

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

**March 24, 2016**

**PRESENT:**

Commissioner Doss  
Commissioner Dale  
Commissioner Higgins  
Commissioner Wilson  
Commissioner Marks

President Higgins called the Executive Closed Session to order at 6:05 p.m.

President Higgins adjourned Executive Closed Session at 6:54 p.m.

President Higgins called the regular meeting of the Board of Commissioners to order at 7:03 p.m.

President Higgins asked Commissioner Dale to lead 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 and King Salmon canal lease – no action taken and Existing Litigation regarding Sears v. Humboldt Bay Harbor, Recreation and Conservation District – no action taken.

**PUBLIC COMMENT**

Kim Bergel, City of Eureka Councilmember, thanked the Board of Commissioners for putting the portable toilets at the Palco Marsh property and for their willingness to step forward. She apologized for not telling the Board prior to the City posting their notice of eviction.

Jim Roberts said a contract for dredging the King Salmon Fisherman's Channel to its original depth and width was signed by both PG&E and Executive Director. PG&E will not return his phone calls and he cannot get information. PG&E has to pay for the permits. The Harbor District lied to people in King Salmon for years, now they have taken over the boat launch in Shelter Cove. He said he wanted the Board to know it is hard to get information.

**CONSENT CALENDAR**

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

COMMISSIONER DOSS ASKED FOR A FRIENDLY AMENDMENT TO PULL ITEM 7(A). COMMISSIONERS MARKS AND WILSON AGREED TO THE FRIENDLY AMENDMENT. MOTION CARRIED WITHOUT DISSENT TO APPROVE ITEM 7(B).

Commissioner Doss said his Commissioner's Report was incorrectly attributed to Commissioner Higgins in the minutes from the Board meeting of January 14, 2016.

COMMISSIONER WILSON MOVED FOR THE APPROVAL OF ITEM 7(A) TO INCLUDE THE CORRECTION BY COMMISSIONER DOSS. COMMISSIONER DOSS SECONDED. MOTION CARRIED WITHOUT DISSENT.

**COMMUNICATIONS AND REPORTS**

**STAFF REPORTS:**

Deputy Director:

- ❖ Reported Bar Pilot provided boat support to those doing the dye testing in the bay to look at water circulation at the City of Eureka's wastewater discharge. Also Director of Facility Maintenance provided boat support taking the MPA Enterprise representatives to South Bay.

**DISTRICT COUNSEL, DISTRICT PLANNER AND DISTRICT TREASURER REPORT:** None

**COMMISSIONER AND COMMITTEE REPORTS:**

Commissioner Doss:

- ❖ Continuing his education on eelgrass; reading research from around the country, legal issues of eelgrass.

Commissioner Dale:

- ❖ Thanked Staff for their assistance with the boat tour for the FDA; City of Arcata is changing their wastewater treatment plant and outfall location. The FDA representatives complimented Staff and loved the community.

Commissioner Higgins:

- ❖ Said he is fully recovered from 13 days of the flu.
- ❖ UC Davis is researching the salmon in the lower Eel River; salmon are blind due to the flukes caused by the low, warm water flow.

Commissioner Wilson:

- ❖ Went on the MPA tour in South Bay. Director of Facility Maintenance drove the fire boat.
- ❖ Participated in the League of Women Voters Community Participation Fair.
- ❖ Attended a workshop on biomass from the perspective of energy export and forest health.

Commissioner Marks:

- ❖ Thanked Councilmember Bergel for her work with the homeless; she is a great advocate and has done a great job.
- ❖ NCRA is having problems with squatters on the tracks.
- ❖ Said the public should not be calling Board Members liars when they do not know the individual. He said he also questioned why the dredge spoils are being sent to White Slough. The pilot project was approved by several agencies.

**OTHER:** None

**NON AGENDA:** None

**UNFINISHED BUSINESS:** None

**NEW BUSINESS**

**A. CONSIDERATION OF APPROVAL OF LEASE AGREEMENT WITH MARIO'S MARINA, LLC IN SHELTER COVE.**

Deputy Director reported the intent of the lease is to take over management of some of the activities in Shelter Cove; such as the tractor boat launch operations; boat storage area; marina building commercial operations; fish purchasing station; fish cleaning station; and all commercial rights to charge fees for fish buying and charter boat operations.

The terms of the lease are as follows: the initial term is April 1, 2016 – March 31, 2021; three five-year and two ten-year options to renew. For the Fish Cleaning Station: April 1, 2016 – March 31, 2036 (twenty years). If other aspects of the lease are not renewed, then the District will pay \$500/year during first ten years and \$1,000 / year during last ten years. The Harbor District has the right to terminate if: the cultural investigation results preclude development of site; the marina building cannot be reasonably and economically constructed; or any other reason that is reasonably likely to make the operation not economically feasible. Termination would not affect fish cleaning station terms

Additional terms of the lease are by the end of Year One: contract and pay for cultural site investigation and improve fish cleaning station and discharge. By the end of Year Two: demolish existing marina building and

remove remains, clean up, grade and fence boat parking / storage area. By the end of Year Four: Conduct site preparation and seek building permit(s) for construction of a marina building. By the end of Year Six: Begin construction of a marina building. By the end of Year Eight: Contract and pay for a lot split through the County of Humboldt. The Harbor District is responsible for all utilities. The lease contains standard indemnification language. The Harbor District is responsible for all permitting and insurance requirements.

The first six years the Harbor District will pay no rent. After six years the rent is to be negotiated or based on fair market value as determined by an arbitrator. District Counsel said there is a proposal for arbitration of the lease if the parties cannot come to negotiation. The Harbor District will pay property taxes. The Harbor District will have the first right of refusal to purchase property and to lease the restaurant, bar, motel, and mobile home rental area.

Commissioner Dale said he appreciates everyone's interest in the project. It is a big step for the Harbor District. David Smollett, the owner of Mario's Marina, wants to do the right thing for Shelter Cove. It is going to be more work for Harbor District Staff and Board, but it is the right thing to do.

COMMISSIONER MARKS MOVED FOR THE APPROVAL OF LEASE AGREEMENT WITH MARIO'S MARINA, LLC IN SHELTER COVE. COMMISSIONER DALE SECONDED.

John Casali said he lives in Shelter Cove. On behalf of the fishermen there, he said he appreciates the Harbor District putting forth this effort. The biggest concern is the tractor facility situation. The fishermen are worried about the salmon season opener on April 2. He said he would like to store his boat at times, but there is no one there to pay the fees to, no tractor operator, etc. Director of Harbor Operations stated staff has gone down to set up the office. Mr. Casali asked if the fishermen will be able to launch on the opener. Will the Harbor District purchase a tractor or do the fishermen need to buy one?

Deputy Director said Board and Staff are reviewing several options to purchase a tractor.

Commissioner Wilson said there are some main things that are good about this project. The Southern Humboldt community pays property taxes to the County and the Harbor District should be responsive to the Shelter Cove residents. This is a proactive approach and has the potential to be a good solution.

Commissioner Marks said the Board has had a few meetings with the Shelter Cove Resort Improvement District (RID) regarding this project. The RID did not want to take on this project. The Harbor District has had positive interaction with the Shelter Cove residents.

MOTION CARRIED WITHOUT DISSENT.

**B. CONSIDERATION OF ACCEPTING FOR FILING APPLICATION FOR PERMIT NO. 16-04 TO CITY OF ARCATA FOR THE RAIL-WITH-TRAIL CONNECTIVITY PROJECT – HUMBOLDT BAY TRAIL NORTH.**

COMMISSIONER WILSON MOVED FOR THE ACCEPTING FOR FILING APPLICATION FOR PERMIT NO. 16-04 TO CITY OF ARCATA FOR THE RAIL-WITH-TRAIL CONNECTIVITY PROJECT – HUMBOLDT BAY TRAIL NORTH. COMMISSIONER MARKS SECONDED.

Deputy Director reported he has reviewed the application and have found it to be complete. The project consists of 3 miles of approximately 10 ft. – 14 ft. wide paved trail with 2 ft. shoulders, a surface area of 3.25 acres. Bridges will be constructed over: Gannon Slough; Butcher Slough; Jacoby Creek; and Old Jacoby Creek, which will also involve vibratory pile installation.

There will be a permanent impact to 1.78 Wetland Acres: a 4:1 Mitigation Ratio (3 Parts Enhancement, 1 Part Creation); a temporary impact to 1.0 Wetland Acres: 1:1 Mitigation Ratio and Mitigation would be part of CalTrans' Humboldt Bay Area Mitigation project.

City of Arcata is CEQA Lead Agency. Mitigated Negative Declaration has been adopted, but will require a supplement due to project changes. The Project will require approval from: Army Corps of Engineers; North

Coast Regional Water Quality Control Board; CA Dept. of Fish and Wildlife; California Coastal Commission; and City of Arcata.

Commissioner Dale asked if the bridges will be replaced will they be rail compatible. Commissioner Marks, a member of the NCRA Board, said they will be.

MOTION CARRIED WITHOUT DISSENT.

**C. CONSIDERATION OF APPROVAL OF PURCHASE OF VIBECORE-D4 PORTABLE ELECTRIC VIBRACORE SYSTEM FROM SPECIALTY DEVICES INC. NOT TO EXCEED \$14,125.00.**

COMMISSIONER DALE MOVED FOR THE APPROVAL OF PURCHASE OF VIBECORE-D4 PORTABLE ELECTRIC VIBRACORE SYSTEM FROM SPECIALTY DEVICES INC. NOT TO EXCEED \$14,125.00. COMMISSIONER WILSON SECONDED.

Deputy Director stated prior to dredging, it must be determined whether there is contamination in the sediment. Sampling is difficult; contracting is expensive. Two proposals were received in response to the Request for Proposals distributed by the Harbor District. Specialty Devices Inc. submitted the lowest responsive, responsible proposal for \$14,125.00. The next agenda item will be to consider a MOU with the City of Eureka for half of the cost.

Commissioner Wilson asked if smaller pilings can be driven with this equipment; it can provide a lot of function for sampling and construction.

Monte Provolt said he had concerns with Harbor District Staff doing the sampling. The Staff would not have to report any negative samples; consultants are obligated. This would be an environment concern and this process should be slowed for more research.

Commissioner Dale said when the Harbor District hires someone to do the sampling, they rent the equipment, which is essentially paid for by the Harbor District. It is possible Staff will not do the sampling.

Deputy Director said a sampling analysis plan will be developed and given to agencies for approval. Staff would do the sampling with an expert on site, a licensed third party review.

MOTION CARRIED WITHOUT DISSENT.

**D. CONSIDERATION OF APPROVAL OF MEMORANDUM OF UNDERSTANDING WITH THE CITY OF EUREKA TO COST-SHARE THE PURCHASE OF THE VIBECORE-D4 PORTABLE ELECTRIC VIBRACORE SYSTEM.**


Deputy Director reported the City of Eureka and the Harbor District will split the initial purchase cost of \$14,125.00. The City and the District will schedule the use on a first come, first served basis. Revenue from renting the unit to others will go towards maintenance, replacement or split between City and District. The City and District will share maintenance costs.

COMMISSIONER WILSON MOVED FOR THE APPROVAL OF MEMORANDUM OF UNDERSTANDING WITH THE CITY OF EUREKA TO COST-SHARE THE PURCHASE OF THE VIBECORE-D4 PORTABLE ELECTRIC VIBRACORE SYSTEM. COMMISSIONER DALE SECONDED. MOTION CARRIED WITHOUT DISSENT.

**ADMINISTRATIVE AND EMERGENCY PERMITS: None**

The Regular Meeting of the Board of Commissioners adjourned at 8:00 p.m.

APPROVED BY:

  
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Greg Dale  
Secretary

RECORDED BY:

  
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Patricia Tyson  
Director of Administrative Services