 is not onerous.

Commissioner Dale said they provide a great service for the youth. His children learned boating through HYC.

Commissioner Doss agreed that something has to be changed; $250 per year does not seem to be too much.

Mr. Braly asked if HYC could have a longer lease. District Counsel responded that all other multi-year leases increase annually by the CPI.

COMMISSIONER HIGGINS AMENDED HIS MOTION AGAIN TO ADD A THREE-YEAR LEASE. COMMISSIONER DOSS ACCEPTED THE AMENDMENT. MOTION CARRIED WITHOUT DISSENT.

ADMINISTRATIVE AND EMERGENCY PERMITS: None
The Regular Meeting of the Board of Commissioners adjourned at 8:27 p.m.

APPROVED BY:

Greg Dale
Secretary

RECORDED BY:

Patricia Tyson
Director of Administrative Services