

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

February 13, 2014

PRESENT

Commissioner Newman
Commissioner Dale
Commissioner Wilson
Commissioner Marks

ABSENT

Commissioner Higgins

President Marks called the Executive Closed Session to order at 6:00 P.M.

President Marks adjourned the Executive Closed Session at 6:55 P.M.

President Marks called the Regular Meeting of the Board of Commissioners to order at 7:04 P.M.

President Marks asked Debbie Provolt to lead those present in the Pledge of Allegiance.

District Counsel reported out of the Executive Closed Session as follows: Conference with Labor Negotiator - no action to report; Conference with Real Property Negotiator: Potential terms for District property acquisition from Pacific Gas & Electric Company: no action to report.

PUBLIC COMMENT

Kent Sawatzky said he worked with Commissioner Higgins on a particular situation before it became public and commended him. Mr. Sawatzky stated he believed Suzanna Munzell and Karen Brooks have been unfairly treated and is giving the Commission a chance to come to him and work it out before it goes public; reported people are doing things for their own gains and with their own agendas in mind and said the person knows who he is and recommended that person contact him.

CONSENT CALENDAR

President Marks stated he did not get a copy of the Minutes on the Consent Calendar.

CEO reported the Item was an administrative error and wished Director of Administrative Services was not on leave; the Minutes have already been approved.

COMMUNICATIONS AND REPORTS

CHIEF EXECUTIVE OFFICER REPORT

- ❖ Reported on Redwood Terminal 2 as follows: 16 kv power is hooked back up and works as it should very helpful for Taylor Mariculture's project; power to the dock has been established; the dock catwalks have been completed; had a conference call with the Port of Longview and Kapstone to negotiate the tariff rate for the docking of the liquor barge and review of the pipeline.
- ❖ Met today with Patrick O'Shea regarding Shelter Cove; there has been progress and he plans to submit marina plans to the Coastal Commission and to invest approximately \$140,000 on Phase I of his project.

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- ❖ Will meet with the Shelter Cove Resort Improvement District on March 6 with two Commissioners regarding many Shelter Cove issues including the breakwater and the boat ramp; Mr. O'Shea believes he will freeze about 70 percent of the fish this year, eliminating the need for the pipeline from the fish cleaning station.

STAFF REPORTS

Director of Conservation

- ❖ Sent a letter today regarding the billboards along the Highway 101 Safety Corridor; has not received a Permit Application yet.

District Counsel said there must be property owner consent to place a billboard. Director of Conservation stated it is not clear yet who owns the land.

District Counsel reported the company must get a Permit from the District to place the billboard and the District must make sure the company is following the law.

- ❖ Recently received notice of another successful grant application for Spartina eradication.

Kent Sawatzky said he does not like the billboards but believes the permitting process should allow adequate time for comments. District Counsel stated no time deadlines have been imposed.

Debbie Provolt asked the Commission if they are aware of the letter turned into Humboldt County about the General Plan Update that refers to billboard laws. Director of Conservation reported he has not seen the letter but would appreciate a copy.

Commissioner Wilson said he has seen the letter and it does not reference the lawsuit against the City of Arcata because it is not in the writer's favor.

Bar Pilot John Powell

- ❖ Has been busy photographing inventory at the Pulp Mill.
- ❖ Stated the USS Independence has come into the Bay three times over the past two weeks.

Commissioner Dale said Mr. Powell did a nice job on the pictures.

DISTRICT COUNSEL'S REPORT: None

DISTRICT TREASURER'S REPORT: None

COMMISSIONER AND COMMITTEE REPORTS

Commissioner Newman

- ❖ Attended the Economic Development Committee meeting at the Humboldt Bay Aquatic Center and thanked District Staff, the community, and the University; said it was powerful to see all the ideas for the National Marine Research and Innovation Park Site.

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Commissioner Dale

- ❖ Stated the EDC meeting was well organized and that it was a pleasure to see positive things happening in the community.

Commissioner Marks

- ❖ Reported the EDC meeting was a great and well-attended meeting; said he saw previous workers from the Pulp Mill in attendance that were excited about environmentally friendly happenings going on at the site.
- ❖ Met with Patrick O'Shea, who has spent a lot of money to develop his property at Shelter Cove; said Mr. O'Shea has already had success selling fish from Shelter Cove to the Bay Area.
- ❖ Attended an NCRA meeting.

Commissioner Wilson

- ❖ Had a telephone meeting with Kapstone today which was quite productive; EPA is driving the work of Kapstone's pulp mill receiving the liquors from the District's Redwood Terminal 2 site.

Commissioner Marks said the EPA has made it clear they are the only agency that can handle a project like this.

DISTRICT PLANNER'S REPORT

- ❖ Stated he got good news from the County – they have tentatively identified a source for match for the EDA grant so the District will not have to spend as much out of pocket.
- ❖ Reported the County's General Plan is in action and the process will take place over the next two years; will monitor and advise the Commissioners when commenting will be appropriate.
- ❖ Said the Coastal Commission has come out with a sea level rise document and extended the public comment period until tomorrow; some of the information is relevant to the District.
- ❖ Has been assisting GHD Engineers and Moffatt and Nichols with the Water Trails Project, which is underway and going well with the Coastal Conservancy.

NON AGENDA: None

UNFINISHED BUSINESS: None

NEW BUSINESS

A. CONSIDERATION OF RESOLUTION 2014-03, A RESOLUTION DESIGNATING BUSINESS MATTERS, APPOINTMENT AND AUTHORIZATION FOR THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT FOR CALENDAR YEAR 2014.

COMMISSIONER DALE MOVED FOR ADOPTION OF RESOLUTION 2014-03, A RESOLUTION DESIGNATING BUSINESS MATTERS, APPOINTMENT AND AUTHORIZATION FOR THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT FOR CALENDAR YEAR 2014. COMMISSIONER WILSON SECONDED.

District Counsel stated there should be a minor correction – Legal Counsel is LLP, not LLC.

Commissioner Wilson reported two of the newspapers; the Arcata Eye and McKinleyville Press in the Resolution do not exist any longer and should be replaced with Mad River Union.

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Pete Oringer said the Resolution references the northerly doors where the Agenda is normally posted, but that is not correct.

Commissioner Dale stated the Resolution should read the main building outside northwestern door.

COMMISSIONER DALE ACCEPTED THE AMENDMENTS. COMMISSIONER WILSON ACCEPTED THE AMENDMENTS.

Kent Sawatzky reported the District is doing a good job putting the sign "Closed Session in Progress" up and requested the second side of the Agenda should be posted where the public can view it.

ROLL CALL VOTE WAS TAKEN:

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

MOTION CARRIED WITHOUT DISSENT, COMMISSIONER HIGGINS ABSENT.

CEO said Agenda Items B through E will be revised and District Counsel will discuss those revisions.

District Counsel stated District Staff has been working on some Draft Agreements with Coast Seafoods, but Coast Seafoods would like to do the Agreements more formally and will take the lead on re-drafting, so the Agreements will not be ready for Board consideration for about two weeks.

COMMISSIONER NEWMAN MOVED TO TABLE ITEMS B THROUGH E. COMMISSIONER WILSON SECONDED.

Commissioner Wilson asked if discussion on these Items should take place now.

CEO reported the Items will change, so it would be best to discuss at a future meeting.

Pete Oringer asked if the final sale document on the Pulp Mill was ever made public.

District Counsel said it was made available as a public document a few months ago; he suggested Mr. Oringer contact Staff for a copy.

Pete Oringer asked if the Fire Boat was used as a funding source.

District Counsel stated money was not paid, so the Fire Boat was not used as collateral; the District basically assumed liability for cleanup.

Debbie Provolt reported she is glad the District is revising the loan documents; while she supports the liquors getting removed, she has concerns of the interest being over \$40,000, which will put the District further behind financially every year.

District Counsel said the loan repayment will be linked to selling part of the Pulp Mill assets.

Debbie Provolt, Humboldt Land and Title, stated that information is in the Resolution, but not in the Loan Document and asked if the land was now subject to public trust rights since the District owns it.

District Counsel reported the District acquired Freshwater assets with no public trust funds, therefore it is still not public trust; not all land owned by a public entity is public trust.

Debbie Provolt said if the District uses public trust funds for a loan, it could change how the property is viewed and advised the District to look into that.

District Counsel thanked Ms. Provolt for the information and said he would look into it.

Debbie Provolt stated assisting Coast Seafoods with Permit applications should be compensated, and that it should not be a gift because it uses public funds. District Counsel reported that matter should be cleared up in the Draft and that it is something the District would do for anyone seeking to establish and develop a business in the Bay; it is General Policy. Ms. Provolt said that should be clarified.

District Counsel stated if any company applies for a Permit, the District will assist them.

Kent Sawatzky said he agreed with everything Debbie Provolt said; regarding Coast Seafoods' 40-year lease, their tideland lease rate would be lower than other companies' due to their having an increased footprint. Mr. Sawatzky asked since the District will have more than a \$2 million loan temporarily, is there Policy that overrides that mandate.

District Counsel said the Harbors and Navigation Code does.

Kent Sawatzky stated he would like a copy of that document.

MOTION TO TABLE CARRIED WITHOUT DISSENT, COMMISSIONER HIGGINS ABSENT.

F. CONSIDERATION OF TERMINATING THE SOUTH BAY MARINA TIDE SUBMERGED LANDS LEASE BETWEEN THE DISTRICT AND THE ESTATE OF G.A. HUNTER.

COMMISSIONER DALE MOVED FOR TERMINATING THE SOUTH BAY MARINA TIDE SUBMERGED LANDS BETWEEN THE DISTRICT AND THE ESTATE OF G.A. HUNTER. COMMISSIONER NEWMAN SECONDED.

Director of Conservation reported Dennis Hunter wants to end the Lease due to selling the property and that their lease is paid up; said the issue before the Board is there is a provision in the Lease stating the lessee should remove improvements or offer compensation and that there are some additional pilings now in place. Director of Conservation stated he does not see a benefit in removing the pilings and recommended the Board consider letting Mr. Hunter leave them and not seek compensation from Mr. Hunter. There was a series of lawsuits in the past between the Hunters and the District regarding where the appropriate boundaries are and there was an old judgment in the file largely in the District's favor.

District Counsel said the lessee has the right to terminate the Lease and they are current on payments; stated the property has potential value to the District. Mr. Brisso reported the judgment is from 1982 for \$5,000 and the District's previous District Counsel did not recall much about the suit; there must have been some point where the Lease expired and the District

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obtained a judgment for the improvements to be removed. Mr. Brisso said the judgment was never renewed and expires ten years afterwards if not renewed; recommended accepting the improvements and terminating the Lease.

Kent Sawatzky stated he supported terminating the Lease.

MOTION CARRIED WITHOUT DISSENT.

Dennis Hunter asked if the District can correspond with the Title Company since there is a Hold Harmless clause in the sale of the upland property.

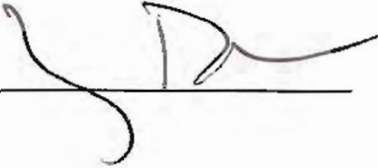
Debbie Provolt, Humboldt Land and Title, reported the Title Company had prepared a Release.

ADMINISTRATIVE AND EMERGENCY PERMITS: None

President Marks adjourned the Regular Meeting of the Board of Commissioners at 8:10 P.M.

APPROVED BY:

RECORDED BY:



Greg Dale
Secretary



Kim Farrell
Clerk