

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

June 8, 2023

The Humboldt Bay Harbor, Recreation and Conservation District met in regular session on the above date, Closed Session met at 5:00 P.M., Regular Session met at 6:00 P.M. at the Woodley Island Marina meeting room, 601 Startare Drive, Eureka, CA 95501.

CLOSED SESSION – 5:05 P.M.

PUBLIC COMMENT: The following individuals addressed the Commission regarding subject matters on the closed session meeting agenda: No one.

BUSINESS

- a) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Property: Humboldt County APN: 401-031-083-000. Agency negotiator: Larry Oetker, Executive Director; Ryan Plotz, District Counsel. Negotiating parties: Samoa Pacific Group, LLC. Under negotiation: price and terms of payment.

REGULAR SESSION – 6:02 P.M.

ROLL CALL

PRESENT: BENSON
DALE
KULLMANN
NEWMAN

ABSENT: HIGGINS

QUORUM: YES

PLEDGE OF ALLEGIENCE

REPORT ON SPECIAL CLOSED SESSION: No reportable action.

PUBLIC COMMENT: The following individuals addressed the Commission regarding subject matters not on the regular session meeting agenda: No one.

CONSENT CALENDAR

- a) Adopt Minutes for April 13, 2023 Regular Board Meeting
- b) Adopt Minutes for April 27, 2023 Special Board Meeting
- c) Adopt Minutes for May 11, 2023 Regular Board Meeting
- d) Receive District Financial Reports for April 2023
- e) Approve PO No 1963 to Anderson Trucking, LLC for Waste Haul Operations at Redwood Marine Terminal II

Adopted Minutes for June 8, 2023 Regular Board Meeting

- f) Consider Accepting Application for Filing for Harbor District Permit No. 2023-02: Manila Community Services District - Flood Reduction and Drainage Enhancement Project
- g) Consider Accepting Application for Filing for Harbor District Permit 2023-03: Caltrans - Eureka Slough Bridges Geotechnical Investigation
COMMISSIONER KULLMANN MOVED TO ACCEPT CONSENT CALENDAR ITEMS A-G.
COMMISSIONER NEWMAN SECONDED.
VOICE VOTE WAS CALLED, MOTION CARRIED.
Ayes: BENSON, DALE, KULLMANN, NEWMAN
Noes: NONE
Absent: HIGGINS
Abstain: NONE

COMMUNICATIONS, REPORTS AND CORRESPONDENCE RECEIVED

- a) Correspondence Received
 - I. Celebration of Life for Roy Curless
 - II. Email from Steve Rosenberg
 - III. Email from Alison Willy
 - IV. Email from Scott Frazer
- b) Executive Director's Report
 - I. Executive Director presented Executive Director's report.
- c) Staff Reports
 - I. Staff presented on recent District activities.
- d) District Counsel and District Treasurer Reports
 - I. None.
- e) Commissioner and Committee Reports
 - I. Commissioners reported on recent activities and subcommittees.

UNFINISHED BUSINESS

- a) **Consider Adopting Resolution 2023-12: A Resolution Certifying an Environmental Impact Report (EIR) Previously Certified by the County of Humboldt, Adopting a Mitigation Monitoring and Reporting Program, and Making Findings Relative to and Approving Harbor District Permit 2022-02 with Conditions for the Humboldt Bay Master Water Intakes**
 - I. District staff presented the item.
 - II. The Commission discussed the item.
 - III. Chair Dale opened the item to public comment. Scott Frazer, Josh Garcia, Jennifer Kalt, and Cody Freitas commented.
 - IV. Chair Dale moved the discussion back to the Commission.
COMMISSIONER KULLMANN MOVED TO ADOPT RESOLUTION 2023-12, A RESOLUTION CERTIFYING AN ENVIRONMENTAL IMPACT REPORT PREVIOUSLY CERTIFIED BY THE COUNTY OF HUMBOLDT, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, AND MAKING FINDINGS RELATIVE TO AND APPROVING HARBOR DISTRICT PERMIT 2022-02 WITH CONDITIONS FOR THE HUMBOLDT BAY MASTER WATER INTAKES.

COMMISSIONER NEWMAN SECONDED.
ROLL CALL VOTE WAS CALLED, MOTION CARRIED.
Ayes: DALE, KULLMANN, NEWMAN
Noes: BENSON
Absent: HIGGINS
Abstain: NONE

NEW BUSINESS

a) Review of Preliminary Budget and Goals for Conservation Programs, Recreation Programs, and Tidelands

- I. District staff presented the item.
- II. The Commission discussed the item.
- III. Chair Dale opened the item to public comment. No one commented.
- IV. Chair Dale moved the discussion back to the Commission.
- V. Discussion item only, no formal action was taken.

b) Consider Adopting Resolution 2023-10, A Resolution to Authorize the Execution of a Grant Agreement and Accept Funds from the California Department of Fish and Wildlife for Secretariat Services for the Harbor Safety Committee of the Humboldt Bay Area for Fiscal Year 2023-2024

- I. District staff presented the item.
- II. The Commission discussed the item.
- III. Chair Dale opened the item to public comment. No one commented.
- IV. Chair Dale moved the discussion back to the Commission.

COMMISSIONER NEWMAN MOVED TO ADOPT RESOLUTION 2023-10, A RESOLUTION TO AUTHORIZE THE EXECUTION OF A GRANT AGREEMENT AND ACCEPT FUNDS FROM THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE FOR SECRETARIAT SERVICES FOR THE HARBOR SAFETY COMMITTEE OF THE HUMBOLDT BAY AREA FOR FISCAL YEAR 2023-2024. COMMISSIONER KULLMANN SECONDED.

ROLL CALL VOTE WAS CALLED, MOTION CARRIED.
Ayes: BENSON, DALE, KULLMANN, NEWMAN
Noes: NONE
Absent: HIGGINS
Abstain: NONE

c) Consider Adopting Resolution 2023-11, A Resolution of the Board of Commissioners of the Humboldt Bay Harbor, Recreation and Conservation District Accepting the Real Property in the County of Humboldt Designated as Assessor Parcel Number 401-031-083 and Authorizing the Executive Director and/or President of the Board of Commissioners to Fund and Close Escrow

- I. District Staff presented the item.
- II. The Commission discussed the item.
- III. Chair Dale opened the item to public comment. Cody Freitas commented.
- IV. Chair Dale moved the discussion back to the Commission.

Adopted Minutes for June 8, 2023 Regular Board Meeting

COMMISSIONER BENSON MOVED TO ADOPT RESOLUTION 2023-11, A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT ACCEPTING THE REAL PROPERTY IN THE COUNTY OF HUMBOLDT DESIGNATED AS ASSESSOR PARCEL NUMBER 401-031-083 AND AUTHORIZING THE EXECUTIVE DIRECTOR AND/OR PRESIDENT OF THE BOARD OF COMMISSIONERS TO FUND AND CLOSE ESCROW.

COMMISSIONER KULLMANN SECONDED.

ROLL CALL VOTE WAS CALLED, MOTION CARRIED.

Ayes: BENSON, DALE, KULLMANN, NEWMAN

Noes: NONE

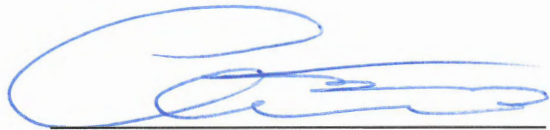
Absent: HIGGINS

Abstain: NONE

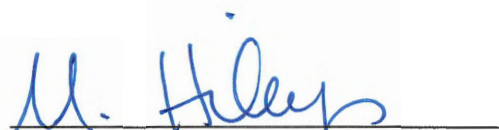
ADJOURNMENT – 8:35 P.M.

APPROVED BY:

RECORDED BY:



Aaron Newman
Secretary of the Board of Commissioners



Mindy Hiley
Director of Administrative Services

Chris Mikkelsen

From: Steve Rosenberg [REDACTED]
Sent: Thursday, June 8, 2023 9:05 AM
To: Chris Mikkelsen
Subject: Fwd: Item 10a june 8,2023 agenda

----- Forwarded message -----

From: **Steve Rosenberg**
Date: Thu, Jun 8, 2023, 8:56 AM
Subject: Item 10a june 8,2023 agenda
To: <loetker@humboldtby.org>

Dear Mr. Oekter:

I request the Commission continue consideration of this item to give the public the time to review pertinent documents. Barring that refusal, I render my objection to EIR approval upon the basis of inadequate mitigation measures to alleviate the admitted entrainment of endangered and other marine species I am preliminarily advised are in the documents.

Respectfully,
Stephen Rosenberg
Eureka, Ca

From: [Alison Willy](#)
To: [Chris Mikkelsen](#)
Cc: [Matt Goldsworthy](#); Corianna.Flannery@wildlife.ca.gov
Subject: Tonight's HBHRCD Commission Meeting Agenda Item 10(a)
Date: Thursday, June 8, 2023 4:40:45 PM

Dear Acting Director Mikkelsen:

I have only just been made aware that the HBHRCD Board of Commissioners will consider adopting the EIR for the Nordic Aquafarms Project, which includes HBHRCD intake structures as part of that project. As a party that has commented extensively on the EIR, and who has an accepted appeal at the California Coastal Commission, I am concerned that lack of timely notification has excluded my ability to review the May 1, 2023 Intake Assessment. I was not notified of the May 3, 2023 "To whom it may concern" letter and expect that many commenters both with and without standing were similarly excluded from notification.

As I am sure you are well aware, incidental take permitting and incidental take exemption has not been obtained from the California Department of Fish and Wildlife and the National Marine Fisheries Service, respectively. Therefore, any determination as to adequacy of mitigation is premature. Both the California Environmental Quality Act and the National Environmental Policy Act (NEPA) are used to provide decision-makers, such as yourself and the Commissioners, adequate information upon which to make a determination. In this case that would be attainment of relevant information prior to adoption of the EIR.

In addition, although Rivers and Harbors Act section 10 and Clean Water Act Sections 401 and 404, permitting has not been completed, some level of NEPA review and federal Endangered Species Act consultation will be needed. It is premature to make a determination prior to, at a bare minimum, incidental take coverage under both the California and federal Endangered Species Acts.

In order to allow for timely review and adequate determination of species effects, please postpone making a determination on the EIR until after California and federal Endangered Species Act consultations have been concluded and until stakeholders have had sufficient time to review the Intake Assessment.

Please provide each Commissioner with a copy of this email for their review at the meeting this evening.

Thank you for your time and attention to this matter.

Alison Willy
Riparian Solutions


From: [Scott Frazer](#)
To: [Larry Oetker](#); [Stephen Kullmann](#); [gdale574@gmail.com](#); [Craig.Benson@humboldt.edu](#); [kay6v71@aol.com](#); [phiggins@humboldt1.com](#); [Chris Mikkelsen](#); [Mindy Hiley](#)
Cc: [mskymkemp@gmail.com](#)
Subject: Review of Tenera Assessment and mitigation for Longfin smelt
Date: Thursday, June 8, 2023 3:14:30 PM

Chris Mikkelson, and HBHRCD Commissioners:

Please accept this request to postpone action on agenda item 10, Saltwater intake assessments, and adoption of environmental findings. I appreciate your guidance by phone in pointing out that there is a "staff recommendation" for an alternative to adoption in the agenda package. As all of you are aware, the highly technical information contained in the Tenera report requires more than a few days to read and assimilate. Notification of the posting of the final Tenera report was not made available to persons like myself even after I provided comments both in person at prior HBHRCD meetings and spoke to Exec. Dir. Larry Oetker regarding public distribution of this report on multiple occasions. It would be desirable for your Executive Director to ask counsel for clarification on CEQA requirements for "Certainty of Notification" to interested parties.

I am "materially impacted" by the CEQA findings that HBHRCD may consider adopting this evening. Therefore I respectfully request that action on agenda item 10, 10a, and related items be delayed until the July 13, 2023 regular meeting.

Your Commission should consider the fact that the Final EIR adopted by Humboldt Planning Commission no longer accurately describes the Nordic Aquafarms, LLC project. If you believe the press releases that have been issued by Nordic, the size, scope and species selection changes made have resulted in a substantially different project.

If your Commission declines to allow additional time for public review and engagement of the issues raised above, I desire to register my objection to approval of a flawed FEIR that does not contain meaningful mitigation for longfin smelt (LFS). The FEIR adopted by Humboldt Co. was amended prior to adoption to address CA DFW objections to the use of "piles" removal at the Kramer dock as mitigation for LFS. Additionally, you may be aware that there is no time lost or "cost" to the HBHRCD in postponing action on agenda item 10 due to the fact that a CA DFW Incidental Take Permit must be applied for before any meaningful action may be initiated on this project.

PS; Chris Mikkelsen; please provide each Commissioner with a copy of this email for their review at the meeting this evening. Thank you.

Sincerely,

Scott Frazer
