

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

June 12, 2014

PRESENT:

Commissioner Newman
Commissioner Marks
Commissioner Higgins

ABSENT:

Commissioner Dale
Commissioner Wilson

President Marks called the Executive Closed Session to order at 6:12 p.m.

Kent Sawatzky asked about the USEPA Settlement Agreement being a Closed Session item. He said if the settlement is between two government agencies and does not involve litigation, it may not be a Closed Session item. District Counsel responded USEPA threatened litigation if the issue is not settled. Mr. Sawatzky then stated if the money involved is superfunded dollars, anyone involved after Phase 1 is jointly and severally responsible.

President Marks convened Closed Session at 6:15 p.m.

President Marks adjourned the Executive Closed Session at 6:52 p.m.

President Marks called the Regular Meeting of the Board of Commissioners to order at 7:01 p.m.

President Marks led those present in the Pledge of Allegiance.

District Counsel reported out of the Executive Closed Session as follows: Contrary to what was stated on the meeting agenda, there was no discussion in Closed Session involving negotiations with represented employees; Conference with Real Property Negotiator: no action taken.

PUBLIC COMMENT

Monte Provolt said he thought there was an understanding from USEPA the Harbor District would not be held liable for the clean-up of the pulp mill site. Now on the Closed Session agenda there is discussion of liability; what has changed? Is the Board trying to track down the responsible party? District Counsel stated at this time there are discussions only.

Mr. Provolt said the Board should be encouraging private buyers of the property. Grant dollars are being taken from others; tax dollars are being taken from taxpayers. The County of Humboldt lost their property tax revenue when the District purchased the property. District Counsel responded the District does not pay real property tax. When the District can lease out the property, possessory use tax equal to property tax will be paid by the tenant to the County. Enhancing the property through rehabilitation increases taxes to the County.

Debbie Provolt asked if non-profit agencies pay property tax. District Counsel responded yes. Ms. Provolt asked if Humboldt State University would pay property tax. District Counsel responded no, they are a public entity.

Ken Sawatzky asked about the recommended actions contained in the most current Humboldt Bay Management Plan and the Port of Humboldt Bay Revitalization Plan.

Debbie Provolt asked about the USEPA Settlement Agreement and if negotiations are with another government entity, are they closed or public negotiations. She also asked if this unexpected issue has

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anything to do with USEPA's Superfund requirements. District Counsel said the District is evaluating USEPA's claims against the District.

CONSENT CALENDAR

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF THE CONSENT CALENDAR.
COMMISSIONER NEWMAN SECONDED. MOTION CARRIED WITHOUT DISSENT.

COMMUNICATIONS AND REPORTS

CHIEF EXECUTIVE OFFICER REPORT:

- ❖ CEO reported on Redwood Terminal 2 cleanup efforts as follows:
 - Boiler ash is being put into the tanks to solidify the liquors in the bottom of the tanks
 - Tanks are being flattened and prepared to ship; sale of scrap will be credited to the District's account
 - KapStone operations are shut down at this time for maintenance
- ❖ The first of three truckloads of dredge equipment has been delivered; 17 more to go.
- ❖ The T-Mobile cell tower at Fields Landing has been installed; lease will be approximately \$1,700 per month.

STAFF REPORTS:

Conservation Report:

- ❖ Staffed a booth representing the Harbor District at the Oyster Festival. The booth included touch tanks and posters about the mariculture pre-permitting project.
- ❖ Attended a meeting with US Fish & Wildlife regarding eelgrass monitoring.
- ❖ Public comment period near closing for both the water trails project and the revised NOP for the mariculture pre-permitting project.

District Treasurer Report:

- ❖ Compiling year end information for the upcoming audit.

COMMISSIONER AND COMMITTEE REPORTS:

Commissioner Newman:

- ❖ Reported there has been a long dry spell for fishing; and if the weather behaves, fishing may start up again.

Commissioner Marks:

- ❖ Attended a NCRA meeting in Healdsburg. He said a war is brewing between NWP Co. and Smart. They share the same rail line in the southern part of the district. Smart is putting in track that will slow down the freight movement in certain areas.

Commissioner Higgins:

- ❖ Parcel 4, adjacent to Redwood Terminal 2, has been acquired by a private buyer.
- ❖ Reading previous minutes remind him of moving quickly on the reorganization of the District website.
- ❖ Has been helping with the Eel River Recovery Project, studying pike minnow. On June 22 at Tooby Park, pike minnow will be identified.

OTHER BUSINESS: None

UNFINISHED BUSINESS:

A. PUBLIC HEARING AND FIRST READING OF FY 2014/15 BUDGET.

Director of Administrative Services reported the summary of the FY 2014/15 Budget as follows: Revenue \$12,167,597; Operating Expenses \$2,178,700; Non-Operating Expenses \$8,590,176; Deduct the Single Use Revenue (\$170,000); Total Budget Balance \$1,228,721.

The impact of the bond and the California Department of Boating and Waterways long-term debt refinancing are unknown at this time; therefore no change has been reflected in the proposed budget.

Susan Penn said the gangway gates have not proven to be an improvement, more of a nuisance. She said they will be in constant need of repair and will not help to keep the tenants safe.

NEW BUSINESS:

A. CONSIDERATION OF ACCEPTING FOR FILING APPLICATION FOR PERMIT 14-01 TO NORTHCOAST REGIONAL LAND TRUST FOR THE MARTIN SLOUGH TIDE GATE IMPROVEMENT PROJECT.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF ACCEPTING FOR FILING APPLICATION FOR PERMIT 14-01 TO NORTHCOAST REGIONAL LAND TRUST FOR THE MARTIN SLOUGH TIDE GATE IMPROVEMENT PROJECT. COMMISSIONER NEWMAN SECONDED.

Commissioner Newman stated he is on the Board of the Northcoast Regional Land Trust. Since he receives no compensation for his position, District Counsel said there is no conflict of interest and Commissioner Newman is eligible to vote.

District Counsel stated the general advice is usually to be conservative, even if technically there is no conflict of interest. In this case there is no conflict because there is no expenditure of District funds and no financial remuneration to Commissioner Newman.

Director of Conservation said the applicant is eager to get started; trying to get the work done before the rain starts in the Fall.

Monte Provolt asked if the tide gate is larger, will it keep the golf course under water longer. Commissioner Higgins replied the golf course will be under water less with the new tide gate.

MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF ACCEPTING FOR FILING APPLICATION FOR PERMIT 14-02 TO CHEVRON USA, INC. FOR THE EUREKA TERMINAL REPAIR PROJECT.

COMMISSIONER NEWMAN MOVED FOR THE APPROVAL OF ACCEPTING FOR FILING APPLICATION FOR PERMIT 14-02 TO CHEVRON USA, INC. FOR THE EUREKA TERMINAL REPAIR PROJECT. COMMISSIONER HIGGINS SECONDED.

Director of Conservation reported the repairs covered by this permit have been mandated by the State; 23 pilings are to be replaced, as well as other repairs. He also said it is possible the project is qualified for a CEQA exemption since the repairs are on an existing facility and similar materials will be used.

MOTION CARRIED WITHOUT DISSENT.

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President Marks called for a five-minute break at 7:50 p.m.

President Marks reconvened the meeting at 7:55 p.m.

C. CONSIDERATION OF ACCEPTING FOR FILING APPLICATION FOR PERMIT 14-03 TO COAST SEAFOODS COMPANY FOR RENEWAL AND EXPANSION OF COAST SEAFOODS SHELLFISH FARM PARCELS.

COMMISSIONER NEWMAN MOVED FOR THE APPROVAL OF ACCEPTING FOR FILING APPLICATION FOR PERMIT 14-03 TO COAST SEAFOODS COMPANY FOR RENEWAL AND EXPANSION OF COAST SEAFOODS SHELLFISH FARM PARCELS. COMMISSIONER HIGGINS SECONDED.

Coast Seafoods is requesting the renewal of the permit for the existing 296 acres of shellfish culture, requesting expansion of its farm by an additional 621 acres and add eight additional bins within its flupsy operations.

Monte Provolt asked how the Board could deny the application by Coast Seafoods since Coast Seafoods gave the District a loan of \$1.25 million for the transportation of liquors from the pulp mill property.

Kent Sawatzky asked how the lease is structured and if Coast Seafoods is paying market rate for the leased acres.

Sebastian Elrite said he would like to see full utilization of the leased acres. He said Coast Seafoods has 3,400 acres and approximately 300 are usable.

MOTION CARRIED WITHOUT DISSENT.

D. CONSIDERATION OF ADOPTION OF RESOLUTION 2014-06, A RESOLUTION TO ENTER INTO A CONTRACT AND ACCEPT FUNDS FROM THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE FOR SECRETARIAT SERVICES FOR THE HARBOR SAFETY COMMITTEE OF THE HUMBOLDT BAY AREA.

COMMISSIONER HIGGINS MOVED FOR THE ADOPTION OF RESOLUTION 2014-06, A RESOLUTION TO ENTER INTO A CONTRACT AND ACCEPT FUNDS FROM THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE FOR SECRETARIAT SERVICES FOR THE HARBOR SAFETY COMMITTEE OF THE HUMBOLDT BAY AREA. COMMISSIONER NEWMAN SECONDED.

A ROLL CALL VOTE WAS TAKEN:

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

MOTION CARRIED WITHOUT DISSENT.

E. CONSIDERATION OF BALLOT FOR ELECTION OF SPECIAL DISTRICT REPRESENTATIVES TO SERVE ON LAFCO.

COMMISSIONER HIGGINS MOVED TO VOTE FOR TROY NICOLINI TO BE THE SPECIAL DISTRICT REPRESENTATIVE TO SERVE ON LAFCO. COMMISSIONER NEWMAN SECONDED. MOTION CARRIED WITHOUT DISSENT.

F. CONSIDERATION OF ACCEPTING THE GRANT AGREEMENT WITH THE CALIFORNIA NATURAL RESOURCES AGENCY FOR THE HUMBOLDT BAY SPARTINA ERADICATION PROJECT.

Director of Conservation reported the grant agreement is typical of state agency grants the District has accepted in the past, with the following notable points: The Grantor may require the District record a Deed Restriction for those areas treated under this grant which would consist of: the State would have to approve any transfer or sale of the property in the future; the property could not be used again for mitigation since these are mitigation funds; and the property could not be used as security for debt. Also the District will have to pay California prevailing wages for work conducted with these grant funds.

Some of the properties contained in the agreement belong to the Cities of Arcata and Eureka; the District cannot force these agencies to sign the deed restrictions.

Staff recommended the Board of Commissioners authorize the CEO to enter into the grant agreement with the California Natural Resources Agency when the issues have been resolved and District Counsel approves.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF ACCEPTING THE GRANT AGREEMENT WITH THE CALIFORNIA NATURAL RESOURCES AGENCY FOR THE HUMBOLDT BAY SPARTINA ERADICATION PROJECT UPON RESOLUTION OF THE BOARD CONCERNS AND DISTRICT COUNSEL GIVES APPROVAL. COMMISSIONER NEWMAN SECONDED.

Monte Provolt asked if the Spartina is recurring. Director of Conservation responded this is a huge project, mostly on Refuge lands. The crews are making slow and steady progress.

Kent Sawatzky said there is no sunset provision on deed restrictions.

MOTION CARRIED WITHOUT DISSENT.

G. CONSIDERATION OF ADOPTION OF RESOLUTION 2014-07, A RESOLUTION AUTHORIZING THE COMMENCEMENT OF PROCEEDINGS IN CONNECTION WITH THE REFINANCING OF CERTAIN LONG-TERM DEBT OBLIGATIONS, AND APPOINTING THE WEIST LAW FIRM AS BOND COUNSEL AND STERN BROTHERS & CO. AS PLACEMENT AGENT IN CONNECTION THEREWITH.

COMMISSIONER HIGGINS MOVED FOR THE ADOPTION OF RESOLUTION 2014-07, A RESOLUTION AUTHORIZING THE COMMENCEMENT OF PROCEEDINGS IN CONNECTION WITH THE REFINANCING OF CERTAIN LONG-TERM DEBT OBLIGATIONS, AND APPOINTING THE WEIST LAW FIRM AS BOND COUNSEL AND STERN BROTHERS & CO. AS PLACEMENT AGENT IN CONNECTION THEREWITH. COMMISSIONER NEWMAN SECONDED.

Monte Provolt said if the refinancing is going to save the District \$200,000, then the money should be earmarked for marina improvement.

A ROLL CALL VOTE WAS TAKEN:

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

MOTION CARRIED WITHOUT DISSENT.

ADMINISTRATIVE AND EMERGENCY PERMITS: None.

The Regular Meeting of the Board of Commissioners adjourned at 8:20 p.m.

APPROVED BY:



Patrick Higgins, Vice President
for
Greg Dale, Secretary

RECORDED BY:



Patricia Tyson
Director of Administrative Services