

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

April 24, 2014

PRESENT:

Commissioner Marks
Commissioner Higgins
Commissioner Dale
Commissioner Newman

ABSENT

Commissioner Wilson

President Marks called the Executive Closed Session to order at 6:05 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 Scott Pesch to lead those present in the Pledge of Allegiance.

District Counsel reported on the Executive Closed Session as follows: Status of negotiations with the Harbor District labor union: no action taken; Under Negotiation: Freshwater Tissue Company property acquisition: no action taken.

PUBLIC COMMENT:

Karen Brooks, stated that the draft restriction letter on the Harbor District website is an unwelcome mat for the Harbor and she suggested removing it.

Daniel Pierce suggested that burning the weeds across from Jacob's Avenue would be more efficient than using a weed wacker. He thanked the Harbor District for purchasing the Pulp Mill, as it serves as a major asset to the community.

Kent Sawatzky reported that the City of Arcata currently owes money, which is to be a claw back to be disbursed amongst Humboldt County. He has a public records request to find out why the city of Arcata owes approximately \$16,000,000. The judgment could come out to approximately \$2000 per person.

CONSENT CALENDAR: None

CEO REPORT: Deferred.

STAFF REPORTS: Deferred.

REDWOOD TERMINAL 2 CLEANUP UPDATE:

Steve Calanog, EPA Federal On-scene Coordinator:

- ❖ Reported 500,000 gallons have been removed and transported to Longview, Washington; three green liquor tanks are now empty. He stated over 10,000 gallons of acid have been removed and no bulk volume of acid remains. The pipeline removal continues, and all deck headers have been removed. Tank removal has begun. They are able to transfer five truckloads per day.

Commissioner Higgins thanked Mr. Calanog for keeping the Board of Commissioners updated.

COMMISSIONERS REPORTS

Commissioner Higgins:

- ❖ Reported he thinks it will be a good charter fishing season this year.
- ❖ The Economic Development Committee is doing well and there is an economic development opportunity at Woodley Island, which will be addressed at the next meeting.
- ❖ He thanked Karen Brooks for the website suggestion.

Commissioner Marks thanked Commissioner Higgins for his leadership on two Economic Development Committees.

OTHER

PRESENTATION BY LOWES ENTERPRISES REAL ESTATE GROUP – NEW MARKET TAX CREDITS

Albert Lemus, Lowes Enterprises Real Estate Group Representative, stated that Lowes is a private company that has managed over \$16 billion in assets since its inception. They are headquartered in Los Angeles, California. The New Market Tax Credit is a federal program, \$3 - \$5 Billion Allocated Annually for a total of \$33 Billion allocated since program's inception in 2000. It is a location-based credit that provides Federal Tax Credits to encourage investment in economically distressed areas. The Tax Credit is administered by the U.S. Department of Treasury and then allocated to the intermediaries (Community Development Entities). The government will select an estimated 70 intermediaries, who in turn select projects. Lowes Enterprises Real Estate Group recently completed the Port of Hueneme, which produced \$3.3 million net proceeds.

Commissioner Higgins asked how the proceeds were distributed. Mr. Lemus stated the majority goes to keep revenue structured and 40-50% goes to legal costs.

Commissioner Dale asked if the Harbor District would have any further obligations once the Tax Credit was awarded. Mr. Lemus said there would still be taxes, corporate standings, restrictions, and more. It takes seven years to fully absorb the Tax Credit.

Commissioner Higgins thanked Mr. Lemus for the detail and asked if the Harbor District will still owe a fee if the project does not get completed. Mr. Lemus said the Harbor District would not owe if the project was not completed. He said they take pride in working with counties and cities. They are also currently working with the Port of San Diego.

CEO asked how the Harbor District could get the asset back after seven years. Mr. Lemus said loan agreements have a put-call ratio to buy the loan at a predetermined price. He said assets could be purchased after seven years.

Commissioner Higgins asked if the Port of San Diego posed a conflict. Mr. Lemus explained that the Port of San Diego project would go well into 2015, so it would not pose a conflict.

Mark Wetzel asked about the timing of re-contribution. Mr. Lemus said they would take a home equity line of credit, which would generate credits to automatically repay loan-monetized equity.

President Marks asked if it is too good to be true. Mr. Lemus stated that there are a series of requirements to maintain the documents and regulations. President Marks asked how long the process would take. Mr. Lemus said it is usually a twelve-month process and the funds become available within the three to five month range.

District Counsel asked what are the chances of being successful. Mr. Lemus said there is a good chance of being successful. The intermediaries like when job creation is a part of the contract. He said 25% of the

credit must go to rural census tracts. Humboldt County is one of four that meets the rural designation requirement.

Commissioner Dale asked if the nonprofit has control over the proceeds and what they can use the proceeds for. Mr. Lemus said it is the operating business and real property that controls the proceeds, which can be used for anything that involves improvement.

Commissioner Higgins asked if the Port of Hueneme had been working on their project for years before Lowes Enterprises Real Estate Group became involved. Mr. Lemus stated the Port of Hueneme was trying to figure out how to complete their project without depleting funds.

Commissioner Newman asked about the nature of the Tax Credits for the corporations. Mr. Lemus said there is a 7-10% return for the government, the policy goal is met, and it is similar to low income housing credits.

CEO stated the reason for the appraisal was to estimate about the equity.

Debbie Provolt asked if funding is available to other entities such as private corporations; and if so, is it out of the same pot. Mr. Lemus said yes, they all compete.

Craig Spjut asked if the money is public funds, if it is federal or state, and if it circumvents Davis Macon Laws. Mr. Lemus said it is the election of sponsors' responsibility. Mr. Spjut said he would like to see a Project Labor Agreement on the funds and that the Davis Macon Laws are adhered to.

Kent Sawatzky said he is hoping for the appraisal to turn the assets into cash and asked what the return is for the brokers. Mr. Lemus said there is no magic process and the return is up to negotiation and is based on the proposal. CEO said the brokers return is 1-2.1% and asked if it has to be a land or property based asset.

Director of Facility Maintenance asked if the intermediaries are paying for the tax credits. Mr. Lemus said no, the fee is negotiable to deploy capitol. The physical nature of the property must be looked at carefully and must be unencumbered and tangible. Director of Conservation stated that it is a complicated mechanism and asked if the government will be following through with watching the results. Mr. Lemus said the intermediaries would still have the responsibility to report after the project is completed.

NON-AGENDA: None

UNFINISHED BUSINESS: None

NEW BUSINESS

A. CONSIDERATION OF APPROVAL FOR THE PURCHASE OF A DREDGE AND ASSOCIATED EQUIPMENT FROM NEHALEM RIVER DREDGING INC. FOR \$950,000.

COMMISSIONER DALE MOVED FOR THE APPROVAL FOR THE PURCHASE OF A DREDGE AND ASSOCIATED EQUIPMENT FROM NEHALEM RIVER DREDGING INC. FOR \$950,000.
COMMISSIONER HIGGINS SECONDED.

CEO reported that the Purchase Sales Agreement is for \$950,000. There is a \$5,000 Earnest Deposit after the seller signs the Purchase Sales Agreement, \$500,000 down after the Board of Commissioners approval, \$400,000 payment after all the equipment is delivered, a \$45,000 balance after 80 hours of setup and training plus 4 consultation trips over 2 years. Additional costs include: \$40,000 for 17 truckloads to Fields Landing, \$200,000 for two new 750 hp engines, and \$100,000 for upgrades to cooling, hydraulic and electrical systems. The total cost is \$1,290,000. The staff recommends the approval of the Purchase Sales Agreement.

District Counsel said the Harbor District and CEO have been working very hard on the timing. He said the Purchase Sales Agreement is a draft, not final.

Commissioner Dale said he would like to see the dredge transportation done by local trucking companies and the dredge engines bought from local companies as well.

Commissioner Higgins stated that he appreciates Zerlang & Zerlang for their contribution as well as the Commissioners. He said it looks like good equipment, it creates local jobs, and it benefits Eureka and the community.

President Marks said he realizes there is risk involved, but said it is worth it to control the District's own destiny by not outsourcing.

Kent Sawatzky appreciates Commissioner Newman and Zerlang & Zerlang having done due diligence. The RFP's were necessary and he hopes it works out. He asked about the cost of finishing the dredge and if the excess money could go toward helping the people of King Salmon dredge their fingers.

Karen Brooks suggested that Director of Conservation master a permit to dredge the bay, stated that she is not crazy about the dredge spoils going into the main channel, and said that a dredge report needs to be done. CEO asked Mrs. Brooks to set up a time to meet with him to discuss what the Harbor District is working on.

Chet Albin reported that he went to Nehalem, Oregon to check the dredge out personally. He said \$200,000 is a good deal for the new motors. He stated the dredge would help the community. President Marks thanked Mr. Albin for taking the time to check out the dredge personally.

Sebastian Elrite, Aqua-Rodeo Farms, said he is glad the Harbor District made the process open. He is concerned about additional costs for the new motors and asked if there is room for cost overruns.

Commissioner Newman said it is less complicated than re-powering a fishing boat

MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF APPROVAL TO ISSUE LIMITED OBLIGATION NOTES TO COAST SEAFOODS COMPANY FOR \$1,250,000.

CEO stated the purpose of the limited obligation notes is to pay for transportation of pulping liquor from Samoa to Longview, Washington. The Note Amount is \$1,250,000. Collateral and repayment includes revenues from Fields Landing Boat Yard and Woodley Island tenant leases. The Fields Landing Boat Yard may also be pledged as collateral if legally permitted. There is a 3.5% maturity date, 24-48 months, under discussion. Other considerations include: Lease Security Agreement, which extends the existing tideland lease from 2015 to 2055 until the note is paid - once paid, the lease term is reduced to a 5 year period with a 5 year renewal option; the Harbor District uses best efforts to help the Coast expand current lease footprint. Other sources of repayment include the Power Boiler Sale and Brownfields Loan Program.

District Counsel said this is a work in progress. He reported the District could issue bonds or limited obligation notes up to \$10 million. Coast Seafood's legal counsel is working on the agreement. The Harbor District Board of Commissioners will hold a Special Meeting for a Resolution.

Commissioner Dale recused himself as he is an employee of Coast Seafoods.

PRESIDENT MARKS STATED THE CONSIDERATION OF APPROVAL TO ISSUE LIMITED OBLIGATION NOTES TO COAST SEAFOODS COMPANY FOR \$1,250,000 HAS BEEN TABLED.

CEO reported that the Harbor District hopes to have the limited obligation notes drawn up by early May. There will be a Special Meeting held soon to discuss the resolution.

Kent Sawatzky said the draft does not include all that has been discussed. He asked what the value is on a 10-40 year lease agreement extension.

Debbie Provolt stated that transporting the liquors has become a mandatory project. She asked if the note supported the tideland trust aspect for the Pulp Mill property and if it was created by tideland trust money. She said the documents have not been made available to the public. District Council thanked Mrs. Provolt for her comments.

C. CONSIDERATION OF AWARD OF CONTRACT TO MP ENVIRONMENTAL FOR TRUCKING SERVICES NOT TO EXCEED \$1,250,000.

CEO reported the purpose of the contract is to pay for the transportation of the pulp liquors from Samoa to Longview, Washington. The cost is not to exceed \$1,250,000. The trucks will be transporting a total of 2 million gallons within eight weeks. All certifications are current and insurance coverage is for \$5 million. The Harbor District Staff recommended Board approval and to authorize signing the contract once funding is in place.

COMMISSIONER HIGGINS MOVED FOR THE AWARD OF CONTRACT TO MP ENVIRONMENTAL FOR TRUCKING SERVICES NOT TO EXCEED \$1,250,000. COMMISSIONER NEWMAN SECONDED.

District Council pointed out the fact that the contract is only a draft and the indemnity clause would be re-written to be equitable for both parties.

Commissioner Higgins asked if the item needed to be tabled until the final contract was written. District Council said it did not need to be tabled.

Kent Sawatzky asked for disclosure of the amount of liability insurance.

MOTION CARRIED WITHOUT DISSENT.

D. CONSIDERATION OF APPLYING FOR US DOT TIGER GRANT FUNDS FOR PLANNING, PERMITTING AND ENVIRONMENTAL REVIEW OF THE ROADWAY SEGMENTS IDENTIFIED IN THE SAMOA WATERFRONT INDUSTRIAL TRANSPORTATION PLAN.

COMMISSIONER DALE MOVED FOR THE APPLICATION FOR US DOT TIGER GRANT FUNDS FOR PLANNING, PERMITTING AND ENVIRONMENTAL REVIEW OF THE ROADWAY SEGMENTS IDENTIFIED IN THE SAMOA WATERFRONT INDUSTRIAL TRANSPORTATION PLAN. COMMISSIONER HIGGINS SECONDED.

District Planner said the Harbor District is requesting \$959,400 for planning and design. The project has job-generating potential and the grant opens it up for subsequent funding. The project should be construction ready within two years. District Planner thanked CEO and Director of Administrative Services for their assistance.

Commissioner Dale asked if this project is part of the project that started with the CalTrans Grant and if it benefits all property owners on the peninsula. CEO said this is the first year US DOT has had this type of grant. The project has to be shovel ready and now has a planning component.

Mr. Sawatzky stated he strongly supports the project especially since it is shovel ready, it has a railroad component, and that it has been developed to support coastal dependent industries.

Karen Brooks asked what the Tiger Grant is for. Commissioner Higgins said it is mainly for Easements.

MOTION CARRIED WITHOUT DISSENT.

E. CONSIDERATION OF SELECTION OF BUDGET COMMITTEE MEMBERS TO SERVICE FOR FY 2014/15.

Commissioner Dale said he would like to serve on the committee again. Commissioner Newman said he would like to as well. Commissioner Higgins said he would be more than happy to be an alternate.

COMMISSIONER HIGGINS MOVED FOR THE SELECTION OF BUDGET COMMITTEE MEMBERS TO SERVICE FOR FY 2014/15. COMMISSIONER DALE SECONDED.

Mr. Sawatzky said he would like CEO to receive more compensation.

MOTION CARRIED WITHOUT DISSENT.

F. CONSIDERATION OF ADMINISTRATIVE RAISES FOR FY 2013/14.

COMMISSIONER HIGGINS MOVED FOR THE ADMINISTRATIVE RAISES FOR FY 2013/14. COMMISSIONER DALE SECONDED.

Kent Sawatzky said he would like to see CEO receive more salary and is glad to see the staff being compensated for their hard work. President Marks said the staff has been given a lot more tasks than usual.

MOTION CARRIED WITHOUT DISSENT.

G. CONSIDERATION OF APPROVAL OF CONTRACT WITH SCOTT PESCH, COLDWELL BANKER FOR COMMERCIAL REAL ESTATE BROKER SERVICES.

COMMISSIONER HIGGINS MOVED FOR THE CONSIDERATION OF APPROVAL OF CONTRACT WITH SCOTT PESCH, COLDWELL BANKER FOR COMMERCIAL REAL ESTATE BROKER SERVICES. COMMISSIONER DALE SECONDED.

Captain Petrusha stated as a result of a RFP process, the Staff previously recommended to the Board of Commissioners to contract with Scott Pesch of Coldwell Banker Commercial, Pacific Partners Real Estate to market Redwood Terminal 2 property. The Board approved and directed Staff to negotiate the contract. Mr. Pesch will compare Redwood Terminal 2's commercial warehouse space and industrial yard area with similar properties that have been recently leased in order to determine its competitive market price; he will market available commercial warehouse space and industrial yard area through electronic media and non-electronic media; act as an intermediary in negotiations with potential tenants over lease prices and other lease details; monitor lease contract terms to ensure that they are handled in a timely manner; and complete lease agreements between parties in order to reflect the contractual obligations by each party (landlord and tenant). Tideland leases are not a part of the Broker Services. There is a possible addition of Berth 1 warehouses and land as well as a possible addition of available Fields Landing warehouses and land. The contract has been reviewed by District Counsel and Staff, which recommends approval to move forward with the contract with Scott Pesch.

Scott Pesch, Broker/Owner Coldwell Banker Commercial Pacific Partners, said there are two forms the Harbor District must complete: the Agency Relationship and the Lease Listing Agreement. There is a 6-month listing agreement. The goal is for 1-5 year lease agreements. The lease commission fee is 6% based on total rents and is paid monthly. There is no fee on extensions or option periods and no fee on defaults or early termination. 90% of the transactions will be smaller warehouse users of 10,000 square feet or less. The lease commission tier is as follows: 6% commission fee with less than a \$20,000 commission; 5% commission fee between \$20,000 - \$40,000 commission; and 4% commission fee over \$40,000 commission. Marketing including internet packets, signage, and mailers are paid at the Broker's expense. The Broker would like to propose its leasing services to other properties that are currently owned by Humboldt Bay Harbor District.

District Counsel stated that not having a huge commission up front would benefit the cash flow standpoint.

Commissioner Dale said the entire proposal should be made available to tenants as well. District Counsel said the listing agreements have to be kept separate to stay in accordance with the Brown Act.

Mr. Sawatzky said a couple months of vacancies would pay for it and the best thing to do would be to take it slow.

Debbie Provolt said she worked with Mr. Pesch before and he is a professional. She said it is a good thing to have other properties available for lease.

MOTION CARRIED WITHOUT DISSENT.

H. CONSIDERATION OF APPROVAL FOR TIDELAND LEASE ADDENDUM WITH CALIFORNIA REDWOOD COMPANY.

COMMISSIONER MARKS MOVED FOR THE APPROVAL OF TIDELAND LEASE ADDENDUM WITH CALIFORNIA REDWOOD COMPANY. COMMISSIONER NEWMAN SECONDED.

Captain Petrusha said this item is the Addendum to the 2007 Lease Agreement with The California Redwood Company for the five-year period: February 1, 2013-January 31, 2018. The District has the right to renegotiate the rent for each subsequent five-year period. There is a CPI Index increase of 1.7% for the five-year period, totaling approximately 8.5%. Monthly rent will now be \$5,100.00, which is an increase of \$400 per month. The new lease amount will begin May 1, 2014 if approved. Staff has notified California Redwood Company of the increase and recommends approval of the addendum.

Commissioner Dale asked how many leased acres there are. Captain Petrusha said he did not know the exact acreage.

Kent Sawatzky said he would like to know the exact acreage because it sets the terms and price of the lease.

MOTION CARRIED WITHOUT DISSENT.

I. CONSIDERATION OF PERMIT AND AGREEMENT TO OPERATE A CHARTER SERVICE WITH JOHN W. KRAMER, DBA JOLI TIME SPORT FISHING.

COMMISSIONER NEWMAN MOVED FOR THE APPROVAL OF THE PERMIT AND AGREEMENT TO OPERATE A CHARTER SERVICE WITH JOHN W. KRAMER, DBA JOLI TIME SPORT FISHING. COMMISSIONER HIGGINS SECONDED.

Commissioner Higgins said it is great for the community.

MOTION CARRIED WITHOUT DISSENT.

J. CONSIDERATION OF PERMIT AND AGREEMENT TO OPERATE A CHARTER SERVICE WITH CLIFF FRIEDLEY, DBA FOREEL SPORT FISHING.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF THE PERMIT AND AGREEMENT TO OPERATE A CHARTER SERVICE WITH CLIFF FRIEDLEY, DBA FOREEL SPORT FISHING. COMMISSIONER NEWMAN SECONDED.

Commissioner Higgins said we need to keep the Halibut season open to make sure six-pack guys stay in business.

MOTION CARRIED WITHOUT DISSENT.

K. CONSIDERATION OF LETTER OF SUPPORT FOR THE NORTH COAST RAILROAD AUTHORITY TIGER GRANT APPLICATION FOR THE "HUMBOLDT BAY DIVISION COMPREHENSIVE PLANNING STUDY".

COMMISSIONER DALE MOVED TO APPROVE THE LETTER OF SUPPORT FOR THE NORTH COAST RAILROAD AUTHORITY TIGER GRANT APPLICATION FOR THE "HUMBOLDT BAY DIVISION COMPREHENSIVE PLANNING STUDY". COMMISSIONER NEWMAN SECONDED.

District Counsel stated it is in accordance with the Brown Act and that previously Commissioner Wilson sent in his comments.

Commissioner Higgins said there was a similar proposal in 2008, but there were feasibility issues. He said it is a very competitive grant.

Commissioner Marks said the grant is more for the trails with rails component rather than shipping goods. The intent is to look at the TIGER Grant for overlay.

Chet Albin said the main emphasis for the grant application is to make the opportunity to get a cruise ship in for train excursions. Commissioner Higgins thanked Commissioner Marks and Mr. Albin and said their explanation was very helpful.

Commissioner Marks said we want trail, we want rail, marry the two.

CEO suggested to rewrite the letter to be more supportive of the railroad aspect. Commissioner Marks agreed.

COMMISSIONER DALE MOTIONED TO MAKE A FRIENDLY AMENDMENT TO INCLUDE TRAILS. COMMISSIONER NEWMAN SECONDED.

Kent Sawatzky said the TIGER Grant is the magic key to the kingdom of rail expansion. He said he has reviewed Arcata's TIGER Grant. The application the Harbor District has needs more review so that the grant does not fail.

Karen Brooks said the Harbor District wears many hats and asked if there was direct competition between NCRA and the Samoa Industrial Waterfront Transportation Access Plan.

Commissioner Marks said he talked to Commissioner Wilson who was concerned about the trails aspect not being included in the letter. Commissioner Marks said the omission of the trails aspect was an accident made by the volunteers preparing the letter.

CEO said he is a supporter of the Rail Authority and he does not see there being an issue with competition. He has faith in the District Planner.

MOTION CARRIED WITH COMMISSIONER HIGGINS DISSENTING.

ADMINISTRATIVE AND EMERGENCY PERMITS: None

The Regular Meeting of the Board of Commissioners adjourned at 9:42 p.m.

APPROVED BY:



Greg Dale
Secretary

RECORDED BY:



Megan Smith
Clerk