

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

February 12, 2015

PRESENT:

Commissioner Newman
Commissioner Marks
Commissioner Wilson
Commissioner Higgins

ABSENT:

Commissioner Dale

President Marks called the Executive Closed Session to order at 6:05 p.m. District Counsel attended Executive Closed Session by phone.

President Marks adjourned the Executive Closed Session at 6:50 p.m.

President Marks called the regular meeting of the Board of Commissioners to order at 7:09 p.m.

President Marks led those present in the Pledge of Allegiance.

District Counsel reported on the Executive Closed Session as follows: Status of Conference with Real Property Negotiators for Exclusive Right To Negotiate with US Mine for a portion of the Redwood Terminal 2 property, Freshwater Tissue Company Notice of Retaining Parcel C per the Option Agreement and Sale of Boiler at Redwood Terminal 2 property– No action taken on these items. Threatened Litigation –Freshwater Tissue Company – A unanimous vote by the Board of Commissioners for a successful resolution was reached and New Business 11(b) was pulled from the agenda.

President Marks allowed Public Comment on New Business 11(b) since it was pulled from the agenda.

Kent Sawatzky said the Board had to indemnify and the District got the pulp mill site. Hopefully this is a good move. He said he approves the Board's action.

PUBLIC COMMENT

Kent Sawatzky urged the Board to try and make the pulp mill project financially viable, in light of potential significant dollars owed to USEPA. Put the property back in the possession of private owners, not public. He says the Board has done God's work cleaning the property.

CONSENT CALENDAR: None

COMMUNICATIONS AND REPORTS

EXECUTIVE DIRECTOR'S REPORT:

- ❖ Winter storms have added an additional 10' of shoaling to the bar and entrance of Humboldt Bay. The 2014 annual Army Corps of Engineers budget for dredging allowed for only dredging to a 44' depth. Humboldt Pilots Association issued a 32' draft restriction. The chip ship due in February has been cancelled. The Corps will conduct soundings next week. The *ESSAYONS* is currently dry-docked. The Corps dredging has been delayed until July. The 2015 Corps work plan was for \$3.8 million; the President signed a \$1.8 million budget. Tonnage is increasing; this leads to better talking points with legislators for additional dredging budget.

STAFF REPORTS: None

DISTRICT COUNSEL REPORT

- ❖ Reported on SB141, which is going through the Senate. This bill is for Harbor District benefit only. It was initiated by Stated Lands Commission and compliments the District's work on public trust properties. The legislation states that if the District owns properties that have public trust implications, the District can only convey title if it is in the public's benefit. The bill does not affect the management of state lands.

COMMISSIONER AND COMMITTEE REPORTS:

Commissioner Higgins

- ❖ A strong contingency is attending the Pacific Halibut Commission meeting. Within a couple of years, it is expected the fishing season will be all summer long.
- ❖ March 21 – Earth Water and Fire Day in Garberville.

OTHER

Albert Lemus, Lowes Enterprises, stated the New Market Tax Credits project has been extended for 2015. The inability to secure large tenants suggests a more conservative path. Meetings were held in San Diego in January with 6 Community Development Entities (CDE)/intermediaries. Two have asked to schedule tours of the property and last years' group are interested as well.

Completed: Phase 1 updates; appraisals; rent analysis; ALTA survey; NFA letter from Regional Water Quality Control Board and the bond closing.

Open: Fields Landing Marine Travelift collateral; EPA muni-pay; leasing; port proforma and loan term sheets.

Timeline: schedule CDE tours and achieve CDE commitment May 2015; Complete transaction August 2015; start construction September 2015; Project completed May 2016.

Commissioner Higgins spoke about the benefits of redevelopment to Humboldt County.

Commissioner Newman asked why the Fields Landing collateral makes the NMTC dollars change so dramatically.

Mr. Lemus responded for every \$3 committed, the government matches \$1, a 75/25 ratio. Revenue was not included in the bond closing, so would like to try to include the revenue the match.

Kent Sawatzky said he was glad to see the NMTC continuing to move forward. He thanked everyone for all their efforts.

Craig Spjut said he hopes that any local projects will use local apprentices.

NON AGENDA: None

UNFINISHED BUSINESS: None

NEW BUSINESS

A. CONSIDERATION OF EXCLUSIVE RIGHT TO NEGOTIATE WITH US MINE AT REDWOOD TERMINAL 2.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF EXCLUSIVE RIGHT TO NEGOTIATE WITH US MINE AT REDWOOD TERMINAL 2. COMMISSIONER NEWMAN SECONDED.

Executive Director reported this is a standard Harbor District agreement. The area consists of the shop and stores building, machine building, 8-acre yard and dock area. It is a six-month agreement with an option to extend. The fee is \$5,000, which will be credited to a future lease.

Guy Reed, General Manager of US Mine Corp, and Scott Docktor, President and CEO of US Mine Corp, spoke to the Board about the proposal.

Commissioner Higgins asked how many job will be created. The entire operation will create 30-50 jobs.

Kathy Marshall said she is not interested in the white wash of what this project means to our county – replacing one toxic process for another, plus this is a seismically active area. Cyanide, mercury and other heavy metals will be used for coastal degradation. \$5,000 is a drop in the bucket and not responsible. This is similar to the LNG project and Goldman-Sachs – not worth the while of dealing with community rage. She said she was concerned with particulate matter and containment – tradewinds will impact many coastal areas.

Diane Beck, Redwood Chapter of Sierra Club, said it is difficult to comprehend this proposal – toxic chemicals in a tsunami zone.

Rocky Drill asked if cyanide is part of the project.

Mr. Dockter replied in mining operations ore is impregnated with cyanide and then leached out. It is possible US Mine will not do this type of process here; it depends on the type of ore brought here. Not all ore is treated with cyanide.

Sandra Klinge said when the pulp mill started here the advertising was all about clean air and water; but that is not so. Could we get more toxic, hazardous materials to the forests and fish?

Leo Sears said any proposal should not be rejected out of hand; it should be analyzed and if the Harbor District thinks it has merit, then the proposer needs to get all required permits. He said he is not in favor of the project, but is in favor of the process. Give US Mine the opportunity to go through the process.

John Schafer said he agrees that it makes sense to hear them out. When will the project details be available? The CA Environmental Impact Study will contain all the details.

Nova Cramer said her great grandfather was a gold miner, but she is not fond of the idea. She said she would prefer a project involving edibles or fish, something safer. She said she doesn't like the idea of chemicals, doesn't want them here.

Ralph Faust said he understands the financial concerns of the Harbor District. When someone comes before you with an opportunity it is easy to get caught up; but is the opportunity worth the cost of typing up property. The Harbor District should consider the likelihood of success. He has spent 30 years working with the Coastal Act and doesn't think the project will be compatible.

Kent Sawatzky said he is glad to see people participate in the discussion. He urged everyone to look at the benefits and share concerns. If it is determined the project is not functional in Humboldt County, it will not proceed. Ralph (Faust) can sue when they are done. Support the Harbor District to follow the process; there are enough environmental constraints to cover any issue.

Erik Schlagenhauf, Hog Island Oyster Company, asked if there was any estimate on the volume processed and what the restrictions are.

Charles Benbow said there is no way this project will make it through all the agencies unless all details are answered. At what price point does gold have to be to be viable?

Diane Ryerson asked if there are already businesses lined up to take the product. How much homework has been done on the background of the industry; how reliable is it. \$5,000 seems like a pittance if the property is going to be tied up.

Sebastian Elrite asked about the volume and shipping process to bring the base oil in. Consider shoaling issues and shallow draft.

Craig Spjut asked for local apprentices to be used on the project.

Jen Kalt, Humboldt Baykeeper, said it seems the proposal is unformed at this time. Spill response can be engineered and designed, but when accidents happen it all changes. There are probably other places more appropriate, not near oyster cultivation, flora and fauna. The Harbor District has done a great job cleaning the property at great cost to the public. Tying up property is not practical. Keep to the earlier strategic plan – light industry. There are many solid projects for Humboldt Bay; focus on real projects.

Susan Penn said she doesn't know much about ore and processing, but she is concerned about cyanide and mercury. She is supportive of the process and supports US Mine taking time to explore the area and project; it gives the public and the Board time also.

Pete Oringer commented on how respectful the speakers have been.

Dennis Mayo said \$5,000 is not enough; he likes the thoughts of the project, but US Mine needs to pay more. He has been involved in local coastal plans and it wasn't easy to designate Coastal Dependent Industrial sites. When looking at projects, the Harbor District has a responsibility to give equal and full vetting.

Larry Glass, President of Northcoast Environmental Center, said he is not clear about the process. The Harbor District has been off their radar, but this will put the District back on the radar. This would be a real distraction.

Karen Brooks said she is concerned – the Corps of Engineers does not have the budget to dredge. The tonnage statistics are beneath those required to get the dredging done. Aggregate is heavy and will increase the tonnage figures. Protect Coastal Dependent property. She agrees with the temporary use, but not a long-term designation change. Make sure US Mine leaves the property better than when they arrived.

Claire Perricelli said tying up the property for \$5,000 is not enough; it blocks other options. Remember this is a Cascadia conduction zone. She believes in the process, but don't bottle up the property.

Brenna Schlagenhauf said she is concerned about the compatibility of the expanding shellfish operations in Humboldt Bay and this project. The company will be using chemicals and toxins. She believes in the process, but thinks \$5,000 is not enough to tie up the property.

Sandra Klinge asked where the local aggregate will come from.

Scott Docktor said US Mine is trying to set the bar high as they lay out more money to test the viability of the project.

President Marks said he will need a lot of convincing that the project is safe.

Commissioner Higgins asked Executive Director about lost opportunities if the property is tied up through an Exclusive Right to Negotiate. Executive Director replied there has not been much interest in the property. He said there are many controls built into the ERTN. This is a draft agreement; can negotiate for additional reimbursement if the costs increase.

Commissioner Newman asked how much of the pulp mill property will be tied up. Executive Director responded about one-third of the property. Interaction with Taylor Mariculture and Coast Seafoods Company has been purposely avoided. He spoke with both companies and they said there are no worried as long as the product is on conveyors or covered.

Commissioner Higgins said he realizes there is a great deal of angst about this project; and there is a huge desire for job creation. It is the Board's responsibility to vet all options, develop economically; but do not harm the bay.

Commissioner Wilson said the opportunity cost issue is meaningful – how does this fit into how we market who we are and where we live. Tying up the property for six months allows six months of discussion – will it be a positive experience? He suggested a three month ERTN and the \$5,000 would be a retainer, not applicable to the lease, to cover potential costs of staff time for such a controversial project.

COMMISSIONER WILSON ASKED FOR A FRIENDLY AMENDMENT TO THE MOTION – APPROVE THE EXCLUSIVE RIGHT TO NEGOTIATE WITH US MINE AT REDWOOD TERMINAL 2 FOR THREE MONTHS WITH A \$5,000 RETAINER PLUS COSTS IF OVER THE \$5,000 RETAINER.

COMMISSIONER HIGGINS ACCEPTED THE FRIENDLY AMENDMENT. COMMISSIONER NEWMAN SECONDED.

Commissioner Higgins said the people who normally come to the Board meetings are about jobs; it is not harmful to have dialogue.

Commissioner Wilson said 100,000 tons is not a huge amount of tonnage; dredge allocations are increasing.

Mr. Reed said they have a local environmental firm that he will engage if allowed to move forward. He said they feel like the project is a conforming use for the Coastal Dependent Industrial designation. Concerned about the three month time period; may not be enough time to get all the answers necessary for the project.

Commissioner Wilson said the Board just wants answers to questions; 85% of the vision. Mr. Docktor and Mr. Reed said they understood the Board's needs.

MOTION CARRIED WITHOUT DISSENT.

B. CONSIDERATION OF PAYING LEGAL EXPENSES FOR FRESHWATER TISSUE COMPANY.

This item was pulled from the agenda.

C. CONSIDERATION OF ACCEPTING FOR FILING PERMIT NO. 15-01 TO PACIFIC GAS AND ELECTRIC COMPANY FOR THE HUMBOLDT BAY POWER PLANT FINAL SITE RESTORATION PLAN.

Commissioner Wilson recused himself. He works for the consultant subcontractor who wrote the Biological Mitigation and Monitoring Plan and the Preliminary Delineation of Waters and Wetlands report for the Plan.

Adam Wagschal, HT Harvey & Associates, said the application permit was complete and recommended accepting the permit for filing. The Harbor District is the lead agency for CEQA.

COMMISSIONER HIGGINS MOVED TO ACCEPT FOR FILING PERMIT NO. 15-01 TO PACIFIC GAS AND ELECTRIC COMPANY FOR THE HUMBOLDT BAY POWER PLANT FINAL SITE RESTORATION PLAN. COMMISSIONER NEWMAN SECONDED. MOTION CARRIED WITHOUT DISSENT.

Commissioner Wilson returned to the meeting.

D. CONSIDERATION OF RESOLUTION 2015-01, A RESOLUTION DESIGNATING BUSINESS MATTERS, APPOINTMENT AND AUTHORIZATION FOR THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT FOR CALENDAR YEAR 2015.

COMMISSIONER HIGGINS MOVED TO APPROVE RESOLUTION 2015-01, A RESOLUTION DESIGNATING BUSINESS MATTERS, APPOINTMENT AND AUTHORIZATION FOR THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT FOR CALENDAR YEAR 2015. COMMISSIONER NEWMAN SECONDED. ROLL CALL VOTE WAS TAKEN:

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

MOTION CARRIED WITHOUT DISSENT.

E. CONSIDERATION OF DISTRICT MEMBER OF THE WOODLEY ISLAND WILDLIFE AREA COMMITTEE.

Executive Director reported the committee as established in 1977 as a condition of the development and building of Woodley Island Marina. The committee members are from the Harbor District, Coastal Commission and Humboldt State University among others. Current discussion items will be maintenance of the wildlife area and new fencing.

Bob Merrill, CA Coastal Commission; Rhea Williamson, HSU; Dave Lancaster, CA Dept. Fish & Wildlife and Ken Griggs, US Fish & Wildlife have all agreed to serve on the committee.

COMMISSIONER NEWMAN MOVED TO APPOINT COMMISSIONER HIGGINS AS THE DISTRICT MEMBER, COMMISSIONER WILSON THE ALTERNATE. COMMISSIONER WILSON SECONDED. MOTION CARRIED WITHOUT DISSENT.

F. CONSIDERATION OF TRAVEL FOR COMMISSIONER WILSON TO UCLA AND WASHINGTON DC.

Commissioner Wilson reported he has been asked to speak at the UCLA law school at a symposium on aquaculture law. Expenses will be sponsor-paid. He said he would also like to attend the march 9-11 CMANC Annual Washington DC Meeting to meet with legislators and lobbyists.

COMMISSIONER HIGGINS MOVED FOR THE APPROVAL OF TRAVEL FOR COMMISSIONER WILSON TO UCLA AND WASHINGTON DC NOT TO EXCEED \$5,000. COMMISSIONER NEWMAN SECONDED.

Dennis Mayo, McKinleyville Community Services District Board Member, said he supports this type of effort – it is important to go to Washington DC. It definitely makes a difference for your agency when you make the effort to meet with the legislators. Our representatives help us in forming policy and the action happens in the agencies.

Sebastian Elrite said the Washington DC trips are invaluable. It is important to meet with representatives and their staff who are tasked with agencies' specific projects.

Kent Sawatzsky said Dennis Mayo personally pays for most of his trip expenses. It is worth the time and money.

Commissioner Newman said it is important to participate in these organized trips to Washington DC. You do not get what you need if you do not meet with the representatives in Washington DC.

MOTION CARRIED WITHOUT DISSENT.


G. CONSIDERATION OF RATES FOR REDWOOD TERMINAL 1 OUTSIDE STORAGE.

Executive Director said staff recommends an outside storage rate of \$0.15/sf/mo with no annual discount.

COMMISSIONER NEWMAN MOVED FOR THE APPROVAL OF STAFF RECOMMENDATION FOR RATES FOR REDWOOD TERMINAL 1 OUTSIDE STORAGE. COMMISSIONER WILSON SECONDED. MOTION CARRIED WITHOUT DISSENT.

The Regular Meeting of the Board of Commissioners adjourned at 9:43 p.m.

APPROVED BY:



Patrick Higgins, Vice President
For Greg Dale, Secretary

RECORDED BY:



Patricia Tyson
Director of Administrative Services